

13275

RECORDATION NO. .... Filed 1425

\$ 50  
(2)

New No.

OCT 13 1981 - 10 30 AM

1-286A046

INTERSTATE COMMERCE COMMISSION

No. [Stamp]  
Date... OCT 13 1981  
Fee \$ 50.00

Interstate Commerce Commission  
Washington, D.C.

Gentlemen:

ICC Washington, D. C.

OCT 13 10 22 AM '81

Enclosed for recordation under the provisions of 49 USC Section 11303(a) are the original and ten counterparts of an Equipment Lease dated as of September 1, 1981.

The general description of the railroad equipment covered by the enclosed document is set forth in Schedule A attached to this letter and made a part hereof.

Equipment  
here

The names and addresses of the parties are:

Lessor: Valley Bank Leasing, Inc.  
234 North Central Avenue  
Suite 522  
Phoenix, Arizona 85004

Lessee: North American Car  
Corporation  
33 West Monroe  
Chicago, Illinois 60603

The undersigned is the Lessee mentioned in the enclosed document and has knowledge of the matters set forth therein.

Please return the original and eight counterparts of the Equipment Lease to Gary Green, Esq., Chapman and Cutler, 111 West Monroe Street, Chicago, Illinois 60603.

Also enclosed is a check in the amount of \$50.00 covering the required recording fee.

Very truly yours,

NORTH AMERICAN  
CAR CORPORATION

By [Signature]  
LESSEE AS AFORESAID

Enclosures

*CT. Karpman*

*1*

DESCRIPTION OF EQUIPMENT

<u>Number of Items</u>	<u>Description</u>	<u>Identifying Mark and Numbers (Both Inclusive)</u>
225	Covered Hopper Cars Manufactured by FMC Corporation	NAHX 900000 through NAHX 900224, both inclusive

13275  
RECORDATION NO. .... Filed 1425

Matter No. 34601-5

OCT 13 1981-10 30 AM  
INTERSTATE COMMERCE COMMISSION

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EQUIPMENT LEASE

Dated as of September 1, 1981

Between

VALLEY BANK LEASING, INC.

LESSOR

And

NORTH AMERICAN CAR CORPORATION

LESSEE

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(NAC No. 81-1)  
(225 Covered Hopper Cars)

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Attachments to Equipment Lease:

- Schedule A - Description of Items of Equipment
- Schedule B - Certificate of Acceptance under Equipment Lease
- Schedule C - Schedule of Casualty Value

## EQUIPMENT LEASE

THIS EQUIPMENT LEASE dated as of September 1, 1981 between VALLEY BANK LEASING, INC., an Arizona corporation (the "Lessor"), and NORTH AMERICAN CAR CORPORATION, a Delaware corporation (the "Lessee");

### R E C I T A L S:

A. Pursuant to a Purchase Agreement dated as of September 1, 1981 the Lessor had agreed to purchase from the Lessee the Equipment referred to below. It is contemplated that such Equipment will be leased to the Lessee pursuant to this Lease, and that the Lessee will sublease such Equipment to FMC Incorporated (the "Sublessee") pursuant to a North American Car Corporation Car Leasing Agreement (the "Sublease") substantially in the form attached to the Participation Agreement as Exhibit D.

B. The Lessee and the Lessor intend to enter into a Participation Agreement dated as of September 1, 1981 (the "Participation Agreement") with The Connecticut Bank and Trust Company, as security trustee (the "Security Trustee") and the institutional investors named in Schedule 2 thereto (the "Note Purchasers") providing commitments of the Note Purchasers which, together with funds provided by the Lessor will permit the Lessor to obtain the funds necessary to purchase the equipment (collectively the "Equipment" and individually an "Item of Equipment") described in Schedule A hereto and made a part hereof. The Lessor will commit to advance an amount equal to 24.862% of the Purchase Price of each Item of Equipment and the Note Purchasers will commit to purchase their respective portion, as set forth in Schedule 2 to the Participation Agreement, of the 15.50% Series A Secured Notes (the "Series A Notes") of the Lessor and the 16% Series B Secured Notes (the "Series B Notes") of the Lessor in an aggregate principal amount equal to 75.138% of the Purchase Price of each Item of Equipment. The Series A Notes and the Series B Notes are hereinafter referred to collectively as the "Notes". It is contemplated that the Participation Agreement will provide that the Notes will be secured by an assignment of the Lessor's right, title and interest in and to this Lease and in and to the Equipment pursuant to a Security Agreement-Trust Deed dated as of September 1, 1981 (the "Security Agreement") from the Lessor to the Security Trustee.

### SECTION 1. LEASE AND DELIVERY OF EQUIPMENT.

1.1. Intent to Lease and Hire. Upon delivery of each Item of Equipment by the manufacturer thereof identified in

Schedule A hereto (hereinafter referred to as the "Manufacturer"), the Lessee shall lease and let and the Lessor shall hire to the Lessee such Item of Equipment for the rental and on and subject to the terms and conditions herein set forth.

1.2. Inspection and Acceptance. The Lessor hereby appoints the Lessee as its agent for inspection and acceptance of the Equipment pursuant to the Purchase Agreement. The Lessor will cause each Item of Equipment to be tendered to the Lessee (and the Lessee will concurrently cause such Item to be tendered to the Sublessee for delivery and acceptance under the Sublease) at the place of delivery set forth in Schedule A. Upon such tender, the Lessee will cause an inspector designated and authorized by the Lessee to inspect the same, and, if such Item of Equipment is found to be in good order, to accept delivery of such Item of Equipment and to execute and deliver to the Lessor a Certificate of Acceptance (the "Certificate of Acceptance") in the form attached hereto as Schedule B with respect to such Item of Equipment; provided, however, that the Lessee shall not accept and the Lessor shall have no obligation to lease any Item of Equipment delivered after the Outside Delivery Date set forth in Schedule A. Concurrently with such inspection and acceptance, an authorized inspector of the Sublessee shall likewise inspect such Item and no Item of Equipment shall be delivered and accepted under this Lease unless concurrently therewith an authorized representative of the Sublessee shall accept delivery thereof, as evidenced by an appropriate form of Acceptance Certificate, under the Sublease.

1.3. Certificate of Acceptance. The Lessee's execution and delivery of a Certificate of Acceptance with respect to each Item of Equipment pursuant to Section 1.2 hereof shall conclusively establish that, as between the Lessor and the Lessee, but without limiting or otherwise affecting the Lessee's or the Lessor's rights, if any, against the Manufacturer thereof, such Item of Equipment is acceptable to and accepted by the Lessee under this Lease, notwithstanding any defect with respect to design, manufacture, condition or in any other respect, and that such Item of Equipment is in good order and condition and conforms to the specifications applicable thereto and to all applicable United States Department of Transportation and Interstate Commerce Commission requirements and specifications, if any, and to all standards recommended by the Association of American Railroads applicable to new railroad equipment of the character of the Equipment as of the date of this Lease. By execution and delivery of such Certificate of Acceptance, the Lessee represents that it has no knowledge of any such defect.

## SECTION 2. RENTALS AND PAYMENT DATES.

2.1. Rent for Equipment. The Lessee agrees to pay the Lessor the following rent for each Item of Equipment:

(a) Interim Rental. For each Item of Equipment, an amount per day (the "Interim Rental") equal to 0.032709% of the Purchase Price thereof for the period, if any, from the date of acceptance for such Item of Equipment to, but not including, the earlier of (i) the first day of the month following the final Closing Date under the Participation Agreement, or (ii) December 31, 1981 (the "Term Lease Commencement Date"); and

(b) Fixed Rental. For each Item of Equipment, 216 monthly installments of fixed rental (the "Fixed Rental"), payable in advance, the first 144 installments in an amount equal to 1.1321172% of the Purchase Price and the remaining 72 installments to be in an amount equal to 0.779807% of the Purchase Price thereof.

2.2. Rent Payment Dates. The installment of Interim Rental and the first installment of Fixed Rental for each Item of Equipment shall be due and payable on the Term Lease Commencement Date and the balance of said installments shall be payable at monthly intervals thereafter on the first day of each following month with the final such installment payable 17 years and eleven months following the Term Lease Commencement Date. If any of the rent payment dates is not a business day, the rent payment otherwise payable on such date shall be payable on the next succeeding business day. For purposes of this Lease, the term "business day" means calendar days, excluding Saturdays, Sundays and holidays on which banks in the States of Illinois, New York, Connecticut or Arizona are authorized or required to close.

2.3. Place and Manner of Rent Payment. The payments to be made by the Lessee under this Lease shall be made as follows:

(a) Subject to the provisions of Section 14.4 hereof, the installment of Interim Rental and each installment of Fixed Rental shall be paid to the Lessor by wire transfer to the principal office of the Lessor at the address thereof provided for payments in Section 21.1 hereof; provided that in the event either the Lessor or the Security Trustee shall notify the Lessee in writing that the right to receive payment of such installment shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment by wire transfer to the place designated in such notice or as otherwise designated from time to time in writing by such assignee; and provided further that in the event such notice shall direct the Lessee to divide such installment into not more than two portions, and to pay each portion by wire transfer separately to not more than two parties, the Lessee agrees to do so;

(b) The entire amount of any payment of Casualty Value pursuant to Section 11 hereof shall be paid to the Lessor by wire transfer at the address provided for payments in Section 21.1 hereof (identifying the same as a payment of Casualty Value relating to NAC No. 81-1); provided that in the event either the Lessor or the Security Trustee shall notify the Lessee in writing that the right to receive payment of such Casualty Value shall have been assigned in accordance with Section 16 hereof, the Lessee shall make such payment by such wire transfer in the manner designated in such notice or as otherwise designated from time to time in writing by such assignee;

(c) The amount of any payment owing to the Lessor pursuant to Sections 6, 10.2, 11.1 (with respect to public liability insurance) and 21.2 hereof shall be made directly to the party to receive the same without regard to the assignment of this Lease pursuant to Section 16 hereof;

(d) The amount of any interest due in respect of the late payment of any rentals or other amounts pursuant to Section 19 hereof shall be paid to the party and in the manner herein provided to receive said rental or other amount; and

(e) All payments other than those above specified shall be made by the Lessee directly to the party to receive the same unless any such payment has previously been made by the Lessor or its assignee, in which case the Lessee shall reimburse the Lessor or its assignee, as the case may be, directly for such payment.

