

**NORTH  
AMERICAN  
CAR**

**NORTH AMERICAN CAR CORPORATION**

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

13281

RECORDATION NO. .... Filed 1425

OCT 20 1981 - 3 05 PM

INTERSTATE COMMERCE COMMISSION

October 19, 1981

*New Number*

No. 2044064  
OCT 21 1981  
Date.....  
Fee \$ 50.00  
ICC Washington, D. C.

Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

RE: Filing of Equipment Mortgage dated as of October 19, 1981, (the "Mortgage"), from North American Car Corporation (the "Company") 33 West Monroe Street, Chicago, Illinois, 60603 to Morgan Guaranty Trust Company (the "Mortgagee"), 23 Wall Street, New York, N.Y. 10015.

Dear Secretary:

Enclosed for recording under the Interstate Commerce Act are executed counterparts of the above-described Mortgage. Under the Mortgage, the Company encumbers the railcars and leases thereof described in the Mortgage in favor of the Mortgagee, pursuant to the terms of the Mortgage, and to secure the indebtedness described therein.

Also enclosed is a check, payable to the Interstate Commerce Commission, in the amount of \$50.00, as the recording fee for the Mortgage.

Pursuant to the Commission's rules and regulations for the recording of certain documents under the Interstate Commerce Act, you are hereby requested to duly file two of the enclosed counterparts for record in your office and to return the remaining copies, together with the Secretary's Certificate of Recording, to the messenger making this delivery.

If you have any questions, please contact me.

Yours very truly,

*James M. Gillespie*  
James M. Gillespie  
Attorney

21 2 57 PM '81

JMG/sg

Enclosure

*Kenan P. Horton*  
*Charles J. ...*

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

10/21/81

OFFICE OF THE SECRETARY

James M. Gillespie, Atty.  
North American Car Corp.  
33 West Monroe  
Chicago, Illinois 60603

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/21/81 at 3:05pm, and assigned re-  
recording number(s).

13281 & 13282

Sincerely yours,

*Agatha L. Mergenovich*  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

SE-30  
(7/79)

RECORDATION NO. 13281 Filed 1425

OCT 20 1981-3 05 PM

EQUIPMENT MORTGAGE AND ASSIGNMENT OF LEASES COMMERCE COMMISSION

THIS EQUIPMENT MORTGAGE AND ASSIGNMENT OF LEASES dated as of October 19, 1981 is executed by North American Car Corporation (the "Borrower") in favor of Morgan Guaranty Trust Company of New York (the "Bank"), (which, as may be amended from time to time, is hereinafter called the "Mortgage") under that certain Loan Agreement dated as of June 30, 1981 (the "Loan Agreement"), between the Borrower and the Bank, pursuant to the terms of Section 5 thereof and to secure the performance of its Obligations thereunder, subject to the terms of which Loan Agreement this Mortgage is delivered, and a copy of which Loan Agreement (if the Bank so directs) is appended hereto as Attachment II hereto. Unless otherwise specified, capitalized terms used herein shall have the respective meanings set forth in the Loan Agreement.

NOW, THEREFORE, the Borrower agrees as follows:

Section 1. Collateral.

Section 1.1. Grant of Security Interest. "Obligations" shall mean the Obligations of the Borrower under and as defined in the Loan Agreement. In order to secure the prompt and faithful performance and observance of the Obligations by the Borrower, the Borrower does hereby assign, pledge, mortgage, and grant a security interest unto the Bank in and to the following:

- (a) Any and all railroad cars described in Attachment I hereto which is made a part hereof and incorporated herein by this reference (the "Equipment");
- (b) All proceeds (including, without limitation, insurance and indemnity payments) from the sale or loss or other disposition of the Equipment; and
- (c) Any and all leases, whether now or hereafter existing, of Equipment (the "Leases") between the Borrower as lessor and other persons as lessees (the "Lessees"), including, without limitation,
  - (i) the right to receive all rent payable in connection with use of the Equipment, (ii) all claims for damages arising out of the breach of any Lease, (iii) the right, if any, to terminate any Lease, to perform thereunder and to compel performance of the terms thereof, (iv) the right to take possession of the Equipment, subject to the right of the Lessee and (v) all other rights, claims, causes of action, if any, which the Borrower may have against any Lessee with respect to the Leases.

