

Return to:

Lisa West

First Union National Bank of NC

P. O. Box 2114

Winston-Salem, NC

27102

BK1705 P2196

ASSIGNMENT OF LESSOR'S INTEREST IN LEASE

58

THIS ASSIGNMENT, made this 21st day of September, 19 90, by

L & C Investors, A North Carolina General Partnership

(herein called "Assignor"), First Union National Bank of North Carolina

(herein called "Assignee"),

WITNESSETH:

FOR VALUE RECEIVED, Assignor hereby grants, transfers and assigns to the Assignee all of the right, title and interest of Assignor in and to that certain Lease or those certain Leases with modifications, if any, described in Schedule A hereof, covering premises in Forsyth County, State of North Carolina; TOGETHER WITH ANY OR ALL EXTENSIONS AND RENEWALS THEREOF AND ALSO TOGETHER WITH ANY AND ALL GUARANTEES OF THE LESSEE'S OBLIGATIONS UNDER ANY THEREOF AND UNDER ANY AND ALL EXTENSIONS AND RENEWALS THEREOF. Each of said leases together with any guarantees, modifications, extensions, and renewals thereof is hereinafter referred to as the "Lease."

This assignment is made for the purpose of securing:

A. The payment of the principal sum, interest and indebtedness evidenced by a certain promissory note, and any amendments, extensions or renewals thereof, in the original principal sum of One Million and 00/100***** DOLLARS (\$ 1,000,000.00) made by Assignor herein to Assignee herein and dated the 5th day of April, 19 88, and secured by "mortgage" (it being agreed that the word "mortgage" as used above and as used hereinafter shall be construed to mean "trust deed" or "deed of trust" or "deed to secure debt" or "security deed" if the context so requires, and any amendments, extensions or modifications thereof) on real property referred to in "Schedule A" hereinafter and as in said mortgage more particularly described, reference being hereby made to such description as though herein fully set forth.

B. Payment of all other sums with interest becoming due and payable to the Assignee under the provisions of this assignment or of said note and mortgage.

C. The performance and discharge of each and every obligation, covenant and agreement of the Assignor contained herein or in said note and mortgage.

THE ASSIGNOR WARRANTS that the Assignor is the sole owner of the entire lessor's interest in said Lease; that said Lease is valid and enforceable and has not been altered, modified or amended in any manner whatsoever save as herein set forth; that the lessee named therein is not in default under any of the terms, covenants or conditions thereof, that no rent reserved in said Lease has been assigned or anticipated and that no rent for any period subsequent to the date of this assignment has been collected in advance of the time when the same became due under the terms of said Lease.

THE ASSIGNOR COVENANTS with the Assignee to observe and perform all the obligations imposed upon the lessor under said Lease; give prompt notice to the Assignee of any Notice of Default by the Assignor under the Lease received by the Assignor together with a complete copy of any such notice; at the sole cost and expense of the Assignor, enforce, short of termination of the Lease, the performance or observance of each and every covenant and condition of the Lease by the lessee to be performed or observed; and not to do or permit to be done anything to impair the security thereof; not to collect any of the rent, income and profits arising or accruing under said Lease or from the premises described in said mortgage in advance of the time when the same shall become due; not to execute any other assignment of lessor's interest in said Lease or assignment of rents arising or accruing from said Lease or from the premises described in said mortgage; not to subordinate said Lease to any mortgage or any other encumbrance or permit, consent or agree to said subordination without Assignee's prior written consent; not to alter, modify or change the terms of said Lease or give any consent or exercise any option required or permitted by such terms without the prior written consent of Assignee or cancel or terminate said Lease or accept a surrender thereof or convey or transfer or suffer or permit a conveyance or transfer of the premises demised thereby or of any interest

therein so as to effect directly or indirectly, proximately or remotely a merger of the estates and rights of, or a termination or diminution of the obligations of, lessee thereunder; not to alter, modify or change the terms of any guaranty of said Lease or cancel or terminate such guaranty without the prior written consent of the Assignee; not to consent to any assignment of or subletting under said Lease, whether or not in accordance with its terms, without the prior written consent of the Assignee; at the Assignee's request to assign and transfer to the Assignee any and all subsequent leases upon all or any part of the premises described in said Lease or said mortgage and to execute and deliver at the request of the Assignee all such further assurances and assignments in the premises as the Assignee shall from time to time require.

