

RECORDATION NO. 13294-1425-A

OCT 27 1981 -11 45 AM

NORTH AMERICAN CAR INTERSTATE COMMERCE COMMISSION

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

RECORDATION NO. 13294-B

OCT 27 1981 -11 45 AM

Secretary  
Interstate Commerce Commission  
Washington, D.C. 20423

Re: Filing of 1) Lease of Railroad Equipment ("Lease") dated as of June 11, 1981 between North American Railcar Partners, Ltd. 1981-I ("Partners"), as Lessor, and North American Car Corporation ("NAC"), as Lessee, and 2) Rider No.s 1, 2, 3 and 4 to the Lease, all dated as of June 11, 1981.

Dear Secretary:

Enclosed for recording under 49 U.S.C. §11303 are executed counterparts of 1) the Lease and 2) 4 Riders thereto numbered 1 through 4, inclusive. The address of both Partners and NAC is 33 W. Monroe, Suite 2400, Chicago, IL 60603.

Under the Lease, Partners leases to NAC those railcars, which are to be described in riders from time to time executed by Partners and NAC, for the term, at the rental rate, and subject to such other provisions identified in the rider applicable to such railcar. Rider No.s 1, 2, 3 and 4 describe railcars subject to the Lease.

Also enclosed is a check, payable to the Interstate Commerce Commission in the amount of \$90 as a recording fee for the Lease (\$50) and the 4 Riders (\$10 each). Pursuant to the Commission's rules and regulations for the recording of certain documents, you are hereby requested to duly file a counterpart of the Lease for record in your office; then file one counterpart of each Rider under the recordation number given the Lease (No. 1 first, then No. 2, No. 3 and finally No. 4); and to return the remaining counterparts, together with the Secretary's Certificate of Recording, to the messenger making this delivery.

Sincerely,

NORTH AMERICAN CAR CORPORATION

By Edward H. Soderstrom II  
Secretary

EHS/wm

RECORDATION NO. 13294-C  
File 1425

OCT 27 1981 -11 45 AM  
Edward H. Soderstrom II  
General Counsel  
Investor Management Service Division and  
Law Department  
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 13294-D  
File 1425

OCT 27 1981 -11 45 AM  
INTERSTATE COMMERCE COMMISSION

RECORDATION NO. 13294  
File 1425

OCT 27 1981 -11 45 AM  
INTERSTATE COMMERCE COMMISSION

1-300A143

October 20, 1981

No. [Stamp]  
Date OCT 27 1981  
Fee \$ 90.00

ICC Washington, D. C.

Lease - New Number  
Rider 1 - A  
Rider 2 - B  
Rider 3 - C  
Rider 4 - D

OCT 27 11 35 AM '81

Counterpart A & B

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

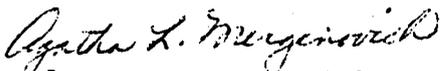
OFFICE OF THE SECRETARY

Edward H. Soderstorm II  
North American Car Corporation  
33 West Monroe  
Chicago, IL 60603

Dear Sir:

The enclosed document(s) was recorded pursuant to the provisions of Section 11303 of the Interstate Commerce Act, 49 U.S.C. 11303, on 10/27/81 at 11:45AM, and assigned recordation number(s) 13294, 13294-A, 13294-B, 13294-C, & 13294-D, 11912-B, & 13182-I

Sincerely yours,

  
Agatha L. Mergenovich  
Secretary

Enclosure(s)

RECORDATION NO. 13294

OCT 27 1981 - 11 45 AM  
INTERSTATE COMMERCE COMMISSION

no #5

LEASE OF RAILROAD EQUIPMENT

Dated as of June 11, 1981

between

NORTH AMERICAN CAR CORPORATION,  
as Lessee

and

NORTH AMERICAN RAILCAR PARTNERS, LTD. 1981-1,  
as Lessor

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## LEASE OF RAILROAD EQUIPMENT

THIS LEASE OF RAILROAD EQUIPMENT, dated as of June 11, 1981, is between NORTH AMERICAN CAR CORPORATION, a Delaware corporation ("Lessee"), and NORTH AMERICAN RAILCAR PARTNERS, LTD. 1981-I, an Illinois limited partnership ("Lessor").

WHEREAS, Lessor and Lessee desire to enter into a form of lease whereby Lessee may from time to time lease units of railroad equipment (collectively the "Units of Equipment" or the "Equipment" and individually a "Unit of Equipment" or a "Unit") from Lessor pursuant to a rider (the "Rider") substantially in the form of Exhibit B to this Lease, setting forth the term, rental and other special provisions regarding the lease of any Unit hereunder;

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, the parties hereby agree as follows:

### ARTICLE 1

#### DEFINITIONS

1.1 Definitions. As used in this Lease (including the recitals hereto), the following terms shall have the following meanings:

1.1.1 "AAR" shall mean the Association of American Railroads.

1.1.2 "AAR Rules" shall mean the AAR's Rules of Interchange, or other similar rules or regulations, as may from time to time be duly in effect; provided, however, that Lessee may treat any published rule as valid and legal unless Lessee is bound by a final order of a court of competent jurisdiction to the contrary.

1.1.3 "Affiliate" shall mean, when used with reference to a specified Person, any Person that directly or indirectly through one or more intermediaries controls or is controlled by or is under common control with the specified Person.

1.1.4 "Builder" shall mean the entity which has manufactured any Unit of Equipment or any Capital Addition.

1.1.5 "Business Day" shall mean any day other than a Saturday, Sunday or a day which is a legal holiday in the State of Illinois or a day on which state or national banks in the State of Illinois are required or allowed by law to be closed.

1.1.6 "Capital Addition" shall mean any improvement or betterment of, or accession to, a Unit of Equipment not in the nature of a repair, such as headshields for tank cars or car liners not installed prior to Lessor becoming the owner of the railcar, and shall include without limitation changes in any Unit of Equipment required by a government agency or the AAR.

