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Cravath, Swaine & Moore
Worldwide Plaza
825 Eighth Avenue
New York, N.Y. 10019
Attention: C. Allen Parker, Esq.

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LEASEHOLD MORTGAGE AND SECURITY AGREEMENT

THIS LEASEHOLD MORTGAGE AND SECURITY AGREEMENT dated as of December 22, 1989 (the "Mortgage"), by STEAK AND ALE OF ILLINOIS, INC., a Nevada corporation and a wholly owned subsidiary (the "Mortgagor") of S&A Restaurant Corp., a Delaware corporation ("S&A Corp."), having its principal office at 12404 Park Central Drive, Dallas, Texas 75251, to and with CHEMICAL BANK, as Agent for the Banks (as defined herein), having its principal office at 277 Park Avenue, New York, New York 10172 (the "Mortgagee");

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DEPT. OF RECORDING \$71.50
142222 TRAN 0127 11/29/89 14:16:00
48636 # 14-229-0122261
COOK COUNTY RECORDER

WITNESSETH THAT:

A. Benale Holdings Corporation, a Delaware corporation ("Benale Holdings"), has acquired S&A Corp. pursuant to the merger (the "Merger") of Benale Corporation, a Delaware corporation (the "Company"), with and into S&A Corp. S&A Corp. is the surviving corporation in the Merger.

B. Pursuant to the Credit Agreement (the "Credit Agreement") among Benale Holdings, the Company and Chemical Bank as Agent (the "Agent") for the Banks (the "Credit Agreement"), the Banks (as defined in Section 2.01 of the Credit Agreement) have loaned or agreed to loan to the Company (a) term loans of up to an aggregate principal amount of \$106,000,000 at any time outstanding (the "Term Loans") and (b) real estate bridge loans of up to an aggregate principal amount of \$159,000,000 at any time outstanding (the "Real Estate Bridge Loans"), which Real Estate Bridge Loans shall, unless repaid in full on or before the Conversion Date (as defined in the Credit Agreement), convert into real estate term loans (such Real Estate Bridge Loans and real estate term loans, collectively, the "Real Estate Loans"). The proceeds of the Term Loans and the Real Estate Bridge Loans have been used by the Company solely to pay the purchase price for the acquisition of all of the outstanding shares of capital stock of S&A Corp., which acquisition was followed immediately thereafter by the Merger.

C. The Term Loans and Real Estate Loans made by each Bank (collectively, the "Loans") are respectively evidenced by notes duly executed on behalf of the Company

[S&A-GW/EXH-G/87A/44503]

First American Title Order

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Handwritten signature and initials: MA L

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dated as of the date hereof, payable to the order of such Bank in a principal amount equal to the amount advanced to the Company by such Bank (individually, a "Note" and, collectively, the "Notes"). In the aggregate, the Notes evidence the indebtedness of the Company to the Banks of \$265,000,000 with interest thereon (the "Obligation of the Company").

D. To induce the Banks to make the Loans, Mortgagor has agreed to enter into that certain Guarantee Agreement with the Agent (the "Guarantee Agreement") (attached hereto as Exhibit C) wherein among other things Mortgagor has agreed to guarantee the Obligation of the Company, which guarantee shall be terminated and cancelled with respect to the Real Estate Loans upon consummation of the Permanent Mortgage Financing (as defined in the Credit Agreement) which includes without limitation the payment by the Company of the Real Estate Bridge Loans as more fully set forth in Section 2.10 of the Credit Agreement, but which shall continue in full force and effect with respect to the Term Loans. (As used herein, the "Guarantee" means all of Mortgagor's obligations and covenants set forth in the Guarantee Agreement, excluding those relating to the Revolving Credit Loans (as defined in the Credit Agreement).)

E. Pursuant to the requirements of the Credit Agreement, the Mortgagor and Mortgagee are entering into this Mortgage to create a security interest in the Mortgaged Property (as defined below) to secure the performance by the Mortgagor of the terms of the Guarantee. The Credit Agreement also requires the creation by Mortgagor and certain other subsidiaries of security interests in certain other leasehold and fee interests (the "Other Mortgages") to secure the performance by Mortgagor and certain other subsidiaries of the terms of the Guarantee.

Granting Clauses

NOW THEREFORE, IN CONSIDERATION OF the foregoing and in order to secure the (a) due and punctual payment and performance of the obligations of Mortgagor pursuant to the Guarantee and (b) all taxes, common area charges and insurance premiums relating to the Mortgaged Property, all disbursements made by Mortgagee for the payment of taxes, common area charges or insurance premiums, all fees, expenses or advances in connection with or relating to the Mortgaged Property, and interest on such disbursements and other amounts not timely paid in accordance with the terms of the Guarantee and this Mortgage, Mortgagor hereby assigns and

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advances in connection with or relating to the Trust Property, and interest on such disbursements and other amounts not timely paid in accordance with the terms of the Guarantee and this Deed of Trust, Grantor hereby assigns and conveys as security, grants a security interest in, hypothecates, mortgages, warrants, pledges and sets over unto Trustee, IN TRUST FOREVER, all the following described property (the "Trust Property") whether now owned or held or hereafter acquired; provided, however, that the maximum amount secured by this Deed of Trust in the State of _____ upon recordation or upon any contingency which may be secured hereby at any time hereafter is \$265,000,000:

(1) all the leasehold estate created by that lease described in Exhibit A (the "Ground Lease") and made a part hereof covering that certain real property particularly described in Exhibit B (the "Land"), together with all other rights of a lessee under the Ground Lease, together with all rights appurtenant thereto, including the easements over certain other adjoining land granted by any easement agreements, and all air rights and development rights, if any, relating thereto, and also together with all of the other easements, rights, privileges and appurtenances thereunto belonging or in anywise appertaining and all of the estate, right, title, interest, claim or demand whatsoever of Grantor therein and in the streets and ways adjacent thereto, either in law or in equity, in possession or expectancy, now or hereafter acquired (the "Premises");

(2) the restaurant building and all other buildings, improvements, structures, paving, parking areas, walkways and landscaping, and all fixtures of every kind and type affixed to, attached to or forming part of any structures, buildings or improvements, and replacements thereof now or hereafter erected or located upon the Land (the "Improvements");

(3) all apparatus, movable appliances, building materials, equipment, fittings, furnishings, furniture, machinery and other articles of tangible personal property, and replacements thereof, now or at any time hereafter placed upon or used in any way in connection with the use, enjoyment, occupancy or operation of the Improvements or the Premises, including all of Grantor's books and records relating thereto and including all goods, machinery, tools, equipment (including fire sprinklers and alarm systems, cleaning rigs, air conditioning, heating, boilers, refrigerating, electronic monitoring, water, lighting, power, sanitation,

every kind), restaurant, bar and all other indoor or outdoor furniture (including tables, chairs, booths, serving stands, planters, desks, sofas, racks, shelves, lockers and cabinets), bar equipment, glasses, cutlery, uniforms, linens, memorabilia and other decorative items, furnishings, appliances, supplies, inventory, rugs, carpets and other floor coverings, draperies, drapery rods and brackets, awnings, venetian blinds, partitions, chandeliers and other lighting fixtures, freezers, refrigerators, walk-in coolers, signs (indoor and outdoor), computer systems, cash registers and inventory control systems, and all other apparatus, equipment, furniture, furnishings, holiday decorations and articles used or useful in connection with the use or operation of the Improvements or the Premises, it being understood that the enumeration of any specific articles of property shall in no way result in or be held to exclude any items of property not specifically mentioned, but excluding alcoholic beverage licenses and permits and alcoholic beverage inventory (including proceeds therefrom) (the property referred to in this paragraph (3) and not covered by the foregoing exclusions being hereinafter called the "Personal Property"; provided that, to the extent that Section 1.01(b) of this Mortgage conflicts with the Security Agreement (as defined in the Credit Agreement), the Security Agreement shall supersede such Section with respect to the Personal Property);

(4) all general intangibles relating to design, development, operation, management and use of the Premises or the Improvements, all certificates of occupancy, zoning variances, building, use or other permits, approvals, authorizations and consents obtained from and all materials prepared for filing or filed with any governmental agency in connection with the development, use, operation or management of the Premises and Improvements, all construction, service, engineering, consulting, leasing, architectural and other similar contracts concerning the design, construction, management, operation, occupancy and/or use of the Premises and Improvements, all architectural drawings, plans, specifications, soil tests, feasibility studies, appraisals, environmental studies, engineering reports and similar materials relating to any portion of or all of the Premises and Improvements, and all payment and performance bonds or warranties or guarantees relating to the Premises or the

Improvements, all to the extent assignable (the "Permits, Plans and Warranties");

(5) Mortgagor's interest in and rights under all subleases (under which Mortgagor is sublandlord), all leases or subleases (under which Mortgagor is the tenant or subtenant, other than the Ground Lease), all master leases or licenses of the Premises or the Improvements, the Parking Agreements, any license, concession, management, mineral or other agreements of a similar kind that permit the use or occupancy of the Premises or the Improvements for any purpose in return for any payment, or the extraction or taking of any gas, oil, water or other minerals from the Premises in return for payment of any fee, rent or royalty (collectively, "Leases"), and all agreements or contracts for the sale or other disposition of all or any part of the Premises or the Improvements, now or hereafter entered into by Mortgagor, together with all charges, fees, income, issues, profits, receipts, rents, revenues or royalties payable thereunder ("Rents") and all right, title and interest of Mortgagor thereunder, including the right, upon the happening and during the continuation of an Event of Default specified in Section 2.01, to receive and collect the Rents thereunder; and

(6) all real estate tax refunds and all proceeds of the conversion, voluntary or involuntary, of any of the other Mortgaged Property into cash or liquidated claims ("Proceeds"), including proceeds of insurance and condemnation awards, any awards which may become due by reason of the taking by eminent domain of the whole or any part of the Premises or Improvements or any rights appurtenant thereto, and any awards for change of grade of streets, together with any and all moneys now or hereafter on deposit for the payment of real estate taxes, assessments or common area charges levied against the Mortgaged Property, premiums on policies of fire and other insurance covering the Mortgaged Property;

TO HAVE AND TO HOLD by Mortgagee and its successors and assigns forever, subject only to the Permitted Exceptions (as hereinafter defined) and to satisfaction and cancellation as provided in Section 3.05.

ARTICLE I

Representations, Warranties and Covenants of Mortgagor

Mortgagor agrees, covenants, represents and/or warrants as follows:

SECTION 1.01. Title; Operating Lease. (a) Mortgagor has good and marketable title to an indefeasible leasehold estate in the Premises and fee simple estate in the Improvements subject to no lien, charge or encumbrance except for, and this Mortgage is and will remain a valid and enforceable first and prior lien on the Premises and Improvements subject only to, in each case, the exceptions and encumbrances referred to in Schedule A annexed hereto ("Permitted Exceptions").

(b) Mortgagor has good and marketable title to all the Personal Property subject to no lien, charge or encumbrance other than this Mortgage and the Permitted Exceptions. The Personal Property will constitute all of such items as are necessary, excluding alcoholic beverage licenses and permits and alcoholic beverage inventory, for the use of the Premises and Improvements as a restaurant of the type (and, in particular, of the Steak and Ale or Bennigan's "concept") there conducted on the date hereof. Except to the extent as otherwise permitted under Section 6.02 of the Credit Agreement, the Personal Property is not and will not become the subject matter of any lease or other arrangement that is not identified on Schedule B hereto whereby the ownership of any Personal Property will be held by any person or entity other than Mortgagor, none of the Personal Property will be removed from the Premises or the Improvements unless the same is no longer needed for the continued operation of the Premises and the Improvements as currently operated or is replaced by other Personal Property of substantially equal or greater utility and value, and Mortgagor will not create or cause to be created any security interest covering any of the Personal Property that Mortgagor may replace from time to time other than the security interest in the Personal Property created in favor of Mortgagee by this Mortgage or any other agreement collateral hereto.

(c) The Ground Lease is a valid and subsisting lease of the Land for the term set forth therein, is in full force and effect, has not been modified, no defaults by the lessor or the lessee exist thereunder, and no event has occurred or is occurring which after notice or the passage

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of time or both will result in such a default. The Ground Lease is subject to no lien, charge or encumbrance other than this Mortgage and the Permitted Exceptions. Mortgagor shall at all times promptly and faithfully keep and perform, or cause to be kept and performed, all the covenants and conditions contained in the Ground Lease by the lessee therein to be kept and performed and shall in all respects conform to and comply with the terms and conditions of the Ground Lease and Mortgagor further covenants that it will not do or permit anything to be done, the doing of which, or refrain from doing anything, the omission of which, will impair or tend to impair the security of this Mortgage or will be grounds for declaring a default under the Ground Lease.