THIS ASSIGNMENT is made on the following terms, covenants and conditions:

1. So long as there shall exist no default by the Assignor in the payment of the principal sum, interest and indebtedness secured hereby and by said note and mortgage or in the performance of any obligation, covenant or agreement herein or in said note and mortgage or in said Lease contained on the part of the Assignor to be performed, the Assignor shall have the right to collect at the time of, but not prior to, the date provided for the payment thereof, all rents, income and profits arising under said Lease or from the premises described therein and to retain, use and enjoy the same.

2. Upon or at any time after default in the payment of the principal sum, interest and indebtedness secured hereby and by said note and mortgage or in the performance of any obligation, covenant or agreement herein or in said note, mortgage or Lease contained on the part of the Assignor to be performed, the Assignee without in any way waiving such default may at its option without notice and without regard to the adequacy of the security for the said principal sum, interest and indebtedness secured hereby and by said note and mortgage, either in person or by agent, with or without bringing any action or proceeding, or by a Receiver appointed by a court, take possession of the premises described in said Lease and/or mortgage and have, hold, manage, lease and operate the same on such terms and for such period of time as the Assignee may deem proper and either with or without taking possession of said premises in its own name, demand, sue for or otherwise collect and receive all rents, income and profits of said premises, including those past due and unpaid with full power to make from time to time all alterations, renovations, repairs or replacements thereto or thereof as may seem proper to the Assignee and to apply such rents, income and profits to the payment of: (a) all expenses of managing the premises, including, without being limited thereto, the salaries, fees and wages of a managing agent and such other employees as the Assignee may deem necessary or desirable and all expenses of operating and maintaining the premises, including, without being limited thereto, all taxes, charges, claims, assessments, water rents, sewer rents and any other liens, and premiums for all insurance which the Assignee may deem necessary or desirable, and the costs of all alterations, renovations, repairs or replacements, and all expenses incident to taking and retaining possession of the premises; and (b) the principal sum, interest and indebtedness secured hereby and by said note and mortgage, together with all costs and attorneys' fees, in such order of priority as to any of the items mentioned in this paragraph numbered "2." as the Assignee in its sole discretion may determine, any statute, law, custom or use to the contrary notwithstanding. The exercise by the Assignee of the option granted it in this paragraph numbered "2." and the collection of the rents, income and profits and the application thereof as herein provided shall not be considered a waiver of any default by the Assignor under said note or mortgage or under said Lease or this assignment.

3. The Assignee shall not be liable for any loss sustained by the Assignor resulting from the Assignee's failure to let the premises after default or from any other act or omission of the Assignee and managing the premises after default unless such loss is caused by the willful misconduct and bad faith of the Assignee. Nor shall the Assignee be obligated to perform or discharge nor does the Assignee hereby undertake to perform or discharge any obligation, duty or liability under said Lease or under or by reason of this assignment and the Assignor shall, and does hereby agree, to indemnify the Assignee for, and to hold the Assignee harmless from, any and all liability, loss or damage which may or might be incurred under said Lease or under or by reason of this assignment and from any and all claims and demands whatsoever which may be asserted against the Assignee by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in said Lease. Should the Assignee incur any such liability under said Lease or under or by reason of this assignment or in defense of any such claims or demands, the amount hereof, including costs, expenses and a reasonable attorneys' fees shall be secured hereby and the Assignor shall reimburse the Assignee therefor immediately upon demand and upon the failure of the Assignor to do so the Assignee may, at its option, declare all sums secured hereby and by said note and mortgage immediately due and payable. And it is further understood that this assignment shall not operate to place responsibility for the control, care, management or repair of said premises upon the assignee, nor for the carrying out of any of the terms and conditions of said Lease; nor shall it operated to make the Assignee responsible or liable for any waste committed on the property by the tenants or any other parties, or for any dangerous or defective condition of the premises, or for any negligence in the management, upkeep, repair or control of said premises resulting in loss or injury or death to any tenant, licensee, employee or stranger.

4. The Assignee shall have the right to assign the Assignor's right, title and interest in said Lease to any subsequent holder of said mortgage, subject to the provisions of this instrument, and to assign the same to any person acquiring title to the mortgaged premises through foreclosure or otherwise. After the Assignor shall have been barred and foreclosed of all right, title and interest and equity of redemption in said premises, no Assignee of the Assignor's interest in said Lease shall be liable to account to the Assignor for the rents, income and profits thereafter accruing.