1.1.7 A "Casualty Occurrence", with respect to any Unit of Equipment, shall have occurred whenever such Unit shall be worn out, lost, stolen, destroyed, irreparably damaged or permanently rendered unfit for use from any cause whatsoever, or seized, confiscated, taken or requisitioned by condemnation or otherwise.

1.1.8 "Customer" shall mean North American Railcar Partners, Ltd. 1981-I, in its capacity as customer under the Management Agreement.

1.1.9 "Event of Default" shall have the meaning specified therefor in Article 14 of this Lease.

1.1.10 "Excess Usage Charge" shall mean any increase in the aggregate rental rate payable by a Sublessee under a Sublease (including pursuant to re-leasing) as a result of Units having traversed distances in any period in excess of a given number for such period set forth in such Sublease.

1.1.11 "Lease" shall mean this agreement and, as to any Unit, shall mean this agreement as amended, modified or supplemented by the Rider applicable to such Unit.

1.1.12 "Lease Rentals" with respect to any Unit shall mean all amounts other than Periodic Rentals set forth in the Rider relating to such Unit, which amounts shall equal 100% of such amounts shown in the Sublease relating to such Unit in effect at the commencement of this Lease with respect to such Unit.

1.1.13 "Lessee Addition" shall have the meaning specified therefor in Article 12 of this Lease.

1.1.14 "Management Agreement" shall mean that certain Management Agreement, dated as of March 20, 1981, between Lessor, in its capacity as Customer, and Lessee, in its capacity as Manager, as supplemented and amended.

1.1.15 "Manager" shall mean North American Car Corporation, in its capacity as Manager under the Management Agreement.

1.1.16 "Mileage Taxes" shall mean personal property and similar taxes paid by Lessee with respect to any Unit.

1.1.17 "Periodic Rentals" with respect to any Unit shall mean the amount set forth in the Rider with respect to such Unit as periodic rental, which amount shall equal 92-1/2% of the periodic rental shown in the Sublease relating to such Unit in effect at the commencement of this Lease with respect to such Unit.

1.1.18 "Person" shall mean any individual, partnership, corporation, trust or other entity.

1.1.19 "Railcar Purchase and Sale Agreement" shall mean that certain Railcar Purchase and Sale Agreement, dated as of March 20, 1981, between Lessor and Lessee, as supplemented and amended.

1.1.20 "Rider" shall mean a rider to this Lease setting forth the term, rental and other special provisions regarding

the lease of any Unit hereunder, suitably completed as provided in Article 3 hereof.

1.1.21 "Sublease" shall mean, with respect to any Unit, an agreement of lease between Lessee, as lessor and another party as lessee.

1.1.22 "Sublessee" means, with respect to any Unit, the lessee of such car under a Sublease.

## ARTICLE 2

### MANAGEMENT AGREEMENT

2.1 Management Agreement. Lessee and Lessor have entered into the Management Agreement. This Lease is a "Manager Lease" referred to in the Management Agreement. All terms and provisions of the Management Agreement relating to "Units of Leased Equipment" (as defined in the Management Agreement) shall be binding upon Lessee and Lessor, subject to this Lease, unless the Management Agreement shall specifically provide otherwise.

## ARTICLE 3

### RIDERS

3.1 Riders. Lessor agrees to furnish and lease to Lessee, and the Lessee agrees to accept and use upon the terms and conditions herein set forth, the Units of Equipment covered by such Riders as may be executed by Lessee and Lessor and added hereto from time to time. Each Rider shall be substantially in the form set forth in Exhibit B hereto

and shall contain (A) all information as to (i) the number of Units, (ii) the type of the Unit, (iii) the identifying numbers of the Units, (iv) the rental amounts for the Units, including any rentals or charges to be paid in connection with any Capital Additions and any penalty payments, cancellation charges or similar payments provided for in connection with early termination of a Sublease, and (v) the lease term for the Units, as is contained in the Sublease relating to such Units (whether in the lease rider, master lease, or other lease documentation of Lessee then existing with respect to such Sublease), and (B) such other pertinent information as may be agreed upon between the parties.

#### ARTICLE 4

##### ABATEMENTS

4.1 Abatements. If and to the extent (but only to the extent) that a Sublessee of any Unit shall not be obligated pursuant to the terms of its Sublease to pay any rentals, periodic or otherwise, as a result of such Unit being unfit for service or having a Capital Addition added, the corresponding rentals payable by Lessee with respect to such Unit shall abate during the period such Sublessee shall not be obligated pursuant to the terms of its Sublease to pay any such rentals.

## ARTICLE 5

### RENTALS

5.1 Rentals. Lessee agrees to pay to Lessor the Periodic Rentals and Lease Rentals for each Unit. The Periodic Rentals with respect to a Unit shall begin accruing when the same shall begin to accrue under the Sublease of such Unit. Periodic Rental payments shall commence on the first day of the second month following the date of delivery of such Unit to Lessee (provided, however, that if Lessee should receive initial rental payments from a Sublessee of such Unit prior to such date, Lessee shall pay the initial Periodic Rental payments promptly thereafter) and thereafter shall be payable in equal monthly installments in advance on the first day of each calendar month during the term of this Lease with respect to such Unit. The first payment will include Periodic Rentals accrued to that date. If such day is not a Business Day the Periodic Rentals otherwise payable on such date shall be payable on the next succeeding Business Day. Lease Rental payments for each Unit shall be paid by Lessee to Lessor promptly after receipt thereof by Lessee from the Sublessee under the Sublease relating to such Unit. Notwithstanding the foregoing, Lessee shall be able to reserve and deduct from the foregoing Periodic and Lease Rental payments amounts reasonably estimated by Lessee to be due and owing to Lessee hereunder in the future in excess of

Periodic and Lease Rentals otherwise payable by Lessee hereunder during such period.

