

**NORTH  
AMERICAN  
CAR**

① Full Text

**NORTH AMERICAN CAR CORPORATION**

33 West Monroe  
Chicago, IL U.S.A. 60603  
Telephone 312.853.5000  
Telex #255222

January 5, 1982

RECORDATION NO. 13451 FILED

2-0234037  
No. [unclear]  
Date **JAN 28 1982**  
Fee \$ 50.00

ICC Washington, D. C.

**JAN 28 1982 - 1 10 PM**

**INTERSTATE COMMERCE COMMISSION**

Secretary  
Interstate Commerce Commission  
Washington, D. C. 20423

Dear Secretary:

I have enclosed an original and several counterparts of the document described below, to be recorded pursuant to section 11303 of title 49 of the U. S. Code.

This document is a Conditional Sale Contract, a primary document, dated December 29, 1981.

The names and addresses of the parties to the documents are as follows:

- Vendor: North American Car Corporation, 33 West Monroe Street, Chicago, Illinois 60603.
- Vendee: Mr. Willard Formydural, P.O. Box 532, Aberdeen, North Carolina 28315.

A description of the equipment covered by the Conditional Sale Contract is contained in Exhibit A to that Conditional Sale Contract.

A fee of \$50.00 is enclosed. Please return the original and any extra copies not needed by the Commission for recordation to the messenger presenting this document for recordation.

A short summary of the document to appear in the index follows:

Conditional Sale Contract between North American Car Corporation, vendor, 33 West Monroe Street, Chicago, Illinois 60603, and vendee, Mr. Willard Formydural, P.O. Box 532, Aberdeen, North Carolina 28315, and covering the equipment referred to above.

Very truly yours,

Edward H. Soderstrom II,  
Attorney

EHS/cc

*Rec'd  
Number*

*50*

*Counterpart - Marko Avery*

JAN 27 1 09 PM '82

**Interstate Commerce Commission**  
Washington, D.C. 20423

OFFICE OF THE SECRETARY

Edward H. Soderstrom II;  
Attorney  
North American Car Corp.  
33 West Monroe  
Chicago, IL. 60603

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 1/28/82 at 1:10PM, and assigned re-  
recording number(s). 13451

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

# CONDITIONAL SALE CONTRACT

121

Purchaser's Name WILLARD... FORTMY... DUAL  
 Address P.O. BOX 532  
 (If corporation or partnership, give location of principal place of business in State; if individual, give residence)  
 City Aberdeen County of Moore State NC  
 NORTH AMERICAN CAR CORPORATION  
 To (Railcar Division)  
 (Name of Seller)  
 33 West Monroe, Suite 2400, Chicago, IL 60603  
 (Address of Seller)

DUPLICATE

Date: December 29, 1981

REGISTRATION NO. 13451 FROM 1428

JAN 28 1982 - 1 10 PM

INTERSTATE COMMERCE COMMISSION

Purchase Price

The undersigned (hereinafter referred to as Purchaser) whose name and address are given above, to purchase the equipment described below:

Quantity	Serial Number	Description	Purchase Price
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66 Covered Hopper Railcars identified on Exhibit A hereto for a purchase price of \$16,000 per car (or an aggregate purchase price of \$1,056,000)

The Purchaser agrees to pay the Seller the total purchase price as follows:

- (a) \$400 per car (or an aggregate of \$26,400) payable to the Seller upon the execution of this Conditional Sale Contract;
- (b) \$600 per car (or an aggregate of \$39,600) payable to the Seller in cash on June 30, 1982;
- (c) \$5,000 per car (or an aggregate of \$330,000); together with interest at the rate of 15% per annum from and after the date of this Conditional Sale Agreement, payable to the Seller in 29 equal monthly installments of \$205 (principal and interest), payable on the first day of each month commencing January 1, 1982 (provided, that additional interest on any overdue installment shall not commence, and any such installment shall not be deemed to be in default for purposes of any other provision of this Contract, until 90 days after the due date thereof), and
- (d) \$10,000 per car (or an aggregate of \$660,000), together with interest at the rate of 15% per annum from and after the date of this Conditional Sale Contract, payable in full on May 31, 1984 in a single payment (principal and interest) of \$14,340 per car; provided that recourse of the Seller for payment of the portion of the purchase price described in this subparagraph (d) (but not for payment of the portions of the purchase price described in paragraphs (a) through (c) above) shall be limited to the Cars purchased hereunder, such recourse being limited as to any Car to the portion of the aggregate purchase price represented by such Car.

