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Eugene "Gene" Moore Fee: \$38.00
Cook County Recorder of Deeds
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CT 1 8174189 ESA LND NO ABS 3073

ASSIGNMENT OF RENTS

PREPARED BY AND MAIL TO:

VICTOR M. GRIMM. P.C.
1027 14th Street
Boulder, Colorado 80302

Property Address:

2124 Hudson Place, Unit 102
Chicago, IL

Property of Cook County Clerk's Office

BOX 333-CT1

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ASSIGNMENT OF RENTS AND LEASES

THIS ASSIGNMENT OF RENTS AND LEASES dated as of **October 28, 2003** between **Highland Properties 3803 LLC, a Colorado limited liability company**, (hereinafter referred to as the "Assignor"), and **Michael G. Fassett. and Ann Hartwell Fassett** (herein collectively referred to as the "Assignee");

WITNESSETH:

WHEREAS, Assignor is the owner of certain real property and improvements as follows:

UNIT 2124-102, IN EAST LAKE VIEW VILLAGE CONDOMINIUM AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE: THE SOUTH 1/4 OF LOT 15 (EXCEPT THAT PART TAKEN FOR LINCOLN PLACE) IN THE SUBDIVISION OF LOTS 1 AND 7 AND THE SOUTH 1/2 OF LOT 2 IN BLOCK 21 IN CANAL TRUSTEES SUBDIVISION IN SECTION 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; ALSO THE SOUTH 100 FEET OF LOT 13 IN THE SUBDIVISION OF LOT 3 IN THE ASSESSOR'S DIVISION OF BLOCK 21 IN CANAL TRUSTEES SUBDIVISION OF PART OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14 EAST OF THE THIRD PRINCIPAL MERIDIAN; WHICH SURVEY IS ATTACHED AS EXHIBIT "A" TO THE DECLARATION OF CONDOMINIUM RECORDED AS DOCUMENT NUMBER 0324732145 TOGETHER WITH ITS UNDIVIDED PERCENTAGE INTEREST IN THE COMMON ELEMENTS, ALL IN COOK COUNTY, ILLINOIS.

Common address: 2124-2128 Hudson Place, Unit 102, Chicago Illinois, 60614 (the "Property");

WHEREAS, Assignee has agreed to lend the principal sum of **Three Hundred Sixty-Four Thousand Eight Hundred and no/100 Dollars (\$364,800.00)** to Assignor to finance the acquisition of the Property pursuant to a note (the "Note") dated as of even date herewith,

WHEREAS, to secure payment of the Note and the faithful performance of the covenants and agreements contained in the Note and Mortgage, Assignor has executed and delivered to Assignee a Mortgage (the "Mortgage") dated as of even date herewith, wherein Assignor grants to Assignee a first mortgage lien in and to the Property ;

WHEREAS, Assignee has required, as an additional condition for the funding of the Note that Assignor secure the Note and the faithful performance of the covenants and agreements contained in the Note, the Mortgage and other securing agreements given by Assignee by this Assignment of Rents and Leases (the "Assignment of Rents").

NOW, THEREFORE, in consideration of **Three Hundred Sixty-Four Thousand Eight Hundred and no/100 Dollars (\$364,800.00)** made available by Assignee to Assignor and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor does hereby grant, transfer and assign to Assignee all of Assignor's right, title and interest in and to any and all leases of the Property, or any part of the Property, either existing now or hereafter (hereinafter referred to as "Leases" and the tenants under the Leases shall be referred to hereinafter as "Tenants"), together with any and all security deposits made thereunder and all extensions, modifications and renewals, if any, thereof. In addition to the foregoing, Assignor does further hereby grant, transfer and assign to Assignee all of the rents, income, issues and profits (herein called the "Rents"), now or hereafter accruing or owing under the Leases or otherwise as a result of any use, possession or occupancy of the Property or any part thereof, whether accruing before or after foreclosure of the Mortgage. The Leases and Rents are being hereby granted, transferred and assigned for the purpose of securing the following (collectively referred to as the "Obligations Secured Hereby"):

(1) payments of all indebtedness evidenced by the Note (including any extensions or renewals thereof);

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(2) payment of all other sums, with interest thereon, becoming due and payable to Assignee pursuant to the covenants and agreements contained herein and in the Note, the Mortgage and other securing agreements given by Assignee; and

(3) performance and discharge of each and every obligation, covenant and agreement of Assignor contained herein and in the Note, the Mortgage and other securing agreements by Assignee.