The Lessee agrees that it will make payments due hereunder by wire transfer where specified above at the opening of business of the office of the transferring bank on the due date of such payment of Federal or otherwise immediately available funds to the party to whom such payment is to be made. In the case of all Fixed Rental installments which the Lessee is obligated to pay only out of Sublease rental installments, the Lessee will direct the Sublessee to make such payments to the Lessor or its assignee, as the case may be, in the manner otherwise provided for such payments under this Section 2.3; provided that upon consent of any party designated to receive such a payment, which consent will not be unreasonably withheld, the Sublessee may make such payment by a means other than wire transfer.

2.4. Net Lease. This Lease is a net lease and except as provided in Section 14.4 hereof, the Lessee's obligation to pay all Interim Rental and Fixed Rental and other amounts payable hereunder shall be absolute and unconditional under any and all circumstances and, without limiting the generality of the foregoing, the Lessee shall not be entitled to any abatement of rent or

reduction thereof or setoff against rent, including, but not limited to, abatements, reductions or setoffs due to any present or future claims of the Lessee against the Lessor under this Lease or otherwise or against any assignee of the Lessor pursuant to Section 16 hereof; nor, except as otherwise expressly provided herein, shall this Lease terminate, or the respective obligations of the Lessor or the Lessee be otherwise affected, by reason of any defect in or damage to or loss or destruction of all or requisitioning of the Equipment by condemnation or otherwise, the prohibition of Lessee's use of the Equipment, the interference with such use by any private person or corporation, the invalidity or unenforceability or lack of due authorization or other infirmity of this Lease, or lack of right, power or authority of the Lessor to enter into this Lease, or for any other cause whether similar or dissimilar to the foregoing, any present or future law to the contrary notwithstanding, it being the intention of the parties hereto that the rents and other amounts payable by the Lessee hereunder shall continue to be payable in all events unless the obligation to pay the same shall be terminated pursuant to Section 11.4 hereof, or until, pursuant to Section 13 hereof, the Equipment has been returned to the possession of the Lessor (for all purposes of this Lease any Item of Equipment shall not be deemed to have been returned to the Lessor's possession until all of the Lessee's obligations with respect to the return, transportation and storage thereof have been performed). To the extent permitted by applicable law, the Lessee hereby waives any and all rights which it may now have or which at any time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit or surrender the lease of any of the Items of Equipment except in accordance with the express terms hereof. Each rental or other payment made by the Lessee hereunder shall be final and the Lessee shall not seek to recover all or any part of such payment from the Lessor or any assignee pursuant to Section 16 hereof for any reason whatsoever.

2.5. Adjustment of Rentals. The Lessee warrants and represents to the Lessor and any assignee thereof pursuant to Section 16 that the amount of each installment of Interim and Fixed Rental due hereunder is sufficient to meet the installment of principal and/or interest due on the Notes on the date that such installment of Interim or Fixed Rental is due and that the Casualty Value payable for any Item of Equipment in the event of a Casualty Occurrence is sufficient to pay the Loan Value (as such term is defined in the Security Agreement) relating to such Item of Equipment; the Lessee further represents that during the period of the Sublease the amount of Interim Fixed Rental Payment and each Fixed Rental payment under the Sublease is sufficient to pay the amount of Interim and Fixed Rentals due hereunder.

The Lessee agrees that in the event of an adjustment of the amount of installments of Interim Rental or Fixed Rental or Casualty Value hereunder with respect to any Item of Equipment,

pursuant to the Federal tax indemnity agreement referred to in Section 7 of the Participation Agreement or otherwise, the Interim or Fixed Rental installments or Casualty Value amounts shall in no event be reduced below amounts necessary to discharge that portion of the principal and/or interest due on the Notes, on each rental payment date under this Lease.

The representations, warranties and agreements under this Section 2.5 do not constitute a guaranty by the Lessee of principal or interest under the Notes.

### SECTION 3. TERM OF THE LEASE.

The term of this Lease as to each Item of Equipment shall begin on the date of the delivery to and acceptance by the Lessee of such Item of Equipment and, subject to the provisions of Sections 11, 14 and 18 hereof, shall terminate 18 years following the Term Lease Commencement Date provided for in Section 2.1(a) hereof.

### SECTION 4. OWNERSHIP AND MARKING OF EQUIPMENT.

4.1. Retention of Title. The Lessor, as between the Lessor and the Lessee, shall and hereby does retain full legal title to the Equipment notwithstanding the delivery thereof to and possession and use thereof by the Lessee.

4.2. Duty to Number and Mark Equipment. The Lessee will cause each Item of Equipment to be kept numbered with its identifying number as set forth in Schedule A hereto and will keep and maintain, plainly, distinctly, permanently and conspicuously marked by a plate or stencil printed in contrasting color upon each side of each Item of Equipment in letters not less than one inch in height as follows:

"OWNERSHIP SUBJECT TO AN EQUIPMENT TRUST OR SECURITY AGREEMENT AND/OR VESTED IN A TRUSTEE OR OTHER PERSON OR ENTITY AS SET FORTH IN A BAILMENT AGREEMENT OR A LEASE FILED WITH THE INTERSTATE COMMERCE COMMISSION."

with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the title of the Lessor to such Item of Equipment, its rights under this Lease and the rights of any assignee under Section 16 hereof.

The Lessee will not place any such Item of Equipment in operation or exercise any control or dominion over the same until the required legend shall have been so marked on both sides thereof and will replace promptly any such names and word or words which may be removed, defaced or destroyed. The Lessee will not change the identifying number of any Item of Equipment unless and until

(1) a statement of a new number or numbers to be substituted therefor shall have been filed with the Security Trustee and the Lessor and filed, recorded and deposited by the Lessee in all public offices where this Lease and the Security Agreement shall have been filed, recorded and deposited and (ii) the Lessee shall have furnished the Security Trustee and the Lessor an opinion of counsel to the effect that such statement has been so filed, recorded and deposited, such filing, recordation and deposit will protect the Security Trustee's and the Lessor's interests in such Equipment and no filing, recording, deposit or giving of notice with or to any other federal, state or local government or agency thereof is necessary to protect the interests of the Security Trustee and the Lessor in such Equipment while operating in any jurisdiction wherein the Security Agreement or any instrument in respect thereof has been or is required to be filed, registered, deposited or recorded as provided in the Security Agreement. The Lessor agrees to execute all amendments hereto necessary to accomplish such filings, recordings and deposits.

4.3. Prohibition Against Certain Designations. Except as above provided, the Lessee will not allow the name of any person, association or corporation to be placed on the Equipment as a designation that might be interpreted as a claim of ownership; provided, however, that the Lessee may cause the Equipment to be lettered with the names or initials or other insignia customarily used by the Lessee, its affiliates, the Sublessee or sublessees under Permitted Subleases on railroad equipment used by them of the same or a similar type for convenience of identification of the right of the Lessee to use the Equipment under this Lease and/or the Sublessee or any sublessee under a Permitted Sublease to use the Equipment under the Sublease or any Permitted Sublease.

#### SECTION 5. DISCLAIMER OF WARRANTIES.

THE LESSOR LEASES THE EQUIPMENT, AS-IS, IN WHATEVER CONDITION IT MAY BE, WITHOUT ANY AGREEMENT, WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, BY THE LESSOR, WHICH EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO (A) THE FITNESS FOR ANY PARTICULAR PURPOSE OR MERCHANTABILITY OF ANY ITEM OR ITEMS OF EQUIPMENT, (B) THE LESSOR'S TITLE THERETO, (C) THE LESSEE'S RIGHT TO THE QUIET ENJOYMENT THEREOF, (D) THE DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE EQUIPMENT, OR (E) ANY OTHER MATTER WHATSOEVER, IT BEING AGREED THAT ALL SUCH RISKS, AS BETWEEN THE LESSOR AND THE LESSEE, ARE TO BE BORNE BY THE LESSEE. The Lessor hereby appoints and constitutes the Lessee its agent and attorney-in-fact during the term of this Lease to assert and enforce, from time to time, in the name and for the account of the Lessor and the Lessee, as their interests may appear, but in all cases at the sole cost and expense of the Lessee, whatever claims and rights the Lessor may have as owner of the Equipment against the Manufacturer, provided, however,

that if at any time an Event of Default shall have occurred and be continuing, the Lessor may assert and enforce, at the Lessee's sole cost and expense, such claims and rights. The Lessor shall have no responsibility or liability to the Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Item of Equipment or by any inadequacy thereof or deficiency or defect therein or by any other circumstances in connection therewith; (ii) the use, operation or performance of any Item of Equipment or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of any Item of Equipment. The Lessee's delivery of a Certificate of Acceptance shall be conclusive evidence as between the Lessee and the Lessor that all Items of Equipment described therein are in all the foregoing respects satisfactory to the Lessee, and the Lessee will not assert any claim of any nature whatsoever against the Lessor based on any of the foregoing matters.

#### SECTION 6. LESSEE'S INDEMNITY.

6.1. Scope of Indemnity. The Lessee shall defend, indemnify and save harmless the Lessor and any assignee of the Lessor pursuant to Section 16 hereof (including, without limitation, the Security Trustee and the Note Purchasers) and their respective successors and assigns from and against:

(a) any and all loss or damage to the Equipment, usual wear and tear excepted; and

(b) any claim, cause of action, damages, liability, cost or expense (including, without limitation, counsel fees and costs in connection therewith) which may be incurred in any manner by or for the account of any of them (i) relating to any Item of Equipment or any part thereof, including, without limitation, the construction, purchase, delivery, acceptance, rejection, ownership, sale, leasing, return or storage of any Item of Equipment or as a result of the use, maintenance, repair, replacement, operation or the condition thereof (whether defects are latent or discoverable by the Lessee or any indemnified party), (ii) by reason or as the result of any act or omission (whether negligent or otherwise) of the Lessee for itself or as agent or attorney-in-fact for the Lessor hereunder, (iii) as a result of claims for patent, trademark or copyright infringements, or (iv) as a result of claims for negligence (whether active or passive, except in the case of a wrongful act on the part of the party claiming such indemnity) or strict liability in tort.