All such Equipment, Leases, and rights, claims, causes of action and proceeds with respect thereto are herein collectively called "Collateral."

Section 1.2. Representations and Warranties. The Borrower represents and warrants:

(a) That it is the owner of all of the Equipment, that there are no encumbrances or liens of any kind or character against any of the Equipment (other than Leases and the lien of this Mortgage) or any Lease and that it has good right and lawful authority to assign, pledge, mortgage, and grant a security interest in the same.

(b) That it has not assigned, pledged or mortgaged, and hereby covenants that it will not assign, pledge or mortgage, so long as this Mortgage shall remain in effect, the whole or any part of the rights or interests hereby assigned, pledged, mortgaged, and granted by it hereunder to anyone other than the Bank, its successors or assigns.

Section 1.3. Maintenance and Repair. The Borrower agrees that, at its own cost and expense, it will maintain and keep, or cause to be maintained and kept, all the Equipment in good order and repair in accordance with industry standards.

Section 1.4. Inspections. The Bank shall have the right, at its own expense to inspect the Equipment and the records with respect thereto at such reasonable times as the Bank may request.

Section 1.5. Marking of Equipment. The Borrower will keep and maintain or cause to be kept and maintained, plainly, distinctly, permanently and conspicuously marked on each item of Equipment suitable for marking, in letters not less than seven-sixteenths of an inch in height:

"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 LEASE FILED WITH THE INTERSTATE COMMERCE COMMISSION."

or other appropriate words stenciled on the item of Equipment with appropriate changes thereof and additions thereto as from time to time may be required by law in order to protect the Bank's security interest in the Equipment and its rights hereunder. Once the Equipment is so marked, the Borrower will not permit the identifying number of any item of Equipment to be changed.

Section 1.6. Destruction of Equipment. The Borrower will bear the responsibility for and risk of and shall not be released from its Obligations hereunder in the event of any damage to or the destruction or loss of any item of Equipment or all the Equipment.

Section 1.7. Liens. The Borrower will keep the Collateral free and clear of Liens and advance claims (other than the Mortgage and the Lease) at all times. The Borrower will reimburse the Bank upon demand for any amounts paid by the Bank to discharge Liens or satisfy claims against the Collateral.

Section 1.8. Performance of Borrower's Obligations Under Leases. The Borrower shall remain liable under each Lease to perform all the obligations assumed by it thereunder. During the continuance of an Event of Default the obligations of the Borrower under any Lease may be performed by the Bank or its nominee or any assignee of the Bank without releasing the Borrower therefrom. The Bank shall have no obligation or liability under the Leases by reason of, or arising out of, this Mortgage and shall not be obligated to perform any of the obligations of the Borrower under any Lease or make any payment or to make any inquiry of the sufficiency of any payment received by it to present or file any claim or to take any other action to collect or enforce any payment assigned hereunder.

## Section 2. Defaults

Section 2.1. Events of Default. The occurrence of any one or more of the following events shall constitute an Event of Default hereunder:

- (a) There shall occur an Event of Default under Section 13 of the Loan Agreement;
- (b) The Borrower shall fail to perform any agreement under this Mortgage within thirty days after notice from the Bank; or
- (c) Any representation made to the Bank in this Mortgage shall prove to be false or incorrect in any material respect at the time when made.