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AND TO PROTECT THE SECURITY OF THIS ASSIGNMENT OF RENTS, ASSIGNOR AGREES AS FOLLOWS:

SECTION 1. Performance of Lease. Assignor will faithfully abide by, perform and discharge each and every obligation, covenant and agreement under any of the Leases to be performed by the Lessor thereunder; will observe and comply with all provisions of law applicable to the operation and maintenance of the Property; will enforce or secure the performance of each and every obligation, covenant, condition and agreement of the Leases by the Tenants to be performed; will not borrow against, pledge or assign any Rents, or anticipate the Rents or reduce the amount of the Rents or other payments under any or all of the Leases, or waive, excuse, condone or in any manner release or discharge the Tenants of or from the obligations, covenants, conditions and agreements by the Tenants to be performed, including the obligation to pay the rental called for thereunder in the manner and at the place and time specified therein; will not assign or modify the Leases without the written consent of Assignee, which consent shall not be unreasonably withheld; and will not terminate the Leases or any part thereof, exercise any option which might lead to such termination, or accept a surrender thereof except by reason of the expiration of the stated term of the Leases.

SECTION 2. Protect Security. Assignor will, at its sole cost and expense, appear in and defend any action or proceeding arising under, growing out of or in any manner connected with the Leases or the obligations, duties or liabilities of Assignor, and pay all costs and expenses of Assignee, including attorney's fees in a reasonable sum, in any such action or proceeding in which Assignee may appear. Assignor represents and warrants that it is now and will be the absolute owner of the Leases with full right and title to assign the same and the Rents, that the terms of the Leases have not been changed from the term in the copy of the Leases submitted to Assignee for approval, that there is no outstanding assignment or pledge of the Leases or of any or all of the Rents; that no Rents have been waived, anticipated, discounted, compromised or released, except as may be permitted by the Leases; and that the Tenants have no defense, set-off or counterclaim against Assignor.

SECTION 3. Present Assignment. This Assignment of Rents and Leases shall constitute an actual and present assignment; provided, Assignor shall have the right to collect, but not more than one month in advance, all of the Rents, and to retain, use and enjoy the same unless and until a default under the Mortgage shall occur and be continuing.

SECTION 4. Remedies. Upon the occurrence and continuance of a default by Assignor under the Mortgage or Note, Assignee may, at its option, without notice in addition to and/or in lieu of the remedies therein, do any one or more of the following:

(a) in the name, place and stead of Assignor (i) enter upon, manage and operate the Property, or retain the services of an independent contractor to manage and operate the same, (ii) make, enforce, modify and accept surrender of the Leases, (iii) obtain or evict the Tenants, (iv) collect, sue for, fix or modify rentals and enforce all rights of Assignor under the Leases, and (v) perform any and all other acts that may be necessary or proper to protect the security of this Assignment of Rents;

(b) apply for, and Assignor hereby consents to, the appointment of a receiver of the Property, whether or not proceedings for the foreclosure of the Mortgage have been commenced, and if such proceedings have been commenced, whether or not a foreclosure sale has occurred;

(c) disaffirm and/or terminate any lease and/or sublease and take all necessary actions to evict the lessees or sublessees thereunder.

The exercise of any of the foregoing rights or remedies shall not cure or waive any default under the Mortgage, the Note or any other securing agreement given by Assignee or invalidate any act done by virtue of such default.