The amount the Lessee shall be required to pay with respect to any of its obligations under this Section 6.1 shall include a payment to the indemnified party sufficient to restore such party to the same position, after considering the effect of such payment on its United States Federal income taxes and state and local income taxes or franchise taxes based on net income, that the indemnified party would have been in had the liability or expense indemnified against not been incurred. The indemnities and assumptions of liabilities set forth in this Section 6.1 do not guarantee to any party at any time a residual value in the Equipment nor do they guarantee the payment of the Notes or any interest accrued thereon.

6.2. Continuation of Indemnities and Assumptions.

The indemnities and assumptions of liability in this Section 6 contained shall continue in full force and effect notwithstanding the termination of this Lease, or the termination of the term hereof in respect of any one or more Items of Equipment, whether by expiration of time, by operation of law or otherwise; provided, however, that such indemnities and assumptions of liability shall not apply in respect of any matters referred to in subsection (a) or clause (i), (ii) or (iv) of subsection (b) of Section 6.1 hereof, occurring after the termination of this Lease, except for any such matters occurring after the termination arising in connection with the Lessee's assembling, delivering, storing or transporting of the Equipment as provided in Section 13 or 15, as the case may be. The Lessee shall be entitled to control, and shall assume full responsibility for, the defense of such claim or liability.

SECTION 7. RULES, LAWS AND REGULATIONS.

The Lessee agrees to comply with all governmental laws, regulations, requirements and rules (including, without limitation, the rules of the United States Department of Transportation, the Interstate Commerce Commission and the current Interchange Rules or supplements thereto of the Mechanical Division, Association of American Railroads as the same may be in effect from time to time) (the "Interchange Rules") with respect to the use and maintenance of each Item of Equipment subject to this Lease; provided, however, that the Lessee need take no action under this Section 7 if it shall be permitted pursuant to the terms of Section 11.2 hereof to declare a Casualty Occurrence with respect to any Item of Equipment and shall have paid the Casualty Value for such Item as required by Section 11. In case any equipment or appliance is required to be altered, added, replaced or modified on any Item of Equipment (the "Alterations") in order to comply with such laws, regulations, requirements and rules, the Lessee agrees to make such Alterations at its own expense and title thereto shall be immediately vested in the Lessor. Upon written request of the Lessor, the Lessee agrees that, within 30 days

after the close of any calendar year in which the Lessee has made Alterations, the Lessee will give written notice thereof to the Lessor describing, in reasonable detail, the Alterations and specifying the cost thereof with respect to each Item of Equipment and the date or dates when made.

#### SECTION 8. USE AND MAINTENANCE OF EQUIPMENT.

The Lessee shall use the Equipment only in the manner for which it was designed and intended and so as to subject it only to ordinary wear and tear. The Lessee shall, at its own cost and expense, maintain and keep the Equipment in good order, condition and repair and in the condition received by the Lessee from the Lessor, ordinary wear and tear excepted, suitable for use in interchange in accordance with the Interchange Rules. Without limiting the foregoing, if the Lessee maintains other equipment of a type similar to the Equipment subject to this Lease owned by it or any affiliate and used for purposes similar to that of the Equipment subject to this Lease at a standard higher than that required by this Section 7, the Lessee agrees to maintain the Equipment subject to this Lease at such standard. Except as required by the provisions of Section 7 hereof, the Lessee shall not make any modification to any Item of Equipment which would impair the value thereof without the prior written authority and approval of the Lessor and any assignee pursuant to Section 16 hereof. Any parts installed or replacements made by the Lessee upon any Item of Equipment pursuant to Section 7 hereof or pursuant to its obligation to maintain and keep the Equipment in good order, condition and repair under this Section 8 shall be considered accessions to such Item of Equipment and title thereto shall be immediately vested in the Lessor without cost or expense to the Lessor. Title to any additions or improvements to any Item which are readily removable without causing material damage to such Item shall remain with the Lessee. If the Lessee shall at its cost cause such readily removable additions or improvements to be made to any Item of Equipment, the Lessee agrees that it will, prior to the return of such Item of Equipment to the Lessor hereunder, remove the same at its own expense without causing material damage to such Item of Equipment.

#### SECTION 9. LIENS ON THE EQUIPMENT.

The Lessee shall pay or satisfy and discharge any and all claims against, through or under the Lessee and its successors or assigns which, if unpaid, might constitute or become a lien or a charge upon any Item of Equipment, and any liens or charges which may be levied against or imposed upon any Item of Equipment as a result of the failure of the Lessee to perform or observe any of its covenants or agreements under this Lease and any other liens or charges which arise by virtue of claims against, through or under any other party other than the Lessor, but the Lessee shall not be required to pay or discharge any such claims so

long as it shall, in good faith and by appropriate legal proceedings contest the validity thereof in any reasonable manner which will not affect or endanger the use or value of the Equipment or the title and interest of the Lessor or the security interest or other rights of any assignee under Section 16 hereof in and to the Equipment. The Lessee's obligations under this Section 9 shall survive the termination of this Lease.

SECTION 10. FILING; PAYMENT OF STATE AND LOCAL TAXES.

10.1. Filing. Prior to the delivery and acceptance of the first Item of Equipment hereunder, the Lessee will cause this Lease, the Sublease and the Security Agreement to be duly filed, registered or recorded with the Interstate Commerce Commission in accordance with U.S.C. 49 §11303 of the Interstate Commerce Act and in such other places within or without the United States as the Lessor or the Security Trustee may reasonably request and will furnish the Lessor and the Security Trustee proof thereof. The Lessee will, from time to time, do and perform any other act and will execute, acknowledge, deliver, file, register and record (and will refile, reregister or rerecord whenever required) any and all further instruments required by law or reasonably requested by the Lessor or the Security Trustee, for the purpose of protecting the Lessor's title to, or the Security Trustee's security interest in, any Item of Equipment to the satisfaction of the Lessor's or the Security Trustee's counsel or for the purpose of carrying out the intentions of this Lease, and in connection with any such action, will deliver to the Lessor and the Security Trustee proof of such filings and an opinion of the Lessee's counsel reasonably satisfactory to the Lessor and the Security Trustee that such action has been properly taken. The Lessee will pay all costs, charges and expenses incident to any such filing, refile, recording and rerecording or depositing and redepositing of any such instruments or incident to the taking of such action.

10.2. Payment of State and Local Taxes. All payments to be made by the Lessee hereunder will be free of expense to the Lessor and any assignee of the Lessor pursuant to Section 16 hereof (including, without limitation, the Security Trustee and the Note Purchasers) and their respective successors and assigns (the "Indemnitees") for collection or other charges and will be free of expense to the Indemnitees with respect to any Impositions as hereinafter defined. As used in this Section 10.2 "Impositions" shall mean the amount of any local, state, Federal or foreign taxes, assessments or license fees and any charges, fines or penalties in connection therewith which are imposed on or measured by this Lease or the receipt of sums pursuant hereto or any sale, rental, use, payment, shipment, delivery or transfer of title in respect of the Equipment under the terms hereof or, while an Event of Default hereunder shall be continuing, the Security Agreement; provided that Impositions shall not include as to each respective Indemnitee: (a) United States Federal income tax

liability and, to the extent that any respective Indemnitee is entitled to credit therefor against its United States Federal income tax liability, any foreign income tax of such Indemnitee, payable by any respective Indemnitee in consequence of the receipt of payments provided herein; and (b) the aggregate of all franchise taxes measured by net income based on such receipts, up to the amount in the aggregate of any such income and franchise taxes which would be payable to the state and city in which such Indemnitee has its principal place of business without apportionment to any other state, except any such tax which is in substitution for or relieves the Lessee from the payment of taxes which it would otherwise be obligated to pay or reimburse as herein provided. The Lessee agrees to pay, on demand, any and all Impositions. The Lessee will also pay promptly all Impositions which may be imposed upon any Item of Equipment or for the use or operation thereof or upon the earnings arising therefrom or upon any Indemnitee solely by reason of its interest with respect thereto and will keep at all times all and every part of such Item of Equipment free and clear of all Impositions which might in any way affect the interest of any Indemnitee therein or result in a lien upon any such Item of Equipment; provided, however, that the Lessee shall be under no obligation to pay any Impositions so long as it is contesting in good faith and by appropriate legal proceedings such Impositions and the nonpayment thereof does not, in the reasonable opinion of any Indemnitee, adversely affect the interest of any Indemnitee hereunder or under the Security Agreement. If any Impositions shall have been charged or levied against any Indemnitee directly and paid by such Indemnitee after such Indemnitee shall have given written notice thereof to the Lessee and the same shall have remained unpaid for a period of ten business days thereafter, the Lessee shall reimburse such Indemnitee on presentation of invoice therefor. Prior to making such payment, such Indemnitee shall promptly notify the Lessee of the Impositions charged or levied, and the Lessee shall have the opportunity to contest in good faith and by appropriate legal proceedings such Impositions, at its sole expense.

In the event any reports with respect to Impositions are required to be made on the basis of individual Items of Equipment, the Lessee will either prepare and file such reports in such manner as to show as required the interests of each Indemnitee in such Items of Equipment or, if it shall not be permitted to file the same, it will notify each Indemnitee of such reporting requirements, prepare such reports in such manner as shall be satisfactory to each Indemnitee and deliver the same to each Indemnitee within a reasonable period prior to the date the same is to be filed.

In the event that, during the continuance of this Lease, any Imposition accrues or becomes payable or is levied or assessed (or is attributable to the period of time during which this Lease is in existence) which the Lessee is or will be obligated to pay or reimburse, pursuant to this Section 10.2, such liability shall continue, notwithstanding the expiration of this Lease, until all such Impositions are paid or reimbursed by the Lessee.

The Lessee shall, whenever reasonably requested by any Indemnatee, submit to such Indemnatee evidence satisfactory to such Indemnatee of, the Lessee's performance of its duties under this Section 10.2. The Lessee shall also furnish promptly upon request such data as any Indemnatee reasonably may require to permit such Indemnatee's compliance with the requirements of taxing jurisdictions, including, but not limited to, information relating to the use of any Item or Items outside the United States of America.