## Section 3. Remedies

Section 3.1. Remedies. Upon the occurrence and during the continuance of any Event of Default, the Bank may do any one or more of the following acts regarding the Collateral, or any portion thereof, to the extent and in the manner authorized by the Loan Agreement:

- (a) exercise all the rights and remedies in foreclosure and otherwise granted to secured parties under the provisions of applicable laws;
- (b) institute legal proceedings for the specific performance of any covenants or agreement herein undertaken by the Borrower or for aid in the execution of any power or remedy herein granted;
- (c) institute legal proceedings to foreclose upon and against the security interest granted in and by this Mortgage, to recover judgment for all amounts then due and owing as Obligations, and to collect the same out of any sale of the Collateral or of collections upon the Leases;
- (d) institute legal proceedings for the sale, under the judgment or decree of any court of competent jurisdiction, of any Collateral;
- (e) notify Lessees under the Leases in the name of the Borrower or otherwise to make Lease payments directly to the Bank or as may otherwise be directed by the Bank;
- (f) demand, collect, and retain all hire, earnings and other sums due and to become due in respect of the Collateral from any party whomsoever, accounting only for the net earnings arising from such use, if any, after charging against any receipts from the use of the same and from any subsequent sale thereof all costs and expenses of and damages or losses by reason of, such use or sale; or
- (g) sell or dispose of all or any part of the Collateral, free from any and all claims of the Borrower or of any other party claiming by, through, or under the Borrower at law, in equity, or otherwise, at one or more public or private sales, in such place or places, at such time or times, and upon such terms as the Borrower may determine, in its sole and complete discretion and in light of its own best interests, with or without previous demand on or notice to the Borrower or for the aforesaid purposes, all notices of sale, advertisements, and demands and any rights or equities of redemption otherwise required or available to the Borrower, under applicable law are hereby waived by the Borrower to the fullest extent permitted by applicable law. The power of sale hereunder shall not be exhausted by one or more sales, and the Borrower from time to time may adjourn any sale to be made pursuant to this Section 3.1.

Section 3.2. Sale. Any sale of Collateral may be in one lot or as an entirety or in separate lots and without the necessity of gathering at the place of sale the property to be sold, and in general in such manner as the Bank may determine. The Bank may bid for and become the purchaser of the Collateral, or any of it, so offered for sale. In the event that the Bank shall be the purchaser thereof, it shall not be accountable to the Borrower upon a subsequent disposition of the Collateral.

Section 4. General.

Section 4.1. Rights Cumulative. Each and every power and remedy hereby specifically given to the Bank shall be in addition to every other power and remedy hereby specifically given or now or hereafter existing at law or in equity, and each and every power and remedy may be exercised from time to time simultaneously and as often and in such order as may be deemed expedient by the Bank. All such powers and remedies shall be cumulative, and the exercise of one shall not be deemed a waiver of the right to exercise any other or others. No delay or omission of the Bank in the exercise of any such power or remedy and no renewal or extension of any payments due hereunder shall impair any such power or remedy or shall be construed to be a waiver of any default or an acquiescence therein. Any extension of time for payment hereunder or other indulgence duly granted to the Borrower shall not otherwise alter or affect the Bank's rights or the Borrower's Obligations hereunder. The Bank's acceptance of any payments after it shall have become due hereunder shall not be deemed to alter or affect the Borrower's Obligations or the Bank's rights hereunder with respect to any subsequent payment or default therein.

Section 4.2. Expenses of Collection. The Borrower will pay all reasonable expenses, including attorneys' fees, incurred by the Bank in enforcing its remedies under the terms of this Mortgage or preparing to enforce any of its remedies after a default hereunder. In the event that the Bank shall bring any suit to enforce any rights hereunder and shall be entitled to judgment, then in such suit the Bank may recover reasonable expenses including reasonable attorneys' fees, and the amount thereof shall be included in such judgment.

Section 4.3. Applicable Laws. Any provision of this Mortgage prohibited by any applicable law or any jurisdiction (which is not overridden by applicable federal law) shall as to such jurisdiction be ineffective, without modifying the remaining provisions of this Mortgage. Where, however, the conflicting provisions of any such applicable law may be waived, they are hereby waived by the Borrower to the full extent permitted by law, it being the intention of

the Borrower that this Mortgage shall be deemed to be, inter alia, a security agreement and enforced as such.