Title to said equipment and any replacements, additions and accessions thereto shall remain in Seller or Seller's assigns, irrespective of any retaking and redelivery thereof to Purchaser, until the indebtedness due hereunder is fully and timely paid in lawful money of the United States in compliance with the foregoing and until all other obligations hereunder are fully performed, at which time only shall ownership pass to Purchaser. Said equipment shall remain chattels and personal property at all times and shall not become part of any realty or freehold.

Purchaser's principal place of business is as given above, and Purchaser agrees to notify Seller by registered mail at Seller's address given below at least ten days before changing the location of its principal place of business.

Purchaser further agrees to execute any documents, including a new agreement containing terms substantially similar to this agreement, if Seller deems it necessary in order to protect its rights and priority after such removal. Purchaser agrees that the equipment will not be used for any unlawful purpose.

~~Purchaser has inspected the equipment and agrees that it is in good working order and condition and Purchaser further agrees to maintain said equipment in good and efficient working order, condition and repair (reasonable wear and tear alone excepted) and shall provide and pay for, at Purchaser's expense, all such repairs, replacements, parts, supplies, labor and tools as shall be necessary to keep and maintain the equipment in first class mechanical condition and repair and in such mechanical condition as is adequate to comply with K.C. regulations and laws of any state in which the equipment is operated. Seller shall be accorded free access to Purchaser's premises at all reasonable times to inspect any of the equipment for any purpose. Purchaser agrees at all times until the indebtedness hereunder is fully paid and satisfied, to keep said equipment insured at its expense against loss by fire, theft and accidental physical damage, in favor of Seller and Seller's assigns, the insurance policies to be in such form and placed with such companies as are acceptable to Seller and which policies shall provide for the giving by the insurance company to Seller of at least 15 days advance notice of any intended cancellation of such coverage. Purchaser shall furnish insurance certificates to Seller evidencing such insurance coverage. Purchaser shall promptly pay all taxes, including documentary stamp taxes and intangible stamp taxes, assessments, motor vehicle registration and license charges, recording or filing fees and other public charges of every character that with respect to this agreement or said equipment or levied or assessed thereupon, and shall promptly satisfy all liens and encumbrances against said equipment. If Purchaser fails to insure the equipment as aforesaid, Seller may at its option insure same. Purchaser to pay the standard premium charge, Seller to pay any additional premium required by its adjusted experience premium and Seller to retain any return premium resulting from its adjusted experience premium. Any standard premium charge so paid by Seller, and all such paid by Seller in discharge of taxes, including documentary stamp taxes and intangible stamp taxes, assessments, motor vehicle registration and license charges, recording or filing fees, public charges, liens and encumbrances with respect to this agreement or said equipment shall be and become added to this agreement and shall immediately, without demand, be due and payable by Purchaser and if not immediately paid by Purchaser shall accrue interest at the highest contractual rate permitted by law. The proceeds of any insurance shall, at Seller's option, be applied toward the full payment direct to~~

