

AUG 23 1980 - 10 50 AM

LAW OFFICES

PEDERSEN & HOUPPT INTERSTATE COMMERCE COMMISSION

A PROFESSIONAL CORPORATION

180 NORTH LA SALLE STREET - SUITE 3400

CHICAGO, ILLINOIS 60601

(312) 641-6888

PEER PEDERSEN  
RICHARD V. HOUPPT  
GEORGE L. PLUMB  
JAMES K. STUCO  
PETER O'CONNELL KELLY  
THOMAS J. KELLY  
SHELDON DAVIDSON  
GREGORY J. PERRY  
DAVID C. NEWMAN  
HERBERT J. LINN  
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BARRY YAVITZ  
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JAMES J. CLARKE II  
THEODORE E. CORNELL III  
J. DAVID SANNER  
JONATHAN B. GILBERT  
MARILEE ROBERG  
MARC D. JANSER  
DONALD R. DANCER  
THOMAS F. BRETT II  
ALLAN I. NATHAN  
ERIC SCHMALZ

No. 101025  
Date AUG 28 1980  
Fee \$ 50.00  
ICC Washington, D. C.

August 26, 1980

Aug 29 10 46 AM '80  
RECEIVED  
I.C.C.  
FEE OPERATION BR.  
PLEASE REFER TO FILE NO.

Ms. Agatha L. Mergenovich  
Secretary of the Interstate  
Commerce Commission  
12th & Constitution Avenue N.W.  
Washington, D.C. 20423

Re: Assumption Agreement containing certain  
amendments to Lease of Railroad Equipment  
filed and recorded with the Interstate Commerce  
Commission on October 18, 1977, at 12:40 p.m.  
as Recordation No. 9044-B.

*The Record A. put in record*

Dear Ms. Mergenovich:

Pursuant to Title 49 U.S.C. Section 11303, and Regulations of the Interstate Commerce Commission, there is hereby transmitted for filing and recording four executed counterparts of an Assumption Agreement dated as of July 16, 1980 which contain certain amendments to the Lease of Railroad Equipment dated as of September 1, 1977 and recorded as stated above. The original parties to the above described lease were Exchange National Bank of Chicago, as Trustee under a Trust Agreement dated as of September 1, 1977 as Owner-Trustee, General Electric Credit Corporation as Owner and Pickens Railroad Company as Lessee.

This Assumption Agreement is intended to amend the Lease by substituting North American Car Corporation, a Delaware corporation, as Lessee in the place and stead of Pickens Railroad Company. Other amendments to the Lease are contained in Exhibit A attached to the Assumption Agreement and made a part thereof.

A check in the amount of \$50 in payment of the recordation fee for such Assumption Agreement is herewith enclosed. The name and address of the Owner-Trustee is as follows:

*Counterpart E. Korompay*

PEDERSEN & HOUP

12134

RECORDATION NO. .... FILED 1979

Secretary of Interstate  
Commerce Commission  
August 26, 1980  
Page Two

AUG 23 1980 - 10 52 AM

INTERSTATE COMMERCE COMMISSION

Exchange National Bank of Chicago  
130 South LaSalle Street  
Chicago, Illinois 60690  
Attention: Corporate Trust Officer

The address of the Owner is as follows:

General Electric Credit Corporation  
P. O. Box 8300  
Stamford, Connecticut 06904  
Attention: Manager-Operations Leasing and  
Industrial Loans

The address of North American Car Corporation, as assignee-lessee is  
as follows:

North American Car Corporation  
222 South Riverside Plaza  
Chicago, Illinois 60606  
Attention: Vice President - Finance

A general description of the equipment covered by the lease of rail-  
road equipment and as described in the Assumption Agreement is as  
follows:

Three hundred 50' 6" 70-ton boxcars, AAR mechanical  
designation: XM bearing Road Nos. NSL101600 through  
NSL 101899, inclusive