## ARTICLE 6

### TERM OF LEASE

6.1 Term of Lease. Subject to the provisions of Articles 8, 14 and 15 hereof, the term of this Lease as to any Unit shall begin on the date set forth in the Rider relating thereto (but not earlier than the date Lessor acquires such Unit and not later than the date such Unit is delivered to Lessee) and shall terminate on the date set forth in the Rider with respect thereto; provided, however, that the term shall continue until the date Lessee regains possession of such Unit from the Sublessee thereof if Lessee is unable to obtain possession of such Unit at the termination of the Sublease thereof; provided further, that with respect to Units located outside of the United States, this Lease shall continue until such Units are returned to the United States or are returned to, or are located in, a jurisdiction where Lessee has executed, acknowledged, delivered, filed, registered and recorded all instruments required by the laws of such jurisdiction for the proper protection of the security interest of any lender which has a security interest in the Units; and, provided further, the term of this Lease with respect to a Unit cannot be terminated by Lessee unless the Sublease relating to such Unit

would meet all of the requirements of a "Lease" under the Management Agreement.

## ARTICLE 7

### TAXES

7.1 Sales and Use Taxes. Lessee agrees to assume responsibility for and to pay without reimbursement from Lessor any applicable sales, use or similar taxes resulting from the leasing of the Units pursuant hereto.

7.2 Mileage Taxes.

7.2.1 Lessee agrees to remit to the appropriate taxing authorities all Mileage Taxes levied upon the Units and to file all returns and reports relating thereto.

7.2.2 Lessee will compute and credit against Lease Rentals, on a monthly basis, the estimated Mileage Taxes which will accrue on the Units by using the then current method of estimating the average Mileage Tax per car per year for railcars owned by Lessee and its Affiliates of the type or types which such Units represent.

7.2.3 The allocation of actual Mileage Taxes paid for the Units shall be made, and paid by or credited to Lessor on the Lease Rental payment date following the completion of such allocation, not less than once each year and shall be based on the best information available to Lessee.

7.2.4 It is understood that it is difficult and costly for Lessee to determine from its records the exact amount of

such Mileage Taxes and the expenses of Lessee relating to the calculation and payment thereof with respect to the Units. As long as the estimate or determination of Lessee is not unreasonable, taking into account the time and expense involved in determining the actual Mileage Taxes, it shall be binding upon Lessor. If Lessor shall request any determination of Mileage Taxes to be performed more extensively than generally performed by Lessee for railroad cars owned by Lessee and its Affiliates, Lessor shall pay Lessee an additional charge equal to 115% of Lessee's expenses in providing the more extensive determination, as set forth on Lessee's invoices, and Lessee may deduct such amounts from all amounts due Lessor.

7.3 Right to Contest. Notwithstanding the foregoing, Lessee shall be under no obligation to pay any taxes of any kind so long as it is contesting in good faith and by appropriate legal proceedings the validity or amount of such taxes and the nonpayment thereof does not materially endanger any right or interest of Lessor.

## ARTICLE 8

### CASUALTY OCCURRENCES

8.1 Casualty Occurrences. In the event that a Casualty Occurrence shall occur with respect to any Unit, Lessee shall give written notice thereof to Lessor within a reasonable time after Lessee knows of such event. The Periodic

Rental for such Unit shall cease to accrue at the same time and under the same terms as periodic rentals cease to accrue under the Sublease relating to such Unit. The term of this Lease with respect to such Unit shall terminate upon receipt of notice by Lessor of such Casualty Occurrences, such Unit shall immediately thereafter become a "Unit of Managed Equipment" under the Management Agreement and (except in the case of the loss, theft or complete destruction of such Unit) Lessor shall be entitled to recover possession of such Unit on the date Lessee notifies Lessor of a Casualty Occurrence with respect to such Unit.

#### ARTICLE 9

##### INSURANCE

9.1 Maintenance of Insurance. Lessee shall at all times use reasonable commercial efforts to maintain or cause to be maintained with such insurers with which Lessee insures equipment owned and managed by it, public liability insurance in respect of the Units, in amounts equal to those amounts customarily maintained by Lessee and its Affiliates for similar equipment owned by them (or such lesser amounts as may be requested by Lessor) and casualty insurance of not less than \$1,000,000 and against risks and with retention amounts customarily insured against by Lessee or its Affiliates for similar equipment owned by them (except in each case as otherwise agreed to by Lessor).

9.2 Types of Policies and Costs. All insurance policies maintained pursuant to this Lease shall: (i) name Lessor as the insured or additional insureds with respect to such Units, so long as they remain subject to this Lease, and (ii) provide that no cancellation thereof shall be effective until at least 30 days after the giving of notice by the insurer thereunder to Lessor. Any insurance maintained by Lessee pursuant to this Article 9 may be evidenced by blanket insurance policies covering the Units and other property or assets owned, leased or managed by Lessee or its Affiliates. If coverage is effected through any such blanket policy, Lessee shall credit against Lease Rentals an amount equal to the greater of (A) the additional insurance charges actually incurred by Lessee for obtaining such coverage, (B) a pro rata share of Lessee's insurance costs for all rail-cars insured by Lessee, allocated on a per car basis, or (C) Lessee's marginal insurance costs resulting from such insurance coverage, as reasonably determined by Lessee. Lessee agrees to advise Lessor not less than annually of any charges for insurance made hereunder. If coverage is effected through a separate policy, the cost thereof shall be reimbursed to Lessee by Lessor.