If at any time Purchaser should become insolvent, or make or attempt or agree to make any general assignment for the benefit of creditors or if any bankruptcy proceedings are at any time commenced either by or against Purchaser, or if Purchaser disposes of or encumbers any or all said equipment or attempts to do so, or if for any reason or cause any or all of said equipment is attached or subjected to lien of any kind, or Purchaser should fail to make any of the payments herein provided or fail to perform any or all of the other provisions hereof, either in the manner or within the time herein specified, or both, then in any one or more or all of such cases, and without any demand or notice whatsoever to Purchaser, and without any writing or other formality, or particular act or conduct being required of Seller, at any time or at all, other than those specifically required by law and which under the law cannot be waived by Purchaser, Seller may in its sole discretion and at its option: Declare all unpaid amounts immediately due and payable and sue therefor without passing title to the equipment and without waiving Seller's title to the equipment or Seller's right to retake the equipment or to exercise any other remedy reserved to Seller hereunder or provided by law; or retake immediate possession of said equipment, remove the same to Seller's address shown above, or to such other place as Seller may deem most safe and convenient, and resell the same at such place or wherever else is deemed most convenient at one or more private or public sales at such time or times, and in such manner and under such conditions as Seller may deem advisable, with or without the said equipment being present (at which sale Seller or Seller's assigns may be purchaser and which sale may be for cash and/or credit and/or goods); and after deducting all lawful expenses (including but not limited to expenses of retaking, repairing, holding and reselling said equipment, together with reasonable attorneys' fees and court costs incurred therein, and the actual amount of any sales commission incurred by Seller in connection with such sale not to exceed 10% of the sale price, or such of these as are permitted by law), credit the net proceeds thereof to the unpaid balance due under this agreement, and Purchaser agrees to pay Seller or Seller's assigns any difference or deficiency remaining due hereunder after such sale is completed and the net proceeds so applied, provided, however, that if the net proceeds of such sale exceed the unpaid balance under this agreement, such excess shall be paid to Purchaser; or retake immediate possession of said equipment, in which event, at Seller's option (and still without any notice, declaration, formality, or other particular act or conduct being required of Seller other than those specifically required by law and which under the law cannot be waived by Purchaser), all of Purchaser's right, title and equity in, to and under said equipment and this agreement shall cease and terminate, and Seller shall forthwith be released from all obligations to transfer title or possession of said equipment to Purchaser, and all sums theretofore paid by Purchaser hereunder shall be and remain Seller's property, not as a penalty but as part compensation for Purchaser's prior use of said equipment and for the depreciation thereof. In addition to the remedies specifically provided for under this agreement, Seller may at its option take advantage of any additional remedies available under the applicable laws and statutes, provided always that Seller shall abide by and follow all remedies or procedures which are made mandatory by applicable laws and statutes. Pursuant to the foregoing Purchaser hereby promises, covenants, agrees, warrants and represents: That Purchaser shall yield and surrender possession of said equipment to Seller or Seller's assigns promptly upon demand; and that any such retaking of possession of said equipment by Seller or Seller's assigns may be done or effected, with or without legal process, wherever the same may be found and without any liability to Seller, Seller's agents, employees, or assigns for trespass, from which liability Purchaser hereby expressly agrees to hold Seller, Seller's agents, employees and assigns forever free and harmless; and Seller may take possession of any article or articles in said equipment and Purchaser agrees to give Seller notice by registered mail within 24 hours after Seller retakes possession of said equipment of any claim or interest in the articles, and failure to do so shall constitute a waiver and a bar to any subsequent claim for the return of any of said articles, and Seller may hold and dispose of said articles in the same manner as the equipment, and Purchaser waives, on his own behalf and agrees to indemnify and save harmless the Seller against any claims for damages by reason of the taking, storage or sale of any such article or articles; and that in the event of any delinquency in the payment of any one or more instalments hereunder, interest on each past due instalment shall accrue after its due date at the highest rate permitted by law, or, if not permitted by law, Purchaser shall pay Seller or Seller's assignee delinquency and collection charges at the highest lawful rate; and that in the event of any such delinquency, Purchaser shall pay Seller or Seller's assignee all reasonable collection expenses incurred or paid by Seller or Seller's assignee, including attorney's fees, if referred to an attorney not a salaried employee of the holder of this contract for collection, and court costs, if permitted by law. If any action or litigation or proceeding is at any time brought by Seller against Purchaser, or by Purchaser against Seller, in which any of the rights, interests, liabilities and obligations of Seller or Purchaser, or both Seller and Purchaser, under this agreement shall in any way be or become an issue, and if Seller shall prevail in whole or in part therein, then Purchaser shall pay to Seller on demand Seller's reasonable attorney's fees, costs and reasonable additional expenses incurred therein, if permitted by law, and in every case in which Seller recovers judgment therein, such attorney's fees, costs and expenses may be made and become a part of such judgment. If at any time Seller shall deem it necessary, in order to protect its rights and/or priority under or by virtue of this agreement, to institute or intervene in any litigation or proceeding, or if Seller shall be made a party to any litigation or proceeding in any way involving this agreement, the said equipment, or Seller's or Purchaser's respective rights hereunder or if Seller shall be required, or deem it necessary in order to protect its rights hereunder, to respond or answer to, compromise, settle, or negotiate for the settlement, or compromise of any claim or demand by any person which is or may become a lien upon all or any part of said equipment, including claims for taxes or other public charges by any state or bona fide political entity, then Purchaser agrees to promptly pay and reimburse Seller for all costs thereof, together with reasonable charges and expenses, including attorney's fees, if permitted by law, incurred or paid by Seller or imposed upon Seller as a result thereof or in connection therewith.