Section 4.4. Waiver. Except as otherwise provided in this Mortgage and in Section 14.10 of the Loan Agreement, the Borrower, to the full extent permitted by law, hereby waives all statutory or other legal requirements for any notice of any kind, notice of intention to take possession of or to sell or lease the Equipment, or any one or more items of Equipment thereof, and any other requirements as to the time, place and terms of the sale or lease thereof, any other requirements with respect to the enforcement of the Banks' rights under this Mortgage and any and all rights of redemption. In consideration of the transactions contemplated herein, the Borrower hereby expressly waives and releases all of its rights, benefits and protections given it by Sections 22A, 22B, 22C and 22D of The Bills of Sale Act (British Columbia) or any amending, successor or other legislation in the Province of British Columbia or elsewhere, where applicable.

Section 4.5. Satisfaction of Mortgage and Termination of Mortgage. When all the Obligations of the Borrower hereunder and under the Loan Agreement have been fulfilled, the Bank shall release the lien of this Mortgage with respect to the Collateral by an appropriate document in recordable form and thereupon this Mortgage shall be satisfied and void. The Bank shall also release a portion of the Equipment from the lien of this Mortgage from time to time as provided by Section 5.4 of the Loan Agreement, upon the request of the Borrower.

Section 4.6. Payment of Expenses. The Borrower will pay for all the costs and expenses incident to the protection and enforcement of this Mortgage by the Bank and all reasonable costs and expenses in connection with the perfection of the Bank's lien upon the Equipment.

Section 4.7. Article Headings, Effect and Modification of Agreement. All article headings are inserted for convenience only and shall not affect any construction or interpretation of this Mortgage.

Section 4.8. Modifications. No variation or modification of this Mortgage and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the Bank and the Borrower.

Section 4.9. Notices. All notices hereunder to any of the parties designated below shall be deemed to be properly served if delivered or mailed to the respective addresses set forth in the Loan Agreement.

Section 4.10. Law Governing. The terms of this Mortgage and all rights and obligations hereunder shall be governed by the laws of New York; provided, however, that the Bank shall be entitled to all rights conferred by the filing, recording or deposit hereof in the appropriate office(s) pursuant to Section 11303 of the Interstate Commerce Act or in such other offices as may be appropriate in the jurisdiction in which the Equipment is operated.

Section 4.11. Appointment of Bank as Attorney. If any Event of Default shall occur and be continuing, then the Borrower constitutes the Bank and its successors and assigns, its true and lawful attorney, irrevocably and with full power of substitution, in its name or otherwise, to demand, receive compromise, sue for, and give acquittance for, any and all moneys and claims for moneys due and to become due under the Leases or otherwise arising out of the Mortgage, to endorse any checks or other instruments or orders in connection therewith, and to file any claims or take any action or institute any proceedings with respect thereto which to the Bank or its successors or assigns may seem necessary or advisable. Anything herein contained to the contrary notwithstanding, neither the Bank nor its nominee or assignee shall have any obligation or liability by reason of or arising out of the Mortgage to make any inquiry as to the nature or sufficiency of, to present or file any claim with respect to, or to take any action to collect or enforce the payment of, any amounts to which it may be entitled at any time or times by virtue of the Mortgage.

Section 4.12. Indemnities and Warranties. The Borrower does hereby indemnify, protect and hold harmless the Bank from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, penalties and interest, arising out of or as the result of the entering into or the performance of this Mortgage, the use, operation, condition, purchase, delivery, rejection, storage or return of any of the items of Equipment, any accident, in connection with the operation, use, condition, possession, storage or return of any of the items of Equipment resulting in damage to property or injury or death to any person during the period when the lien of the Bank remains in effect. This covenant of indemnity shall continue in full force and effect notwithstanding the full satisfaction of the Obligations and the release and the conveyance of security title to the Equipment to the Borrower, or the termination of this Mortgage in any manner whatsoever. The Bank shall give notice to the Borrower of any claim arising hereunder and the Borrower shall have the right to take up and defend any such claim.

