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Cook County Recorder 43.00

PREPARED BY AND AFTER  
RECORDING RETURN TO:  
William B. Phillips, Esq.  
Levin, McParland & Phillips  
180 North Wacker Drive  
Chicago, Illinois 60606



0020703122

FOR RECORDERS USE ONLY

8024365-02-Tms (2 of 3)

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**ASSIGNMENT OF RENTS AND LESSOR'S  
INTEREST IN LEASES**

THIS ASSIGNMENT is made as of the 1st day of June, 2002, by LASALLE BANK NATIONAL ASSOCIATION, not personally but solely as Trustee pursuant to Trust Agreement dated June 18, 1973 and known as Trust No. 46073 (the "Trustee") and 420 ACADEMY DRIVE PROPERTY PARTNERSHIP, an Illinois general partnership (the "Beneficiary") to and for the benefit of AMERICAN FIDELITY ASSURANCE COMPANY, an Oklahoma corporation (the "Lender").

SMS

**WITNESSETH:**

WHEREAS, the Trustee is the owner of the real estate described in Exhibit "A" attached hereto (the "Real Estate"); and

WHEREAS, the Beneficiary is the sole beneficiary of the Trustee; and

WHEREAS, the Trustee has concurrently herewith executed and delivered to the Lender a certain Note in the principal amount of Six Hundred Thousand Dollars (\$600,000.00) (the "Note") which is secured in part by a First Mortgage and Security Agreement of even date herewith (the "Mortgage") which conveys the Real Estate to the Lender, and Other Loan Documents (as defined in the Mortgage); and

WHEREAS, pursuant to the terms of a commitment letter dated March 26, 2002, as amended, issued by the Lender for the benefit of the Beneficiary, the Trustee and the Beneficiary agreed to absolutely assign to the Lender all right, title and interest in and to the Leases (as hereinafter defined);

NOW, THEREFORE, in consideration of the disbursement of the proceeds of the loan evidenced by the Note, and also in consideration of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged; it is hereby agreed as follows:

BOX 333-011

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1. ASSIGNMENT CLAUSE. The Trustee and the Beneficiary (collectively the "Assignor"), intending to be legally bound and in consideration of the making of the loan represented by the Note, do hereby sell, assign, transfer and set over unto the Lender all right, title and interest of the Assignor in and to all rents, issues and profits of the Real Estate, including but not limited to all right, title and interest of the Assignor in and to those leases of all or portions of the Real Estate (if any), as may be listed in Exhibit "B" attached hereto and made a part hereof and any leases which may be hereafter entered into for all or any portion of the Real Estate (the "Leases"), and any and all extensions and renewals thereof, and including any security deposits or interests therein now or hereafter held by the Assignor and the benefit of any guarantees executed in connection with any of the Leases. This Assignment is absolute and is effective immediately; however, until notice is sent by the Lender (the "Notice") to the Assignor in writing that an event of default has occurred under any of the Note, the Mortgage or the Other Loan Documents (collectively the "Loan Documents") (an "Event of Default"), the Lender shall not exercise any rights granted to it hereunder and the Assignor may receive, collect and enjoy the rents, income and profits accruing from the Real Estate.

2. REPRESENTATIONS OF THE ASSIGNOR. The Assignor hereby represents to the Lender that: (a) there is no lease in effect with respect to the Real Estate which is not listed on Exhibit "B"; (b) it has made no prior assignment or pledge of the rents assigned hereby or of the Assignor's interest in any of the Leases; (c) it knows of no default in any of the Leases and it knows of no state of fact which, with the giving of notice or lapse of time or both, would constitute a default under any of the Leases; (d) none of the Leases have been modified or extended except as may be noted in Exhibit "B"; (e) the Assignor is the sole owner of the landlord's interest in the Leases of the Real Estate; (f) the Leases are valid and enforceable in accordance with their terms; and (g) no prepayment of any installment of rent for more than one (1) month due under any of the Leases has been received by the Assignor.

3. NEGATIVE COVENANTS OF THE ASSIGNOR. The Assignor will not, without the Lender's prior written consent, which will not be unreasonably withheld or delayed, (a) execute an assignment or pledge of the rents from the Real Estate or any part thereof, or of the Assignor's interest in any of the Leases, except to the Lender; (b) modify, terminate, or otherwise materially alter the terms of any of the Leases; (c) accept prepayments of any installments of rents to become due under any of the Leases for more than one (1) month; (d) extend the term of an existing lease, or execute any lease of all or a substantial portion of the Real Estate, except for actual occupancy by the tenant thereunder at market rents; (e) in any manner impair the value of the Real Estate; or (f) permit the Leases to become subordinate to any lien other than the lien created by the Mortgage or a lien for general real estate taxes which are not delinquent.