(d) All easement agreements, supplemental agreements and other instruments hereinabove referred to and mortgaged hereby are and will remain valid, subsisting and in full force and effect, and Mortgagor is not in default thereunder and has fully performed the material terms thereof required to be performed through the date hereof, and has no knowledge of any default thereunder or failure to fully perform the material terms thereof by any other party, nor of the occurrence of any event which after notice or the passage of time or both will constitute a default thereunder. All utilities serving the Mortgaged Property are located in and in the future will be located in, and adequate vehicular access to the Premises and the Improvements is provided by, either directly by a public right-of-way abutting the Land or valid easements covered by this Mortgage.

(e) Mortgagor will forever warrant and defend its title to the Premises and the Improvements and to the Personal Property, the rights of Mortgagee therein under this Mortgage and the financing statements executed by Mortgagor simultaneously herewith and the validity and priority of the lien hereof thereon against the claims of all persons and parties except those having rights under Permitted Exceptions to the extent of those rights.

(f) Mortgagor has full power and authority to mortgage the Mortgaged Property in the manner and form herein done or intended hereafter to be done and to make and perform the representations, warranties, covenants and agreements provided herein.

(g) The Premises, the Improvements and the Ground Lease, and the use of the Premises, the Improvements and the

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Personal Property by Mortgagor and its agents, assignees, employees, invitees, lessees, licensees and tenants, comply in all material respects with all applicable requirements of local, state and Federal law, and Mortgagor will maintain, operate, lease and use the Premises, the Improvements and the Personal Property in compliance with all applicable requirements of local, state and Federal law, and will cure any failure to comply with due diligence and in any event within the period, if any, provided for cure by applicable law, subject to paragraph 1.04(e) below.

SECTION 1.02. Franchises; Status; Store Name; Operation; Compliance with Laws. (a) Mortgagor is doing on the date of this Mortgage, and so long as Mortgagor leases or owns any of the Mortgaged Property Mortgagor will do, all things necessary to preserve and keep in full force and effect its existence, franchises, rights and privileges under the laws of the state of its formation and of any other state in which it operates or in which property it owns is located, and to comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental authority or court applicable to Mortgagor or the Mortgaged Property, including maintaining all permits and licenses it now has or hereafter obtains which are required for use and operation of the Improvements and the Premises as presently used and operated.

(b) Mortgagor is not and will not become a foreign person, nonresident alien, foreign corporation, foreign partnership, foreign trust or foreign estate as those terms are defined and used in Sections 1445 and 7701 of the Internal Revenue Code of 1986, as amended (the "Code"), and the regulations promulgated thereunder.

(c) The Premises and the Improvements are and will remain open for business and will continue to be operated in substantially the manner in which they are currently conducted and operated; provided that Mortgagor may exercise its rights pursuant to Section 6.06(e) of the Credit Agreement without the prior written consent of Mortgagee.

(d) The continued operation by Mortgagor of the restaurant on the Mortgaged Property does not involve and will not involve a violation of any statutes, laws, regulations, rules, ordinances or orders of any kind (including any zoning, building and environmental protection laws, ordinances, codes or approvals, and any material requirement

of any building permits, restrictions of record or agreements affecting any such restaurant or Mortgaged Property).

(e) The restaurant on the Mortgaged Property is fully served by water, gas (to the extent the Mortgaged Property is served thereby), electric and storm and sanitary sewerage facilities, and, either directly or by easement, by public roads or highways.

SECTION 1.03. Payment of Guarantee and Other Amounts. (a) This Mortgage is given pursuant to the Credit Agreement and the Guarantee. Each and every term and provision of the Guarantee, including the rights, remedies, obligations, covenants, conditions, agreements, indemnities, representations and warranties of the parties thereto shall be considered as if a part of this Mortgage, and to the extent any payment, fulfillment and performance thereof relates to the Loans the same are secured hereby. Any default under the Credit Agreement or the Guarantee, whether related to the Loans or otherwise, which default continues beyond the applicable notice and cure period under the Credit Agreement or, the Guarantee, if any, shall constitute an Event of Default (as hereinafter set forth) under this Mortgage entitling the Mortgagee to all the remedies provided in this Mortgage, under the Guarantee and by law.

(b) If this Mortgage is referred to attorneys for foreclosure or to collect upon the Guarantee, or if any actions or proceedings (including any bankruptcy, insolvency or reorganization proceedings) are commenced in which Mortgagee is made a party and is obliged to defend or uphold or enforce this Mortgage or the rights of Mortgagee hereunder or under the terms of any lease of any part of the Mortgaged Property, or if a condemnation proceeding is instituted affecting the Mortgaged Property, Mortgagor will pay all sums, including attorneys' fees, incurred by Mortgagee for the expense of any such action or proceeding together with all statutory or other costs, disbursements and allowances, interest thereon from the date of demand for payment thereof at the rate set forth in Section 2.08 of the Credit Agreement (the "Default Rate"), and such sums and the interest thereon shall be a lien on the Mortgaged Property prior to any right, title to, interest in or claim upon the Mortgaged Property attaching or accruing subsequent to the recording of this Mortgage and shall be secured by this Mortgage to the extent permitted by law.

(c) Any payment of amounts due under this Mortgage not made on or before the due date for such payments

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shall accrue interest daily without notice from the due date until paid at the Default Rate, and such interest at the Default Rate shall be immediately due upon demand by Mortgagee; provided, however, that any failure to make a payment of any amount due under the Guarantee shall be governed by the provisions of the Guarantee Agreement rather than by the provisions of this Section 1.03(c).

SECTION 1.04. Payment of Taxes, Liens and Charges. (a) Mortgagor will, as required under the Ground Lease, pay and discharge from time to time when the same shall become due, and before any interest or penalty accrues thereon or attaches thereto, all taxes of every kind and nature, all general and special assessments, levies, permits, inspection and license fees, all water and sewer rents, all vault charges, and all other public charges, and all service charges, common area charges, merchant's association contributions, private maintenance charges, utility charges and all other private charges, whether of a like or different nature, imposed upon or assessed against the Mortgaged Property or any part thereof or upon the Rents from the Mortgaged Property or arising in respect of the occupancy, use or possession thereof (all of the foregoing are hereinafter referred to as "Taxes"). Mortgagor shall deliver to Mortgagee a certificate executed and certified as of the date hereof as complete and correct in all respects by a senior officer of the Mortgagor, setting forth in reasonable detail all Taxes and the amounts paid by the Mortgagor with respect to such Taxes; provided that (i) Mortgagor shall deliver such certificate no later than six months after the date hereof and thereafter no later than six months after the date of the delivery of each preceding certificate and (ii) Mortgagor shall provide Mortgagee with all such information and documents, including all receipts of payment, as requested by Mortgagee with respect to each such certificate and such Taxes; provided, further that, if the Ground Lease permits Mortgagor to pay any Taxes owing and unpaid by the lessor, and to seek indemnification or reimbursement thereof by the lessor, Mortgagor shall pay any and all such Taxes then owing and unpaid as necessary to prevent the imposition of or to remove any lien on the Mortgaged Property with respect to such Taxes.

(b) Mortgagor will pay any United States or state taxes except capital, franchise, income, stock transfer or withholding taxes imposed on Mortgagee by reason of its ownership of the Notes, the Guarantee, this Mortgage, or any similar tax valued or calculated pursuant to Mortgagee's

income or profit. Except to the extent prohibited by law, Mortgagor will also pay and hold harmless and indemnify Mortgagee from liability for payment of any mortgage recording, documentary stamp, intangible or other taxes with respect to the preparation, execution, delivery, filing, recording, performance or enforcement of this Mortgage, the Guarantee, or the Notes.

(c) In the event of the passage of any state, Federal, municipal or other governmental law, order, rule or regulation subsequent to the date hereof (i) deducting from the value of real property for the purpose of taxation any lien or encumbrance thereon or in any manner changing or modifying the laws now in force governing the taxation of this Mortgage or debts secured by mortgages (other than laws governing income, franchise and similar taxes generally) or the manner of collecting taxes thereon and (ii) imposing a tax to be paid by Mortgagee, either directly or indirectly, on this Mortgage, the Guarantee, or the Notes or to require an amount of taxes to be withheld or deducted therefrom, Mortgagor will promptly notify Mortgagee of such event. In such event (i) Mortgagor shall enter into such further instruments, including but not limited to new Notes or a new Guarantee to be issued in exchange for the Notes or the Guarantee theretofore issued, as may be necessary or desirable to obligate Mortgagor or S&A Corp. to make any additional payments, and (ii) Mortgagor or S&A Corp. shall make such additional payments under the Notes or the Guarantee.

(d) Subject to the provisions of paragraph 1.04(e), Mortgagor will not suffer any mechanic's, materialman's or laborer's statutory or other lien for labor or materials to be filed of record and to remain outstanding or unbonded (by S&A Corp. or Mortgagor) upon all or any part of the Premises or the Improvements or on the Rents arising therefrom for more than 20 days after the date of filing, and in general Mortgagor will do or cause to be done everything necessary so that the priority and enforceability of this Mortgage shall be fully preserved, at the cost of Mortgagor, without expense to Mortgagee.

(e) Mortgagor will not be required to pay, discharge or remove any tax, assessment, levy, fee, charge, lien or encumbrance, or to comply with any legal requirement as provided in paragraph 1.07(b) applicable to the Premises or to the ownership, occupancy or use thereof, so long as Mortgagor shall be diligently contesting, in good faith and at Mortgagor's sole cost and expense, the existence, amount or validity thereof by appropriate arbitration,

administrative or judicial proceedings which during their pendency have the practical effect of preventing (i) the collection of or other realization upon the tax, assessment, levy, fee, charge, legal requirement, lien or encumbrance so contested and (ii) any sale, forfeiture or loss of the Mortgaged Property or any portion thereof or the payment of any sum required to be paid by Mortgagor hereunder to or for the benefit of Mortgagee; provided such contests and proceedings do not (1) subject Mortgagee to any risk of criminal or civil liability, (2) result in any impairment of the priority of this Mortgage or any risk of any foreclosure of the contested assessment, encumbrance, lien or tax, (3) delay or prevent payment of any sum required to be paid by Mortgagor hereunder to or for the benefit of Mortgagee or (4) pose a threat to the safety, security, protection, maintenance, occupancy or use and operation of the Mortgaged Property or any portion thereof.

(f) Mortgagor will pay or reimburse Mortgagee, upon demand therefor, for all attorneys' fees, costs and expenses incurred by Mortgagee in any suit, action, legal proceeding or dispute of any kind in which Mortgagee is made a party or appears as party plaintiff or defendant with respect to Mortgagee's rights under the Guarantee, or Mortgagor's obligations or Mortgagee's rights under this Mortgage or the interest created hereby, the Premises, the Improvements or any other part of the Mortgaged Property, including, but not limited to, the exercise of the power of sale contained in this Mortgage, any condemnation action involving the Premises or any action to protect the security hereof; and any such amounts paid by Mortgagee shall be secured by this Mortgage.

(g) At any time that an Event of Default shall occur hereunder and for 6 months after the default is cured, or if required by any law applicable to Mortgagor or to Mortgagee, Mortgagee shall have the right to direct Mortgagor to make an initial deposit on account of real estate taxes and assessments, insurance premiums and common area charges, levied against or payable in respect of the Mortgaged Property in advance in semiannual deposits thereafter equal to one-half of the annual charges estimated by Mortgagee in order to accumulate with Mortgagee sufficient funds to pay such taxes, assessments, insurance premiums and charges. Mortgagee shall use reasonable efforts, without any responsibility therefor or liability for failure to do so, to place any such deposits in an interest-bearing account, which interest shall be added to such deposits. After any later Event of Default, Mortgagee may use such

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deposits and any interest accrued thereon at its option either to pay such items or to pay any other obligations of Mortgagor or S&A Corp.

SECTION 1.05. Payment of Closing Costs. Mortgagor shall pay all costs in connection with, relating to or arising out of the preparation, execution and recording of this Mortgage, including title company premiums and charges, inspection costs, survey costs, recording fees and taxes, attorneys', engineers', appraisers' and consultants' fees and all other similar expenses of every kind.