9.3 Policies or Certificates. As soon as practicable after the execution of this Lease and thereafter not less than 15 days prior to the expiration dates of the expiring

policies theretofore delivered pursuant to this Article 9, Lessee shall deliver to Lessor duplicate originals of all policies (or in the case of blanket policies, certificates thereof issued by the insurers thereunder) for the insurance maintained pursuant to this Article 9; provided, however, that if the delivery of a formal policy or certificate, as the case may be, is delayed, Lessee shall deliver an executed binder or copy thereof with respect thereto and shall deliver the formal policy or certificate, as the case may be, upon receipt thereof.

9.4 Premiums and Refunds. There shall be no apportionment of premiums in respect of insurance maintained pursuant to this Article 9 at the expiration or any termination of this Lease if coverage is effected through blanket insurance policies which also cover property or assets owned, leased or managed by Lessee or its Affiliates. Lessee may cancel any such blanket insurance policies as of such expiration or termination and obtain any premium refunds incident thereto, and Lessee shall be entitled to any premium refund or dividend received by Lessor or Lessee on account of any blanket insurance policy maintained by Lessee.

9.5 Additional Insurance. Nothing contained in this Lease shall prevent Lessor from obtaining, at its own cost and expense, any other or additional insurance. Lessor shall promptly notify Lessee if it does obtain any such

insurance and, to the extent specified in such notice, Lessee shall be relieved of its obligation to attempt to obtain and maintain such insurance.

#### ARTICLE 10

##### DISCLAIMER OF WARRANTIES

10.1 Disclaimer of Warranties. LESSOR DOES NOT MAKE, HAS NOT MADE OR SHALL NOT BE DEEMED TO MAKE OR HAVE MADE ANY WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE DESIGN, COMPLIANCE WITH SPECIFICATIONS, OPERATION OR CONDITION OF, OR AS TO THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE UNITS OR ANY COMPONENT THEREOF DELIVERED TO LESSEE HEREUNDER, AND LESSOR MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS OF THE UNITS OR ANY COMPONENT THEREOF FOR ANY PARTICULAR PURPOSE NOR ANY OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO ANY UNITS OR ANY COMPONENT THEREOF (EITHER UPON DELIVERY THEREOF TO LESSEE OR OTHERWISE), NOR AS TO TITLE TO THE UNITS OR ANY COMPONENT THEREOF (EXCEPT THAT LESSOR REPRESENTS THAT THERE ARE NO DEFECTS IN SUCH TITLE ARISING FROM ACTS OF LESSOR OR THOSE (OTHER THAN LESSEE) CLAIMING THROUGH LESSOR), it being agreed that all such risks are to be borne by Lessee. Lessor shall have no responsibility or liability to Lessee with respect to any of the following: (a) any liability, loss or damage caused or alleged to be caused directly or indirectly by any Units or by any inadequacy thereof or

deficiency or defect therein or by any other circumstance in connection therewith; (b) the use, operation or performance of any Units; (c) any interruption of service, loss of business or anticipated profits or consequential damages; or (d) the delivery, operation, servicing, maintenance or repair (except for payment therefor), improvement (except as expressly provided in Article 11) or replacement of any Units.

## ARTICLE 11

### REPAIR AND MAINTENANCE

11.1 Repair and Maintenance. Until the date this Lease terminates as to a Unit of Equipment (in all cases subject to the terms of the Sublease of such Units and the rights and actions of any Sublessee thereunder):

(i) upon notification to Lessee from any of its Sublessees of damage to such Unit, other than damage resulting in a Casualty Occurrence, Lessee will locate a repair facility (which may be a facility owned or operated by Lessee or its Affiliates) and repair, or make arrangements for the repair of, such Unit;

(ii) Lessee will provide for the periodic maintenance and servicing of such Unit and perform inspections in accordance with applicable duly authorized AAR Rules and duly authorized regulations of any governmental agency, including, without limitation, the United

States Department of Transportation and the Federal  
Railway Administration;

(iii) Lessee will, subject to paragraph (vii), pay all charges for maintenance, repairs of damage or other work done to a Unit which is required under prevailing AAR Rules;

(iv) Lessee warrants that all repairs and maintenance made pursuant to this Article 11 at a facility selected by Lessee hereunder will be free from defects in material and workmanship under normal use and service for one year from the date of the repair, fair wear and tear excepted; provided, however, that if the AAR Rules require inspection of any part or component more frequently than annually, the warranty with respect to any repair thereof shall be limited to the maximum period provided in the AAR Rules for such inspection;

(v) parts which have been removed and replaced in the process of repairing any Unit shall become the property of the repairer;

(vi) Lessor shall not repair, alter or modify or authorize the repair, alteration or modification of any Unit without the prior written consent of Lessee;

(vii) Lessor shall pay, or, where Lessee does not perform the repair or maintenance, reimburse Lessee for, all maintenance and repair performed on the Units,

which, if performed by Lessee or any of its Affiliates, shall be at the fair market price of the services and supplies at the time of performance or supply, as reasonably determined by Lessee (but not in any event, in excess of Lessee's customary charges to unrelated parties for comparable services and supplies in transactions which, under all the circumstances, are comparable), which amounts (which include amounts paid by Lessee pursuant to paragraph (iii)) shall be credited against Lease Rentals; and

(viii) Lessee agrees that (A) each Sublease shall contain substantially the provisions set forth in Exhibit A to this Lease regarding the Sublessee's obligations to pay for damage to a Unit or (B) with respect to any Unit under a Sublease which does not contain substantially all of such provisions, Lessee shall assume those obligations which are not contained substantially in such Sublease. In the event Lessee is notified or becomes aware that any claim has arisen under any such provisions of any Sublease or in the event a railroad is responsible for damage or destruction to any Unit under the AAR Rules, Lessee agrees to pursue recovery of funds owed to Lessee under such provisions, subject to the provisions of Article 20. Except as provided in Sections 7.1, 7.2.1, 9.1, 13.1,

Article 20 and this Article 11 and except for Lessee's negligent acts or omissions regarding the physical handling, repair or maintenance of the Units, Lessee shall have no liability to Lessor for acts arising out of the use of the Units.