4. AFFIRMATIVE COVENANTS OF THE ASSIGNOR. The Assignor will at its sole cost and expense (a) at all times promptly and faithfully abide by, discharge or perform all of the covenants, conditions and agreements required to be performed by it and which are contained in the Leases; (b) enforce or secure the performance of all of the covenants, conditions and agreements in the Leases on the part of the other parties thereto to be kept and performed; (c) appear in and defend any action or proceeding arising under, growing out of or in any manner

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connected with the Leases or the obligations, duties or liabilities of the Assignor thereunder, and pay all costs and expenses of the Lender, including reasonable attorneys' fees in any such action or proceeding in which the Lender may appear; (d) transfer and assign to the Lender any and all Leases subsequently entered into, upon the same terms and conditions as are herein contained, and make, execute and deliver to the Lender upon demand any and all instruments required to effectuate said assignment; (e) furnish to the Lender, within ten (10) business days after a request by the Lender to do so, a written statement containing the names of all tenants of the Real Estate or any part thereof, the terms of their respective Leases, the spaces occupied and the rentals payable thereunder; (f) exercise within ten (10) business days of the demand therefor by the Lender any right to request from the tenants under any of the Leases a certificate with respect to the status thereof; (g) furnish the Lender promptly with copies of any notices of default which the Assignor may at any time forward to any tenant of the Real Estate or any part thereof; and (h) pay immediately upon demand and all reasonable sums expended by the Lender under the authority hereof, together with interest thereon at the interest rate contained in the Note, and from and after an Event of Default (as defined in the Mortgage) interest at the Default Rate (as defined in the Note).

## 5. AGREEMENTS OF THE ASSIGNOR.

(a) Should the Assignor fail to make any payment or to do any act as herein provided for, then the Lender may, but without obligation so to do, and without releasing the Assignor from any obligation hereof, make or do the same in such manner and to such extent as the Lender may deem necessary to protect the security hereof, including specifically, without limiting its general powers, the right to appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of the Lender, and also the right to perform and discharge each and every obligation, covenant and agreement of the Assignor in the Leases contained, and in exercising any such powers to incur and pay necessary costs and expenses, including reasonable attorneys' fees, all at the expense of the Assignor.

(b) This Assignment shall not operate to place responsibility for the control, management, care and/or repair of the Real Estate upon the Lender and the Lender shall not undertake to perform or discharge, nor does it hereby undertake to perform or discharge, any obligation, duty or liability under the Leases, or under or by reason of this Assignment, and the Assignor shall and do hereby agree to indemnify and to hold Lender harmless of and from any and all liability, loss or damage which the Lender may or might incur under the Leases or under or by reason of this Assignment and of and from any and all claims and demands whatsoever which may be asserted against the Lender by reason of any alleged obligations or undertaking on its part to perform or discharge any of the terms, covenants or agreements contained in the Leases, except any such claims or demands resulting from the negligence of the Lender. Should the Lender incur any such liability, loss or damage under the Leases or under or by reason of this Assignment, or in the defense of any such claims or demands, the reasonable

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amount thereof, including costs, expenses and reasonable attorneys' fees, shall be secured hereby, and the Assignor shall reimburse the Lender therefor on demand with interest at the Default Rate from the date of demand until the date of repayment.

(c) Nothing herein contained shall be construed as constituting the Lender a "mortgagee in possession" in the absence of the taking of actual possession of the Real Estate by the Lender, pursuant to the provisions hereinafter contained. In the exercise of the powers herein granted the Lender, no liability shall be asserted or enforced against the Lender, all such liability being expressly waived and released by the Assignor.

(d) A demand on any tenant by the Lender for the payment of the rent to the Lender shall be sufficient warrant to the tenant to make future payment of rents to the Lender without the necessity for further consent by the Assignor.

(e) The Assignor does further specifically authorize and instruct each and every present and future tenant of the whole or any part of the Real Estate to pay all unpaid rental agreed upon in any tenancy, including but not limited to any base rent, percentage rent, real estate taxes, and operating expenses, to the Lender upon receipt of demand from the Lender to pay the same, and the Assignor hereby waives any right, claim or demand it may now or hereafter have against any such tenant by reason of such payment of rental to the Lender or compliance with other requirements of the Lender pursuant to this Assignment.