It would be appreciated if three sets of the documents constituting  
three executed counterparts of the aforementioned Assumption  
Agreement bearing the Commission's filing and recordation stamps  
would be delivered to:

Kunkel Transportation Services, Inc.  
425 Thirteenth Street, Northwest  
Suite 523  
Washington, DC 20004  
Carolyn H. Kunkel

Very truly yours,

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

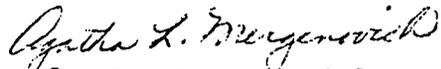
**OFFICE OF THE SECRETARY**

Carolyn H. Kunkel  
Kunkel Transportation Svcs. Inc.  
425 13th St. N. W.-Suite 523  
Washington, D. C. 20004

Dear Madam:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 8/28/80 at 10:50AM, and assigned re-  
recording number(s). 12134

Sincerely yours,

  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

See 9044-B  
for related lease

12134  
RECORDATION NO. 12134

AUG 28 1980 10 50 AM

5195A

ASSUMPTION AGREEMENT STATE COMMERCE COMMISSION

This Assumption Agreement dated as of this 16th day of July, 1980, and effective as of April 1, 1980 by and among Exchange National Bank of Chicago, a national banking association, not in its individual capacity, but solely as Owner-Trustee (hereinafter referred to as the "Owner-Trustee") under a Trust Agreement dated as of September 1, 1977 (hereinafter referred to as the "Trust Agreement") with General Electric Credit Corporation, a New York corporation (hereinafter referred to as "GECC"), and North American Car Corporation, a Delaware corporation (hereinafter referred to as "NACC").

W I T N E S S E T H:

WHEREAS, the Owner-Trustee, NACC, GECC, Pickens Railroad Company, (hereinafter referred to as the "Lessee"), American National Bank and Trust Company of Chicago (hereinafter referred to as the "Agent"), and the Purchasers named in Exhibit A to the Participation Agreement (as hereinafter defined), have entered into a Participation Agreement dated as of September 1, 1977 (hereinafter referred to as the "Participation Agreement") with respect to the acquisition, financing and leasing of certain railroad equipment designated therein; and

WHEREAS, the Owner-Trustee, as Lessor, has entered into a Lease of Railroad Equipment with the Lessee as Lessee dated as of September 1, 1977 which was filed and recorded with the Interstate Commerce Commission on October 18, 1977 as recordation number 9044-B (hereinafter referred to as the "Lease"),; and

WHEREAS, NACC has guaranteed to the Owner-Trustee, GECC and the Agent, among other things, the due and punctual payment of rentals and other payment due by the Lessee under the Lease pursuant to a Guaranty Agreement dated as of September 1, 1977 (hereinafter referred to as the "Guaranty Agreement") between NACC and the Owner-Trustee; and

WHEREAS, an Event of Default exists under Section 10(a) of the Lease by reason of the Lessee's failure to pay a rental payment due April 21, 1980 within 5 days after such payment was due; and

WHEREAS, Section 16 of the Conditional Sale Agreement dated as of September 1, 1977 (the "Conditional Sale Agreement") between the Owner-Trustee and Pullman Incorporated provides that no event of default pursuant to the first paragraph of Article 15 of the Conditional Sale Agreement shall be deemed to occur with respect to

non-bankruptcy defaults of the Lessee so long as the Owner-Trustee shall be required to forbear exercising its remedies under Section 10 of the Lease; and

WHEREAS, under Section 10 of the Lease the Owner-Trustee agrees to forbear exercising its remedies under the Lease arising out of an Event of Default of Lessee under Section 10 of the Lease so long as NACC has cured within 10 days of such Event of Default any unpaid monetary obligations of Lessee then due; and

WHEREAS, NACC has paid within 10 days of the above-mentioned Event of Default under Section 10(a) of the Lease, all monetary obligations of the Lessee then due and owing; and

WHEREAS, NACC has elected, pursuant to Section 10 of the Lease, to assume all of the rights and obligations of the Lessee under the Lease and to become the lessee under the Lease in the name, place and stead of the Lessee; and