Lessee's obligations under any repair warranty under this Article 11 shall be limited to correcting any warranted repair which does not conform to paragraph (iv) above on any Unit returned to Lessee within one year of the date of repair, provided, however, that the foregoing shall not limit in any way Lessee's obligations under paragraphs (i), (ii) and (iii) above. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO REPAIRS AND MAINTENANCE REFERRED TO IN PARAGRAPHS (i) AND (ii) ABOVE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND OF ALL OTHER OBLIGATIONS OR LIABILITIES ON THE PART OF LESSEE. Lessee shall have no liability, whether in contract, warranty, tort or strict liability, for any consequential, incidental or special damages as a result of any repair or maintenance.

## ARTICLE 12

### CAPITAL ADDITIONS

12.1 Mandatory Capital Additions. In the event the U.S. Department of Transportation, the AAR or any other governmental or non-governmental organization having juris-

diction over the operation, safety or use of railroad equipment, requires that a Capital Addition be made to a Unit, Lessor agrees to make, or cause to be made, such Capital Addition unless Manager concludes that such Capital Addition would not be economically justified in view of the estimated remaining useful life of the Unit, and failure to make such Capital Addition would not be a default under, or breach of, the Sublease relating to such Unit.

12.2 Optional Capital Additions. In addition, Lessee may notify Lessor that it is desirable, but not required under Section 12.1, to install a Capital Addition on any Unit and shall, if such notice is given, generally describe why such proposed Capital Addition is desirable. Lessor may, but shall have no obligation to, agree to pay for such Capital Addition and shall give Lessee notice of its decision within 15 Business Days after delivery of such notice. In the event Lessor elects to pay for such Capital Addition, Lessee agrees to make, or cause to be made, such Capital Addition and Lessor agrees to pay the market price for such Capital Addition as reasonably determined by Lessee (but not, in any event, in excess of Lessee's customary charges to unrelated parties for comparable improvements or betterments to railcars in comparable transactions).

12.3 Lessee Authorized Installation. If Lessor defaults in payment for any Capital Addition required under

Section 12.1 or elects not to pay for a Capital Addition under Section 12.2, Lessee shall have the right (but not the obligation) to install or authorize the installation of such Capital Addition at its own expense (such Capital Addition being hereinafter referred to as a "Lessee Addition"); provided, however, that Lessee shall have the right to install or authorize the installation of a Capital Addition under Section 12.2 only if such Capital Addition does not diminish the value or utility of the Units. If Lessee has made any Lessee Addition and if there is an identifiable portion of the periodic rentals under the Sublease for such Unit existing at the time Lessee commits to make or makes such Lessee Addition which is established to amortize the cost of such Lessee Addition, Lessee shall be entitled to a reduction in the Periodic Rentals payable hereunder equal to such identifiable portion, and Lessee shall also be entitled to a like reduction in the Periodic Rentals payable hereunder with respect to such Unit in connection with any renewal of the Sublease of such Unit or any release of the Unit under a Sublease until Lessee shall have fully recovered the fair market price of such Lessee Additions plus interest at Lessee's effective cost of funds thereof, as reasonably determined by Lessee prior to making such Lessee Addition.

12.4 Accessions. Any and all Capital Additions (except Lessee Additions) to any Unit and any and all parts installed

on or replacements made to any such Unit shall be considered accessions to such Unit and, without cost or expense to Lessor, all right, title and interest in such accession shall immediately be vested in Lessor. Any Lessee Additions shall, to the maximum extent permitted by law, remain the property of Lessee and shall not be considered an accession to such Unit; provided, however, that if such Lessee Addition is not readily removable without causing material damage to the Unit, Lessee shall convey title thereto to Lessor without further compensation to Lessee at such time as such Unit ceases to be leased hereunder.

#### ARTICLE 13

##### INDEMNIFICATION

13.1 Indemnification. Except as expressly provided herein, Lessee agrees to indemnify, protect and hold harmless Lessor from and against all losses, damages, injuries, liabilities, claims and demands whatsoever, regardless of the cause thereof, and expenses in connection therewith, including, but not limited to, counsel fees and expenses, patent liabilities, penalties and interest, arising out of or as the result of the entering into or the performance of this Lease, or the ordering, acquisition, use, operation, condition, delivery, rejection, storage or return of any Unit, except to the extent such claim arises from an act or omission of Lessor not related to the transactions con-

templated by this Lease and except as to claims for which a railroad or railroads have assumed responsibility. The indemnities arising under this paragraph shall continue in full force and effect with respect to any of the foregoing occurring during the term of this Lease notwithstanding the full payment of all obligations under this Lease or the termination of this Lease.

#### ARTICLE 14

##### DEFAULT

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

(i) default shall be made by one party hereto in the payment of any amount payable hereunder, and such payment shall not be made within 30 days after written notice from the non-defaulting party to the defaulting party specifying the nature of such default and demanding that payment be made provided, however, that any such default by Lessor which arises from or is caused by any default by Lessee in its obligations under this Lease or any default by Lessee or the Manager under any other obligation or commitment expressly assumed by Lessee or the Manager shall not constitute an Event of Default;

(ii) Lessor shall default under any loan agreement the performance of which is secured by any Unit or by

this Lease, and such default shall continue for 10 days provided, however, that any such default by Lessor which arises from or is caused by any default by Lessee in its obligations under this Lease or any default by Lessee or the Manager under any other obligation or commitment expressly assumed by Lessee or the Manager shall not constitute an Event of Default;