SECTION 5. Application of Rents. All Rents collected by Assignee, or by a receiver, shall be held and applied in the following order:

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- (a) to payment of all reasonable fees of the receiver, if any, approved by the court;
- (b) to payment of all delinquent or current real estate taxes and special assessments payable with respect to the Property;
- (c) to payment of all premiums then due for the insurance required by the provisions of the Mortgage;
- (d) to payment of expenses incurred for normal maintenance of the Property;
- (e) to Assignee in payment of the Obligations Secured Hereby in such order of application as Assignee may elect; and
- (f) the surplus, if any, shall be paid to Assignor.

The rights and powers of Assignee under this Assignment of Rents and Leases, and the application of the Rents pursuant to this paragraph 5, shall continue and remain in full force and effect both before and after commencement of any action or procedure to foreclose the Mortgage, after the foreclosure sale of the Property in connection with the foreclosure of the Mortgage, and until expiration of the period of redemption from any such foreclosure sale, whether or not any deficiency from the unpaid balance of the Obligations Secured Hereby exists after such foreclosure sale.

SECTION 6. No Liability for Assignee. Assignee shall not be obligated to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under the Leases; nor shall this Assignment of Rents operate to place responsibility for the control, care, management or repair of the Property upon Assignee; nor for the carrying out of any of the terms and conditions of any or all of the Leases; nor shall it operate to make Assignee responsible for or liable for any waste committed to the Property by the Tenants or any other party, or for any dangerous or defective condition of the Property, or for any negligence in the management, upkeep, repair or control of the Property resulting in loss or injury or death to any tenant, licensee, employee or stranger.

SECTION 7. Assignor to Hold Assignee Harmless. Assignor shall and does hereby agree to indemnify and to hold Assignee harmless of and from any and all liability, loss or damage which it may or might incur under the Leases or under or by reason of this Assignment of Rents and Leases and of and from any and all claims and demands whatsoever which may be asserted against it by reason of any alleged obligations or undertakings on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases, except where caused by the negligence of Assignee or its agents. Should Assignee incur such liability, loss or damage under the Leases or under or by reason of this Assignment of Rents and Leases, or in the defense of any such claims or demands, the amount thereof, including costs, expenses and reasonable attorney's fees shall be secured hereby and Assignor shall reimburse Assignee therefor immediately upon demand, and upon the failure of Assignor to do so Assignee may declare all Obligations Secured Hereby immediately due and payable.

SECTION 8. Specific Assignment of Subsequent Leases. Assignor covenants and agrees promptly upon request of Assignee to transfer and assign to Assignee any specific subsequent lease of all or any part of the Property upon the same terms and conditions as are herein contained.

SECTION 9. Remedies Not Exclusive. This Assignment of Rents and Leases shall in no way operate to prevent Assignee from pursuing any remedy which it now has or hereafter may have under the terms or conditions of the Mortgage, the Note or any other instrument securing the same, or by law.

SECTION 10. Authorization to Tenant. The Tenants are hereby irrevocably authorized and directed to recognize the claims of Assignee, or its assigns, hereunder without investigating the reason for any action taken by Assignee, or the validity or the amount of indebtedness owing to Assignee, or the existence of any default in the Mortgage or the application of the Rents to be made by Assignee. Assignor hereby irrevocably directs and authorizes the Tenants to pay to Assignee all sums due under the Leases and consents and directs that such sums

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shall be paid to Assignee without the necessity for a judicial determination that a default has occurred hereunder or under the Mortgage or the Note or that Assignee is entitled to exercise its rights hereunder, and to the extent such sums are paid to Assignee, Assignor agrees that the Tenant shall have no further liability to Assignor for the same. The sole signature of Assignee shall be sufficient for the exercise of any rights under this Assignment of Rents and Leases and the sole receipt of Assignee for any sums received shall be a full discharge and release therefor to the Tenants.

SECTION 11. Bankruptcy of Tenant. Anything to the contrary herein notwithstanding, Assignor hereby assigns to Assignee any award made hereafter to Assignor in any court procedure involving the Tenants in bankruptcy, insolvency or reorganization proceedings in any state or federal court and any and all payments made by Tenants in lieu of rents. Assignor hereby appoints Assignee as its irrevocable attorney-in-fact to appear in any such action and/or to collect any such award or payment.