Section 4.13. Successors and Assigns. This Mortgage shall be binding upon the Borrower and its successors and assigns and shall inure to the benefit of the Bank and its

successors and assigns. The Borrower may not assign or transfer its rights hereunder without the prior written consent of the Bank.

IN WITNESS WHEREOF, the undersigned has caused this Mortgage to be executed by its duly authorized representatives as of the day and year first set forth above.

NORTH AMERICAN CAR CORPORATION

By J. F. Compton  
Its Vice President

ATTEST:  
Brian M. Walden  
Assistant Secretary

STATE OF ILLINOIS )  
COUNTY OF COOK ) SS.:

On this 20th day of Oct 1981, before me personally appeared J. F. Compton to me personally known, who, being by me duly sworn, says that he is Vice President of NORTH AMERICAN CAR CORPORATION, that one of the seals affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was on OCT 20 1981 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.

Debra A. Kelly  
NOTARY PUBLIC

My Commission Expires: My Commission Expires Feb. 23, 1983

ATTACHMENT I

To be attached to and become a part of that certain Equipment Mortgage and Assignment of Leases dated October 19, 1981 (the "Mortgage"), between North American Car Corporation and Morgan Guaranty Bank & Trust Company.

<u>QUANTITY</u>	<u>SERIAL NO.</u>	<u>LESSEE</u>	<u>DATE OF LEASE</u>	<u>TERM OF LEASE</u>	<u>DESCRIPTION OF EQUIPMENT SUBJECT TO MORTGAGE</u>
12	12610-12611, 12614-12623	Eastman Chemical Products	3-74	10 Yrs.	Tank
2	17127,17167	Allied Chemical Corp.	7-81	5 "	"
2	19944,19946	Koch Industries	8-79	5 "	"
1	19947	Amoco Oil Co.	8-76	5 "	"
14	41013, 41015-41022, 41024, 41026-41029	Canadian Forest Products	12-78	4 "	Refrigerator
10	41044-41049, 41051-41054	Dresser Minerals Division	11-70	15 "	"
7	41094, 41096-41098, 41100,41103, 41104	Kerr McGee Corp.	1-78	5 "	"
1	41105	Travenol Laboratories Inc.	10-78	3 "	"
3	41107-41109	Kerr McGee Corp.	10-78	5 "	"
3	41111-41113	Dresser Minerals Division	11-70	15 "	"
1	41115	Dresser Magcobar	6-78	5 "	"
1	41117	Dresser Minerals Division	11-70	15 "	"
2	41118,41120	Unassigned			"
9	41122-41127, 41129-41131	Dresser Minerals Division	11-70	15 "	"
1	41133	Unassigned			"
2	41134-41135	Dresser Minerals Division	11-70	15 "	"
2	41136-41137	Dresser Magcobar	6-78	5 "	"

<u>QUANTITY</u>	<u>SERIAL NO.</u>	<u>LESSEE</u>	<u>DATE OF LEASE</u>	<u>TERM OF LEASE</u>	<u>DESCRIPTION OF EQUIPMENT SUBJECT TO MORTGAGE</u>
4	41165, 41179-41181	Dresser Minerals	11-70	15 Yrs.	Refrigerator
3	41188-41190	Unassigned			"
1	41191	Dresser Minerals Division	11-70	15 "	"
4	41192-41194, 41196	Unassigned			"
2	41197-41198	Dresser Minerals Division	11-70	15 "	"
2	41200-41201	Unassigned			"
1	41204	Dresser Minerals Division	11-70	15 "	"
3	41205-41207	Unassigned			"
1	41208	Dresser Magcobar		5 "	"
2	41209-41210	Federal Bentonite Co.	6-68	15 "	"
2	41211-41212	Dresser Magcobar		5 "	"
9	41214-41222	Hohenberg Bros. Co-A Sub.	1-80	5 "	"
6	41238-41241, 41243,41247	Unassigned			"
1	41249	Dresser Minerals Division	11-70	15 "	"
1	41250	Unassigned			"
1	41286	Dresser Magcobar		5 "	"
1	41287	Dresser Magcobar	10-77	5 "	"
7	41288, 41290-41295	Dresser Magcobar	6-78	5 "	"
2	41296-41297	National Fruit Product Co.	2-78	5 "	"
1	41298	Federal Bentonite Co.	6-68	15 "	"
1	41300	Unassigned			"
1	41301	Dresser Magcobar	10-77	5 "	"
1	41311	Kerr McGee Corp.	1-78	5 "	"
3	41312,41314, 41316	Travenol Laboratories, Inc.	10-78	3 "	"

