

70 Box 10279  
Merr. 46410

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STATE OF INDIANA  
REC'D

FIRST REAL ESTATE MORTGAGE

THIS MORTGAGE is made this 18th day of March, 1991, by and between CIRCLE OLDSMOBILE - GMC, INC. located at 1300 U.S. Route 41 Schererville, Indiana, (hereinafter known as "Mortgagor"), and GENERAL MOTORS ACCEPTANCE CORPORATION having an office at 8300 Louisiana, Merrillville, Indiana, 46410, (hereinafter "Mortgagee").

Mortgagor hereby MORTGAGES AND WARRANTS to Mortgagee, the following described real estate, to-wit:

Lot 2, Deercreek Park Unit No. 2, to the Town of Schererville, as shown in Plat Book 67, Page 34, in Lake County, Indiana.

TOGETHER with all buildings, improvements, and tenements now or hereafter erected on the property, and all easements, rights, right-of-way, driveways, alleys, pavement, curbs and street front privileges, rents, issues, profits, royalties, mineral, oil and gas rights and profit; and all fixtures, equipment apparatus, motors, engines, machinery and building materials of every kind or nature whatsoever now or hereafter located in, or, including, but not limited to, those for the purpose of supplying or distributing, heating, ventilation, power, electricity, gas, air, water and light; and all blinds, shades, curtains, curtain rods, mirrors, cabinets, attached floor coverings, awnings, storm windows, doors, storm doors, screens, antennas, trees, shrubs and plants, plumbing and electrical fixtures and communication systems, all of which, including replacements and additions thereto, shall be deemed to be and remain a part of the real property covered by this instrument whether actually physically annexed to the property or not, and all of the foregoing together with said property are herein referred to as the "Property".

This mortgage is given to secure the payment of Mortgagor's Promissory Note payable to the Mortgagee dated the 18th day of March, 1991, in the amount FIVE HUNDRED EIGHTY-SIX THOUSAND AND NO/100 Dollars (\$586,000.00) with a final payment due and payable on March 18, 1996, together with interest, and any extensions or renewals thereof and likewise to secure the performance by the Mortgagor of all of the Mortgagor's covenants, agreements, promises, payments, and conditions contained in this Mortgage, or the Note it secures, or any other instruments signed by the Mortgagor in conjunction with and/or in securing the indebtedness secured by this Mortgage.

Mortgagor expressly represents and warrants that legally properly adequate and sufficient consideration is being given by Mortgagee for it to execute this mortgage and that it is doing so for a proper, legal and valid benefit and purpose.

Mortgagor hereby covenants and agrees with Mortgagee as follows:

1. **WARRANTY OF RIGHT TO MORTGAGE.** Mortgagor does covenant with the Mortgagee as follows: First, that he is lawfully seized of the said premises in fee simple; Second, that he has a good right to convey the same; Third, that the same are free from all liens and incumbrances except as set out in Clause Ten (10) below; Fourth, that the said Mortgagee shall quietly enjoy and possess the same; and that the said Mortgagor will warrant and defend the title to the same against all lawful claims.

2. **TAXES AND CHARGES.** Mortgagor shall pay from time to time, when due, and before any penalty attaches, all general and special taxes and assessments, water and sewer charges and taxes, and all other public charges imposed or assessed against the Property or arising in

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promptly furnish to Mortgagee, upon request by Mortgagee, all notices, bills and statements received by Mortgagor of amounts so due, and Mortgagor shall, upon request by Mortgagee, promptly furnish Mortgagee receipts evidencing such payments. Mortgagor may in good faith contest at its own expense validity of any tax, assessment or charge provided Mortgagor pays the same in full under protest or deposits said sum with the Mortgagee as security for payment thereof.

3. **INSURANCE.** Mortgagor shall keep all buildings and improvements now existing or hereafter erected or situated on the property insured against fire, lightning, windstorm, vandalism, malicious damages and any such other hazards included within the term "extended coverage", together with such other hazards, liabilities and contingencies in such amounts and for such periods as Mortgagee may from time to time reasonably require. Mortgagor shall keep all buildings and improvements insured against loss by damage by flood if the Property is located in a Flood Hazard Zone. Mortgagor shall obtain premises liability insurance with respect to the Property in an amount acceptable to the Mortgagee.