(f) The Assignor hereby irrevocably appoints the Lender as its true and lawful attorney with full power of substitution and with full power for Lender in its own name and capacity or in the name and capacity of Assignor, from and after the service of the Notice, to demand, collect, receive and give complete acquittances for any and all rents, income and profits accruing from the Real Estate, and at the Lender's discretion to file any claim or take any other action or proceeding and make any settlement of any claims, in its own name or otherwise, which the Lender may deem necessary or desirable in order to collect and enforce the payment of the rents, income and profits. This power of attorney shall be irrevocable and shall be coupled with an interest.

6. **DEFAULT.** Upon, or at any time after, occurrence of an Event of Default in any of the Loan Documents, or failure of the Assignor to comply with the terms, covenants and conditions contained herein within thirty (30) days after written notice from the Lender, provided that if any default cannot be cured with diligence within said thirty (30) day period, the Assignor shall have such additional time [but not in excess of ninety (90) additional days] as may be required to cure such default so long as the Assignor commences and diligently pursues all actions necessary to effect such cure, the Lender may, at its option, from and after the Notice and expiration of any applicable grace period, if any, and without regard to the adequacy of the security



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for the Indebtedness, either in person, or by agent bring an action or proceeding to enforce this Assignment, or by a receiver to be appointed by a court, enter upon, take possession of, manage and operate the Real Estate or any part thereof; and do any acts which the Lender deems proper to protect the security hereof; and either with or without taking possession of the Real Estate, in the name of the Assignor or in its own name sue for or otherwise collect and receive such rents, issues, profits and advances, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including, but not limited to, reasonable attorneys' fees, management fees and brokers' commissions, upon the Indebtedness, and in such order as the Lender may determine. The Lender reserves, within its own discretion, the right to determine the method of collection and the extent to which enforcement of collection of delinquent rents shall be prosecuted, and shall not be accountable for more monies than it actually receives from the Real Estate. The entering upon and taking possession of the Real Estate or the collection of such rents, issues, profits and advances and the application thereof, as aforesaid, shall not cure or waive any default under the Loan Documents. The Assignor agrees that it will facilitate in all reasonable ways the Lender's collection of the rents, and will, upon request by the Lender, promptly execute a written notice to each tenant directing the tenant to pay rent to the Lender.

7. LENDER'S RIGHT TO EXERCISE REMEDIES. No remedy conferred upon or reserved to the Lender in the Loan Documents or in any other agreement is intended to be exclusive of any other remedy or remedies, and each and every such remedy, and all representations in the Loan Documents contained, shall be cumulative and concurrent, and shall be in addition to every other remedy given hereunder and thereunder or now or hereafter existing at law or in equity or by statute. The remedies may be pursued singly, successively or together against the Assignor and/or the Real Estate at the sole discretion of the Lender. No delay or omission of the Lender to exercise any right or power accruing upon any default shall impair any such right or power, or shall be construed to be a waiver of any such default or any acquiescence therein, and every power and remedy given by this Assignment to the Lender may be exercised from time to time as often as may be deemed expedient by the Lender.

8. DEFEASANCE. Upon payment in full of all the Indebtedness and the compliance with all obligations, covenants and agreements in the Loan Documents, this Assignment shall become and be void and of no effect, but the affidavit of any officer of the Lender showing any part of the Indebtedness remaining unpaid or showing non-compliance with any such terms or conditions shall be and constitute conclusive evidence to third parties of the validity, effectiveness and continuing force of this Assignment, and any person may and is hereby authorized to rely thereon.

9. MISCELLANEOUS.

(a) This Assignment may not be modified, amended, discharged or waived orally, except by an agreement in writing and signed by the party against whom enforcement of any such modification, amendment, discharge or waiver is sought.

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(b) The covenants of this Assignment shall bind the Assignor, the successors and assigns of the Assignor, all present and subsequent encumbrancers, tenants and subtenants of the Real Estate or any part thereof, and shall inure to the benefit of the Lender, its successors and assigns.

(c) As used herein the singular shall include the plural as the context requires.

(d) The article headings in this instrument are used for convenience in finding the subject matters, and are not to be taken as part of this instrument, or to be used in determining the intent of the parties or otherwise in interpreting this instrument.

(e) In the event any one or more of the provisions contained in this Assignment shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall, at the option of the Lender, not affect any other provision of this Assignment, but this Assignment shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

(f) This Assignment shall be governed by and construed in accordance with the laws of the State of Illinois without regard to the conflicts of law principles of that State.