SECTION 1.06. Parking Agreements. (a) Mortgagor has and, at its sole cost and expense, will at all times promptly and faithfully abide by, discharge and perform all of the covenants, conditions and agreements contained in any Parking Agreements on the part of Mortgagor to be kept and performed thereunder.

(b) Mortgagor will not alter, modify, amend or terminate any Parking Agreement, give any consent or approval thereunder, if same would result in the Premises not being in compliance with any law or covenant affecting same.

(c) Mortgagor will promptly deliver to Mortgagee true and correct copies of all notices received or given pursuant to any Parking Agreements with respect to (i) the termination and possible termination of such Parking Agreements and (ii) any matter which affects or may affect the demise hereunder of any of the Mortgaged Property.

(d) Mortgagor will, immediately upon service thereof on or to Mortgagor, deliver to Mortgagee a true copy of each petition, summons, complaint, notice of motion, order to show cause and of all other provisions, pleadings and papers, however designated, served in any action or proceeding to evict Mortgagor or to recover possession of any of the Mortgaged Property or for any other purpose affecting this Mortgage.

SECTION 1.07. Alterations; Maintenance; Repairs; Waste. (a) No Improvements will be altered or demolished or removed in whole or in part by Mortgagor without the prior written consent of Mortgagee where the cost of such alteration, demolition or removal shall be greater than \$50,000. Mortgagor will not erect any material additions to the existing Improvements or other structures on the Premises without the prior written consent of Mortgagee except as allowed by paragraph 1.07(d) below. Mortgagor will not

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commit any waste on the Mortgaged Property or make any alteration to or change in the use of the Mortgaged Property which will diminish the fair market value thereof or materially increase any ordinary fire or other hazard arising out of construction or operation.

(b) Mortgagor will at all times maintain the Improvements or cause the Improvements to be maintained in good operating order and condition and in compliance with the requirements of all public authorities having jurisdiction over standards of maintenance applicable to the Improvements, and Mortgagor will promptly make all repairs, renewals, replacements, additions and improvements in connection therewith which are needed or desirable to such end. Mortgagor will permit Mortgagee to have access to the Mortgaged Property during reasonable hours for inspection of same.

(c) The construction of any additional Improvements on the Premises, or the acquisition of additional parking or other support facilities (whether adjacent to or separate from the Premises), will not be undertaken by Mortgagor without Mortgagee's prior written consent, if doing so will affect in any material adverse respect the access or parking available to the Premises or the extent to which the Premises and Improvements will thereafter comply with applicable laws.

(d) Mortgagor shall promptly provide to Mortgagee, to the extent available and upon request, a complete set of final plans, specifications, blueprints and drawings for the Mortgaged Property. Mortgagor has used its best efforts to deliver to Mortgagee a true copy of any Certificate of Occupancy, Certificate of Completion or similar certification in effect for use and operation of the Improvements as presently used and operated. If Mortgagor shall not have delivered same to Mortgagee as of the date hereof, Mortgagor shall do so, or shall provide such documentation as reasonably required by Mortgagee, no later than 60 days from same. Mortgagor is using the Improvements and the Premises on the date of this Mortgage, and will continue to use the Improvements and the Premises, in a manner which is in compliance with such certification. Mortgagor will do all things necessary to lawfully use and occupy the Premises and the Improvements.

SECTION 1.08. Hazardous Substances; Asbestos.

(a) At its sole cost and expense, Mortgagor shall comply with all Federal, state and local laws, rules, regulations

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and orders with respect to the discharge and removal of Hazardous Waste (as defined in the Credit Agreement), pay immediately when due the cost of removal of any such Hazardous Waste required to be removed by Mortgagor under applicable law, the Ground Lease and the standards generally imposed or observed by institutional investors in real property, and keep the Mortgaged Property free of any lien imposed pursuant to such laws, rules, regulations, orders and standards. In the event Mortgagor fails to do so after Mortgagor receives written notice of any condition requiring removal and after the expiration of the earlier of (i) any applicable cure period under the Mortgage (ii) any cure period under applicable law, regulation or order, Mortgagee may either declare an Event of Default under the Mortgage or cause the removal from the Mortgaged Property of the Hazardous Waste or the remedy of the presence of the Hazardous Waste, whether buried, concealed or otherwise, and reimbursement to Mortgagee of the cost of the removal or remedy shall be secured by this Mortgage and be due and payable on demand with interest thereon at the Default Rate from the date such cost is incurred.

(b) Mortgagor hereby indemnifies Mortgagee and shall defend and hold Mortgagee harmless from and against all loss, cost, damage and expense (including, without limitation, attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Mortgagee may incur, directly or indirectly, as a result of or in connection with the assertion against Mortgagee of any claim relating to the presence or removal of any Hazardous Waste, or compliance or noncompliance with any Federal, state or local laws, rules, regulations or orders relating thereto, whether before, during or after the term of this Mortgage, including claims relating to personal injury or damage to personal property; provided that such indemnity shall not apply to any loss, costs, damage and expense as are found in a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or wilful misconduct of Mortgagee.

(c) Upon Mortgagee's request and provided that Mortgagee has reason to believe Mortgagor is not complying with all Federal, state and local laws, rules, regulations and orders with respect to the discharge and removal of Hazardous Waste, Mortgagor shall provide, at Mortgagor's sole cost and expense, an inspection or audit of the Mortgaged Property by an engineering or consulting firm approved by Mortgagee to determine the presence or absence of Hazardous Waste on the Mortgaged Property. If Mortgagor fails to

provide such an inspection or audit within 30 days after receiving a request therefor, Mortgagee may undertake the testing. Reimbursement of the cost of such tests shall be secured by this Mortgage and be due and payable on demand with interest at the Default Rate from the date such cost is incurred. Mortgagor shall promptly commence and diligently pursue to completion any clean up or remediation of Hazardous Waste disclosed by such audit if required to do so by the standards set forth in Section 1.08(a).

(d) Mortgagor shall not install asbestos or permit asbestos or any material containing asbestos to be installed on the Premises or in the Improvements. If any such substance shall be installed on the Premises or in the Improvements, Mortgagor shall promptly remove any such material. If Mortgagor shall fail to do so within any applicable cure period under this Mortgage, Mortgagee may either declare an Event of Default or cause the removal of the asbestos from the Premises or the Improvements. The cost thereof shall be secured by this Mortgage and shall be payable on demand and with interest thereon at the Default Rate from the date such cost is incurred.

(e) Mortgagor shall grant Mortgagee and its employees and agents access to the Mortgaged Property and an irrevocable, nonexclusive license, effective immediately, if, in the opinion of Mortgagee, irreparable harm to the Mortgaged Property is imminent or otherwise upon expiration of the applicable cure period under paragraph 1.08(a) above, to remove any asbestos at Mortgagor's expense. Mortgagor shall indemnify Mortgagee and defend and hold Mortgagee harmless from and against all loss, cost, damage and expense (including attorneys' fees and costs incurred in the investigation, defense and settlement of claims) that Mortgagee may incur, directly or indirectly, as a result of or in connection with the assertion against Mortgagee of any claim relating to the presence or removal of any asbestos, or compliance or noncompliance with any Federal, state or local laws, rules, regulations or orders relating thereto, whether before, during or after the term of this Mortgage, including claims relating to personal injury or damage to personal property; provided that such indemnity shall not apply to any loss, costs, damage and expense as are found in a final and nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or wilful misconduct of Mortgagee.

SECTION 1.09. Insurance. (a) Except to the extent that the Ground Lease requires otherwise, Mortgagor

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will keep the Improvements and Personal Property insured against loss by fire, casualty and such other hazards as may be afforded by an extended coverage endorsement. Such insurance shall be written by companies having an Alfred M. Best Company, Inc. rating of A or higher and a financial size category of not less than XI or as otherwise approved by Mortgagee on forms satisfactory to Mortgagee for amounts not less than the full insurable value of the Improvements based on a replacement value standard, with a "replacement cost" endorsement and a deductible of not more than \$100,000 per occurrence, subject to future increase if, in the reasonable judgment of Mortgagee, a higher deductible becomes commercially prudent and is consistent with the then customary requirements of Mortgagee regarding deductibles (taking into account the financial condition of the insured party) and for amounts as to Personal Property reasonably satisfactory to Mortgagee. Losses thereunder shall be payable to Mortgagee "as its interest may appear" pursuant to a co-loss payee mortgagee endorsement acceptable to Mortgagee, and such policies shall provide that neither Mortgagor nor Mortgagee shall be a coinsurer thereunder and shall contain such other provisions as Mortgagee customarily requires from time to time to protect its interest as a lender. Original certificates of such insurance shall be delivered to Mortgagee. Each such policy shall provide that it shall not be canceled, modified or not renewed (i) by reason of nonpayment of premium upon less than 10 days' prior written notice thereof by insurer to Mortgagee or (ii) for any other reason upon less than 30 days' prior written notice thereof by insurer to Mortgagee. Prior to the cancellation, modification or nonrenewal of any policy of insurance required by this Section 1.09, Mortgagor shall deliver to Mortgagee a copy of a renewal or replacement policy (or other evidence of renewal of a policy previously delivered to Mortgagee) together with evidence satisfactory to Mortgagee of payment of the premium therefor.

(b) If at any time during the term of the mortgage the area in which the Premises are located is designated a "flood-prone" area pursuant to the Flood Disaster Protection Act of 1973, or any amendments or supplements thereto, then Mortgagor shall, except to the extent that the Ground Lease provides otherwise, obtain flood insurance in such total amount as Mortgagee may from time to time customarily require and shall otherwise comply with the National Flood Insurance Program as set forth in the Flood Disaster Protection Act of 1973. In addition, Mortgagor will fully comply with the requirements of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 as

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the same may be amended from time to time, and with any other law, order, rule, ordinance or regulation concerning flood insurance to the extent that it may apply to the Mortgaged Property or any part thereof.

(c) Mortgagor will also carry and maintain liability insurance in a minimum amount equal to \$30,000,000, having standard mortgagee's endorsements, with companies as aforesaid and on forms satisfactory to Mortgagee.

(d) Mortgagor shall not take out separate insurance concurrent in form or contributing in the event of loss with that required to be maintained under this Section 1.09 unless Mortgagee is included thereon as a named insured with loss payable to Mortgagee under a standard noncontributory mortgage endorsement of the character above described. Mortgagor shall immediately notify Mortgagee whenever any such separate insurance is taken out and shall promptly deliver to Mortgagee a duplicate original copy of the policy or policies of such insurance.

(e) The designation of any form, type or amount of insurance coverage by Mortgagee under paragraph 1.09(a), (b) and/or (c) shall in no event be deemed a representation, warranty or advice by Mortgagee that such insurance is adequate for the purposes of Mortgagor's business or the protection of Mortgagor's interest in the Mortgaged Property.

(f) Notwithstanding the foregoing clauses of this Section 1.09, all insurance requirements hereunder shall be subject to Section 5.03 of the Credit Agreement.

SECTION 1.10. Restoration of Casualty Damage.

(a) Mortgagor shall give Mortgagee prompt written notice of any casualty, damage or other loss covered by the insurance described in Section 1.09 above and, shall deliver to Mortgagee within 60 days after such casualty a reasonably detailed determination of the estimated cost of restoration. Except to the extent that the Ground Lease requires otherwise, Mortgagee shall have a right to join Mortgagor in adjusting any loss covered by such insurance which exceeds in any instance \$100,000 (the "Threshold Loss Amount"). Payment of any loss in excess of the Threshold Loss Amount will be made in its entirety to Mortgagee, and any money received by Mortgagor as payment for any such loss will be paid over to Mortgagee to be held and disbursed as provided in paragraphs 1.10(b) and (c) below; provided, however, with

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respect to such Personal Property which is "Equipment" under the Security Agreement, the Mortgagee shall receive such payments as set forth in Section 12 of the Security Agreement. Losses less than the Threshold Loss Amount may be adjusted by and paid to Mortgagor.