All said insurance policies and renewals thereof shall be issued by carriers satisfactory to the Mortgagee, and shall include a standard mortgage clause, loss payee clause or endorsement in favor of the Mortgagee and in form and substance acceptable to the Mortgagee. Each such policy shall not be cancelable by the insurance company without at least thirty (30) days prior written notice to the Mortgagee. Any such insurance policy shall be in a sum sufficient to pay in full the cost of repairing and replacing the buildings and improvements on the Property and in no event shall be less than the maximum amount that the Mortgagor is obligated to pay to the Mortgagee pursuant to said Agreement secured hereby. The Mortgagor shall deliver the original of any such policy to the Mortgagee to be held by it. The Mortgagor shall promptly furnish to Mortgagee, on request, all renewal notices and receipts for paid premiums. At least thirty (30) days prior to the expiration date of any such policy, Mortgagor shall deliver to Mortgagee any such renewal policy.

In the event of loss, Mortgagor shall give immediate written notice to the insurance carrier and to Mortgagee. Mortgagor authorizes and empowers Mortgagee as attorney-in-fact for Mortgagor to adjust and compromise any claim under any such insurance policies, to appear in and prosecute any action arising from such insurance policies, to collect and receive insurance proceeds, to endorse and deposit any insurance checks or drafts payable to Mortgagor, and to deduct therefrom Mortgagee's expenses incurred in the collection of such proceeds; provided however, that nothing contained in this Paragraph 3 shall require Mortgagee to incur any expense or take any action hereunder, nor prevent the Mortgagee from asserting any independent claim or action versus any such insurance carrier in its own name.

Unless Mortgagee and Mortgagor otherwise agree in writing, and if the Mortgage is not in default, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible and the security of this Mortgage is not thereby impaired. If such restoration or repair is not economically feasible or if the security of this Mortgage would be impaired or if the Mortgage is in default the insurance proceeds shall be applied to the sums secured by this Mortgage, with the excess, if any, paid to Mortgagor.

If the insurance proceeds are held by Mortgagee, upon its election, to reimburse Mortgagor for the cost of restoration and repair of the Property, the property shall be restored to the equivalent of its original condition or such other condition as the parties may mutually approve in writing. Mortgagee may, at Mortgagee's option, condition disbursement of said proceeds on Mortgagee's approval of waivers of liens, sworn statements of mechanics and materialmen and such other evidence of costs, percentage completion of construction, application of payments, and satisfaction of liens as Mortgagee may reasonably require. If the insurance proceeds are applied to the

reasonably require. If the insurance proceeds are applied to the payment of the sums secured by this Instrument, any such application of proceeds to principal shall not extend or postpone the due dates of the payments due under the Mortgage or change the amounts of said payments. If the Property is sold or if Mortgagee acquired title to the Property, Mortgagee shall have all of the right, title and interest of Mortgagor in and to any insurance policies and unearned premiums thereon and in and to the proceeds resulting from any damage to the property prior to such sale or acquisition.

**4. PRESERVATION AND MAINTENANCE OF PROPERTY.** Mortgagor (a) shall not commit waste or permit impairment or deterioration of the Property, make any material alterations therein, nor demolish or remove the same, (b) shall not abandon the Property, (c) shall keep the Property, including improvements thereon in good condition and repair, (d) shall not mortgage or otherwise encumber nor allow any judgment liens, tax liens or mechanic's liens to be imposed against the Property, (e) shall promptly pay when due any indebtedness which may be secured by any other mortgage, lien or charge on the Property, (f) shall comply with all laws, ordinances, regulations, codes and requirements of any governmental body applicable to the property, (g) shall give notice in writing to Mortgagee of any, unless otherwise directed in writing by Mortgagee, appear in and defend any action or proceeding purporting to affect the Property, the security of this Instrument or the rights or powers of Mortgagee.

**5. USE OF PROPERTY.** Unless required by applicable law or unless Mortgagee has otherwise agreed in writing, Mortgagor shall not allow changes in the use for which all or any part of the Property was intended at the time this Instrument was executed. Mortgagor shall not initiate or acquiesce in a change in the zoning classification of the Property without Mortgagee's prior written consent.

**6. PROTECTION OF MORTGAGEE'S SECURITY.** If Mortgagor fails to perform the covenants and agreements contained in this Instrument, or if any action or proceeding is commenced which affects the Property or title thereto or the interest of Mortgagee therein, then Mortgagee at Mortgagee's option may disburse such sums, make such appearances and take such action as Mortgagee deems necessary, in its sole discretion, to protect Mortgagee's interest.