WHEREAS, the Owner-Trustee and NACC desire to enter into this formal Assumption Agreement in order that NACC assume the rights and obligations of lessee under the Lease.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration the receipt and sufficiency whereof are hereby acknowledged, the Owner-Trustee and NACC hereby agree as follows:

1. NACC hereby assumes (i) all of the obligations of the Lessee under the Lease as amended by this Assumption Agreement, (ii) all of the obligations of the Lessee under Section 12 of the Participation Agreement, (iii) all of the obligations of the Lessee under the Consent and Agreement executed by the Lessee and accepted by the Agent as of September 1, 1977, and (iv) upon execution thereof, all of Lessor's obligations under the Termination Agreement dated as of July 16, 1980, (the "Termination Agreement") among the Owner-Trustee, National Equipment Railway Utilization Corporation, and the Lessee. NACC agrees to perform all such obligations subject to the terms and conditions provided in the Lease, the Participation Agreement, the Consent and Agreement and the Termination Agreement, respectively provided, however, that the failure of NACC to cure any default under the Lease caused by any action or inaction on the part of the Lessee, which default cannot be cured by any action of NACC, or the cure of which would require information or knowledge not available to NACC, shall not be considered an Event of Default under the Lease as assumed by NACC. All references to the "Lessee" in said documents shall from the effective date hereof be deemed to mean NACC.

2. Owner-Trustee and NACC agree to amend the Lease pursuant to Exhibit A attached hereto and made a part hereof, which amendment shall take effect immediately.

3. So long as no Event of Default under the Lease as assumed by NACC has occurred or is continuing, NACC shall be subrogated to all of Owner-Trustee's rights and remedies under the Lease in order that NACC may pursue the same against the Lessee.

4. All reasonable costs and expenses of the parties incurred in the entering into and recording of this Assumption Agreement shall be borne by NACC

5. In the event that there is a judicial determination that the Lessee was not in default under the Lease, or that an Event of Default had not occurred under Section 10 of the Lease, or in the event that the Lessee is granted equitable or legal relief by any Court having jurisdiction over the Lessee, the Equipment described in the Lease, and the Owner-Trustee, and Lessee is reinstated as Lessee under the Lease by such court order, this Assumption Agreement shall terminate on the date of such court order and the parties hereto shall revert to their respective positions, rights and obligations with respect to the Participation Agreement, Guaranty Agreement and Lease as such parties were entitled to immediately prior to the events which gave rise to the execution of this Assumption Agreement.

If the Assumption Agreement is terminated pursuant to the immediately preceding paragraph, the Owner-Trustee agrees to repay to NACC any amounts paid by NACC to Owner-Trustee so long as this Assumption Agreement was in effect, but only to the extent that the Owner-Trustee has been reimbursed by the Lessee. If the Owner-Trustee is forced by operation of law to repay to the Lessee any amounts received by the Owner-Trustee as a reimbursement pursuant to the immediately preceding sentence, and prior to such repayment to the Lessee, the Owner-Trustee has repaid to NACC such amounts, upon written notice to NACC of such forced repayment by the Owner-Trustee to the Lessee, NACC agrees to repay to the Owner-Trustee the amounts received by NACC from the Owner-Trustee pursuant to the immediately preceding sentence; provided, however, that the Owner-Trustee agrees that NACC shall be subrogated to the rights of the Owner-Trustee to claim against the Lessee or the Lessee's estate such amounts returned to the Lessee. The Owner-Trustee may deduct from such repayment to NACC the reasonable costs of further amending the Lease to reestablish the Lessee as Lessee under the Lease and to otherwise restore the documents to their original executed position; provided, however, that such deduction for administrative expenses shall be abated to the extent that the Owner-Trustee receives payment for such administrative expenses from the Lessee.

The obligations contained in this Paragraph 5 are intended to survive the termination of this Assumption Agreement.