This agreement is not assignable by Purchaser except by and with the written consent of Seller and/or Seller's assigns, and all of the terms and conditions herein contained shall apply to and bind Purchaser's heirs, executors, administrators, successors, assigns and legal representatives, and shall inure to the benefit of Seller's successors and assigns. Seller's acceptance of any instalment or payment after it or the full amount hereof may have become due and payable hereunder or, except as provided therein, the granting of renewals or extensions shall not be deemed to alter or affect Purchaser's obligations or Seller's rights hereunder. Waiver or condonation of any breach or default shall not constitute a waiver of any other or subsequent breach or default. Purchaser admits notice of Seller's intended assignment of this agreement and agrees to settle all claims against Seller, directly with Seller, Seller hereby agreeing to remain responsible therefor.

It is understood and agreed that Purchaser may be required to give its promissory note or notes or trade acceptances for the instalment payments due hereunder, but that such notes or trade acceptances shall merely be evidence of Purchaser's contractual obligations hereunder and shall not be given by Purchaser nor accepted by Seller as payment thereof or any part thereof or in lieu of any part of Purchaser's contractual obligation hereunder or as a waiver of any of the express terms hereof.

Any monies hereafter paid to Seller by Purchaser or on Purchaser's behalf may be applied by Seller to the instalment or obligation hereunder earliest in date of maturity or longest overdue, or upon any other obligation or obligations (secured or unsecured) then due to Seller from Purchaser upon or in connection with any other separate and distinct transaction, or transactions, in Seller's sole discretion and without the necessity of notice, election, or proof, and Purchaser hereby expressly waives any right Purchaser may have, insofar as permitted by law, to make or manifest any binding direction upon or to Seller as to the manner of application of such payment of such monies other than as herein provided.

Any notice provided for in this agreement or by law, to be given to Purchaser, addressed to Purchaser's last known address, shall be conclusively deemed to have been given and received by Purchaser on the day the same was mailed.

It is understood that Seller or Seller's assigns shall not be bound by any oral agreements, guarantees, representations or warranties, past, present, or future, representing said equipment or Purchaser's obligations hereunder, not contained in this agreement which Purchaser has read and understands, and that future modifications hereof may be made only in writing signed by Seller. Seller may correct patent errors herein. Purchaser represents that no credit except that set forth herein has been made or is to be made.

The risk of loss of said equipment shall be on the Purchaser. The loss, injury or destruction of the equipment shall not release Purchaser from any of Purchaser's obligations hereunder. Purchaser agrees to assume all responsibility and all liability arising from the possession, use or operation of the equipment either for negligence or otherwise, by whomsoever used or operated and agrees to indemnify and save Seller harmless from all claims of all persons and entities, arising out of or in any manner connected with the possession, use or operation of the equipment described above.

Purchaser expressly waives all exemptions and Homestead laws.

Time is of the essence of this agreement. Purchaser, if more than one person or entity, agrees that the obligation to perform each of the conditions and provisions of this agreement shall be joint and several.