The amount which the Lessee shall be required to pay to any Indemnatee with respect to any Imposition which is subject to indemnification under this Section 10.2 shall be an amount sufficient to restore such Indemnatee to the same net after-tax rate of return and after-tax cash position, after considering the effect of such payment and such Imposition on its United States Federal income taxes and state and local income taxes or franchise taxes based on net income, that such Indemnatee would have had or been in had such Imposition not been imposed.

#### SECTION 11. INSURANCE; PAYMENT FOR CASUALTY OCCURRENCE.

11.1. Insurance. The Lessee will at all times after delivery and acceptance of each Item of Equipment, at its own expense, keep or cause to be kept each such Item insured by a reputable insurance company or companies in amounts and against risks customarily insured against (including, without limitation, loss of property and general public liability) by companies owning property of a similar character, engaged in a business similar to that engaged in by the Lessee and in financial condition similar to the Lessee, and in any event in amounts and against risks not less than the insurance, if any, maintained by the Lessee with respect to similar equipment which it owns or leases. Such insurance may provide that losses shall be adjusted with the Lessee and shall provide that the proceeds thereof shall be payable to the Lessor, any assignee thereof pursuant to Section 16 hereof and the Lessee as their interests shall appear; provided that in the event any casualty insurance shall be in effect with respect to the Equipment prior to the payment in full of all principal and interest on the Notes, all payments thereunder shall be made to the Security Trustee under a standard mortgage loss payable clause. All proceeds of insurance received by any party other than the Lessee with respect to any Items of Equipment not suffering a Casualty Occurrence (as hereinafter defined) shall be paid thereby to the Lessee upon reasonable proof that any damage to any Item with respect to which such proceeds were paid has been fully repaired. Any such proceeds of insurance received by any party with respect to a Casualty Occurrence shall be credited thereby toward the payment required by this Section 11 with respect to such Casualty Occurrence.

No policy maintained pursuant to this Section 11.1 shall, in respect of the interests of the Lessor and the Security Trustee in such policy, invalidate the coverage thereof due to

any action or inaction of the Lessee or any other person (other than the Lessor or the Security Trustee, but only in respect of their respective coverages) and shall insure the Lessor and the Security Trustee regardless of any breach or violation of any warranty, declaration, or condition contained in such policy by the Lessee or any other person (other than the Lessor or the Security Trustee, but only in respect of their respective coverages). The Lessee shall furnish the Lessor with certificates or other satisfactory evidence of maintenance of the insurance required hereunder and with respect to any renewal policy or policies shall furnish certificates evidencing such renewal prior to the expiration date of the original policy or policies. All such policies shall provide that the same shall not be cancelled or materially changed without at least 30 days' prior written notice to each assured named therein.

11.2. Duty of Lessee to Notify Lessor. In the event that any Item of Equipment shall be or become lost, stolen, destroyed, or, in the opinion of the Lessee, irreparably damaged during the term of this Lease or thereafter while such Item of Equipment is in the possession of the Lessee pursuant to Section 13 or 15 hereof, or shall be requisitioned or taken over by any governmental authority under the power of eminent domain or otherwise during the term of this Lease for a stated period which exceeds the then remaining term of this Lease or the Lessee shall elect not to make a Modification pursuant to §22 of the Sublease (any such occurrence being hereinafter called a "Casualty Occurrence"), the Lessee shall promptly and fully (after it has knowledge of such Casualty Occurrence) inform the Lessor and any assignee of the Lessor pursuant to Section 16 hereof (including, without limitation, the Security Trustee and the Note Purchasers) in regard thereto and shall pay the Casualty Value (as defined in Section 11.6 hereof) of such Item in accordance with the terms of Section 11.3 hereof.

11.3. Sum Payable for Casualty Loss. The Lessee, on the second succeeding rent payment date following its notice of a Casualty Occurrence with respect to any Item or Items of Equipment, or at the end of the Lease term with respect to any casualty occurring after the date of payment of the 214th rental installment shall pay to the Lessor the Interim or Fixed Rental installment due on such payment date for such Item of Equipment plus any rentals or other sums due on or prior to such date then remaining unpaid plus a sum equal to the Casualty Value of such Item of Equipment as of the date of such payment.

11.4. Rent Termination. Upon (and not until) payment of all sums required to be paid pursuant to Section 11.3 hereof in respect of any Item or Items of Equipment, the obligation to pay rent for such Item or Items of Equipment accruing subsequent to the Casualty Value payment date shall terminate, but the Lessee shall continue to pay rent for all other Items of Equipment.

11.5. Disposition of Equipment. The Lessee shall, as agent for the Lessor, dispose of such Item or Items of Equipment.

having suffered a Casualty Occurrence as soon as it is able to do so for the fair market value thereof. Any such disposition shall be on an "as-is", "where-is" basis without representation or warranty, express or implied. As to each separate Item of Equipment so disposed of, so long as no Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default shall have occurred and be continuing, the Lessee may retain all amounts arising from such disposition plus any insurance proceeds and damages received by the Lessee by reason of such Casualty Occurrence up to the Casualty Value attributable thereto and shall remit the excess, if any, to the Lessor. In disposing of such Item of Equipment, the Lessee shall take such action as the Lessor shall reasonably request to terminate any contingent liability which the Lessor might have arising after such disposition from or connected with such Item of Equipment.

11.6. Casualty Value. The Casualty Value of each Item of Equipment shall be an amount determined as of the date the Casualty Value is paid as provided in this Section 11 (and not the date of the Casualty Occurrence) equal to that percentage of the Purchase Price (as defined in the Participation Agreement) of such Item of Equipment set forth in the Schedule of Casualty Value attached hereto as Schedule C opposite such date of payment.

11.7. Risk of Loss. The Lessee shall bear the risk of loss and, except as hereinabove in this Section 11 provided, shall not be released from its obligations hereunder in the event of any Casualty Occurrence to any Item of Equipment from and after the date hereof and continuing until payment of the Casualty Value and all rental installments and other sums due on and prior to the date of payment of such Casualty Value in respect of such Item of Equipment has been made, such Item or the salvage thereof has been disposed of by the Lessee and the title to such Item or the salvage thereof and all risk of loss and liabilities incident to ownership have been transferred to the purchaser of such Item or the salvage thereof.

11.8. Eminent Domain. In the event that during the term of this Lease the use of any Item of Equipment is requisitioned or taken by any governmental authority under the power of eminent domain or otherwise for an indefinite period or for a stated period which does not exceed the term of this Lease, the Lessee's obligation to pay all installments of rental and other sums shall continue for the duration of such requisitioning or taking. So long as no Event of Default, or event which with the lapse of time or giving of notice, or both, shall have occurred and be continuing, the Lessee shall be entitled to receive and retain for its own account all sums payable for any such period by such governmental authority as compensation for requisition or taking of possession.

## SECTION 12. ANNUAL REPORTS.

12.1. Duty of Lessee to Furnish. On or before the first May 1 which occurs more than four months following the date of this Lease and on each May 1 thereafter during the term of this Lease, the Lessee will furnish to the Lessor and any assignee of the Lessor pursuant to Section 16 hereof (including, without limitation, the Security Trustee and the Note Purchasers) an accurate statement, as of the preceding December 31 (a) showing the amount, description and numbers of the Items of Equipment then leased hereunder, the amount, description and numbers of all Items of Equipment that may have suffered a Casualty Occurrence during the 12 months ending on such December 31 (or since the date of this Lease, in the case of the first such statement), and such other information regarding the condition or repair of the Equipment as the Lessor may reasonably request, (b) stating that, in the case of all Equipment repainted during the period covered by such statement, the markings required by Section 4.2 hereof shall have been preserved or replaced, and (c) describing the Permitted Subleases, if any, relating to each Item of Equipment then leased hereunder.

12.2. Lessor's Inspection Rights. The Lessor and any assignee of the Lessor pursuant to Section 16 hereof (including, without limitation, the Security Trustee and the Note Purchasers) each shall have the right, at their respective sole cost and expense, by their respective authorized representative, to inspect the Equipment and the Lessee's records with respect thereto, at such time as shall be reasonably necessary to confirm thereto the existence and proper maintenance of the Equipment during the continuance of this Lease.

## SECTION 13. RETURN OF EQUIPMENT UPON EXPIRATION OF TERM.

Upon the expiration of the term of this Lease with respect to any Item of Equipment, the Lessee will, at its own cost and expense, at the request of the Lessor, deliver possession of such Item of Equipment to the Lessor upon such storage tracks as the Lessor may reasonably designate, or in the absence of such designation, as the Lessee may select, and permit the Lessor to store such Item of Equipment on such tracks for a period not exceeding 90 days and transport the same at any time within such 90-day period to any reasonable site within 500 miles of the place of storage, all as directed by the Lessor upon not less than 30 days' written notice to the Lessee. All movement and storage of each such Item is to be at the risk and expense of the Lessee, and the Lessee agrees to maintain the insurance on such Item required by Section 11.1 hereof during such storage period. During any such storage period the Lessee will permit the Lessor or any person designated by it, including the authorized representative or representatives of any prospective purchaser of any such Item, to inspect the same; provided, however, that the Lessee shall not be liable, except in the case of negligence of the Lessee or of its employees or agents, for any injury to, or

the death of, any person exercising, either on behalf of the Lessor or any prospective purchaser, the rights of inspection granted under this sentence. All amounts earned in respect of the Equipment after the date of expiration of this Lease, but not exceeding the rental, per diem, or other similar charge for equipment received therefor, shall belong to the Lessor and, if received by the Lessee, shall be promptly turned over to the Lessor. In the event any Item of Equipment is not assembled, delivered and stored as hereinabove provided within 30 days after the expiration of this Lease, the Lessee shall, in addition, pay to the Lessor for each day thereafter an amount equal to the amount, if any, by which the higher of (i) an amount equal to 0.002136% of the Purchase Price of such Item of Equipment, or (ii) the Fair Rental Value (determined in the manner provided in Section 14.2 hereof) for such Item for each such day exceeds the amount, if any, received by the Lessor (either directly or from the Lessee) for such day for such Item pursuant to the preceding sentence. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee to so assemble, deliver, store and transport the Equipment.