6. As additional consideration for NACC's assuming the obligations of Lessor under the Termination Agreement and for other good and valuable consideration, and so long as no Event of Default under the Lease has occurred or is continuing, the Lessor agrees promptly to:

- (a) assign and transfer to NACC, any and all corporate stock of, or beneficial interest in, National Railway Utilization Corporation ("NRUC") or any subsidiary thereof received by Lessor from NRUC as a result of entering into the Termination Statement;
- (b) remit to NACC all per diems and other revenues, insurance payments or amounts from damage claims in respect of the Units (as that term is defined in the Lease) received from NRUC or any subsidiary of NRUC;

provided, however, at NACC's request, the Lessor will direct Lessee, NRUC or its subsidiaries to remit or assign and transfer any stock or payments described in this Section 6 directly to NACC. In addition, Lessors agree to direct NRUC or Lessee to deliver the Units at NACC's expense to such location as NACC may designate.

7. Notwithstanding the foregoing provisions of this Assumption Agreement, NACC's right to assume the Lease pursuant to this Assumption Agreement shall be conditioned upon NACC's delivery to the Lessor of (a) an officer's certificate containing the information required in subparagraphs (i) and (ii) of Section 10 of the Lease on page 24 thereof; and (b) the opinion of counsel required in subparagraph (iv) of Section 10 of the Lease on pages 24 and 25 thereof. The execution by NACC of this Assumption Agreement shall be deemed to be NACC's satisfaction of the requirements of subparagraph (iii) of Section 10 of the Lease on page 24 thereof.

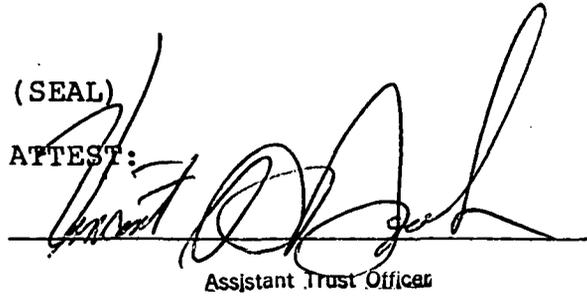
8. It is expressly understood and agreed by and between the parties hereto, anything herein to the contrary notwithstanding, that each and all of the representations, undertakings and agreements herein made on the part of the Owner-Trustee are made and intended not as personal representations, undertakings and agreements by Exchange National Bank of Chicago, or for the purpose or with the intention of binding said national association personally, but are made and intended for the purpose of binding only the Trust Estate as such term is used in the Trust Agreement, and this Assumption Agreement is executed and delivered by said national association not in its own right but solely in the exercise of the powers expressly conferred upon it as trustee under the Trust Agreement; and except in the case of gross negligence or willful misconduct, no personal liability or personal responsibility is assumed by or shall at any time be asserted or enforceable against said national association on account of this Assumption Agreement or on account of any representations, undertaking or agreement of said national association, either express or implied, all such personal liability against either said bank or GECC, if any, being expressly waived and released by NACC.

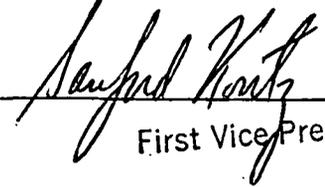
IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be executed as of the date first above written.

EXCHANGE NATIONAL BANK OF CHICAGO,  
not in its individual capacity,  
but solely as Owner-Trustee  
aforesaid

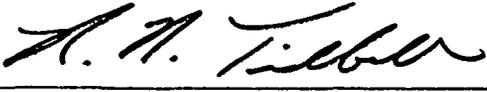
(SEAL)

ATTEST:

  
Assistant Trust Officer

By:   
First Vice President

NORTH AMERICAN CAR CORPORATON

By: 

(SEAL)

ATTEST:



GENERAL ELECTRIC CREDIT CORPORATION

By: \_\_\_\_\_

(SEAL)

ATTEST:

\_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be executed as of the date first above written.