(b) Except to the extent that the Ground Lease requires otherwise, Mortgagee will make insurance proceeds available to Mortgagor for the restoration of the Improvements, Personal Property and Premises in accordance with paragraph 1.10(c) if (1) all damage to the Mortgaged Property can be repaired, and if the Improvements, Personal Property and Premises can be restored, so that the size, value, condition and utility of the Improvements shall be substantially the same as or better than immediately prior to the casualty; (2) Mortgagee is satisfied, in its sole judgment, that sufficient funds will be available to complete the restoration; (3) at each time such proceeds are to be made available to Mortgagor pursuant to Section 1.10(c), in Mortgagee's sole judgment restoration is capable of completion no later than six months from the date of casualty; (4) no Default (as defined in the Credit Agreement) shall exist under the Credit Agreement (5) the Ground Lease remains in full force and effect during the period of restoration; and (6) Mortgagee is reimbursed for its costs in evaluating the casualty and in addition is paid its customary and reasonable scheduled servicing fee for such evaluation. If Mortgagee is not satisfied, in its sole judgment, that the amount of available insurance proceeds will be adequate to repair the damage and restore the Improvements, Personal Property and Premises in the manner aforesaid, Mortgagor shall provide such moneys or post adequate security with Mortgagee, which in Mortgagee's reasonable judgment is sufficient to cover any difference in the insurance proceeds available to implement such restoration and the projected cost of same. If Mortgagor does not deposit such excess amount with or pay such sufficient amount to Mortgagee within 90 days following Mortgagee's receipt of the insurance proceeds and Mortgagee's delivery to Mortgagor of Mortgagee's determination of the estimated cost of restoration, Mortgagee shall have the option at any time thereafter to refuse to make the insurance proceeds available to Mortgagor for restoration and to instead apply such insurance proceeds to the repayment of the Notes.

(c) Amounts to be made available by Mortgagee to Mortgagor for the restoration of the Improvements, Personal Property and/or Premises shall be held and invested by Mortgagee, to the extent practicable, as directed by

Mortgagor in investment grade securities until needed by Mortgagor to pay for restoration work, but Mortgagee shall not be responsible for selection of the maturities of such securities and shall be permitted to charge the funds held by Mortgagee for the reasonable actual expenses incurred by Mortgagee from time to time in connection with the investment of the amounts held by Mortgagee and the disbursement hereof to Mortgagor including reasonable architectural, engineering, legal and construction and money management fees. The amount so deposited with Mortgagee and the earnings thereon shall be advanced by Mortgagee to Mortgagor in accordance with paragraph 1.10(d) in amounts not in excess of the cost of the work completed since the last disbursement. Any amounts deposited by Mortgagor with Mortgagee to cover any excess costs of restoration over the amount of available insurance proceeds shall be advanced prior to the advance of any available insurance proceeds. Any amounts deposited by Mortgagor with Mortgagee (and any earnings thereon) that are not required for restoration, and any holdback amounts held by Mortgagee, shall be turned over by Mortgagee to Mortgagor upon completion of the restoration.

(d) Mortgagee shall pay the net (after deduction of the expense of recovery thereof and of processing each request for a disbursement) proceeds to Mortgagor from time to time during the course of the restoration, upon prior notice and upon receipt of evidence satisfactory to Mortgagee that (i) all materials installed and work and labor performed (except to the extent that they are to be paid for out of the requested payment) have been paid for in full or will be paid in full when due, (ii) all work and labor has been performed in a good and workmanlike manner and (iii) there exist no mechanic's or other liens and encumbrances arising out of the restoration (other than mechanic's or other liens to be paid for out of the requested payment). Mortgagee shall not be obligated to disburse net proceeds more frequently than monthly. The restoration shall be done and completed by Mortgagor in an expeditious and diligent fashion and in compliance with all applicable laws, rules and regulations. All plans and specifications required in connection with the restoration shall be subject to review and approval as to compliance with the provisions of this paragraph by Mortgagee's independent inspecting engineer. If at any time the sum of the undisbursed balance and the income which Mortgagee is satisfied will accrue during the period of time reasonably estimated by Mortgagee as required for completion of the restoration shall not, in Mortgagee's sole judgment, be sufficient to pay in full the

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balance of the costs which will be incurred in connection with the restoration, Mortgagor shall, prior to receiving any further disbursement, either (1) complete (at its own cost) such portion of the restoration as shall be sufficient to render the undisbursed balance and expected income sufficient to complete the restoration, (2) deposit the deficiency with Mortgagee before any further disbursement shall be made, which deficiency deposit shall be held by Mortgagee on the same conditions applicable to the proceeds, or (3) deliver evidence satisfactory to Mortgagee that all costs of the restoration in excess of the proceeds will be paid in full as the same become due and payable, which evidence may include collateral security or surety satisfactory to Mortgagee.

(e) Notwithstanding the foregoing clauses of this Section 1.10, in the event that Mortgagor and Mortgagee agree that the Improvements and Personal Property shall not be restored after the partial or total loss thereof, such Improvements and Personal Property shall not be restored and all insurance proceeds with respect to such loss thereof shall be paid to Mortgagee for the payment or prepayment, as applicable, of the obligations of S&A Corp. pursuant to the Credit Agreement.

SECTION 1.11. Condemnation. (a) Mortgagor shall give Mortgagee prompt written notice of any condemnation proceedings or proposed taking by eminent domain that might affect the Mortgaged Property promptly after obtaining knowledge of the institution of any proceedings for the condemnation or taking of the Mortgaged Property or any portion thereof. Mortgagor shall deliver to Mortgagee within 30 days after such condemnation or taking a reasonably detailed determination of the estimated cost of restoration and scope of restoration possible. Except to the extent that the Ground Lease provides otherwise, Mortgagee shall have the right to participate in any such proceedings and to join Mortgagor in contesting or settling any such proceeding or award or compensation payable in regard thereto which exceeds in any instance \$100,000 (the "Threshold Award Amount"), and to be represented at Mortgagor's expense by counsel selected by Mortgagee. Mortgagor from time to time will deliver to Mortgagee all instruments requested by it to permit such participation. Any Threshold Award Amount payable in the event of such condemnation proceedings are hereby assigned and will be paid to Mortgagee, who shall be under no obligation to question the amount of any such award or compensation and may accept the same in the amount in which the same shall be

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paid. Any money received by Mortgagor as payment of any Threshold Award Amount for any such condemnation or taking will be paid over to Mortgagee forthwith to be held and disbursed as provided in paragraphs 1.11(b) and (c) below. Amounts below the Threshold Award Amount may be paid to Mortgagor.

(b) Except to the extent that the Ground Lease provides otherwise, Mortgagee will make awards available to Mortgagor for the restoration of the Improvements, Personal Property and Premises in accordance with paragraph 1.11(c) if (1) all damage to the Mortgaged Property can be repaired, and if the Improvements, Personal Property and Premises can be restored, so that the size, value, condition and utility of the Improvements shall be substantially the same as or better than immediately prior to the condemnation or taking with consideration being given to the amount and location of that portion of the Premises so taken; (2) Mortgagee is satisfied, in its sole judgment, that sufficient funds will be available to complete the restoration; (3) at each time such awards are to be made available to Mortgagor pursuant to Section 1.11(c), in Mortgagee's sole judgment restoration is capable of completion no later than six months from the date of the condemnation or taking; (4) no Default (as defined in the Credit Agreement) shall exist under the Credit Agreement; (5) the Ground Lease remains in full force and effect during the period of restoration; and (6) Mortgagee is reimbursed for its costs in evaluating the condemnation or taking and in addition is paid its customary scheduled servicing fee for such evaluation. If Mortgagee is not satisfied, in its sole judgment, that the amount of the available awards will be adequate to repair the damage and restore the Improvements, Personal Property and Premises in the manner aforesaid, Mortgagor shall provide such moneys or post adequate security with Mortgagee, which in Mortgagee's reasonable judgment is sufficient to cover any difference in the proceeds available to implement such restoration and the projected cost of same. If Mortgagor does not deposit such excess amount with or pay such sufficient amount to Mortgagee within 90 days following Mortgagee's receipt of the awards and Mortgagee's delivering to Mortgagor of Mortgagee's determination of the estimated cost of restoration, Mortgagee shall have the option at any time thereafter to refuse to make the awards available to Mortgagor for restoration and to instead apply such awards to the repayment of the Notes.

(c) Amounts to be made available by Mortgagee to Mortgagor for the restoration of the Improvements, Personal

Property and/or Premises shall be held and invested by Mortgagee, to the extent practicable, as directed by Mortgagor in investment grade securities until needed by Mortgagor to pay for restoration work, but Mortgagee shall not be responsible for selection of the maturities of such securities and shall be permitted to charge the funds held by Mortgagee for the reasonable actual expenses incurred by Mortgagee from time to time in connection with the investment of the amounts held by Mortgagee and the disbursement thereof to Mortgagor including reasonable architectural, engineering, legal and construction and money management fees. The amount so deposited with Mortgagee and the earnings thereon shall be advanced by Mortgagee to Mortgagor in accordance with paragraph 1.11(d) in amounts which are not in excess of the cost of the work completed since the last disbursement, less, in each case, a holdback of 10%. Any amounts deposited by Mortgagor with Mortgagee to cover any excess of the estimated cost of restoration as determined by Mortgagee over the amount of available condemnation awards shall be advanced prior to the advance of any available condemnation awards. Any amounts deposited by Mortgagor with Mortgagee (and any earnings thereon) that are not required for restoration, and any holdback amounts held by Mortgagee, shall be turned over by Mortgagee to Mortgagor.

(d) Notwithstanding the foregoing clauses of this Section 1.11, in the event that Mortgagor and Mortgagee agree that the Improvements and Personal Property shall not be restored after the partial or total loss thereof, such Improvements and Personal Property shall not be restored and all proceeds with respect to such loss thereof shall be paid to Mortgagee for the payment or prepayment, as applicable, of the obligations of S&A Corp. pursuant to the Credit Agreement.

SECTION 1.12. Assignment of Leases and Rents.

(a) Mortgagor hereby grants, transfers and assigns all of its right, title and interest in the Leases, together with any and all extensions and renewals thereof for purposes of securing and discharging the performance by Mortgagor of its obligations under the Guarantee and hereunder. Mortgagor has not assigned or executed any assignment of, and will not assign or execute any assignment of the Leases or any Rents from the Premises or the Improvements, to anyone other than Mortgagee. The Leases expressly assigned to Mortgagee by this Mortgage are in full force and effect, and the Mortgagor has not done or failed to do any act or executed or failed to execute any document that impairs or might impair

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the rights of Mortgagee to the Leases or the Rents under this Mortgage.

(b) Without Mortgagee's prior written consent, Mortgagor will not (1) modify, terminate or consent to the cancelation or surrender of the Leases (except for adjustment of the net annual rental payable thereunder, if any, and only to the extent expressly permitted therein), (2) use or pay over any Rents paid to or collected by Mortgagor for any purpose other than for the purpose of maintenance and operation of the Premises, (3) execute any other lease of the Premises or Improvements or (4) consent to an assignment of a tenant's interest or to a subletting except as may be permitted by the Credit Agreement.

(c) Mortgagor will at all times promptly and faithfully perform, or cause to be performed, all of the covenants, conditions and agreements contained in the Leases or any other lease of the Premises or Improvements now or hereafter existing on the part of the landlord thereunder to be kept and performed, and will at all times use due diligence to do all things necessary to compel performance by or otherwise enforce its rights against the tenant under such Lease of all obligations, covenants and agreements by such tenant to be performed thereunder.

(d) Subject to paragraph 1.12(e), Mortgagor has assigned and transferred unto Mortgagee all of Mortgagee's right, title and interest in and to the Rents now or hereafter arising from the Mortgaged Property, heretofore or hereafter made or agreed to by Mortgagor, it being intended to establish an absolute transfer and assignment of all Rents thereunder to Mortgagee and not merely to grant a security interest therein. Subject to paragraph 1.12(e) and to the extent not prohibited by law, Mortgagee may in Mortgagor's name and stead (with or without first taking possession of any of the Mortgaged Property personally or by receiver as provided herein) operate the Mortgaged Property and rent, lease or let all or any portion of any of the Mortgaged Property to any party or parties at such rental and upon such terms as Mortgagee shall, in its discretion, determine, and may collect and have the benefit of all of said Rents arising from or accruing at any time thereafter or that may thereafter become due under each Lease.

(e) Until an Event of Default occurs under this Mortgage, Mortgagee will not exercise any of its rights under paragraph 1.12(d), and Mortgagor shall receive and collect the Rents accruing under Leases of the Premises and

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Improvements; but after the happening of any Event of Default Mortgagee may, at its option, receive and collect all Rents accruing under the Ground Lease or the Leases and enter upon the Premises and Improvements by its officers, agents, employees or attorneys for such purpose and for the operation and maintenance thereof. Upon the happening of an Event of Default, Mortgagor hereby irrevocably authorizes and directs each tenant and each successor, if any, to the interest of each tenant under each Lease to rely upon any notice of a claimed Event of Default sent by Mortgagee to any such tenant or successor in interest, and to thereafter pay Rents to Mortgagee without any obligation or right to inquire as to whether an Event of Default actually exists and even if some notice to the contrary is received from the Mortgagor, who shall have no right or claim against any such tenant or successor in interest for any such Rents so paid to Mortgagee. Each tenant or its successor in interest from whom Mortgagee or any officer, agent, attorney or employee of Mortgagee shall have collected any Rents, shall be authorized to pay Rents to Mortgagor only after such tenant or its successor in interest shall have received written notice from Mortgagee that the Event of Default shall have been cured, unless and until a further notice of a claimed Event of Default is given by Mortgagee to such tenant or its successor in interest.