(g) Any notice, demand or other communication required or permitted hereunder shall be in writing and shall be deemed to have been given if and when personally delivered, or, if sent by private courier service or sent by overnight mail service, shall be deemed to have been given if and when received (unless addressee refuses to accept delivery, in which case it shall be deemed to have been given when first presented to the addressee for acceptance) or on the third (3rd) Business Day after being deposited in United States registered or certified mail, postage prepaid. Any such notice, demand or other communication shall be addressed to a party at its address set forth below or to such other address the party to receive such notice may have designated to all other parties by notice in accordance herewith:

If to the Lender:

American Fidelity Assurance Company  
5101 North Classen, Suite 610  
Oklahoma City, Oklahoma 73118  
Attn: Ms. Bonnie Carter  
Investment Department

If to the Trust:

LaSalle Bank National Association  
135 South LaSalle Street

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Chicago, Illinois 60603  
Attn: Land Trust Department  
TR# 46073

If to the Beneficiary:

420 Academy Drive Property Partnership  
c/o Mr. William A. Lederer  
Suite 116  
3100 Dundee Road  
Northbrook, Illinois 60062

With a copy to:

Martin I. Becker, Esq.  
Becker & Gurian  
513 Central Avenue  
Highland Park, Illinois 60035

(h) The terms "Assignor" and "Lender" shall be construed to include the heirs, personal representatives, successors and assigns thereof. The gender and number used in this Assignment are used as a reference term only and shall apply with the same effect whether the parties are of the masculine or feminine gender, corporate or other form, and the singular shall likewise include the plural.

10. EXCULPATION: By acceptance of this Assignment, the Lender for itself and its successors and assigns, expressly agrees that except as specifically set forth in (a) through and including (g) below, as long as the Assignor does not cause any delay in the Lender exercising its remedies upon occurrence of an Event of Default, nothing contained herein or contained in the First Mortgage, or contained in any other document given to additionally secure the Note, shall be construed as establishing any personal liability upon the Assignor to pay the indebtedness evidenced hereby (the "Indebtedness"), or to perform any of the terms, covenants, conditions and agreements herein contained or contained in the Mortgage or the Other Loan Documents (except for the Environmental Indemnity Agreement and the Agreement Assuming Personal Liability), all such personal liability being hereby expressly waived by the Lender; the Lender's only recourse against the Assignor being against the property described in the First Mortgage and other property given as security for the payment of the Indebtedness (the "Other Security"), in the manner herein set forth, or set forth in the First Mortgage or Other Loan Documents or provided by law, and upon occurrence of an Event of Default, or upon the Maturity Date, whether by acceleration, passage of time or otherwise, the recourse of the Lender shall be limited to judicial foreclosure of the Real Estate or the exercise of other remedies set forth herein, in the First Mortgage or in the Other Loan Documents and, subject to the limitations expressly set forth in (a) through and including (g) below, the Lender shall look solely to the Real Estate upon foreclosure of the lien of the First Mortgage and no deficiency judgment shall be instituted, sought, taken or obtained against the Assignor, PROVIDED THAT, NOTHING CONTAINED HEREIN shall be deemed to prejudice the rights of the Lender, its successors or assigns, to recover from ~~the Trustee~~<sup>\*</sup>, the Beneficiary or William A. Lederer (the "Guarantor"), pursuant to the Environmental Indemnity Agreement and/or the Agreement Assuming Personal Liability for any loss or damage incurred by the Lender:

<sup>\*</sup>Trustee's Exoneration under attached hereto  
and made a part thereof.

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- (a) failure to satisfy and discharge any taxes, assessments or other similar charges which may become a lien upon any portion of the Real Estate and which have accrued through the date of the foreclosure sale or conveyance by deed in lieu of the Real Estate, whether or not such taxes, assessments or other similar charges are due and payable on such date;
- (b) as the result of fraud or misrepresentations by the Assignor or the Guarantor;
- (c) as the result of the misapplication of insurance of condemnation proceeds;
- (d) as a result of a material breach of any covenants, representation or warranty contained herein, in the First Mortgage or Other Loan Documents (other than for payment of the Principal Amount and interest thereon);
- (e) to remove mechanics and materialmen's liens encumbering the Premises and arising out of or occurring prior to the date of a foreclosure sale or conveyance by deed in lieu of foreclosure of the Premises;
- (f) all rents and other revenues collected from the Real Estate following a default under any Loan Document, the proceeds of which are not applied to or for the benefit of the Real Estate (i.e. the maintenance of the Real Estate, the payment of taxes on the Real Estate, the compliance with the terms of leases at the Real Estate, the payment of insurance premiums for coverage of the Real Estate or any similar use directly related to the upkeep, maintenance or operation of the Real Estate);
- (g) damages or expenses of the Lender, including reasonable attorneys' fees, following the foreclosure of the lien of the First Mortgage resulting from the failure of the Assignor to immediately surrender the Real Estate; and
- (h) all of the Trustee's indemnity obligations under the First Mortgage.