EXCHANGE NATIONAL BANK OF CHICAGO,  
not in its individual capacity,  
but solely as Owner-Trustee  
aforesaid

By: \_\_\_\_\_

(SEAL)

ATTEST:

\_\_\_\_\_

NORTH AMERICAN CAR CORPORATON

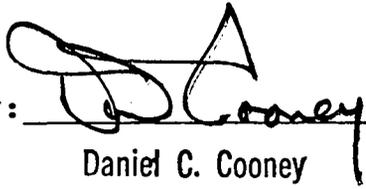
By: \_\_\_\_\_

(SEAL)

ATTEST:

\_\_\_\_\_

GENERAL ELECTRIC CREDIT CORPORATION

By:  \_\_\_\_\_

Daniel C. Cooney  
Manager - Operations

(SEAL)

ATTEST:

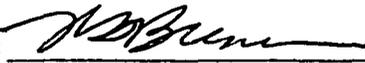
  
\_\_\_\_\_

ATTESTING SECRETARY.

CONSENT AND APPROVAL

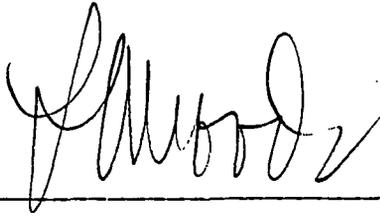
The undersigned hereby consents to and approves the foregoing Assumption Agreement and the matters contained therein.

AMERICAN NATIONAL BANK AND TRUST  
COMPANY OF CHICAGO, Agent

By: 

(SEAL)

ATTEST:





STATE OF CONNECTICUT )  
 ) SS. Stamford  
COUNTY OF FAIRFIELD )

On this 5th day of August, 1980, before me personally appeared Daniel G. Cooney, to me personally known, who, being by me duly sworn, says that he is Manager-Operations of GENERAL ELECTRIC CREDIT CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

Joan A. Sayer  
Notary Public

NOTARIAL SEAL

JOAN A. SAYER  
NOTARY PUBLIC

My Commission Expires: MY COMMISSION EXPIRES MARCH 31, 1981

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

On this 5th day of August, 1980, before me personally appeared RON B. BREMEN, to me personally known, who, being by me duly sworn, says that he is a \_\_\_\_\_ President of AMERICAN NATIONAL BANK AND TRUST COMPANY OF CHICAGO, that one of the seals affixed to the foregoing instrument is the corporate seal of said national association, that said instrument was signed and sealed on behalf of said national association by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said national association.

Sherril Rice  
Notary Public

NOTARIAL SEAL

My Commission Expires: Sept 28, 1983

EXHIBIT A TO ASSUMPTION AGREEMENT

The following amendments to the Lease of Railroad Equipment dated as of September 1, 1977 (the "Lease") with Pickens Railroad Company are hereby adopted to take place immediately upon execution of the Assumption Agreement:

1. All references to the "Lessee" in the Lease shall mean North American Car Corporation, a Delaware corporation. All references to the Guarantor shall mean North American Car Corporation, but shall have application only in the event that North American Car Corporation assigns its interest as Lessee in the Lease pursuant to Section 12 of the Lease, or ceases to be the Lessee as provided in Section 5 of the Assumption Agreement, and resumes its role as Guarantor under the Guaranty Agreement with respect to the obligations of such assignee-lessee.

2. The seventh paragraph of Section 7 shall be deleted and the following shall be inserted in lieu thereof:

"The Lessee shall at all times prior to the return of the Equipment to the Owner-Trustee in accordance with the terms of this Lease and during any storage period, maintain or cause to be maintained, at its expense, property and casualty insurance in respect to the Units at the time subject hereto, in amounts and against risks customarily insured against by the Lessee in respect of similar equipment owned or operated by it; but in any event such insurance shall be in such amounts and against such risks customarily insured against by companies on similar equipment in similar lines of business, unless any Unit of Equipment is subleased to a railroad company, in which case the insurance in respect of such Unit shall be in such amounts and against such risks customarily insured against by railroad companies."