(iii) one party shall knowingly and deliberately make, attempt to make, or permit any unauthorized assignment or transfer of any Unit, or any interest therein, or of the right to possession of such Units in contravention of this Lease, or knowingly and deliberately take any other action inconsistent with the other party's right, title to and interest in such Units;

(iv) one party fails in any material respect to perform or observe, or commits a breach of, any section, provision, warranty or covenant of this Lease or of the Management Agreement, and fails to cure, remedy or satisfactorily explain such breach or failure to perform within 60 days after written notice to such defaulting party from the other party hereto specifying the default and demanding that the same be remedied; but if the cause of such breach or failure to perform is an act of God, fire or other casualty, strikes, material shortages or other cause similar or dissimilar to the foregoing

is beyond the control of the defaulting party, the period for remedying such breach or failure to perform shall be extended by the time or times measured by any such cause of delay and the defaulting party shall not be liable for damages to the other parties resulting from such cause;

(v) any representation or warranty made by Lessee hereunder shall be incorrect in any material respect as of the time such representation or warranty was deemed to have been made or given;

(vi) one party shall (A) admit in writing its inability to pay its debts generally as they become due, (B) file a petition in bankruptcy or under any provision of Title 11 of the United States Code as now constituted or hereafter amended or commence proceedings under any bankruptcy, insolvency, reorganization, readjustment of debt, dissolution or liquidation law or statute now or hereafter in effect of the Federal government or any state or territorial government of any subdivision of either, (C) make an assignment for the benefit of its creditors, (D) consent to the appointment of a receiver of itself or of the whole or any substantial part of the trust estate, or (E) on a petition in bankruptcy filed against it, be adjudicated a bankrupt;

(vii) if an order, judgment or decree shall be entered by any court of competent jurisdiction appointing, without the consent of the debtor, a receiver of one party, and such order, judgment or decree shall not be vacated or set aside or stayed within 60 days from the date of such appointment;

(viii) if a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against one party under any bankruptcy, insolvency, reorganization, readjustment of debt, dissolution or liquidation law or statute of the Federal government or any state or territorial government or any subdivision of either now or hereafter in effect, and such order, judgment or decree shall not be vacated or set aside or stayed within 60 days from the date of the entry of such order, judgment or decree, or a stay of such proceedings be thereafter set aside; or

(ix) if, under the provision of any other law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of one party of the whole or any substantial part of its assets, and such custody or control shall not be terminated within 60 days from the date of assumption of such custody or control.

ARTICLE 15

REMEDIES

15.1 Remedies. If an Event of Default has occurred and is continuing, the non-defaulting party, at its option, may, by notice in writing to the defaulting party:

(i) proceed by appropriate court action or actions, either at law or in equity, to enforce performance by the defaulting party of the applicable covenants of this Lease or to recover damages for the breach thereof; and/or

(ii) terminate this Lease by giving the defaulting party at least 10 days written notice of such election effective on the date specified in such notice, without prejudice, however, to all matters or conditions existing on or prior to such termination date and the terminating party shall have the right to recover any and all amounts which under the terms of this Lease may be then due or which may have accrued to the date of such termination; and/or

(iii) if Lessor is the non-defaulting party, take any other action deemed by it to be appropriate in order for it to:

(x) sell, lease or otherwise dispose of the Units on such terms or conditions as it may deem advisable but subject to the rights of the Sublessee

under the Sublease and subject to the Management Agreement; or

(y) take such other action with respect to a Sublease as Lessor may deem advisable; and/or

(iv) take all other actions permitted to it by law or by the terms of this Lease.

15.2 Other Instruments. Upon the request of the terminating party, the defaulting party shall promptly execute and deliver such instruments as the terminating party may deem necessary or appropriate to enable the terminating party to exercise its rights under this Article 15.

15.3 Remedies Not Exclusive. The remedies in this Lease provided in favor of the terminating party 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.

15.4 Failure to Act Does Not Constitute Waiver. The failure of the terminating party to exercise the rights granted it hereunder upon the 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.

ARTICLE 16

SPECIAL TERMINATION RIGHTS

16.1 Special Termination Rights. This Lease may be terminated as to any Unit by the following parties under the following circumstances:

(i) by one party in the event that such party has terminated the Management Agreement with respect to such Unit, such termination to be effective upon written notice to the other party;

(ii) by Lessee, upon (a) written notice to Lessor, in the event the Sublessee terminates the Sublease in accordance with a provision of the Sublease permitting the Sublessee to terminate earlier than the stated termination date upon payment of cancellation charges or similar payments and (b) payment by the Sublessee to Lessee, and by Lessee to Lessor, of the required cancellation charges or similar payments; or

(iii) by Lessee if (x) the principal place of business, residence or place of principal use of a Sublessee was outside the United States at the time the Sublease was entered into but, at the time of termination of this Lease with respect to the Units covered by such Sublease, has been relocated to the United States and (y) the Sublease would at the time of termination meet all of the requirements of a "Lease" under the Management Agreement.

ARTICLE 17

ASSIGNMENT

17.1 Assignment by Lessor. Without the prior written consent of Lessee, Lessor shall not assign, convey or otherwise transfer any of its right, title or interest in, to or under this Lease, except that Lessor may, without any consent or action on the part of Lessee, grant a security interest in, or create a lien, charge or other encumbrance on, or assign, convey or transfer, this Lease and/or any revenues or proceeds therefrom as security for loans (including General Partner Advances, as that term is defined in Lessor's partnership agreement) all of the proceeds are used to purchase the Units or any of them, to purchase or pay the cost of Capital Additions, to pay any Operational Deficits (as that term is defined in Lessor's partnership agreement), or to refinance any loans all of the proceeds of which were used for any one or more of the foregoing purposes. No such grant of a security interest, creation of a lien, charge or encumbrance, or assignment, conveyance or transfer shall relieve Lessor of any obligation hereunder. Notwithstanding the foregoing, Lessor shall have the right to assign, convey or otherwise transfer any of its right, title or interest in, to or under this Lease without the consent of Lessee in the exercise of Lessor's remedies under Article 15 hereof.