#### SECTION 14. DEFAULT.

14.1. Events of Default. Any of the following events shall constitute an Event of Default hereunder:

(a) Default shall be made in the payment of any part of the rental or Casualty Value provided in Section 2 or 11 hereof and such default shall continue for five days;

(b) The Lessee shall make or permit any assignment or transfer of this Lease, or of possession of the Equipment, or any portion thereof not permitted by this Lease;

(c) Default shall be made in the observance or performance of any other of the covenants, conditions and agreements on the part of the Lessee contained herein and such default shall continue for 30 days after a "responsible officer" (as defined in Section 14.7 hereof) shall have actual knowledge thereof;

(d) Any representation or warranty made by the Lessee herein or in the Participation Agreement or the Purchase Agreement or in any statement or certificate furnished to the Lessor, the Security Trustee or the Note Purchasers pursuant to or in connection with this Lease, the Participation Agreement or the Purchase

Agreement is untrue in any material respect as of the date of issuance or making thereof;

(e) An Event of Default shall have occurred and be continuing under the Sublease and the Lessee shall not have exercised its rights under Section 14.5 hereof prior to the Enforcement Date under said Section 14.5;

(f) The Lessee becomes insolvent or fails generally to pay its debts as such debts become due; or causes or suffers an order for relief to be entered against it under applicable federal or state bankruptcy law, or makes an assignment for the benefit of creditors or applies for or consents to the appointment of a custodian, trustee or receiver for the Debtor or for the major part of its property;

(g) A custodian, trustee or receiver is appointed for the Lessee or for the major part of its property and is not discharged within 30 days after such appointment; or

(h) Bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings, or other proceedings for relief under any bankruptcy law or similar law for the relief of debtors, are instituted by or against the Lessee and, if instituted against the Lessee, are consented to or are not dismissed within 30 days after such institution.

14.2. Remedies. If any Event of Default has occurred and is continuing, the Lessor or, in the event this Lease shall be assigned to an assignee pursuant to Section 16 hereof, such assignee, at its option, may:

(a) Proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Lessee of the applicable covenants of this Lease or to recover damages for the breach thereof, including reasonable attorneys' fees; and/or

(b) By notice in writing to the Lessee, terminate this Lease, whereupon all right of the Lessee to the use of the Equipment shall absolutely cease and terminate as though this Lease had never been made, but the Lessee shall remain liable as hereinafter provided; and thereupon, the Lessor may by its agents enter upon the premises of the Lessee or other premises where any of the Equipment may be located and take possession of all or any of the Items of Equipment and thenceforth hold, possess and enjoy the same free from any right of the Lessee, or its successors or assigns, to use such Items for any purpose whatever, but the Lessor shall nevertheless have a right to recover from the Lessee any and all amounts which may have accrued to the

date of such termination (computing the rental for any number of days less than a full rental period by multiplying the rental for such full rental period by a fraction of which the numerator is such number of days and the denominator is the total number of days in such full rental period) and also to recover forthwith from the Lessee (i) as damages for loss of the bargain and not as a penalty, whichever of the following amounts the Lessor, in its sole discretion, shall specify: (x) a sum with respect to each Item of Equipment which represents the excess of the present worth, at the time of such termination, of all rentals for such Item which would otherwise have accrued hereunder from the date of such termination to the end of the term of this Lease over the then present worth of the then Fair Rental Value of such Item for such period computed by discounting from the end of such term to the date of such termination rentals which the Lessor reasonably estimates to be obtainable for the use of such Item during such period, such present worth to be computed in each case on a basis of a 10% per annum discount, compounded monthly from the respective dates upon which rentals would have been payable hereunder had this Lease not been terminated, or (y) an amount equal to the excess if any of the Casualty Value of such Item of Equipment as of the rent payment date on or immediately preceding the date of termination over the amount the Lessor reasonably estimates to be the Fair Market Value thereof at such time; provided, however, that in the event the Lessor shall have sold any Item of Equipment, the Lessor, in lieu of collecting any amounts payable to the Lessor by the Lessee pursuant to the preceding clauses (x) and (y) of this part (i) with respect thereto may, if it shall so elect, demand that the Lessee pay the Lessor and the Lessee shall pay to the Lessor, on the date of such sale, as liquidated damages for loss of a bargain and not as a penalty, an amount equal to the excess, if any, of the Casualty Value of such Item of Equipment as of the rent payment date on or immediately preceding the date of termination over the net proceeds of such sale, and (ii) any damages and expenses, other than for a failure to pay rental, in addition thereto, including reasonable attorneys' fees, which the Lessor shall have sustained by reason of the breach of any covenant or covenants of this Lease other than for the payment of rental.

For purposes of this Section 14.2, the Fair Rental Value and Fair Market Value for any Item of Equipment shall be determined in the manner provided for appraisal arrangements specified below; provided that any sale in a commercially reasonable manner of any Item of Equipment prior to any such determination shall conclusively establish the Fair Market Value of such Item and any rental in a commercially reasonable manner of any Item of

Equipment prior to any such determination shall conclusively establish the Fair Rental Value of such Item.

The Fair Rental Value or Fair Market Value, as the case may be, of the Items of Equipment shall be determined on the basis of, and shall be equal in amount to, the value which would obtain in an arm's-length transaction between an informed and willing lessee or buyer, as the case may be (other than a lessee or buyer, as the case may be, currently in possession) and an informed and willing lessor or seller, as the case may be, under no compulsion to lease or sell, as the case may be. If the Lessor and the Lessee are unable to agree upon a determination of the Fair Rental Value or the Fair Market Value of such Items of Equipment within 20 days after receipt by Lessee of written notice setting forth the method to be used to calculate damages pursuant to Section 14.2(b), such value shall be determined in accordance with the foregoing definition by a qualified independent Appraiser. The term "Appraiser" shall mean any independent appraiser mutually agreed upon by the Lessor and the Lessee or if no such mutual agreement is reached within 10 days, two independent appraisers, one chosen by the Lessor and one chosen by the Lessee, or, if such appraisers cannot agree on the amount of such value within 15 days of appointment, an independent appraiser to be chosen by the American Arbitration Association promptly thereafter. The Appraiser shall be instructed to make such determination within a period of 30 days following appointment, and shall promptly communicate such determination in writing to the Lessor and the Lessee. The determination so made shall be conclusively binding upon both the Lessor and the Lessee. The expenses and fees of the Appraiser shall be borne by the Lessee.

14.3. Cumulative Remedies. The remedies in this Lease provided in favor of the Lessor shall not be deemed exclusive, but shall be cumulative and shall be in addition to all other remedies in its favor existing at law or in equity. The Lessee hereby waives any mandatory requirements of law, now or hereafter in effect, which might limit or modify any of the remedies herein provided, to the extent that such waiver is permitted by law. The Lessee hereby waives any and all existing or future claims of any right to assert any offset against the rent payments due hereunder, and agrees to make the rent payments regardless of any offset or claim which may be asserted by the Lessee on its behalf in connection with the lease of the Equipment.

14.4. Limited Liability as to Fixed Rental. Notwithstanding anything in this Lease to the contrary, unless and until the Lessee has exercised its rights pursuant to Section 14.5 hereof, the Lessor, any assignee of the Lessor pursuant to Section 16 hereof and all successors or assigns of any said persons will look solely to their interest in the Sublease for the payment of the Installment of Interim Rental and the initial 144 monthly installments of Fixed Rental or any damages

resulting from (but only from) the nonpayment of such installment of Interim Rental and the initial 144 installments of Fixed Rental hereunder, and no other property or assets of the Lessee shall be subject to levy, execution or other enforcement procedure for the satisfaction of the remedies of any of the foregoing persons; provided, however, that the foregoing provisions of this sentence shall not (a) constitute a waiver of any obligation evidenced or secured hereby, or (b) limit the right of any of the foregoing persons to name the Lessee as a party defendant in any action or suit for judicial foreclosure and sale hereunder, or for any other appropriate remedies permitted hereby or by applicable law, so long as no judgment in the nature of a personal monetary judgment shall be asked for or taken against the Lessee for the Installment of Interim Rental and the initial 144 monthly installments of Fixed Rental or any damages, resulting from (but only from) the nonpayment of such installment of Interim Rental and such initial 144 installments of Fixed Rentals hereunder unless and until the Lessee shall have exercised its rights pursuant to Section 14.5 hereof.

14.5. Right to Cure Certain Defaults. If an Event of Default hereunder with respect to the nonpayment of Interim or Fixed Rentals or any Event of Default resulting from an Event of Default under the Sublease (a "Curable Default") shall have occurred and be continuing to the knowledge of the Lessor, the Lessor shall give the Lessee not less than 3 business days' prior written notice of the date (the "Enforcement Date") on or after which the Lessor will exercise any remedy or remedies pursuant to Section 14.2 hereof; provided, however, that no notice will be given and no default may be cured pursuant to this Section if (a) the Sublease is not still then in full force and effect and (b) any Event of Default other than a Curable Default shall have occurred and be continuing. The Lessee shall prior to the Enforcement Date have the right to cure any Curable Default by (i) paying in full any Interim and Fixed Rental then due (including interest, if any, on overdue payments) and (ii) by waiving in writing in a form satisfactory to the Lessor its rights under Section 14.4 hereof. Any waiver of the Lessee's rights under Section 14.4 hereof shall be binding and noncancellable, and from the date of such waiver the Lessee shall be fully liable for the payment of Interim and Fixed Rentals hereunder in its general corporate capacity. Upon waiver by the Lessee of its rights under Section 14.4, the Sublease shall be treated in all respects as a Permitted Sublease as such term is defined in Section 17.2 hereof and the Lessee shall have no further right to cure under this Section 14.5.

14.6. Lessor's Failure to Exercise Rights. The failure of the Lessor to exercise the rights granted it hereunder upon any occurrence of any of the contingencies set forth herein shall not constitute a waiver of any such right upon the continuation or recurrence of any such contingencies or similar contingencies.

14.7. Notice of Event of Default. The Lessee also agrees to furnish to the Lessor, the Security Trustee and the Note

Purchasers, promptly upon any responsible officer becoming aware of any condition which constituted or constitutes an Event of Default under this Lease or which, after notice or lapse of time, or both, would constitute such an Event of Default, written notice specifying such condition and the nature and status thereof. For the purposes of this Section 14.7 a "responsible officer" shall mean, with respect to the subject matter of any covenant, agreement or obligation of the Lessee in this Lease contained, any corporate officer of the Lessee who, in the normal performance of his operational responsibilities, would have knowledge of such matter and the requirements of this Lease with respect thereto.