(f) Mortgagee will not become a mortgagee in possession so long as it does not enter or take actual possession of the Mortgaged Property. In addition, Mortgagee shall not be responsible or liable for performing any of the obligations of the landlord under any of the Leases, for any waste by any tenants or others, for any dangerous or defective conditions of any of the Mortgaged Property, for negligence in the management, upkeep, repair or control of any of the Mortgaged Property or any other act or omission by any other person.

(g) Mortgagor shall furnish to Mortgagee, within 30 days after a request by Mortgagee to do so, a written statement containing the names of all tenants and subtenants of the Premises or Improvements, the terms of the Leases or any other lease, the space occupied and the rentals payable thereunder. The Leases shall provide for the giving by the tenants of certificates with respect to the status of the Leases, Mortgagor also shall exercise its right to request such certificates within 10 days of any demand therefor by Mortgagee.

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SECTION 1.13. Restrictions on Transfers and Encumbrances. (a) Except as set forth herein or in the Credit Agreement, it shall be an Event of Default hereunder if Mortgagor shall sell, convey, alienate, assign, lease, sublease, mortgage, pledge, encumber or otherwise transfer, create, consent to or suffer the creation of any lien, charges or any form of encumbrance upon any interest in or any part of the Mortgaged Property, or be divested of its title to the Mortgaged Property or any interest therein in any manner or way, whether voluntarily or involuntarily (other than resulting from a taking so long as Mortgagor complies with Sections 1.07 and 1.11 hereof), or engage in any common, cooperative, joint, time-sharing or other congregate ownership of all or part thereof, or there shall be any merger, consolidation or dissolution affecting S&A Corp. or Mortgagor, or any transfer of an interest in S&A Corp. or Mortgagor, whether at one time or in a series of related or unrelated transfers; provided, however, that Mortgagor may in the ordinary course of business within reasonable commercial standards, enter into easement and/or covenant agreements which relate to the operation of the Mortgaged Property and which do not materially and adversely affect the use and operation of same.

SECTION 1.14. Security Agreement. This Mortgage is both a mortgage of a leasehold interest in real property and a grant of a security interest in personal property, and shall constitute and serve as a "Security Agreement" within the meaning of the Uniform Commercial Code as adopted in the state wherein the Premises are located. Mortgagor has hereby granted unto Mortgagee a security interest in and to all the Mortgaged Property described in this Mortgage that is not real property, and simultaneously with the recording of this Mortgage, Mortgagor has filed or will file UCC Financing Statements at the appropriate offices in the state in which the Premises are located to perfect the security interest granted by this Mortgage in all the Mortgaged Property. Mortgagee shall have all rights with respect to the part of the Mortgaged Property that is the subject of a security interest afforded by the Uniform Commercial Code as adopted in the state wherein the Premises are located in addition to, but not in limitation of, the other rights afforded Mortgagee hereunder.

SECTION 1.15. Filing and Recording. Mortgagor will cause this Mortgage, any other security instrument creating a security interest in or evidencing the lien hereof upon the Mortgaged Property and each instrument of further assurance to be filed, registered or recorded in

such manner and in such places as may be required by any present or future law in order to publish notice of and fully to protect the lien hereof upon, and the security interest of Mortgagee in, the Mortgaged Property. Mortgagor will pay all filing, registration or recording fees, and all expenses incidental to the execution and acknowledgment of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Personal Property, and any instrument of further assurance and all Federal, state, county and municipal stamp taxes and other taxes, duties, imposts, assessments and charges arising out of or in connection with the execution and delivery of this Mortgage, any mortgage supplemental hereto, any security instrument with respect to the Personal Property or any instrument of further assurance.

SECTION 1.16. Further Assurances. Upon demand Mortgagor will, at the cost of Mortgagor and without expense to Mortgagee, do, execute, acknowledge and deliver all such further acts, deeds, conveyances, mortgages, assignments, notices of assignment, transfers and assurances as Mortgagee shall from time to time require for the better assuring, conveying, assigning, transferring and confirming unto Mortgagee the property and rights hereby conveyed or assigned or intended now or hereafter so to be, or which Mortgagor may be or may hereafter become bound to convey or assign to Mortgagee, or for carrying out the intention or facilitating the performance of the terms of this Mortgage, or for filing, registering or recording this Mortgage, and on demand Mortgagor will also execute and deliver and hereby authorizes Mortgagee to execute and file in the name of Mortgagor to the extent it may lawfully do so, one or more financing statements, chattel mortgages or comparable security instruments to evidence more effectively the lien hereof upon the Personal Property.

SECTION 1.17. Additions to Mortgaged Property. All right, title and interest of Mortgagor in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, the Mortgaged Property hereafter acquired by or released to Mortgagor or constructed, assembled or placed by Mortgagor on the Premises, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case without any further mortgage, conveyance, assignment or other act by Mortgagor, shall become subject to the lien and security interest of this Mortgage as fully and completely and with the same

effect as though now owned by Mortgagor and specifically described in the grant of the Mortgaged Property above, but at any and all times Mortgagor will execute and deliver to Mortgagee any and all such further assurances, mortgages, conveyances or assignments thereof as Mortgagee may reasonably require for the purpose of expressly and specifically subjecting the same to the lien and security interest of this Mortgage.

SECTION 1.18. Records; Access; Estoppels.

(a) Pursuant to Section 5.08 of the Credit Agreement, Mortgagor will keep proper records and books of account in accordance with generally accepted accounting principles and will permit Mortgagee, by its agents, accountants and attorneys, to visit and inspect the Premises, and to discuss its affairs, finances and accounts with the general managers or accountants of Mortgagor, at such reasonable times as may be required by Mortgagee.

(b) Mortgagee shall have the right, upon two days' prior written notice, to inspect and make copies of Mortgagor's books and records with reference to the Mortgaged Property for the purpose of verifying any balance sheet, operating statement and/or rent schedule at any time up to three years after they have been submitted.

SECTION 1.19. No Claims Against Mortgagee.

Nothing contained in this Mortgage shall constitute any consent or request by Mortgagee, express or implied, for the performance of any labor or services or the furnishing of any materials or other property in respect of the Mortgaged Property or any part thereof, nor as giving Mortgagor any right, power or authority to contract for or permit the performance of any labor or services or the furnishing of any materials or other property in such fashion as would permit the making of any claim against Mortgagee in respect thereof or any claim that any lien based on the performance of such labor or services or the furnishing of any such materials or other property is prior to the lien of this Mortgage.

SECTION 1.20. The Ground Lease.

(a) Mortgagor will not, without the prior written consent of Mortgagee (which consent will not be unreasonably withheld or delayed), (i) modify, extend or in any way alter the terms of the Ground Lease (provided that Mortgagor may, without the prior written consent of Mortgagee, make such modifications or alterations as do not (x) shorten the term or increase the amount of rent paid under the Ground Lease,

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(y) constitute a material change to the terms and provisions of the Ground Lease or (z) otherwise materially adversely affect the security interest granted by this Mortgage in the Mortgaged Property, the value of the Mortgaged Property or the interests of the Mortgagee), (ii) cancel, release, terminate or surrender the Ground Lease (except as permitted by Section 1.20(f) or (iii) waive, excuse, condone or in any way release or discharge the lessor thereunder of or from any material obligations, covenants, conditions or agreements by said lessor to be done and performed.

(b) No release or forbearance of any of Mortgagor's obligations under the Ground Lease, pursuant to the Ground Lease, or otherwise, shall release Mortgagor from any of its obligations under this Mortgage, including its obligation with respect to the payment of rent as provided for in the Ground Lease and the performance of all of the terms, provisions, covenants, conditions and agreements contained in the Ground Lease, to be kept, performed and complied with by the lessee therein.

(c) Mortgagor shall give Mortgagee immediate notice in writing of any default under the Ground Lease or of the receipt by Mortgagor of any notice of default from the lessor thereunder by providing to Mortgagee a photostatic copy of any such notice received by Mortgagor from such lessor and this shall be done without regard to the fact that Mortgagee may be entitled to such notice directly from the lessor. Mortgagor shall promptly notify Mortgagee of any default under the Ground Lease by lessor or giving of any notice by the lessor to Mortgagor of such lessor's intention to end the term thereof. Mortgagor shall furnish to Mortgagee immediately upon Mortgagee's request any and all information concerning the performance by Mortgagor of the covenants of the Ground Lease and shall permit Mortgagee or its representative at all reasonable times to make investigation or examination concerning the performance by Mortgagor of the covenants of the Ground Lease. Mortgagor shall promptly deposit with Mortgagee upon request by Mortgagee duplicate original executed copy of the Ground Lease and, upon request by Mortgagee, any and all documentary evidence received by Mortgagor showing compliance by it with the provisions of the Ground Lease and shall deposit with Mortgagee an exact copy of any notice, communication, plan, specification or other instrument or document received or given by Mortgagor in any way relating to or affecting the Ground Lease which may concern or affect the estate of the lessor or the lessee in or under the Ground Lease or the property leased thereby.

(d) Notwithstanding any other provision of this Mortgage or the Ground Lease, if Mortgagor shall fail so to do, Mortgagee may (but shall not be so obligated) to take any such action Mortgagee deems necessary or desirable to prevent or cure, in whole or in part, any material failure of compliance by Mortgagor under the Ground Lease; and upon the receipt by Mortgagee from Mortgagor or the lessor under the Ground Lease of any written notice of default by Mortgagor as the lessee thereunder, Mortgagee may rely thereon, and such notice shall constitute full authority and protection to Mortgagee from any action taken or omitted to be taken in good faith reliance thereon. All sums, including reasonable attorneys' fees, so expended by the Mortgagee to cure or prevent any such default, or expended to sustain the lien of this Mortgage or its priority, shall be deemed secured by this Mortgage and shall be paid by the Mortgagor within 30 days after demand, with interest at the Default Rate. Nothing in this Section 1.20 shall limit Mortgagor's rights under the Ground Lease to contest requirements of law or other similar matters to the fullest extent permitted by the Ground Lease and under mandatory applicable law. Mortgagor hereby expressly grants to Mortgagee, and agrees that Mortgagee shall have, the absolute and immediate right to enter in and upon the Real Property or any part thereof to such extent and as often as Mortgagee, in its reasonable discretion, deems necessary or desirable in order to prevent or cure any such default or alleged default by Mortgagor.

(e) Except as otherwise provided in this Section 1.20, and subject to Section 1.20(a), Mortgagor shall not, without Mortgagee's prior written consent, which shall not be unreasonably withheld or delayed, make any election or give any consent or approval for which a right to do so is conferred upon Mortgagor as lessee under the Ground Lease which may materially affect the Mortgaged Property.

(f) Mortgagor shall (i) at least four months prior to the last day (such last day, the "Final Renewal Day") upon which Mortgagor, as lessee under the Ground Lease, may validly exercise any option to renew or extend the term of the Ground Lease, give notice to Mortgagee of the existence of such option so to renew or extend the term of the Ground Lease and (ii) at least one month prior to the Final Renewal Day, exercise such option in such manner as will cause the term of the Ground Lease effectively to be renewed or extended for the period provided by such option and give notice to Mortgagee of such renewal or extension; provided, however, that Mortgagor shall not be required so to renew or extend the term of the Ground Lease if

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(x) Mortgagor submits to Mortgagee, at least two months prior to the Final Renewal Day, a certificate executed by a Financial Officer of Mortgagor stating that the Ground Lease should not be renewed or extended pursuant to such option and setting forth, in detail satisfactory to Mortgagee, the reasons for such conclusion and (y) Mortgagee, within the period of one month following receipt of such certificate from Mortgagor, (A) determines in its reasonable discretion that such Ground Lease should not be renewed or extended and (B) notifies Mortgagor of such determination. In the event that mortgagor fails to exercise such renewal or extension option in circumstances where Mortgagor is required to do so pursuant to this subsection (f), Mortgagee shall have, and is hereby granted, the irrevocable right to exercise any such option, whether in its own name and behalf or in the name and behalf of its designee or nominee or in the name and behalf of Mortgagor or in any other manner authorized under the Ground Lease as Mortgagee shall in its sole discretion determine.