17.2 Assignment by Lessee. Without the prior written consent of Lessor, Lessee shall not assign, convey or otherwise transfer any of its right, title or interest in, to or under this Lease or in the Units except that any or all of its right, title and interest in and to this Lease may be assigned, conveyed or transferred by Lessee to any corporation or entity controlled by, controlling or under common control with Lessee, provided that Lessee shall remain responsible and liable for all obligations of Lessee under this Lease and except that this Section 17.2 shall not apply to matters provided for or permitted by Article 18 hereof.

#### ARTICLE 18

##### POSSESSION, USE AND SUBLEASES

18.1 Possession, Use and Subleases. Lessee shall be entitled to possess and use the Units and sublease the Units to others without the consent of Lessor; provided, however, that (a) no Sublease of a Unit shall have a scheduled termination date which extends beyond the scheduled termination date of the Rider to this Lease covering such Unit unless such Sublease would meet all of the requirements of a "Lease" under the Management Agreement and (b) each Sublease would, without regard to termination date, meet all of the requirements of a "Lease" under the Management Agreement other than the requirements of Section 6.1.1(i)(x) of the Management Agreement.

## ARTICLE 19

### RECORDING

19.1 Recording. Lessee, at its own cost and expense, will cause this Lease, including each Rider, to be filed or recorded with the Interstate Commerce Commission in accordance with Section 11303(a) of the Interstate Commerce Act, or any applicable successor provision. In addition, Lessee will execute, acknowledge, deliver, file, register, record (and will refile, re-register, deposit and re-deposit or re-record whenever required) any and all further instruments required by law for the purpose of proper protection of Lessor's title to the Units in the United States of America. Lessee will promptly furnish to Lessor evidence of all such filing, registering, depositing or recording.

## ARTICLE 20

### STANDARDS OF PERFORMANCE

20.1 Standards of Performance. Notwithstanding any other provisions of this Article 20, all of the duties, services and obligations of Lessee under this Lease shall be performed in accordance with standards which are equal to those conformed to by Lessee and its Affiliates with respect to similar functions, services and duties relating to railroad cars owned by any of them, including, without limitation, functions, services and duties relative to the administration of leases (including waiving immaterial defaults and granting

extensions thereunder), repair, re-lease, renewal, sale or other disposition of railcars, subject in all cases to the rights of any Sublessee thereof. IT IS OF THE ESSENCE OF THIS LEASE THAT LESSEE SHALL PERFORM ITS SERVICES AND ACTIVITIES IN ACCORDANCE WITH THE STANDARD PROVIDED IN THE PREVIOUS SENTENCE, BUT THAT LESSEE SHALL NOT HAVE ANY OBLIGATION TO PERFORM ANY SERVICES OR ACTIVITIES TO ANY EXTENT OR STANDARD GREATER THAN THAT PROVIDED IN THE PREVIOUS SENTENCE.

#### ARTICLE 21

##### ADMINISTRATION OF SUBLEASES

21.1 Lessee's Option to Commence Action. Lessee shall not be required to exercise on Lessor's behalf any right or rights under any Sublease or Subleases or to threaten or commence any legal or other proceedings against a Sublessee or any other party before any court or other governmental agency or non-governmental organization in connection with its performance or actions hereunder if in Lessee's reasonable judgment the potential expense or risk associated with such exercise or action, or the potential damage to the business relationship between Lessee or its Affiliates and such Sublessee, does not indicate that such exercise or action would be undertaken if Lessee owned the Units.

## ARTICLE 22

### MISCELLANEOUS

22.1 Table of Contents and Headings. The table of contents and the descriptive headings of the several sections, subsections and Articles of this Lease are inserted for convenience only and do not constitute part of this Lease.

22.2 Interest on Overdue Lease Rentals. Anything to the contrary herein contained notwithstanding, any nonpayment of Lease Rentals and other obligations due hereunder shall result in the additional obligation on the part of the party hereto defaulting in payment promptly to pay to the other an amount equal to interest at 111% of the rate per annum which The First National Bank of Chicago charges for 90-day unsecured loans at Chicago, Illinois to large corporate borrowers of the highest credit standing at the time in effect upon the overdue Lease Rentals and other obligations for the period of time which they are overdue or such lesser amount as may be legally enforceable.

22.3 Notices. Any notice, certificate, document, acceptance or report required or permitted to be given by either party hereto to the other party shall be in writing and shall be deposited in the United States mails, first-class postage prepaid, or delivered by a superior means, addressed as follows:

If to Lessor, addressed to it c/o NAC Railcar Investors, Inc., 33 West Monroe Street, Chicago, Illinois 60603, Attention: President;

If to Lessee, at 33 West Monroe Street, Chicago, Illinois 60603, Attention: Manager, Investor Management Programs, with a copy to the President;

or addressed to either party at such other address as such party shall hereafter furnish to the other party by written notice.

Any notice shall be deemed given, unless earlier received, (i) if sent by certified or registered mail, return receipt requested, 96 hours after being deposited in the United States mails, postage prepaid (except that any copy may be sent by regular mail), (ii) if sent by United States Express Mail, 48 hours after being deposited in the United States mails, postage prepaid (except that any copy may be sent by regular mail), (iii) if sent by telex or facsimile transmission, on the date sent provided confirmatory notice shall be sent by first-class mail, postage prepaid, (iv) if delivered by hand, on the date of receipt, or (v) if by United States mail and not heretofore provided, upon receipt. Any notice sent to either party which is incomplete shall not be deemed to have been given until completed.

22.4 Severability; Modification of Lease. 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 enforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. No variation or modification of this Lease and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized signatories for Lessor and Lessee.