SECTION 15. RETURN OF EQUIPMENT UPON DEFAULT.

15.1. Lessee's Duty to Return. If the Lessor or any assignee of the Lessor pursuant to Section 16 hereof shall terminate this Lease pursuant to Section 14 hereof, the Lessee shall forthwith deliver possession of the Equipment to the Lessor. For the purpose of delivering possession of any Item of Equipment to the Lessor as above required, the Lessee shall at its own cost, expense and risk (except as hereinafter stated):

(a) Forthwith place such Equipment in such reasonable storage place on such lines of railroad as the Lessor may designate or, in the absence of such designation, as the Lessee may select;

(b) Provide storage at the risk and expense of the Lessee until such Equipment has been sold, leased or otherwise disposed of by the Lessor and during such period of storage the Lessee shall continue to maintain all insurance required by Section 11.1 hereof; and

(c) Transport the Equipment to any site within 500 miles of the place of storage, as the Lessor may direct in writing.

All amounts earned in respect of the Equipment after the date of termination of this Lease, but not exceeding the rental, per diem, or other similar charge for equipment received therefor, shall belong to the Lessor or in the event this Lease has been assigned pursuant to Section 16 hereof, to such assignee, and, if received by the Lessee, shall be promptly turned over to the Lessor, or in the case of such assignment, to such assignee. In the event any Item of Equipment is not assembled, delivered and stored as hereinabove provided within 30 days after the termination of this Lease, the Lessee shall, in addition, pay to the Lessor or, in the case of such assignment, to such assignee for each day thereafter an amount equal to the amount, if any, by which the higher of (1) an amount equal to 0.003102% of the

Purchase Price of such Item of Equipment, or (ii) the Fair Rental Value (determined in the manner provided in Section 14.2 hereof) for such Item of Equipment for each such day exceeds the amount, if any, received by the Lessor or such assignee (either directly or from the Lessee) for such day for such Item pursuant to the preceding sentence.

15.2. Specific Performance. The assembling, delivery, storage and transporting of the Equipment as hereinbefore provided are of the essence of this Lease, and upon application to any court of equity having jurisdiction in the premises, the Lessor shall be entitled to a decree against the Lessee requiring specific performance of the covenants of the Lessee so to assemble, deliver, store and transport the Equipment.

15.3. Lessor Appointed Lessee's Agent. Without in any way limiting the obligation of the Lessee under the foregoing provisions of this Section 15, the Lessee hereby irrevocably appoints the Lessor as the agent and attorney of the Lessee, with full power and authority, at any time while the Lessee is obligated to deliver possession of any Items of Equipment to the Lessor, to demand and take possession of such Item in the name and on behalf of the Lessee from whomsoever shall be at the time in possession of such Item.

#### SECTION 16. ASSIGNMENTS BY LESSOR.

This Lease and all rent and all other sums due or to become due hereunder may be assigned in whole or in part by the Lessor without the consent of the Lessee, but the Lessee shall be under no obligation to any assignee of the Lessor except upon written notice of such assignment from the Lessor. Upon notice to the Lessee of any such assignment, the rent and other sums payable by the Lessee which are the subject matter of the assignment shall be paid to or upon the written order of the assignee. Without limiting the foregoing, the Lessee further acknowledges and agrees that, except as provided in Section 14.4 hereof, (a) the rights of any such assignee in and to the sums payable by the Lessee under any provision of this Lease shall not be subject to any abatement whatsoever and shall not be subject to any defense, set-off, counterclaim or recoupment whatsoever whether by reason of failure of or defect in the Lessor's title, or any interruption from whatsoever cause in the use, operation or possession of the Equipment or any part thereof, or any damage to or loss or destruction of the Equipment or any part thereof, or by reason of any other indebtedness or liability, howsoever and whenever arising, of the Lessor to the Lessee or to any other person, firm or corporation or to any governmental authority or for any cause whatsoever, it being the intent hereof that, except in the event of a wrongful act on the part of such assignee,

the Lessee shall be unconditionally and absolutely obligated to pay such assignee all of the rents and other sums which are the subject matter of the assignment, (b) said assignee shall, if an Event of Default, or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default, shall have occurred and be continuing, have the sole right to exercise all rights, privileges and remedies (either in its own name or in the name of the Lessor for the use and benefit of said assignee) which by the terms of this Lease are permitted or provided to be exercised by the Lessor (except those rights, privileges and remedies relating to amounts payable to the Lessor pursuant to Sections 6, 10.2, 11.1 [with respect to public liability insurance] and 21.2 hereof which shall remain enforceable by the Lessor), but if no Event of Default or event which with the lapse of time or giving of notice, or both, would constitute an Event of Default, shall have occurred and be continuing, said assignee and the Lessor may each exercise their respective rights, privileges and remedies stated in this Lease to be provided for their respective benefits, and (c) all obligations of the Lessor to the Lessee under this Lease shall be and remain enforceable by the Lessee against, and only against, the Lessor.

It is understood and agreed that the right, title and interest of any such assignee in, to and under this Lease and the rents and other sums due and to become due hereunder shall by the express terms granting and conveying the same be subject to the interest of the Lessee in and to the Equipment.

SECTION 17. ASSIGNMENTS BY LESSEE; USE AND POSSESSION; MERGER; MILEAGE.

17.1. Lessee's Rights to the Equipment. So long as no Event of Default shall have occurred and be continuing, the Lessee shall be entitled to the possession and use of the Equipment in accordance with the terms of this Lease, but, without the prior written consent of the Lessor, the Lessee shall not assign, transfer or encumber its leasehold interest under this Lease in any of the Equipment. The Lessee shall not, without the prior written consent of the Lessor, part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Equipment, except to the extent permitted by the provisions of Section 17.2 hereof.

17.2. Use and Possession by Lessee; Permitted Subleases. So long as no Event of Default shall have occurred and be continuing under this Lease, the Lessee shall be entitled to and shall have the exclusive use and possession of the Equipment; provided, however, that the Lessee shall not assign or permit the assignment of any Item of Equipment to service (including, without limitation, the regular operation and maintenance thereof) outside the continental United States during the initial term of the Sublease, and thereafter in any location which is not a Perfected Jurisdiction. For the purposes of this Section 17.2, a Perfected Jurisdiction shall mean

the United States and any Canadian jurisdiction with respect to which all instruments required by the laws of any such jurisdiction have been executed, acknowledged, delivered, filed, registered and recorded as required by the laws of that jurisdiction to protect the rights of the Lessor and the Security Trustee under this Lease and under the Security Agreement as evidenced by an opinion of counsel reasonably satisfactory to the Lessor and the Security Trustee. The Lessee further agrees that, anything in this Section 17.2 to the contrary notwithstanding, no Item of Equipment shall be loaded or unloaded outside the continental United States during the initial term of the Sublease, and after the initial term of the Sublease at any location outside of a Perfected Jurisdiction. The Lessee agrees that it will not assign this Lease or any of its rights hereunder or sublease any Item of Equipment; provided, however, that nothing contained in this Lease shall be deemed to prevent the sublease of any Item of Equipment in accordance with the provisions set forth below in this Section 17.2. Except as permitted by Section 14.4 hereof, no such sublease or permitted use shall relieve the Lessee of any of the obligations, liabilities or duties hereunder, which shall be and remain those of a principal and not a surety.

So long as the Lessee shall not be in default under this Lease, the Lessee shall be entitled to sublease the Items of Equipment to (i) the Sublessee under the Sublease, and (ii) such sublessees as the Lessee shall deem appropriate (leases to such sublessees hereinafter referred to as "Permitted Subleases", which term shall not include the Sublease unless the Lessee shall have exercised its rights under Section 14.5); provided, however, that any such Permitted Sublease and the rights and interests of any sublessee thereunder shall in all events be subject and subordinate to this Lease and the rights and interests of the Lessor and its respective successors and assigns hereunder and shall confirm such subordination by a provision therein substantially in the form of Section 21 of the Sublease and such Permitted Sublease shall in all cases be for a term expiring not later than the end of the then current term of this Lease. So long as the Lessee shall not be in default under this Lease, each Item of Equipment may, under the terms of this Lease and pursuant to the Sublease and any Permitted Sublease, be used upon connecting and other carriers in the usual interchange of traffic, but only upon and subject to all of the terms and conditions of this Lease.

17.3. Merger, Consolidation or Acquisition of Lessee. Nothing in this Section 17 shall be deemed to restrict the right of the Lessee to assign or transfer its leasehold interest under this Lease in the Equipment or possession of the Equipment to any corporation organized under the laws of the United States or any state thereof into or with which the Lessee shall have become merged or consolidated, provided that such assignees, successors or transferees shall have duly assumed the obligations of the Lessee hereunder and that, upon the effectiveness of such merger or consolidation or acquisition of properties and the assumption of such obligations, no Event of Default or any event which with

the lapse of time or the giving of notice, or both, would constitute such an Event of Default shall have occurred and be continuing and that such merger or consolidation or acquisition of properties shall not alter in any way the Lessee's obligations to the Lessor hereunder which shall be and remain those of a principal and not a guarantor.

17.4. Mileage. It is contemplated that the Lessee shall receive insofar as applicable law and regulations allow, all mileage allowances, rentals and/or other compensation (hereinafter referred to as "Mileage") payable by carriers by reason of the use of an Item of Equipment, unless an Event of Default or any event which with the lapse of time or the giving of notice, or both, would constitute such an Event of Default shall have occurred and be continuing, in which event such mileage or portion thereof shall be retained by the Lessor until such Events of Default shall no longer be continued. The Lessor shall remit such Mileage or portion thereof as it may receive to the Lessee promptly after the Lessee shall furnish to the Lessor at the Lessee's sole expense, either (i) a ruling of the Interstate Commerce Commission to the effect that the remittance thereof to the Lessee will not constitute a violation under 49 USC Sections 11902 and 11903, or (ii) an opinion of counsel to the same effect; provided, however, that the Lessor will take such action as the Lessee may from time to time request to enable the Lessee to receive and retain such Mileage if the Lessee provides, at the Lessor's request, the Lessor at Lessee's sole expense an opinion of counsel that such action will not constitute a violation under 49 USC Sections 11902 and 11903.