(g) Mortgagor will give Mortgagee prompt written notice of the commencement of any arbitration or appraisal proceeding under and pursuant to the provisions of the Ground Lease. Mortgagee shall have the right, but not the obligation, to intervene and participate in any such proceeding and Mortgagor shall confer with Mortgagee to the extent which Mortgagee deems necessary for the protection of Mortgagee. Mortgagor may compromise any dispute or approval which is the subject of an arbitration or appraisal proceeding with the prior written consent of Mortgagee which will not be unreasonably withheld or delayed. Upon the written request of Mortgagee, Mortgagor will exercise all rights of arbitration or appraisal conferred upon it by the Ground Lease, unless Mortgagor can demonstrate to Mortgagee's reasonable satisfaction prior to the earlier of (i) 10 days after Mortgagee's written notice, and (ii) the date on which Mortgagor's ability to exercise such right of arbitration or appraisal shall lapse, that such an arbitration or appraisal proceeding would be unduly burdensome, cost ineffective, and the failure to arbitrate or have an appraisal performed for the matter under consideration is not likely to materially and adversely impair Mortgagee's security hereunder. Mortgagor shall select an arbitrator or appraiser, as the case may be, who is approved in writing by Mortgagee, such approval not to be unreasonably withheld or delayed, provided, however, that if at the time any such proceeding shall be commenced, Mortgagor shall be in default in the performance or observance of any covenant, condition or other requirement of the Ground Lease, or of this Mortgagee,

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on the part of Mortgagor to be performed or observed, Mortgagee shall have, and is hereby granted, the sole and exclusive right to designate and appoint on behalf of Mortgagor and arbitrator or arbitrators, or appraiser, in such proceeding.

(h) So long as this Mortgage is in effect, there shall be no merger of the Ground Lease or any interest therein, or of the leasehold estate created thereby, with the fee estate in the Land or any portion thereof by reason of the fact that the Ground Lease or such interest therein or such leasehold estate may be held directly or indirectly by or for the account of any person who shall hold the fee estate in the Land or any portion thereof or any interest of the lessor under the Ground Lease. In case Mortgagor acquires the fee title to the Land, this Mortgage shall attach and cover and be a lien upon the fee title or such other estate so acquired, any such fee title or other estate shall, without further assignment, mortgage or conveyance, become and be subject to the lien of and covered by this Mortgage. Mortgagor shall, on written request by Mortgagee, shall cause to be executed and recorded all such other and further assurances or other instruments in writing as may in the opinion of Mortgagee be necessary or appropriate to effect the intent and meaning hereof and shall deliver to Mortgagee an endorsement to Mortgagee's loan title insurance policy insuring that such fee title or other estate is subject to the lien of this Mortgage.

(i) In the event that the Mortgagor as lessee under the Ground Lease exercises any option or right to purchase any parcel of land which option or right is granted under said Ground Lease, then upon the vesting of the title of such parcel in the Mortgagor this Mortgage shall attach to and cover and be a lien upon the fee title or such other estate so acquired, and such fee title or other estate shall, without further assignment, mortgage or conveyance, become and be subject to the lien of and covered by this Mortgage.

(j) In the event that the Mortgagor intends to acquire fee title to the leasehold estate as described in paragraph (h) above or exercise any option or right as described in paragraph (i) above Mortgagor shall provide Mortgagee with written notice of its intent to so acquire or its decision to exercise its option or right not less than 30 days prior to such acquisition or the exercise of such right or option.

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ARTICLE II

Defaults and Remedies

2.01. Events of Default. (a) It shall be an Event of Default under this Mortgage if one or more of the following shall happen:

(i) (A) Mortgagor shall fail as required by the Guarantee to perform or fulfill any covenant or obligation under and pursuant to the Guarantee Agreement, (B) any Event of Default (as therein defined) under (1) the Credit Agreement or (2) any Other Mortgage or (C) any default of Mortgagor's obligations (1) to pay insurance premiums pursuant to Section 1.09, which continues for more than five days after Mortgagor is given notice of such default, or (2) to pay real estate taxes pursuant to Section 1.04, which continues for more than five days after Mortgagor is given notice of such default subject to Mortgagor's right to contest as set forth in Section 1.04(e);

(ii) any default in the due observance or punctual performance of any agreement, covenant, representation or warranty made by Mortgagor in this Mortgage (other than those addressed in another clause of this paragraph 2.01(a)) that continues for a period of 30 days after a written notice of default shall be given by Mortgagee to Mortgagor, or for such longer period of time after such notice shall be given as may be reasonably required to promptly commence and continuously and diligently prosecute such measures as may be reasonably required to cure such default, provided such cure is being diligently prosecuted;

(iii) any sale, assignment, conveyance, transfer, other disposition, pledge, mortgage, collateral component, hypothecation, encumbrance, grant of a security interest or assignment of the Mortgaged Property, the Leases or Rents or incurrence of indebtedness not permitted under this Mortgage, modification of or termination, cancelation or acceptance of surrender of the Ground Lease other than as permitted by this Mortgage, cancelation or failure to renew any insurance required to be maintained pursuant to the terms of this Mortgage, or any event that causes this Mortgage to cease to be a valid and perfected first and prior lien (subject to Permitted Exceptions) upon and/or security interest in any of the Mortgaged Property; and

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(iv) any breach by Mortgagor as tenant under the Ground Lease of any covenant or terms of such Ground Lease, or requirement of this Mortgage relating to such Ground Lease, which breach continues for 5 days after notice thereof by Mortgagee to Mortgagor.

SECTION 2.02. (a) If an Event of Default as set forth herein shall occur and be continuing, then, upon written demand of Mortgagee, Mortgagor will pay to Mortgagee upon demand all amounts due hereunder and such further amount as shall be sufficient to cover the costs and expenses of collection, including attorneys' fees and expenses incurred by Mortgagee. In case Mortgagor or S&A Corp. shall fail forthwith to pay such amounts or any amounts due under any other Section of this Mortgage upon Mortgagee's demand, Mortgagee shall be entitled and empowered to institute an action or proceedings at law or in equity as advised by counsel for the collection of the sums so due and unpaid, to prosecute any such action or proceedings to judgment or final decree, to enforce any such judgment or final decree against Mortgagor and to collect, in any manner provided by law, all moneys adjudged or decreed to be payable.

(b) In case of proceedings against S&A Corp. or Mortgagor in insolvency or bankruptcy or any proceedings for their respective reorganization or involving the liquidation of their respective assets, Mortgagee shall be entitled to prove the entire outstanding principal amount due under the Guarantee or this Mortgage plus interest due thereon to the full extent unpaid, and all other payments, charges and costs to the full extent permitted by applicable law.

SECTION 2.03. Rights to Take Possession, Operate and Apply Revenues. (a) If an Event of Default shall occur and be continuing, Mortgagor shall, upon demand of Mortgagee, forthwith surrender to Mortgagee actual possession of the Mortgaged Property and, if and to the extent permitted by law, Mortgagee itself, or by such officers or agents as it may appoint, may then enter and take possession of all the Mortgaged Property without the appointment of a receiver or an application therefor, exclude Mortgagor and its agents and employees wholly therefrom, and have access (with Mortgagor) to the books, papers and accounts of Mortgagor.

(b) If Mortgagor shall for any reason fail to surrender or deliver the Mortgaged Property or any part thereof after such demand by Mortgagee, Mortgagee may obtain a judgment or decree conferring upon Mortgagee the right to immediate possession or requiring Mortgagor to deliver

immediate possession of the Premises to Mortgagee, to the entry of which judgment or decree Mortgagor hereby specifically consents, to the extent not prohibited by law. Mortgagor will pay to Mortgagee, upon demand, all expenses of obtaining such judgment or decree, including compensation to Mortgagee's attorneys and agents; and all such expenses and compensation shall, until paid, be secured by this Mortgage.

(c) Upon every such entry upon or taking of possession, Mortgagee may hold, store, use, operate, manage and control the Mortgaged Property, conduct the business thereof and, from time to time, (1) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon, (2) purchase or otherwise acquire additional fixtures, personalty and other property, (3) insure or keep the Mortgaged Property insured, (4) manage and operate the Mortgaged Property and exercise all the rights and powers of Mortgagor to the same extent as Mortgagor could in its own name or otherwise with respect to the same and/or (5) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted Mortgagee, all as may from time to time be directed or determined by Mortgagee to be in its best interest. Mortgagee may collect and receive all the Rents, issues, profits and revenues from the Mortgaged Property, including those past due as well as those accruing thereafter, and, after deducting (i) all expenses of taking, holding, managing and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes), (ii) the costs of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements, purchases and acquisitions, (iii) the costs of insurance, (iv) such taxes, assessments and other similar charges as Mortgagee may at its option pay, (v) other proper charges upon the Mortgaged Property or any part thereof and (vi) the compensation, expenses and disbursements of the attorneys and agents of Mortgagee, Mortgagee may apply the remainder of the moneys and proceeds so received first to the payment of all sums required to be paid under the Guarantee, or this Mortgage and second, if there is any surplus, to whomever may be legally entitled to receive the same.

(d) Whenever, before any sale of the Mortgaged Property under Section 2.06, all that is due under any of the terms, covenants, conditions and agreements of the Guarantee and this Mortgage shall have been paid and all Events of Default fully cured, Mortgagee will surrender

possession of the Premises back to Mortgagor, its successors or assigns. The same right of taking possession shall, however, arise again if any subsequent Event of Default shall occur and be continuing.

SECTION 2.04. Right to Cure Defaults. After an Event of Default in the payment, performance or observance of any term, covenant or condition of this Mortgage, Mortgagee may pay, perform or observe the same, and all payments made or costs or expenses incurred by Mortgagee in connection therewith shall be secured hereby and shall be, without demand, immediately repaid by Mortgagor to Mortgagee with interest thereon at the Default Rate. Mortgagee shall be the judge of the necessity for any such actions and of the amounts to be paid. Mortgagee is hereby empowered to enter and to authorize others to enter upon the Premises or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without having any obligation to so perform or observe and without thereby becoming liable to Mortgagor, to any person in possession holding under Mortgagor or to any other person.

SECTION 2.05. Right to a Receiver. If an Event of Default shall occur and be continuing, Mortgagee, upon application to a court of competent jurisdiction, shall be entitled as a matter of right to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect and apply the Rents therefrom. The receiver shall have all of the rights and powers permitted under the laws of the state wherein the Premises are located. Mortgagor will pay to Mortgagee upon demand all expenses, including receiver's fees, attorney's fees, costs and agent's compensation incurred pursuant to the provisions of this Section 2.05; and all such expenses shall be secured by this Mortgage.

SECTION 2.06. Foreclosure and Sale. (a) If an Event of Default shall occur and be continuing, Mortgagee may elect to sell the Mortgaged Property or any part of the Mortgaged Property by exercise of the power of foreclosure or of sale granted to Mortgagee by applicable law and/or this Mortgage. In such case, Mortgagee may commence a civil action to foreclose this Mortgage, or it may proceed and sell the Mortgaged Property to satisfy any and all amounts due under the Guarantee and this Mortgage. Mortgagee or an officer appointed by a judgment of foreclosure to sell the Mortgaged Property may sell all or such parts of the Mortgaged Property as may be chosen by Mortgagee at the time and place of sale fixed by it in a notice of sale, either as a

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whole or in separate lots, parcels or items as Mortgagee shall deem expedient, and in such order as it may determine, at public auction to the highest bidder. Mortgagee or an officer appointed by a judgment of foreclosure to sell the Premises may postpone any foreclosure or other sale of all or any portion of the Mortgaged Property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement or subsequently noticed sale. Without further notice, Mortgagee or an officer appointed to sell the Mortgaged Property may make such sale at the time fixed by the last postponement, or may, in its discretion, give a new notice of sale. Any person, including Mortgagor or Mortgagee, may purchase at such sale. Mortgagee or officer that makes any sale shall thereafter deliver to such purchaser or purchasers thereof its good and sufficient deed or deeds conveying the parts of the Mortgaged Property so sold. The recitals in any deed of any matters or facts shall be conclusive proof of the truthfulness thereof, and Mortgagor shall warrant and defend the title of every purchaser or purchasers thereto.