SECTION 12. Assignee Attorney-in-Fact. Assignor hereby irrevocably appoints Assignee and its successors and assigns as its agent and attorney-in-fact to execute and deliver during the term of this Assignment of Rents and Leases such further instruments as Assignee may deem necessary to make this Assignment of Rents and Leases and any further assignment effective.

SECTION 13. Successors and Assigns. This Assignment of Rents and Leases and each and every covenant, agreement and other provision hereof shall be binding upon Assignor and its successors and assigns, including without limitation each and every, from time to time, record owner of the Property or any other person having an interest therein and shall inure to the benefit of Assignee and its successors and assigns.

SECTION 15. Governing Law. This Assignment of Rents affects property located in the State of Illinois and shall be governed by the laws of such State with respect to procedures and remedies available to Assignee in the event of a default. Venue shall be proper in Cook County, Illinois.

SECTION 16. Severability. The unenforceability or invalidity of any provision hereof shall not render any other provision or provisions herein contained unenforceable or invalid.

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IN WITNESS WHEREOF, Assignor has caused this Assignment of Rents and Leases to be duly executed as of the date first above written.

ASSIGNOR:

Highland Properties 3803 LLC, a Colorado limited liability company

By: *Lawrence M. Jensen*
Lawrence M. Jensen
Its: Manager

State of Colorado)
) ss.
County of Boulder)

I, Betty L. Marick, a Notary Public in and for the County and State aforesaid, DO HEREBY CERTIFY that Lawrence M. Jensen who is personally known to me to be the same person whose name is subscribed to the foregoing instruments as Manager of Highland Properties 3803 LLC, a Colorado limited liability company, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as the free and voluntary act of said company for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal this 27th day of October, 2003.

Betty L. Marick
Notary Public

Betty L. Marick
Notary Public
State of Colorado
My Commission Expires
01-23-05

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STREET ADDRESS: 2124 NORTH HUDSON

UNIT 102

CITY: CHICAGO

COUNTY: COOK

TAX NUMBER: 14-33-123-031-0000

/035

LEGAL DESCRIPTION:

PARCEL 1:

UNIT 2124-102, IN EAST LAKE VIEW VILLAGE CONDOMINIUM
AS DELINEATED ON A SURVEY OF THE FOLLOWING DESCRIBED REAL ESTATE: THE SOUTH 1/2 OF LOT
15 (EXCEPT THAT PART TAKEN FOR LINCOLN PLACE) IN THE SUBDIVISION OF LOTS 1 AND 7 AND THE
SOUTH 1/2 OF LOT 2 IN BLOCK 21 IN CANAL TRUSTEES SUBDIVISION IN SECTION 33, TOWNSHIP 40
NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN; ALSO THE SOUTH 100 FEET OF LOT 13
IN THE SUBDIVISION OF LOT 3 IN THE ASSESSOR'S DIVISION OF BLOCK 21 IN CANAL TRUSTEES
SUBDIVISION OF PART OF SECTION 33, TOWNSHIP 40 NORTH, RANGE 14, EAST OF THE THIRD
PRINCIPAL MERIDIAN; WHICH SURVEY IS ATTACHED AS EXHIBIT "A" TO THE DECLARATION OF
CONDOMINIUM RECORDED AS DOCUMENT NUMBER 0324732145 TOGETHER WITH ITS UNDIVIDED
PERCENTAGE INTEREST IN THE COMMON ELEMENTS, ALL IN COOK COUNTY, ILLINOIS.

PARCEL 2:

THE EXCLUSIVE RIGHT TO THE USE OF PARKING SPACE NUMBER P-9, A LIMITED COMMON ELEMENT, AS
DELINEATED ON THE SURVEY ATTACHED TO THE DECLARATION OF CONDOMINIUM AFORESAID, AND AS
AMENDED BY FIRST AMENDMENT RECORDED AS DOCUMENT NUMBER 0328319202.