<u>QUANTITY</u>	<u>SERIAL NO.</u>	<u>LESSEE</u>	<u>DATE OF LEASE</u>	<u>TERM OF LEASE</u>	<u>DESCRIPTION OF EQUIPMENT SUBJECT TO MORTGAGE</u>
1	41317	Unassigned			Refrigerator
12	41318, 41320-41324, 41326-41327, 41331-41334	Dresser Magcobar	6-74	10 Yrs.	"
7	41340, 41342-41343, 41345-41346, 41348-41349	Kerr McGee Corp.	1-78	5 "	"
6	41356-41359, 41361-41362	Savannah Foods	7-79	5 "	"
1	50201	Amax Chemical Corp.	6-80	5 "	Hopper
1	50202	Avtex Fibers Inc.	10-77	5 "	"
2	50203-50204	Amax Chemical Corp.	6-80	5 "	"
3	51000-51002	International Minerals	7-78	5 "	"
1	51004	Continental Grain Co.	4-79	5 "	"
22	51006-51014, 51016-51026, 51028-51029	International Minerals	7-78	5 "	"
1	51030	Continental Grain Co.	4-79	5 "	"
21	51031-51039, 51041-51045, 51047-51053	International Minerals	7-78	5 "	"
1	51056	Continental Grain Co.	4-79	5 "	"
1	51057	International Minerals	7-78	5 "	"
1	51059	Continental Grain Co.	4-79	5 "	"

<u>QUANTITY</u>	<u>SERIAL NO.</u>	<u>LESSEE</u>	<u>DATE OF LEASE</u>	<u>TERM OF LEASE</u>	<u>DESCRIPTION OF EQUIPMENT SUBJECT TO MORTGAGE</u>
132	51060,51061, 51116-51117, 51119-51121, 51123-51126, 51128, 51132-51134, 51136-51148, 51153-51161, 51163-51165, 51167-51171 51176-51178, 51181-51182, 51185-51189, 51193-51195, 51199-51209, 51212, 51214-51215, 51218-51219, 51221-51225, 51229, 51231-51239, 51245-51247, 51249, 51251-51277, 51282, 51284-51287, 51290-51293, 51295-51297	International Minerals	7-78	5 Yrs.	Hopper
49	51300, 51302-51307, 51311-51312, 51314, 51317-51318, 51320,51326, 51328,51336, 51339-51340, 51342,51344, 51345,51347, 51349-51351, 51353, 51355-51357, 51360,51363, 51365,51367, 51369-51370, 51372,51374, 51377, 51380-51381, 51385-51388, 51392, 51395-51396, 51398-51399	Potash Corporation	2-78	4 "	"

ATTACHMENT I

MORGAN GUARANTY BANK & TRUST

<u>QUANTITY</u>	<u>SERIAL NO.</u>	<u>LESSEE</u>	<u>DATE OF LEASE</u>	<u>TERM OF LEASE</u>	<u>DESCRIPTION OF EQUIPMENT SUBJECT TO MORTGAGE</u>
70	61000-61001, 61004-61025, 61027-61054, 61056-61058, 61060-61071, 61073-61075	Chicago & Northwestern	7-73	10 Yrs.	Refrigerator
<u>465</u>	TOTAL U. S. CARS				
<u><u>465</u></u>	TOTAL ALL CARS				