#### SECTION 18. RIGHT OF FIRST REFUSAL.

18.1. Right of First Refusal. Unless an Event of Default, or any event which with the lapse of time or giving of notice, or both, would constitute an Event of Default, shall have occurred and be continuing, the Lessor shall not, for a period of 180 days following the end of the original term of this Lease, sell, transfer or otherwise dispose of an Item of Equipment unless:

(a) the Lessor shall have received from a responsible purchaser or purchasers a bona fide offer or offers in writing to purchase such Item of Equipment;

(b) the Lessor shall have given the Lessee notice (i) setting forth in detail the identity of such purchaser or purchasers, the Item or Items of Equipment to be purchased, the proposed purchase price or prices, the proposed date of purchase and all other material terms and conditions of such purchase, and (ii) offering to sell such Item of Equipment to the Lessee at the same price or prices as those set forth in such notice; provided that in the event such proposal is in respect

of more than one Item of Equipment, the Lessee must purchase all such Items of Equipment as a group; and

(c) the Lessee shall not have notified the Lessor, within 15 days following receipt of such notice, of its election to purchase such Item or Items of Equipment upon such terms and conditions.

If the Lessee shall not have so elected to purchase such Item or Items of Equipment, the Lessor may sell such Item or Items of Equipment at a price and upon other terms and conditions no less favorable to the Lessor than those specified in such notice. Notwithstanding the foregoing provisions of this Section 18.1, the Lessor may lease any or all Items of Equipment at any time after the end of the original term of this Lease without first offering to lease the Equipment to the Lessee.

18.2. Delivery of Equipment. Unless the Lessee has elected to purchase the Items of Equipment then leased hereunder or to renew this Lease in respect of such Items of Equipment as provided in this Section 18, all of such Items of Equipment shall be returned to the Lessor at the end of the original term, or the then current renewal term, as the case may be, in accordance with Section 13 hereof.

SECTION 19. INTEREST ON OVERDUE RENTALS AND AMOUNT PAID BY LESSOR.

Anything to the contrary herein contained notwithstanding any nonpayment of rent due hereunder, or amounts expended by the Lessor on behalf of the Lessee, shall result in the additional obligation on the part of the Lessee to pay also an amount equal to 17% per annum (or the lawful rate, whichever is less) on the overdue rentals and amounts expended for the period of time during which they are overdue or expended and not repaid.

SECTION 20. COLLATERAL ASSIGNMENT BY LESSEE OF PERMITTED SUBLEASES.

20.1. Assignment. As collateral security for the payment of any and all of the obligations and liabilities of the Lessee due hereunder, the Lessee does hereby grant a security interest in and assigns to the Lessor all of the right, title and interest which it has acquired or may have acquired under and pursuant to the Sublease and each and all Permitted Subleases arising from, by virtue of, or in connection with, the Equipment, whether now existing or hereafter entered into, and also in any and all extensions and renewals of the Sublease or of any Permitted Sublease as and only to the extent that the Sublease or any Permitted Sublease relates to the Equipment, including, without limitation:

(a) the immediate and continuing right to receive and collect all rental payments, other payments and sums now or hereafter payable or receivable pursuant to the Sublease or any Permitted Sublease;

(b) the right to make all waivers and agreements and to enter into any amendments relating to the Sublease or any Permitted Sublease or any provision thereof; and

(c) the right to take such action upon the occurrence of an Event of Default under the Sublease or an event which, with the lapse of time or the giving of notice, or both, would constitute an Event of Default under the Sublease, or upon the occurrence of any default under any Permitted Sublease, including the commencement, conduct and consummation of legal, administrative and other proceedings as shall be permitted by the Sublease or any such Permitted Sublease or by law, and to do any and all other things whatsoever which the Lessee is or may be entitled to do under the Sublease or any such Permitted Sublease;

it being the intent and purpose hereof that the assignment and transfer to the Lessor of said rights, powers, privileges, options and other benefits shall be effective and operative immediately and shall continue in full force and effect at all times during the period from and after the date of this Lease until the end of the term of this Lease.

20.2. Modifications of the Sublease and Permitted Subleases. Except as expressly permitted hereby, the Lessee will not:

(a) declare a default or exercise the remedies of the lessor under, or terminate, modify or accept a surrender of, or offer or agree to any termination, modification or surrender of, the Lease or any Permitted Sublease or by affirmative act consent to the creation or existence of any security interest or other lien to secure payment of indebtedness upon the leasehold estate created by the Sublease, any Permitted Sublease or any part thereof; or

(b) receive or collect any rental payment under the Sublease or any Permitted Sublease prior to the date for payment thereof provided for by the Sublease or such Permitted Sublease or assign, transfer or hypothecate (other than to the Lessor hereunder) any rent payment then due or to accrue in the future under the Sublease or such Permitted Sublease in respect of the Equipment.

20.3. Rights of Lessee in Sublease and Permitted Subleases. Notwithstanding any other provision hereof, so long as no Event of Default or any event which with the lapse of time or the giving of notice, or both, would constitute an Event of Default under the Lease shall have occurred and be continuing, the Lessee shall have the following rights with respect to the Sublease and Permitted Subleases:

(a) with respect to the Sublease, the Lessee shall be permitted to (i) receive all rentals and other sums due thereunder other than Fixed Rentals (as such term is defined in the Sublease), which Fixed Rentals shall be paid to the party designated to receive rental payments pursuant to Section 2.3 hereof and shall be applied to the Lessee's obligation to pay Fixed Rentals hereunder, (ii) to proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the Sublessee of its agreements and covenants under the Sublease or to recover damages for the breach thereof, including reasonable attorneys' fees upon the written consent of the Lessor, or in the event of any assignment pursuant to Section 16, its assignee, and (iii) to make such waivers and agreements and enter into such amendments relating to the Sublease as shall be consented to in writing by the Lessor, or in the event of any assignment pursuant to Section 16, its assignee; and

(b) with respect to any Permitted Sublease, (i) to receive all rentals and other sums payable thereunder, (ii) to make such waivers and agreements and enter into such amendments thereto as the Lessee shall deem appropriate, and (iii) to take such action upon the occurrence of a default thereunder as it shall deem appropriate.

As provided in Section 14.5, upon the exercise by the Lessee of its rights under Section 14.5 hereof, the Sublease shall be deemed for all purposes to be a Permitted Sublease and the rights granted in paragraph (b) above shall apply thereto.

20.4. Further Assignment. The Lessee acknowledges and agrees that (i) all rights and interests of the Lessor pursuant to this Section 20 may be assigned by the Lessor to any assignee in accordance with Section 16 hereof, and (ii) the assignment provided for in this Section 20 shall not in any way obligate the Lessor or any of its successors or assigns to perform or satisfy any of the obligations or liabilities of the Lessee, under the Sublease or any Permitted Sublease.

20.5. Power of Attorney. Subject to the limitations contained in this Section 20 (including without limitation the rights of the Lessee under clauses (i) and (ii) of Section 20.1(a) hereof), the Lessee hereby irrevocably constitutes and appoints

the Lessor its true and lawful attorney with full power or substitution for it in its name and stead to ask, demand, collect, receive, receipt for, sue for, compound and give acquittance for any and all sums or properties which may be or become due, payable or distributable to and in respect of the interests assigned under this Section 20, with full power to settle, adjust or compromise any claim thereof or therefor as fully as the Lessee could itself do and to endorse the name of the Lessee on all commercial paper given in payment or part payment of an all documents of satisfaction, discharge or receipt required or requested in connection therewith and in its discretion, to file any claim, to take any other action or proceeding, either in its name or name of the Lessee or otherwise, which the Lessor may deem necessary or appropriate to collect or otherwise realize upon any and all interest assigned hereunder, or which may be necessary or appropriate to protect and preserve the right, title and interest of the Lessor in and to the interests assigned under this Section 20 and the security intended to be afforded hereby.

20.6. Rights under Uniform Commercial Code. Upon the occurrence of any Event of Default under this Lease, the Lessor shall, in addition to all other rights and remedies provided for herein, have in connection with the assignment provided for in this Section 20, all the rights of a secured party under the Uniform Commercial Code of Illinois (regardless of whether such Code is the law of the jurisdiction where the rights or remedies are asserted).

20.7. Further Assurance. Without limiting the foregoing the Lessee hereby further covenants that it will, upon the written request of the Lessor execute and deliver such further instruments and do and perform such other acts and things as are necessary to effectively invest in and secure to the Lessor and its assigns the interests assigned pursuant to this Section 20 or other rights or interests due or hereafter to become due.

20.8. Application of Moneys. All distributions and payments to the Lessor shall be applied by the Lessor to the payment and reduction of the obligations and liabilities of the Lessee under this Lease and in accordance with the terms and provisions of the Security Agreement.

20.9. Duration. The satisfaction or discharge of any part of the obligations or liabilities of the Lessee under this Lease shall not in any way satisfy or discharge the assignment provided for in this Section 20, but such assignment shall remain in full force and effect so long as any amount remains unpaid on any such obligations or liabilities.

## SECTION 21. MISCELLANEOUS.

21.1. Notices. Any notice required or permitted to be given by either party hereto to the other shall be

deemed to have been given when deposited in the United States certified mails, first class, postage prepaid, addressed as follows:

If to the Lessor: Valley Bank Leasing, Inc.  
234 North Central Avenue, Suite 522  
Phoenix, Arizona 85001  
Attention: Vice President and  
General Manager

Payments to the Lessor hereunder  
to be made as set forth in  
Schedule 1 to the Participation  
Agreement

If to the Security  
Trustee: The Connecticut Bank and Trust Company  
One Constitution Plaza  
Hartford, Connecticut 06115  
Attention: Corporate Trust Department

If to the Lessee: North American Car Corporation  
33 West Monroe  
Chicago, Illinois 60603  
Attention:

If to any Note  
Purchaser: At the addresses provided  
therefor in Schedule 2 to  
the Participation Agreement

or addressed to any such party at such other address as such party shall hereafter furnish to such other parties in writing.