(b) The Mortgaged Property may be sold subject to unpaid taxes and Permitted Exceptions, and after deducting all costs, fees and expenses of Mortgagee, including costs of evidence of title in connection with the sale, Mortgagee or an officer that makes any sale shall apply the proceeds of sale in the manner set forth in Section 2.08.

(c) Any foreclosure or other sale of less than the whole of the Mortgaged Property or any defective or irregular sale made hereunder shall not exhaust the power of foreclosure provided for herein, and subsequent sales may be made hereunder until the Guarantee and all other amounts secured hereby has been satisfied, or the entirety of the Mortgaged Property has been sold.

(d) Mortgagor waives, to the extent not prohibited by law, (1) the benefit of all laws now existing or that hereafter may be enacted providing for any appraisal before sale of any portion of the Mortgaged Property, (2) the benefit of all laws that may be hereafter enacted in any way extending the time for the enforcement or the collection of amounts due under the Guarantee, the Notes, any pari passu notes or the obligations evidenced thereby or creating or extending a period of redemption from any sale made in collecting said debt or any other amounts due Mortgagee, (3) any right to at any time insist upon, plead, claim or take the benefit or advantage of any law now or

hereafter in force providing for any appraisalment, valuation, stay, extension or redemption, or sale of the Mortgaged Property as separate tracts, units or estates or as a single parcel in the event of foreclosure, (4) all rights of redemption, valuation, appraisalment, stay of execution, notice of election to mature or declare due the whole of the obligations secured by the Guarantee and marshalling in the event of foreclosure of this Mortgage, and (5) any and all rights and remedies which Mortgagor may have or be able to assert by reason of the laws of the state wherein the Premises are located pertaining to the rights and remedies of sureties.

(e) The right of Mortgagee to foreclose on and sell all or any part of the Mortgaged Property shall not be affected or impaired by the cure of any Event of Default after the publication of notice of or the commencement of any legal proceeding for such sale.

(f) If an Event of Default shall occur and be continuing, Mortgagee may instead of, or in addition to, exercising the rights described in paragraph 2.06(a) above and either with or without entry or taking possession as herein permitted, proceed by a suit or suits in law or in equity or by any other appropriate proceeding or remedy (1) to specifically enforce payment of some or all of the terms of the Guarantee, or the performance of any term, covenant, condition or agreement of this Mortgage or any other right, and/or (2) to pursue any other remedy available to it, all as Mortgagee shall determine most effectual for such purposes.

SECTION 2.07. Other Remedies. (a) In case an Event of Default shall occur and be continuing, Mortgagee may also exercise, to the extent not prohibited by law, any or all of the remedies available to a secured party under the Uniform Commercial Code of the State wherein the Premises are located, including, to the extent not prohibited by applicable law, the following:

(1) Either personally or by means of a court appointed receiver, to take possession of all or any of the Personal Property and exclude therefrom Mortgagor and all others claiming under Mortgagor, and thereafter to hold, store, use, operate, manage, maintain and control, make repairs, replacements, alterations, additions and improvements to and exercise all rights and powers of Mortgagor with respect to the Personal Property or any part thereof.

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(2) To make such payments and do such acts as Mortgagee may deem necessary to protect its security interest in the Personal Property including paying, purchasing, contesting or compromising any encumbrance, charge or lien which is prior or superior to the security interest granted hereunder, and, in exercising any such powers or authority, paying all expenses incurred in connection therewith.

(3) To assemble the Personal Property or any portion thereof at a place designated by Mortgagee and reasonably convenient to both parties, to demand prompt delivery of the Personal Property to Mortgagee or an agent or representative designated by it, and to enter upon any or all of the Premises to exercise Mortgagee's rights hereunder.

(4) To sell or otherwise dispose of and/or purchase the Personal Property at public sale, with or without having the Personal Property at the place of sale, upon such terms and in such manner as Mortgagee may determine, and after Mortgagee shall have given Mortgagor at least ten days' prior written notice of the time and place of any public sale or other intended disposition of the Personal Property by mailing a copy to Mortgagor at the address set forth in Section 3.02.

(b) In connection with a sale of the Mortgaged Property or any Personal Property and the application of the proceeds of sale as provided in Section 2.08 of this Mortgage to the payment of the Guarantee hereby secured, Mortgagee shall be entitled to enforce payment of and to receive up to the principal amount of the Guarantee, plus all other charges, payments and costs due under this Mortgage, and to recover a deficiency judgment for any portion of the aggregate principal amount of the Guarantee remaining unpaid, with interest.

SECTION 2.08. Application of Sale Proceeds and Rents. After any foreclosure sale of the Premises, the Improvements and/or Personal Property under Section 2.06 or 2.07, Mortgagee shall receive the proceeds of sale, no purchaser shall be required to see to the application of the proceeds and Mortgagee shall apply the proceeds of the sale

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together with any Rents that may have been collected and any other sums which then may be held by Mortgagee under this Mortgage as follows:

First: To the payment of the costs and expense of such sale, including compensation to Mortgagee's attorneys and agents, and of any judicial proceedings wherein the same may be made, and of all expenses, liabilities and advances made or incurred by Mortgagee under this Mortgage, together with interest at the default Rate on all advances made by Mortgagee and all taxes or assessments except any taxes, assessments or other charges subject to which the Mortgaged Property shall have been sold;

Second: To the payment up to the principal amount then due, owing or unpaid under the Guarantee, plus all interest, late charges and premiums, if any, thereon that are due and unpaid;

Third: To the payment of any other attorneys' fees or other sums required to be paid by S&A Corp. or Mortgagor pursuant to any provision of the Guarantee or this Mortgage; and

Fourth: If there then be any surplus, to Mortgagor.

SECTION 2.09. Mortgagor as Tenant Holding Over. If Mortgagor remains in possession of any of the Premises after any foreclosure sale by Mortgagee, or Mortgagee's election Mortgagor shall be deemed a tenant holding over and shall forthwith surrender possession to the purchaser or purchasers at such sale or be summarily dispossessed or evicted according to provisions of law applicable to tenants holding over.

SECTION 2.10. Waiver of Appraisement, Valuation, Stay, Extension and Redemption Laws. (a) Mortgagor will not object to any sale of the Mortgaged Property in its entirety pursuant to Section 2.06, and for itself and all who may claim under it, Mortgagor waives, to the extent that it lawfully may, all right to have the Mortgaged Property marshalled or to have the Mortgaged Property sold as separate estates, parcels, tracts or units in the event of any foreclosure of this Mortgage.

(b) To the full extent permitted by the law of the state wherein the Mortgaged Property is located or other

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applicable law, neither Mortgagor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisal, valuation, stay, extension, homestead-exemption or redemption laws now or hereafter in force in order to prevent or hinder the enforcement or foreclosure of this Mortgage, the absolute sale of the Mortgaged Property or the final and absolute putting of the purchasers into possession thereof immediately after any sale; and Mortgagor, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully do so the benefit of all such laws and any and all right to have the assets covered by the security interest created hereby marshalled upon any foreclosure of this Mortgage.

SECTION 2.11. Discontinuance of Proceedings. In case Mortgagee shall proceed to enforce any right, power or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall be discontinued or abandoned for any reason, or shall be determined adversely to Mortgagee, then and in every such case Mortgagor and Mortgagee shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Mortgagee shall continue as if no such proceeding had been taken.

SECTION 2.12. Suits to Protect the Mortgaged Property. Mortgagee shall have power (a) to institute and maintain suits and proceedings to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or any violation of this Mortgage, (b) to preserve or protect its interest in the Mortgaged Property and in the Rents arising therefrom and (c) to restrain the enforcement of or compliance with any legislation or other governmental enactment, rule or order that may be unconstitutional or otherwise invalid if the enforcement of or compliance with such enactment, rule or order would impair the security or be prejudicial to the interest of Mortgagee hereunder.

SECTION 2.13. Filing Proofs of Claim. In case of any receivership, insolvency, bankruptcy, reorganization, arrangement, adjustment, composition or other proceedings affecting S&A Corp. or Mortgagor, their respective creditors or their respective property, Mortgagee shall, to the extent permitted by law, be entitled to file such proofs of claim and other documents as may be necessary or advisable in order to have the claims of Mortgagee allowed in such proceedings for the principal due and payable and secured by this Mortgage at the date of the institution of such proceedings and for any interest accrued, late charges and

additional interest or other amounts due or which may become due and payable hereunder after such date.

SECTION 2.14. Possession by Mortgagee. Notwithstanding the appointment of any receiver, liquidator or trustee of Mortgagor, any of its property or the Mortgaged Property, Mortgagee shall be entitled, to the extent not prohibited by law, to remain in possession and control of all parts of the Mortgaged Property now or hereafter held under this Mortgage.

SECTION 2.15. Waiver. (a) No delay or failure by Mortgagee to exercise any right, power or remedy accruing upon any Event of Default shall exhaust or impair any such right, power or remedy or be construed to be a waiver of any such Event of Default or acquiescence therein; and every right, power and remedy given by this Mortgage to Mortgagee may be exercised from time to time and as often as may be deemed expedient by Mortgagee. No consent or waiver by Mortgagee to or of any breach or default by Mortgagor in the performance of its obligations secured hereby shall be deemed or construed to be a consent or waiver to or of any other breach or Event of Default in the performance of the same or any other obligations by Mortgagor hereunder. No failure on the part of Mortgagee to complain of any act or failure to act or to declare an Event of Default, irrespective of how long such failure continues, shall constitute a waiver by Mortgagee of its rights hereunder or impair any rights, powers or remedies consequent on any future Event of Default by Mortgagor.

(b) Even if Mortgagee (1) grants some forbearance or an extension of time for the payment of any sums secured hereby, (2) takes other or additional security for the payment of any sums secured hereby, (3) waives or does not exercise some right granted herein or under the Guarantee, the Notes or the Credit Agreement, (4) releases a part of the Mortgaged Property from this Mortgage, (5) agrees to change some of the terms, covenants, conditions or agreements of the Guarantee, the Credit Agreement, the Notes or this Mortgage, (6) consents to the filing of a map, plat or replat affecting the Premises, (7) consents to the granting of an easement or other right affecting the Premises or (8) makes or consents to an agreement subordinating Mortgagee's lien on the Mortgaged Property hereunder; no such act or omission shall preclude Mortgagee from exercising any other right, power or privilege herein granted or intended to be granted in the event of any Event of Default then made or of any subsequent default; nor, except as otherwise

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expressly provided in an instrument executed by Mortgagee, shall this Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or part of the Mortgaged Property, Mortgagee is hereby authorized and empowered to deal with any vendee or transferee with reference to the Mortgaged Property or the Guarantee secured hereby, or with reference to any of the terms, covenants, conditions or agreements hereof, as fully and to the same extent as it might deal with the original parties hereto and without in any way releasing or discharging any liabilities, obligations or undertakings.

SECTION 2.16. Remedies Cumulative. No right, power or remedy conferred upon or reserved to Mortgagee by this Mortgage is intended to be exclusive of any other right, power or remedy, and each and every such right, power and remedy shall be cumulative and concurrent and in addition to any other right, power and remedy given hereunder or now or hereafter existing at law or in equity or by statute.

ARTICLE III

Miscellaneous

SECTION 3.01. Partial Invalidity. In the event any one or more of the provisions contained in this Mortgage shall for any reason be held to be invalid, illegal or unenforceable in any respect, such validity, illegality or unenforceability shall, at the option of Mortgagee, not affect any other provision of this Mortgage, and this Mortgage shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein or therein.

SECTION 3.02. Notices. All notices to be sent and all documents to be delivered hereunder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes when presented personally or three days after being sent by postage-prepaid certified, express mail or such other nationally recognized one day delivery service, each with return receipt, to any party hereto at the address specified on page 1 hereof or at such other address of which it shall have notified the party giving such notice in accordance with this Section 3.02.

SECTION 3.03. Successors and Assigns. All of the grants, covenants, terms, provisions and conditions herein shall run with the Premises and the Improvements or this

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Mortgage and shall apply to, bind and inure to the benefit of the permitted successors and assigns of Mortgagor and the successors and assigns of Mortgagee.

SECTION 3.04. Counterparts. This Mortgage may be executed in any number of counterparts and all such counterparts shall together constitute but one and the same mortgage.

SECTION 3.05. Satisfaction and Cancellation. If all the obligations under the Guarantee, the Notes and this Mortgage shall be paid in full in accordance with their respective terms, then this conveyance shall be null and void, the Mortgage, the Guarantee, and the Notes shall be marked "satisfied" by the Mortgagee, and this Mortgage may be canceled of record at the request and, to the extent not prohibited by law, at the expense of the Mortgagor.