Any amounts disbursed by Mortgagee pursuant to this Paragraph 6 shall become an additional indebtedness of Mortgagor secured by this Instrument. Such amounts shall be immediately due and payable and shall bear interest from the date of disbursement at the rate stated in the Agreement. Mortgagor hereby covenants and agrees that Mortgagee shall be subrogated to the rights of the holder of any lien to be discharged, in whole or in part, by the Mortgagee. Nothing contained in this Paragraph 6 shall require Mortgagee incur any expense or take any action hereunder. If Mortgagee makes any payment authorized by this Paragraph 6, including but not limited to, taxes, assessments, charges, liens, security interests or insurance premiums, Mortgagee may do so according to any notice, bill, statement or estimate received from the appropriate party without inquiry into the accuracy or validity of such notice, bill, statement or estimate. The payment of any such sums by the Mortgagee shall not be deemed a waiver of Mortgagee's right to accelerate the maturity of the indebtedness secured by this Instrument and declare this Instrument in default, and failure to so act shall not be considered as a waiver of any right accruing to Mortgagee on account of any default hereunder on the part of the Mortgagor.

That the Mortgagee shall, at its option be entitled to be subrogated to any demand, lien, claim, or right paid or satisfied by or with the moneys advanced and hereby secured.

**7. INSPECTION.** Mortgagee may make or cause to be made reasonable entries upon and inspections of the Property at all reasonable times and access thereto shall be permitted for that purpose by the Mortgagor.

8. **CONDEMNATION.** Mortgagor shall promptly notify Mortgagee of any action or proceeding relating to any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, and Mortgagor shall appear in and prosecute any such action or proceeding unless otherwise directed by Mortgagee in writing. Mortgagor authorizes Mortgagee, at Mortgagee's option, as attorney-in-fact for Mortgagor, to commence, appear in and prosecute, in Mortgagee's or Mortgagor's name, any action or proceeding relating to any condemnation or other taking of the Property, whether direct or indirect, and to settle or compromise any claim in connection with such condemnation or other taking. The proceeds of any award, payment or claim for damages, direct or consequential, in connection with any condemnation or other taking, whether direct or indirect, of the Property, or part thereof, or for conveyances in lieu of condemnation, are hereby assigned to and shall be paid to Mortgagee.

In the event of a total or partial taking of the Property, Mortgagor authorizes Mortgagee to apply such awards, payments, proceeds or damages, after the deduction of Mortgagee's expenses incurred in the collection of such amounts to payment of the sums secured by this Instrument, whether or not then due, with the balance, if any, to Mortgagor. Any application of the proceeds shall not change the amount(s) due under this Agreement. Mortgagor agrees to execute such further evidence of assignment of any awards, proceeds, damages or claims arising in connection with such condemnation or taking as Mortgagee may require.

9. **TRANSFERS.** Mortgagor shall not sell or transfer all or any part of said Property, grant an option to purchase the same, lease the Property, sell the same by contract, transfer occupancy or possession of the Property, nor sell or assign any beneficial interest or power of direction in any land which title to the Property without the prior written consent of the Mortgagee.

10. That the real estate mortgaged hereby is free, clear, and unencumbered except as to (a) real estate taxes not yet due, (b) usual easements, covenants and restrictions of record, (c) real estate mortgage dated NONE, 19NONE, from Mortgagor(s) to NONE in the original amount of NONE (\$) which mortgage is not in default and has an approximate unpaid balance of \$        . Mortgagor will pay and keep current the mortgage on said real estate that is superior to this mortgage and immediately advise Mortgagee in writing of his failure to do so; Mortgagor will not further mortgage or encumber said real estate in any way without the express written consent of the Mortgagee. This prohibition shall include the Mortgagor borrowing any future monies from any senior mortgage holder under an "other indebtedness" or "future advance" clause without the prior written consent of Mortgagee; Mortgagor shall not allow any judgment liens, mechanics liens or other liens of any nature or kind to be placed against said real estate, and if such a lien or liens should be affixed or placed on said real estate, Mortgagor shall immediately advise Mortgagee of this fact in writing and cause said lien to be satisfied and released within five (5) days from the entry thereof.

11. **SUCCESSORS AND ASSIGNS BOUND; JOINT AND SEVERAL LIABILITY; AGENTS; CAPTIONS.** The covenants and agreements herein contained shall bind the respective successors and assigns of Mortgagor and the rights and privileges of the Mortgagee shall inure to the benefit of its payees, holders, successors and assigns. All covenants and agreements of Mortgagor shall be joint and several. In exercising any rights hereunder or taking any actions provided for herein, Mortgagee may act through its employees, agents or independent contractors as authorized by Mortgagee. The captions and headings of the paragraphs of this Instrument are for convenience only and are not to be used to interpret or define the provisions hereof.