Nothing contained herein or in the Note, the First Mortgage and the Other Loan Documents to the contrary notwithstanding shall be deemed to release, affect or impair the Indebtedness or the rights of the Lender to enforce its remedies pursuant hereto and to the Note, the First Mortgage and the Other Loan Documents, including without limitation, the right to pursue any remedy for injunctive or other equitable relief.



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IN WITNESS WHEREOF, the Assignor has caused these presents to be signed the day and year first above written.

TRUST:

LASALLE BANK NATIONAL ASSOCIATION,  
as Trustee of Trust No. 46073

By: *Deborah Berg*  
Title:

ATTEST: ~~Attestation not required by~~  
~~Lasalle Bank National Association~~  
bylaws

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

This instrument is executed by the undersigned Land Trustee, not personally but solely as Trustee in the exercise of the power and authority conferred upon and vested in it as such Trustee. It is expressly understood and agreed that all the warranties, indemnities, representations, covenants, conditions, stipulations and agreements herein made on the part of the Trustee are undertaken by it solely in its capacity as Trustee and not personally. No personal liability or personal responsibility is assumed by or on behalf of the Trustee at any time be asserted or enforceable against the Trustee on account of any warranty, indemnity, representation, covenant, undertaking or agreement of the Trustee in this instrument.

BENEFICIARY:

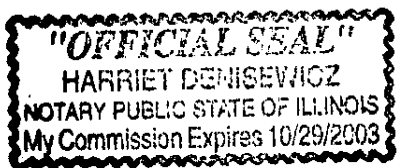
420 ACADEMY DRIVE PROPERTY  
PARTNERSHIP, an Illinois general partnership

By: *William A. Lederer*  
William A. Lederer, Partner

STATE OF ILLINOIS     )  
                                  )     SS.  
COUNTY OF COOK     )

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that DEBORAH BERG, ~~VICED PRESIDENT~~ of LASALLE BANK NATIONAL ASSOCIATION, not personally but solely as Trustee pursuant to Trust Agreement dated June 18, 1973 and known as Trust No. 46073, and N/A thereof, personally known to me to be the same persons whose names are subscribed to the foregoing instrument as such N/A and N/A, respectively, appeared before me this day in person and acknowledged that they signed and delivered the said instrument as their own free and voluntary act, and as the free and voluntary act of said Corporation, for the uses and purposes therein set forth.

GIVEN under my hand and seal this 19th day of June, 2002.



*Harriet Denisevich*  
Notary Public

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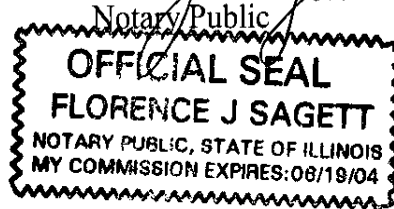
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STATE OF ILLINOIS     )  
                                  )     SS.  
COUNTY OF             )

I, Florence Sagett, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that WILLIAM A. LEDERER, Partner of 420 ACADEMY DRIVE PROPERTY PARTNERSHIP, an Illinois general partnership, personally known to me to be the same person whose name is subscribed to the foregoing instrument, 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 Partnership, for the uses and purposes therein set forth.

GIVEN under my hand and seal this 17 day of June, 2002.

Florence J Sagett



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## EXHIBIT "A"

### LEGAL DESCRIPTION OF LAND

Lot 6 and the East 20 feet of Lot 5 in Block 1 in First Resubdivision of Sky Harbor Industrial Park Unit 1 in the South 1/2 of Section 5, Township 42 North, Range 12 East of the Third Principal Meridian, in Cook County, Illinois.

Address of Property: 420 Academy Drive, Northbrook, Illinois  
Permanent Index No.: 04-05-301-007 and 04-05-301-009

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## EXHIBIT "B" LEASES

1. Lease Agreement dated January 17, 1994, as amended, with A-Three Services, Ltd., an Illinois corporation, as tenant.

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