It is agreed that each condition and provision contained in this agreement shall be divisible and separate from all other conditions and provisions, and if any conditions or provisions are prohibited by law, it is the express intention of the parties hereto that such conditions or provisions shall be inoperative without impairing or invalidating any other condition or provision.

This agreement may be executed, acknowledged and delivered in any number of counterparts each of which shall be deemed to be an original.

All rights of the Seller in, to and under this agreement and in and to the equipment shall pass to and may be exercised by any assignee thereof. The Purchaser agrees that if the Seller gives notice to the Purchaser (a) of an intended assignment of said rights and thereafter such an assignment is made or (b) of such assignment having been made, then, in either event, the liability of the Purchaser to the assignee shall be immediate and absolute, and the Purchaser will not set up any claim against the Seller as a defense, counterclaim or set-off to any action brought by any such assignee for the unpaid balance owed hereunder or for possession of the Cars.

~~In addition to the purchase price of the equipment Purchaser shall pay Seller in cash, on demand, for any local, state or federal taxes (other than taxes based on net income) or licenses including penalties, interest, and expenses in connection therewith, levied or imposed upon and paid by Seller with respect to, or measured by the sale of, use, payment, shipment, delivery or transfer of title to such equipment under any law, rule, regulation, or order of any governmental authority.~~

It is understood and agreed that the sale of the equipment is on an "AS IS" and "WHERE IS" basis, and Seller neither assumes or authorizes any person to assume for it any liability of any kind whatsoever in connection with such sale. It is further understood and agreed that Seller shall not be liable for any indirect or consequential damages of any kind whatsoever.

IN WITNESS WHEREOF, Purchaser has caused this Agreement to be signed by its duly authorized officers as of the date first above written.

ACCEPTED:

NORTH AMERICAN CAR CORPORATION

BY

ATTEST:

X BY

*Willard Farny*



STATE OF NORTH CAROLINA

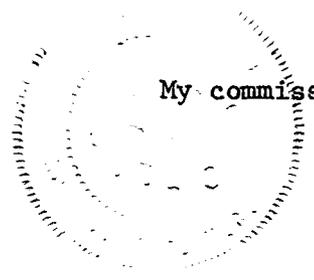
COUNTY OF HOKE

I, PAULA J. LEE, a Notary Public, of said County and State, do hereby certify that WILLARD FORMYDUVAL, personally appeared before me this day and acknowledged the due execution of the foregoing Conditional Sale Contract, dated December 29, 1981 between Willard Formyduval and North American Car Corporation for the purposes therein expressed.

WITNESS my hand and notarial seal, this the 30th day of December, 1981.

  
\_\_\_\_\_  
NOTARY PUBLIC

My commission expires: 2-16-83



## EXHIBIT A

RIDER #6 66 CARS - LO Covered Hopper Cars

ALL REPORTING MARK INITIALS ARE "SFLC"

<u>Mark</u>	<u>Serial#</u>	<u>Mark</u>	<u>Serial#</u>	<u>Mark</u>	<u>Serial#</u>
800966	48627	800988	48650	801010	48679
800967	48628	800989	48651	801011	48680
800968	48629	800990	48652	801012	48681
800969	48630	800991	48653	801013	48682
800970	48631	800992	48654	801014	48683
800971	48632	800993	48656	801015	48684
800972	48633	800994	48657	801016	48685
800973	48634	800995	48658	801017	48686
800974	48636	800996	48659	801018	48687
800975	48637	800997	48660	801019	48688
800976	48638	800998	48661	801020	48689
800977	48639	800999	48662	801021	48690
800978	48640	801000	48664	801022	48691
800979	48641	801001	48665	801023	48692
800980	48642	801002	48666	801024	48693
800981	48643	801003	48667	801025	48694
800982	48644	801004	48668	801026	48695
800983	48645	801005	48669	801027	48696
800984	48646	801006	48670	801028	48697
800985	48647	801007	48675	801029	48698
800986	48648	801008	48677	801031	48892
800987	48649	801009	48678	801032	48895