12. **DEFAULT; ACCELERATION; REMEDIES.** Upon Mortgagor's default of any covenant, warranty, condition or agreement of Mortgagor in this Instrument, including but not limited to, the covenants to pay when due

any sums secured by this Instrument, or the default by Mortgagor of any one or more of the events or conditions defined as an Event of Default in the note secured hereby and/or in any instruments securing said notes and/or any other obligation secured by this mortgage Mortgagee at Mortgagee's option, may declare all of the sums secured by this Instrument to be immediately due and payable without further demand and may foreclose this Instrument by judicial proceedings and may invoke any other remedies permitted by applicable law or provided herein. Mortgagee shall be entitled to collect all costs and expenses incurred in pursuing such remedies, including, but not limited to, attorney's fees, appraisal fees, expert witness fees, costs of court reporters, travel expenses, costs of documentary evidence, abstracts and title reports. Before Mortgagee shall pursue any of its rights or remedies of acceleration, it shall first give the Mortgagor written notice of the default complained of and Mortgagor shall have thirty (30) days from the posting of such notice to correct any default; however, only five (5) days written notice shall be required in the case of any default in payment of any monies due under this mortgage and/or the note it secures.

The Mortgagor shall also be entitled to collect all costs and expenses, including but not limited to, reasonable attorneys fees incurred by Mortgagee in connection with (a) any proceeding without limitation, probate, bankruptcy, receivership or proceedings to which the Mortgagee may be a party, either as plaintiff, claimant or defendant by reason of this Instrument or any indebtedness secured here; (b) preparation of the commencement of a suit for foreclosure of this Instrument after accrual of the right to foreclose whether or not actually commenced; or (c) the defense of this mortgage in any proceeding instituted by any other lienholder. All costs, expenses and attorneys fees when incurred or paid by Mortgagee shall become additional indebtedness secured by this instrument and which shall be immediately due and payable by Mortgagor with interest at the rate stated in said Agreement.

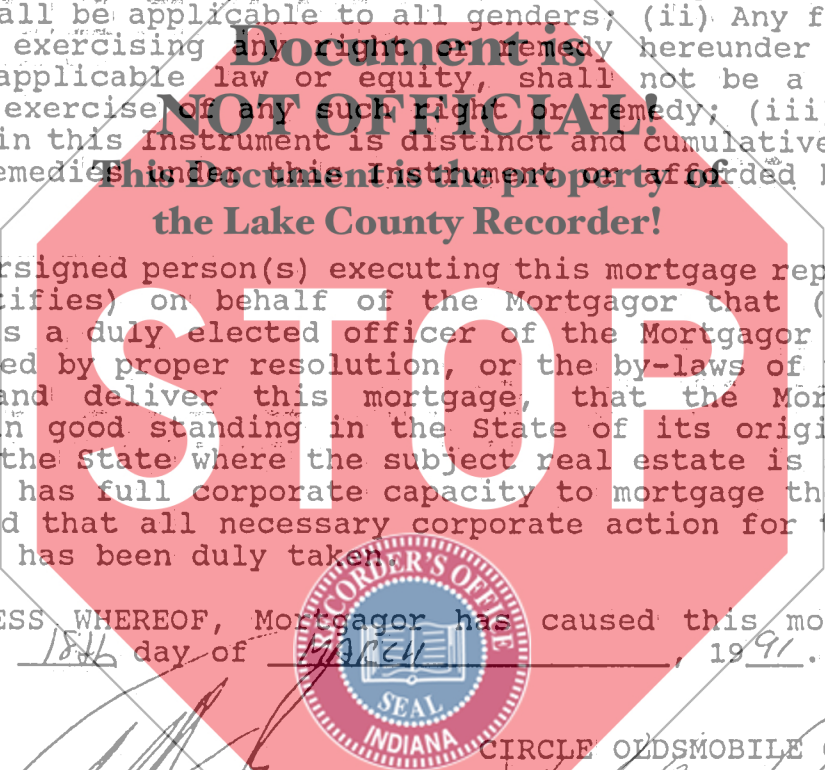
13. Upon or at any time after the filing of a complaint to foreclose this mortgage the court in which such complaint is filed may appoint a receiver of said premises. Such appointment may be made either before or after sale, without notice, without regard to the solvency or insolvency of Mortgagors at the time of application for such receiver and without regard to the then value of the premises or whether the same shall be then occupied as a homestead or not, and the Mortgagee may be appointed as such receiver. Such receiver shall have power to collect the rents, issues and profits of said premises during the pendency of such foreclosure suit and, in case of a sale and a deficiency, during the full statutory period of redemption, whether there be redemption or not, as well as during any further times when Mortgagors, except for the intervention of such receiver, would be entitled to collect such rents, issues and profits, and all other powers which may be necessary or are usual in such cases for the premises during the whole of said period. The Court from time to time may authorize the receiver to apply the net income in his hands in payment in whole or in part of: (1) The indebtedness secured hereby or by any decree foreclosing this mortgage, or any tax, special assessment or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to foreclosure sale; (2) the deficiency in case of sale and deficiency.