5. Upon payment in full of the principal sum, interest and indebtedness secured hereby and by said note and mortgage this assignment shall become and be void and of no effect but the affidavit, certificate, letter or statement of any officer, agent or attorney of the Assignee showing any part of said principal, interest or indebtedness to remain unpaid shall be and constitute conclusive evidence of the validity, effectiveness and continuing force of this assignment and any person may, and is hereby authorized to, rely thereon. The Assignor hereby authorizes and directs the lessee named in said Lease or any other or future lessee or occupant of the premises described therein or in said mortgage upon receipt from the Assignee of written notice to the effect that the Assignee is then the holder of said note and mortgage and that a default exists thereunder or under the assignment to pay over to the Assignee all rents, income and profits arising or accruing under said Lease or from the premises described therein or in said mortgage and to continue so to do until otherwise notified by the Assignee.

6. The Assignee may take or release other security for the payment of said principal sum, interest and indebtedness, may release any party primarily or secondarily liable therefor and may apply any other security held by it to the satisfaction of such principal sum, interest or indebtedness without prejudice to any of its rights under this assignment.

7. Nothing contained in this assignment and no act done or omitted by the Assignee pursuant to the powers and rights granted it hereunder shall be deemed to be a waiver by the Assignee of its rights and remedies under said note and mortgage, and this assignment is made and accepted without prejudice to any of the rights and remedies possessed by the Assignee under the terms of said note and mortgage. The right of the Assignee to collect said principal sum, interest and indebtedness and to enforce any other security therefor held by it may be exercised by the Assignee either prior to, simultaneously with, or subsequent to any action taken by it hereunder.

8. Assignor hereby assigns any portion of an award payable by reason of condemnation action under the right of eminent domain and directs that such award shall be paid direct to Assignee herein. The Assignor, as additional security, specifically assigns to the Assignee herein, any purchase proceeds receivable by reason of the lessee's exercising any first refusal option or any option to purchase the property as may be provided in the above referred to Lease, additions, amendments and/or supplements thereto.

In case of any conflict between the terms of this instrument and the terms of the mortgage described above, the terms of the mortgage shall prevail.

THIS ASSIGNMENT, together with the covenants and warranties herein contained, shall inure to the benefit of the Assignee and any subsequent holder of the said note and mortgage and shall be binding upon the Assignor, his heirs, executors, administrators, successors and assigns and any subsequent owner of the mortgaged premises.

SCHEDULE A

(Here set forth the following information for each Lease and, to the extent appropriate, each modification thereof: name of lessee, date, book and page of recording, remaining length of current term, address or other identification of leased premises.)

A lease by and between L & C Investors, A North Carolina General Partnership ("Lessor") and Regal Oldsmobile, Inc. as successor by merger to Regal Suzuki, Inc. ("Lessee") on the 1st day of August 1988.

IN WITNESS WHEREOF, the Assignor has hereunto set his hand and seal, or caused this agreement to be executed by its duly authorized officers, and the corporate seal hereunto affixed this the day first above shown.

L & C Investors, A North Carolina General Partnership

Delete this clause if witness not necessary.

Signed, sealed, acknowledged and delivered in the presence of Witnesses at request of Assignor.

By: Lucian H. Neal (SEAL)
Lucian H. Neal, Managing Partner

(SEAL)

(SEAL)

(SEAL)

or

ATTEST:

By _____
Secretary

By _____
President

ACKNOWLEDGEMENT

(Acknowledgement should be typed hereinafter in the form of individual or corporate acknowledgement as required by the state in which the property is located and the instrument is to be recorded.)

PARTNERSHIP ACKNOWLEDGEMENT

STATE OF NORTH CAROLINA, Forsyth COUNTY ss:
On this 21st day of September, A.D. 1990,
Lisa D. West, a Notary Public of the County of Davie State of North Carolina,
Lucian H. Neal, who, being by me duly sworn says that he is managing L & C Investors, A North
Carolina General Partnership, a general partnership, and that the foregoing instrument was duly executed by him for an on behalf of said partnership. And said
Lucian H. Neal, acknowledged said instrument to be the act and deed of said partnership.

WITNESS, my hand and official seal.
My Commission Expires _____
OFFICIAL SEAL
Notary Public, North Carolina
Davie County
LISA D. WEST
My commission expires 20-92
(SEAL)

Lisa D. West
Notary Public

STATE OF NORTH CAROLINA—Forsyth County

The foregoing (or annexed) certificate _____ of LISA D. WEST, NP, Davie Co NC
(here give name and official title of the officer signing the certificate, passed upon)

PRESENTED FOR
REGISTRATION

is (are) certified to be correct. This the 29 day of NOV, 19 90

NOV 23 12 24 PM '90

Spess, Register of Deeds

By Ratz Davis
REGISTER OF DEEDS
FORSYTH CO., NC

Deputy Assistant

Probate and Filing Fee \$ 12.00
PD paid.