22.5 Execution. This Lease may be executed in several counterparts, all of which counterparts shall constitute one and the same instrument, but the counterpart delivered to Lessor shall be deemed to be the original counterpart. The actual date or dates of execution of this Lease by the parties hereto is or are, respectively, the date or dates stated in the acknowledgements annexed.

22.6 Law Governing. The terms of this Lease and all rights and obligations hereunder shall be governed by and construed in accordance with the laws of the State of Illinois.

22.7 Payments. In the event any amounts payable by Lessor, or which Lessee may credit against Periodic Rentals and Lease Rentals or other amounts payable to Lessee hereunder in any month exceed Periodic Rentals and Lease Rentals payable by Lessee in such month, Lessor shall pay such

excess to Lessee promptly after receipt of an invoice there-  
for from Lessee. All amounts payable by one party to the  
other party may be paid to such party or to such party's  
agent.

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

NORTH AMERICAN CAR CORPORATION  
("Lessee")

By J. Harrison  
Vice President

[CORPORATE SEAL]

Attest:

[Signature]  
Assistant Secretary

NORTH AMERICAN RAILCAR PARTNERS,  
LTD. 1981-I, an Illinois limited  
partnership ("Lessor")

By NAC Railcar Investors, Inc.,  
Its general partner

By [Signature]  
Vice President

[CORPORATE SEAL]

Attest:

[Signature]  
Secretary

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF C O O K )

On this 11th day of June, 19\_\_ before me personally appeared J. Harrison and Edward H. Soderstrom II to me personally known, who being by me duly sworn says that they are, respectively, the Vice President and Assistant Secretary of NORTH AMERICAN CAR CORPORATION, that the seal affixed to the foregoing instrument is the seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

[SEAL]

Debra A. Kelly  
Notary Public

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

STATE OF ILLINOIS )  
 ) SS.  
COUNTY OF C O O K )

On this 11th day of June, 1981 before me personally appeared RA Noback and Edward H. Soderstrom & to me personally known, who being by me duly sworn says that they are, respectively, the Vice President and Secretary of NAC RAILCAR INVESTORS, INC., a Delaware corporation, that the seal affixed to the foregoing instrument is the seal of said corporation, that said instrument was signed and sealed on behalf of ~~said corporation~~ by authority of its Board of Directors, and they acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

North American Railcar Partners, Ltd. 1981-I by said Corporation, as general partner thereof.

[SEAL]

Debra A. Kelly  
Notary Public

My Commission Expires: Feb. 23, 1983

EXHIBIT A TO LEASE

All Subleases of the Units entered into by Lessee will contain provisions substantially comparable to the following:

1. In the event that any of the Units, or the fittings, appliances or appurtenances thereto, shall be damaged, ordinary wear and tear excepted, or destroyed either as a result of the acts of any of Sublessee's employees, agents or customers or from any commodity or other material loaded therein or thereon, Sublessee agrees to assume financial responsibility for such damage or destruction.

2. Lessee/sublessor shall not be liable for any loss of or damage to commodities, or any part thereof, loaded or shipped in or on the Units, and Sublessee agrees to assume financial responsibility for, to indemnify Lessee/sublessor against and to save it harmless from any such loss or damage.

3. Sublessee, at its own expense, shall either replace or reimburse Lessee/sublessor for the cost of replacing any appliance or removable part, if destroyed, damaged, lost, removed or stolen, unless the railroads transporting the Units have assumed full responsibility for such loss or damage, or unless such loss or damage results from the negligence or omission of Lessee/sublessor, its agents or employees.

4. The application, maintenance and removal of interior protective lining in any of the Units is to be performed by and at the expense of Sublessee unless otherwise specifically provided for in the applicable Rider.

5. Sublessee agrees not to load any of the Units in excess of the load limit stenciled thereon.

EXHIBIT B TO LEASE

RIDER NUMBER \_\_\_ TO LEASE AGREEMENT  
DATED \_\_\_\_\_, 19\_\_

RIDER NUMBER \_\_, "Rider" dated as of \_\_\_\_\_,  
19\_\_ to the LEASE OF RAILROAD EQUIPMENT, dated as of  
\_\_\_\_\_, 1981 (the "Lease"), between NORTH AMERICAN CAR  
CORPORATION, a Delaware corporation (the "Lessee"), and  
NORTH AMERICAN RAILCAR PARTNERS, LTD. 1981-I, an Illinois  
limited partnership (the "Lessor").

The Units described herein shall be subject to the  
terms and conditions of the Lease and this Rider during the  
term of use and for the rental set forth below:

<u>Number of Units</u>	<u>Type of Unit and Unit Number</u>	<u>Monthly Lease Rental Per Unit</u>
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The term of use of the Unit hereinabove described shall  
commence on \_\_\_\_\_, and shall continue for a  
period \_\_\_\_\_ except as set forth in the  
Lease.

OTHER TERMS AND PROVISIONS:

IN WITNESS WHEREOF, the parties hereto have caused this  
Rider to be executed in their respective corporate names, by

officers thereunto duly authorized, and their respective corporate seals to be affixed and duly attested, all as of the date first above written.

[CORPORATE SEAL]

NORTH AMERICAN CAR CORPORATION  
("Lessee")

By \_\_\_\_\_  
Title \_\_\_\_\_

Attest:

By \_\_\_\_\_  
Title \_\_\_\_\_

[CORPORATE SEAL]

NORTH AMERICAN RAILCAR PARTNERS,  
LTD., 1981-I, an Illinois limited  
partnership ("Lessor")

By NAC RAILCAR INVESTORS, INC.  
Its general partner

By \_\_\_\_\_  
Title \_\_\_\_\_

Attest:

By \_\_\_\_\_  
Title \_\_\_\_\_