14. No action for the enforcement of the lien or of any provision hereof shall be subject to any defense which would not be good and available to the party interposing same in an action at law upon the note hereby secured.

15. If Mortgagee ever so requests in writing, the Mortgagors shall periodically deposit with the Mortgagee such sums as the Mortgagee may reasonably require for payment of taxes and assessments on the premises. No such deposit shall bear any interest. If Mortgagor ever suspects, believes and/or contends that Mortgagee is in any way in breach or violation of this mortgage and/or any of the obligation(s) this mortgage secures and/or of any of the documents or

instruments-executed in connection therewith and/or that any defense(s) may exist to the Mortgagee's enforcement of any of the foregoing, Mortgagor must and shall within ten (10) days thereof give Mortgagee written notice thereof specifying in detail the alleged breach violation and/or defense and if Mortgagor fails to do so, it shall conclusively and legally be deemed to have waived and/or released said breach, violation and/or defense. Moreover, if Mortgagor so gives such notice, Mortgagee shall have a sixty (60) day period to remedy, correct, cure and/or eliminate any breach, violation and/or defense which Mortgagee may believe or suspect is possibly in existence and if so, remedied, corrected, cured and/or eliminated within said sixty (60) day period such alleged violation, breach and/or defense shall be legally and conclusively deemed never to have been in existence. However, any attempt or action taken by Mortgagee concerning any alleged, breach, violation and/or defense is not to be and never will be interpreted, construed or in any way be taken to constitute any admission and/or recognition by Mortgagee either expressly or impliedly of the existence and/or validity of the alleged breach, violation and/or defense.

16. MISCELLANEOUS. (i) The word "Mortgagor" as used herein shall include all persons executing this mortgage and the word "Mortgagee" shall mean its respective successors and assigns. The singular shall mean the plural and the plural shall mean the singular and the use of any gender shall be applicable to all genders; (ii) Any forbearance by Mortgagee in exercising any right or remedy hereunder or otherwise afforded by applicable law or equity, shall not be a waiver of or preclude the exercise of any such right or remedy; (iii) Each remedy provided for in this Instrument is distinct and cumulative to all other rights and remedies under this Instrument or afforded by applicable law.



The undersigned person(s) executing this mortgage represent(s) and certify (certifies) on behalf of the Mortgagor that (each of) the undersigned is a duly elected officer of the Mortgagor and has been fully empowered by proper resolution, or the by-laws of the Mortgagor to execute and deliver this mortgage, that the Mortgagor is a corporation in good standing in the State of its origin and, where required, in the State where the subject real estate is situate; that the Mortgagor has full corporate capacity to mortgage the real estate described; and that all necessary corporate action for the making of this mortgage has been duly taken.

IN WITNESS WHEREOF, Mortgagor has caused this mortgage to be executed this 18th day of MARCH, 1991.

By [Signature]  
WAYNE DOUKTONIS, Pres  
 (Printed Name and Office)

CIRCLE OLDSMOBILE GMC, INC.  
 By [Signature]  
Benjamin W. Gutzmer, Sec-Treas  
 (Printed Name and Office)

STATE OF INDIANA )  
                          ) S:  
COUNTY OF LAKE )

Before me, a Notary Public in and for said County and State,  
personally appeared Wayne Drukentis and  
Kenneth W. Grzymek, the President and  
Secretary-Treasurer, respectively of Circle Oldsmobile-GMC, Inc.

who acknowledged execution of the foregoing mortgage for and on behalf of said Mortgagor, and who, having been duly sworn, stated that the representations therein contained are true.

Witness my hand and Notarial seal this 18<sup>th</sup> day of March, 1991.

Yvonne Farias  
NOTARY PUBLIC

My Commission Expires: May 31, 1991  
County of Residence: Lake

Document is YVONNE FARIAS  
(Printed)

**NOT OFFICIAL!**

This Document is the property of  
the Lake County Recorder!



This instrument prepared by: GEORGE W. HEINTZ, Attorney at Law  
1000 E. 80th Place  
Merrillville, IN 46410  
Phone: (219) 769-6671