3. The eighth paragraph of Section 7 shall be deleted and the following shall be inserted in lieu thereof:

"The Lessee shall at all times prior to the return of the Equipment to the Owner-Trustee in accordance with the terms of this Lease and during any storage period, at its own expense, cause to be carried and maintained public liability insurance, in amounts and against risks customarily insured against by the Lessee in respect to similar equipment owned or operated by it, and the benefits thereof shall be payable to the Vendor, the Owner-Trustee and the Lessee as their interests may appear, so long as the indebtedness, if any, evidenced by the Security Document shall not have been paid in full, and thereafter to the Owner-Trustee and the Lessee as their interests may appear. Any policies of insurance carried in accordance with this paragraph shall (i) require 30 days' prior notice of cancellation or change in coverage to the Owner-Trustee, (ii) name the Vendor, the Owner and the Owner-Trustee as additional named insureds as their respective interests may appear and (iii) shall not provide for any payment of premiums or commissions by the Owner, the Owner-Trustee or the Vendor. All insurance will insure the interests of the Owner-Trustee, the Owner and the Vendor regardless of any breach or violation of warranty of the Lessee."

4. The second paragraph of Section 12 of the Lease shall be amended to read as follows:

"So long as no Event of Default exists hereunder or under the Security Document and the Lessee shall have fully complied with the provisions of this Section 12, Lessee shall be entitled to sublease any or all of the Units at any time and from time to time to others, provided, however that any such sublease shall be in all respects subject and subordinated to this Lease; and provided further, however, that no Units shall be used outside the United States of America during any calendar year, or if any of the Equipment shall be used outside the United States of America during any such year, such usage shall be minimal and shall not impair the ability of the Owner to treat, for Federal income tax purposes, all income and deductions relating to all uses of Equipment subject to the Lease during such year as being derived from, or allocable to sources within the United States of America, nor shall the Lessee sublease the Units to, or permit their use by, any person in whose hands such Units would not qualify as "section 38" property within the meaning of the Internal Revenue Code of 1954, as amended. Any such sublease may provide that the sublessee, so long as it shall not be in default under such sublease, shall be entitled (subject

to the rights of Lessor upon the happening of an Event of Default) to the possession of the Unit included in such sublease and the use thereof, and, may provide for lettering or making upon such Equipment for convenience of identification of the leasehold interest of such sublessee therein."

5. Section 12 is further amended by the inclusion of the following paragraph at the end of Section 12:

"So long as the Lessee is not in default hereunder, the Lessee may, without the prior written consent of the Owner, the Owner-Trustee or the Vendor, or their respective assigns, assign the unexpired term of this Lease with respect to all, but not less than all, of the Units then subject to this Lease, to any Class I Railroad or to any corporation having a credit rating from Moody's of Baa or a comparable rating organization such as Standard & Poors or of 3A-2 or comparable rating by Dun and Bradstreet, Inc., or better, provided, however, that at the time of such assignment:

- (a) such assignee-lessee shall agree to assume the obligations of Lessee under the Consent and Agreement and paragraph 12 of the Participation Agreement, as well as the obligations of Lessee under this Lease from and after the date of such assignment; and
- (b) North American Car Corporation shall enter into a Guaranty Agreement with respect to the obligations of such assignee-lessee under this Lease, the Consent and Agreement and paragraph 12 of the Participation Agreement in the same form and substance as the Guaranty Agreement dated as of September 1, 1977.

Lessee may not assign its interest or this Lease to any other entity except as otherwise expressly provided for herein without the prior written consent of the Owner and Vendor."

6. The address of the Lessee for purposes of notices as contained in Section 16 of the Lease is amended to read as follows:

"if to the Lessee at 222 South Riverside Plaza, Chicago, Illinois, 60606, attention of Vice President-Finance."