21.2. Right of Lessor to Perform. If the Lessee shall fail to comply with any of its covenants herein contained, either the Lessor or, in the case of an assignment by the Lessor pursuant to Section 16 hereof, the assignee thereunder (including, without limitation, the Security Trustee and the Note Purchasers) may, but shall not be obligated to, make advances to perform the same and to take all such action as may be necessary to obtain such performance. Any payment so made by any such party and all cost and expense (including, without limitation, reasonable attorneys' fees and expenses) incurred in connection therewith shall be payable by the Lessee to the party making the same upon demand as additional rent hereunder, with interest at the rate of 17% per annum.

21.3. Execution in Counterparts. This Lease, and any lease supplemental hereto, may be executed in several counterparts, each of which so executed shall be deemed to be an original and

in each case such counterparts shall constitute but one and the same instrument.

21.4. Law Governing. This Lease shall be construed in accordance with the laws of the State of Illinois; provided, however, that the parties shall be entitled to all rights conferred by any applicable Federal statute, rule or regulation.

21.5. Headings and Table of Contents. All Section headings and the Table of Contents are inserted for convenience only and shall not affect any construction or interpretation of this Lease.

21.6. Severability. Any provision of this Lease which is prohibited or unenforceable in any jurisdiction shall be as to such jurisdiction ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provisions in any other jurisdiction.

21.7. Survival. All warranties, representations and covenants made by the Lessee or the Lessor herein or in any certificate or other instrument delivered by any such party or on the behalf of any such party under this Lease shall be considered to have been relied upon by each other party hereto and its successors and assigns and shall survive the consummation of the transactions contemplated hereby regardless of any investigation made by any such party or its successors and assigns or on the behalf of any such party or its successors or assigns. All statements in any such certificate or other instrument shall constitute warranties and representations by the party so making the same.

21.8. Successors and Assigns. This Lease shall be binding upon and shall inure to the benefit of, and shall be enforceable by, the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their respective officers thereunder duly authorized and the corporate seals to be hereto affixed as of the day and year first above written.

VALLEY BANK LEASING, INC.

By

Its

[CORPORATE SEAL]

NORTH AMERICAN CAR CORPORATION

By

Its Vice President

[CORPORATE SEAL]

STATE OF ~~ARIZONA~~ ILLINOIS )  
 ) SS  
COUNTY OF ~~MARICOPA~~ COOK )

On this 9<sup>th</sup> day of October, 1981, before me personally appeared ALLEN E. WILSON, to me personally known, who being by me duly sworn, says that he is the VICE PRES. and GEN. MANAGER of VALLEY BANK LEASING, INC., 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.

Anna J. Delaney  
Notary Public

[NOTARIAL SEAL]

My commission expires: July 10, 1983.

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

On this 9<sup>th</sup> day of October, 1981, before me personally appeared ROGER A. NOBACK, to me personally known, who being by me duly sworn, says that he is the Vice President of NORTH AMERICAN CAR COPORATION, 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.

Anna J. Delaney  
Notary Public

[NOTARIAL SEAL]

My commission expires: July 10, 1983.

DESCRIPTION OF ITEMS OF EQUIPMENT

Manufacturer of Equipment: FMC Corporation

Description and Mark and  
Number of Items of  
Equipment: 225 Covered Hopper Cars  
Marked and Numbered NAHX 900000  
to NAHX 900224, both inclusive

Base Purchase Price of  
Equipment: \$46,550 per Item

Maximum Aggregate Purchase  
Price of Equipment: \$10,473,750

Place of Delivery: Portland, Oregon

Outside Delivery Date: December 31, 1981

(NAC No. 81-1)

SCHEDULE A  
(to Equipment Lease)

CERTIFICATE OF ACCEPTANCE  
UNDER EQUIPMENT LEASE

TO: Valley Bank Leasing, Inc.  
(the "Lessor")

FMC Corporation (the "Manufacturer")

I, a duly appointed and authorized representative of North American Car Corporation (the "Lessee") under the Equipment Lease dated as of September 1, 1981 between the Lessor and the Lessee, do hereby certify that I have inspected, received, approved and accepted delivery under the Lease of the following Items of Equipment:

TYPE OF EQUIPMENT: 225 Covered Hopper Cars

PLACE ACCEPTED:

DATE ACCEPTED:

NUMBER OF UNITS:

MARKED AND NUMBERED:

I do further certify that the foregoing Items of Equipment are in good order and condition, and appear to conform to the specifications applicable thereto, that the Lessee has no knowledge of any defect in any of the foregoing Items of Equipment with respect to design, manufacture, condition or in any other respect, and that each Item has been labeled by means of a plate or a stencil printed in contrasting colors upon each side of the Item in letters not less than one inch in height as follows:

OWNERSHIP SUBJECT TO AN EQUIPMENT TRUST OR SECURITY AGREEMENT AND/OR VESTED IN A TRUSTEE AND/OR OTHER PERSON OR ENTITY AS SET FORTH IN A BAILMENT AGREEMENT OR A LEASE FILED WITH THE INTERSTATE COMMERCE COMMISSION.

The execution of this Certificate will in no way relieve or decrease the responsibility of the Manufacturer for any warranties it has made with respect to the Equipment.

Dated: \_\_\_\_\_, 19\_\_

\_\_\_\_\_  
Inspector and Authorized  
Representative of the Lessee

(NAC No. 81-1)

SCHEDULE B  
(to Equipment Lease)

SCHEDULE OF CASUALTY VALUE

The Casualty Value for an Item of Equipment payable on any Fixed Rental payment date shall mean an amount equal to the percent of the Purchase Price of such Item set forth opposite such date in the following schedule:

<u>Number of Fixed Rental Payment Date on which Casualty Value is Paid</u>	<u>Percentage of Purchase Price Payable as Casualty Value</u>
1	101.2144%
2	101.6385
3	102.0704
4	101.9727
5	105.7722
6	106.1438
7	106.5164
8	105.7376
9	106.0774
10	104.6778
11	104.9721
12	105.2713
13	104.5383
14	104.8090
15	105.0842
16	104.7289
17	107.2257
18	107.4837
19	107.7376
20	107.0639
21	107.2808
22	105.9739
23	106.1387
24	106.3058
25	105.5331
26	105.6695
27	105.8076
28	105.2337
29	106.5720
30	106.6808
31	106.7833
32	106.1942
33	106.2564
34	105.0250
35	105.0330
36	105.0403
37	104.2093

(NAC No. 81-1)

SCHEDULE C  
(to Equipment Lease)

Number of Fixed Rental  
Payment Date on which  
Casualty Value is Paid

Percentage of Purchase  
Price Payable as  
Casualty Value

38	104.1817%
39	104.1526
40	103.2367
41	103.4767
42	103.4339
43	103.3895
44	102.8955
45	102.8444
46	101.7674
47	101.7057
48	101.6420
49	100.8401
50	100.7695
51	100.6969
52	99.5713
53	99.2734
54	99.1849
55	99.0941
56	98.5720
57	98.4734
58	97.6099
59	97.5008
60	97.3892
61	96.5703
62	96.4507
63	96.3284
64	95.1993
65	94.8598
66	94.7200
67	94.5773
68	94.0227
69	93.8709
70	92.9903
71	92.8268
72	92.6601
73	91.8207
74	91.6447
75	91.4653
76	90.3307
77	89.9433
78	89.7445
79	89.5420
80	88.9494
81	88.7364
82	87.8350
83	87.6088
84	87.3786
85	86.5147
86	86.2737

Number of Fixed Rental  
Payment Date on which  
Casualty Value is Paid

Percentage of Purchase  
Price Payable as  
Casualty Value

86	86.0286%
87	84.8861
88	84.4434
89	84.1766
90	83.9052
91	83.2682
92	82.9846
93	82.0581
94	81.7597
95	81.4564
96	80.5629
97	80.2472
98	79.9262
99	78.7731
100	78.2664
101	77.9212
102	77.5703
103	76.8815
104	76.5165
105	75.5596
106	75.1780
107	74.7903
108	73.8616
109	73.4595
110	73.0511
111	71.8840
112	71.3032
113	70.8675
114	70.4250
115	69.6755
116	69.2166
117	68.2258
118	67.7531
119	67.2731
120	66.3141
121	65.8311
122	65.3407
123	64.1811
124	63.5478
125	63.0417
126	62.5314
127	61.7594
128	61.2494
129	60.2793
130	59.7715
131	59.2565
132	58.3234
133	57.8073
134	57.2840
135	56.1794

Number of Fixed Rental  
Payment Date on which  
Casualty Value is Paid

Percentage of Purchase  
Price Payable as  
Casualty Value

136	55.5331%
137	54.9960
138	54.4554
139	53.6911
140	53.1540
141	52.2234
142	51.6921
143	51.1538
144	50.6111
145	50.4300
146	50.2451
147	49.5563
148	49.2646
149	49.0709
150	48.8768
151	48.4853
152	48.2965
153	47.7549
154	47.5731
155	47.3878
156	46.8768
157	46.6947
158	46.5091
159	45.8629
160	45.5807
161	45.3888
162	45.1966
163	44.8253
164	44.6404
165	44.1342
166	43.9578
167	43.7783
168	43.3031
169	43.1233
170	42.9347
171	42.3211
172	42.0337
173	41.8231
174	41.6068
175	41.2235
176	41.0040
177	40.4892
178	40.2675
179	40.0363
180	39.5330
181	39.2948
182	39.0468
183	38.4184

Number of fixed Rental  
Payment Date on which  
Casualty Value is Paid

Percentage of Purchase  
Price Payable as  
Casualty Value

184	38.0795%
185	37.8077
186	37.5294
187	37.1030
188	36.8199
189	36.2770
190	35.9606
191	35.6936
192	35.1587
193	34.8533
194	34.5371
195	33.8919
196	33.4940
197	33.1520
198	32.8024
199	32.3265
200	31.9702
201	31.3949
202	31.0338
203	30.6611
204	30.0896
205	29.7068
206	29.3120
207	28.6473
208	28.1818
209	27.7588
210	27.3270
211	26.7939
212	26.3534
213	25.7409
214	25.2939
215	24.8338
216	25.0000

Any casualty payment  
made after rental  
payment date 216

25.0000