SECTION 3.06. Definitions. As used in this Mortgage, the singular shall include the plural as the context requires and the following words and phrases shall have the following meanings: (a) "including" shall mean "including but not limited to"; (b) "provisions" shall mean "provisions, terms, covenants and/or conditions"; (c) "lien" shall mean "lien, charge, encumbrance, security interest, mortgage and/or deed of trust"; (d) "obligation" shall mean "obligation, duty, covenant and/or condition"; and (e) "any of the Mortgaged Property" shall mean "the Mortgaged Property or any part thereof or interest therein". Any act which Mortgagee is permitted to perform hereunder may be performed at any time and from time to time by Mortgagee or any person or entity designated by Mortgagee. Any act which is prohibited to Mortgagor hereunder is also prohibited to all lessees of any of the Mortgaged Property. Mortgagee has the right to refuse to grant its consent, approval or acceptance or to indicate its satisfaction, whenever such consent, approval, acceptance or satisfaction is required hereunder.

SECTION 3.07. Multisite Real Estate Transaction. Mortgagor acknowledges that this Mortgage is one of a number of the Other Mortgages which secure obligations under the Guarantee. Mortgagor agrees that the lien of this Mortgage shall be absolute and unconditional and shall not in any manner be affected or impaired by any acts or omissions whatsoever of Mortgagee and without limiting the generality of the foregoing, the lien hereof shall not be impaired by any acceptance by the Mortgagee of any security for or guarantors upon any of the indebtedness hereby secured, or

by any failure, neglect or omission on the part of Mortgagee to realize upon or protect any obligation or indebtedness hereby secured or any collateral security therefor including the Other Mortgages. The lien hereof shall not in any manner be impaired or affected by any release (except as to the property released), sale, pledge, surrender, compromise, settlement, renewal, extension, indulgence, alteration, changing, modification or disposition of any obligations or any indebtedness secured or of any of the collateral security therefor, including the Other Mortgages or of any guarantee thereof, and Mortgagee may at its discretion foreclose, exercise any power of sale, or exercise any other remedy available to it under any or all of the Other Mortgages without first exercising or enforcing any of its rights and remedies hereunder. Such exercise of Mortgagee's rights and remedies under any or all of the Other Mortgages shall not in any manner impair the indebtedness hereby secured or the lien of this Mortgage and any exercise of the rights or remedies of Mortgagee hereunder shall not impair the lien of any of the Other Mortgages or any of Mortgagee's rights and remedies thereunder. The undersigned specifically consents and agrees that Mortgagee may exercise its rights and remedies hereunder and under the Other Mortgages separately or concurrently and in any order that it may deem appropriate and the undersigned waives any rights of subrogation.

SECTION 3.08. Release of Mortgaged Property. So long as no Default or Event of Default shall have occurred and subject to the observance and performance of the terms of this Mortgage and Section 2.10 of the Credit Agreement, the Mortgagor may sell the Mortgaged Property if the Mortgagor is so permitted to sell the Mortgaged Property pursuant to Section 6.06(e) of the Credit Agreement or the Required Banks consent to such sale. In the event the Mortgagor sells the Mortgaged Property in accordance with Section 6.06(e) of the Credit Agreement or with the consent of the Required Banks, Mortgagee hereby agrees to release, at the Mortgagor's sole expense, such Mortgaged Property upon satisfaction of the conditions contained in the release agreement.

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ARTICLE IV

Particular Provisions

This Mortgage is subject to the following provisions relating to the particular laws of the state wherein the Premises are located:

SECTION 4.01. Applicable Law; Certain Particular Provisions. This Mortgage shall be governed by, and construed in accordance with, the laws of the state wherein the Premises are located, and Mortgagor and Mortgagee will submit to jurisdiction and the laying of venue for any suit on this Mortgage in such state. The special provisions which are applicable to such state, as set forth in Appendix A attached hereto, are hereby incorporated by reference as though fully set forth herein.

SECTION 4.02. Validity, Perfection and Enforceability of Lien. This Mortgage, when duly recorded in the appropriate public records and when financing statements are duly filed in the appropriate public records, will create a valid, perfected and enforceable lien upon and security interest in all the Mortgaged Property and there will be no defenses or offsets to this Mortgage or to any obligations or any indebtedness secured hereby. Mortgagor, immediately after executing this Mortgage, will record or cause this

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Mortgage to be recorded and will file any financing statements required to be filed to perfect this Mortgage with respect to all of the Personal Property.

IN WITNESS WHEREOF, this Mortgage has been duly authorized and has been executed and delivered to Mortgagee by Mortgagor on the date first written above.

STEAK AND ALE OF ILLINOIS,
INC., a Nevada corporation,
Mortgagor,

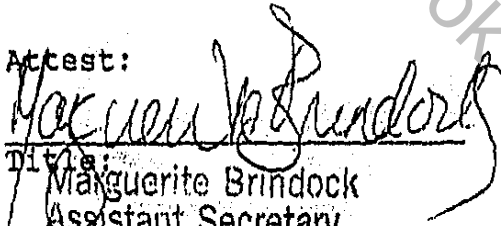
by


Name:

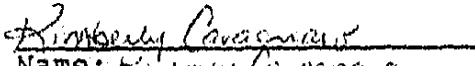
Title: MARCI M. McLEAN
SENIOR VICE PRESIDENT

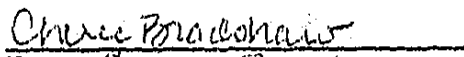
[SEAL]

Attest:


Title: Marguerite Brindock
Assistant Secretary

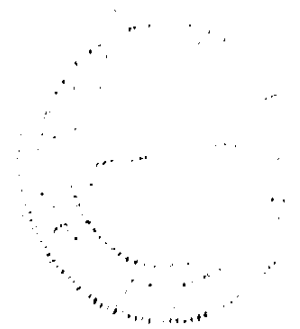
In the presence of:


Name: Kimberly Cavagnaro


Name: Cherice Bradshaw

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STATE OF TEXAS)
) ss.:
COUNTY OF DALLAS)

Subscriber:

Name: Marci M. McLean

Corporate office: ^{Senior} Vice President

Home residence: 7432 Stonecrest Drive
Dallas, Texas 75240

Attestor:

Name: Margueritte Brindock

Corporate office: Assistant Secretary

Home residence: 6714 Ports O'Call
Rowlett, Texas 75088

Corporation: Steak and Ale of Illinois, Inc.

State of incorporation: Nevada

Date of instrument: December 22, 1989

Before me, the below Notary Public in and for the above County and State, duly commissioned and sworn, personally appeared the Subscriber, to me personally well known and well known to me to hold the corporate office indicated above, respectively, in the Corporation named above which is the corporation named in and executing the within instrument bearing the date set forth above, which instrument was displayed to me in County and State aforesaid, by the Subscriber and Attestor who are known to me to be the identical persons who respectively subscribed and attested to the name of the maker thereof to the foregoing instrument as its above indicated corporate officers, respectively, who, by me being duly sworn, did severally depose, say and acknowledge, on their several oaths, in the County and State aforesaid, that they reside at the above-stated addresses, that they are respectively the above-stated corporate officers of said Corporation and that said Corporation

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executed the said instrument; that they know the seal of said Corporation; that the seal affixed to said instrument is the corporate seal of said Corporation; that the Subscriber, being informed of the contents of the said instrument, signed and sealed said instrument as such officer and that she executed the same in the name and on behalf of said Corporation by order, authority and resolution of its Board of Directors and that she signed her name as such officer thereto by like order; that their respective signatures are in their own proper handwriting; that they respectively executed and attested the execution of said instrument as their free and voluntary act and deed and as the free and voluntary act and deed of said Corporation for the consideration, uses and purposes therein set forth and expressed and that she delivered the same as such.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid on this December 22, 1989.

[Notarial Seal]

Margaret J. Curran
Notary Public in and for said
County and State.

My commission expires

10-20-92

This document was prepared by, and after filing should be returned to:

CRAVATH, SWAIN & MOORE
Worldwide Plaza
825 Eighth Avenue
New York, N.Y. 10019
Attn: C. Allen Parker, Esq.

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UNIT NO.
1418

EXHIBIT A

1. Indenture of Lease dated October 4, 1967, between Vicent Rinn ("Rinn") and Henrici, Inc. ("Henrici").
2. Memorandum of Agreement dated August 1, 1968, between Rinn & Henrici (within said document, LaSalle National Bank, as Trustee under Trust No. 17237 is record holder of the demised premises).
3. First Amendment to Lease dated May 15, 1980, between LaSalle National Bank and Henrici's Restaurants, Inc., successor in interest of Henrici, Inc.
4. Assignment of Lease dated June 1, 1980, between Henrici's Restaurants, Inc. and Steak and Ale of Illinois, Inc., recorded August 11, 1980, Document 25543418, Recorder of Deeds, Cook County, IL.
5. Second Amendment to Lease dated November 28, 1988, between LaSalle National Bank and Steak and Ale of Illinois, Inc.

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UNOFFICIAL COPY Unit No. 1418

EXHIBIT # 9 6 2 2 2 6 1

Lot Two of Northwood Edens, a Subdivision of a part of Hughes, Brown, Moore Corporation's Resubdivision of United Realty Company's Dundee Road Subdivision in the Southeast Quarter of Section 2, Township 42 North, Range 12, East of the Third Principal Meridian, according to the Plat thereof recorded January 12, 1968 as Document No. 20377823.

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P.I.N. 04-02-412-0021

address:

Southeast corner of
Northwood Ave. and Skokie Rd.
Northbrook, Ill

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EXHIBIT C

GUARANTEE AGREEMENT dated as of July 25, 1989, between each of the subsidiaries (individually, a "Guarantor" and collectively, the "Guarantors") of Benale Corporation, a Delaware corporation (and after the Guarantor Mergers (as defined in the Credit Agreement referred to below), of S&A Restaurant Corp., a Delaware corporation (the "Company", which is the surviving corporation in the Merger, as defined in the Credit Agreement referred to below)) listed on Schedule I hereto and CHEMICAL BANK, as agent (the "Agent") for the banks (the "Banks") named in Section 2.01 of the Credit Agreement dated as of the date hereof (the "Credit Agreement") among Benale Corporation, a Delaware corporation ("Acquisition"), Benale Holdings Corporation, the Agent and the Banks.

The Banks have agreed to make certain loans to Acquisition pursuant to, and subject to the terms and conditions specified in, the Credit Agreement, which loans, upon consummation of the Merger, shall be assumed by the Company. The obligation of the Banks to lend under the Credit Agreement is conditioned on, among other things, the execution and delivery by the Guarantors of a guarantee agreement in the form hereof. In order to induce the Banks to make the Loans (such term and the other capitalized terms used herein and not defined herein having the meanings assigned to them in the Credit Agreement), the Guarantors are willing to execute and deliver this Agreement. Accordingly, the parties hereto agree as follows:

SECTION 1. Each Guarantor unconditionally guarantees, jointly with the other Guarantors and severally, as a primary obligor and not merely as a surety, the due and punctual payment of principal of and interest on each of the Notes, when and as due, whether at maturity, by acceleration, by notice of prepayment or otherwise, and all other monetary obligations of the Company to the Banks and the Agent under the Loan Documents to which the Company is or is to be a party (collectively, the "Obligations"). Each Guarantor further agrees that the Obligations may be extended or renewed, in whole or in part, without notice to or further assent from it, and that it will remain bound upon its guarantee notwithstanding any extension or renewal of any Obligation.

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SECTION 2. Each Guarantor waives presentment to, demand of payment from and protest to the Company of any of the Obligations, and also waives notice of acceptance of its guarantee and notice of protest for nonpayment. The obligations of each Guarantor hereunder shall not be affected by (a) the failure of any Bank or the Agent to assert any claim or demand or to enforce any right or remedy against the Company under the provisions of any Loan Document or otherwise; (b) any rescission, waiver, amendment or modification of any of the terms or provisions of any Loan Document, any guarantee or any other agreement, including with respect to any other Guarantor under this Agreement except to the extent that a discharge or satisfaction of the Obligations is effected thereby; (c) the release of any security held by any Bank or the Agent for the Obligations or any of them; or (d) the failure of any Bank or the Agent to exercise any right or remedy against any other Guarantor or guarantor of the Obligations.

SECTION 3. Each Guarantor further agrees that its guarantee constitutes a guarantee of payment when due and not of collection, and waives any right to require that any resort be had by any Bank or the Agent to any security held for payment of the Obligations or to any balance of any deposit account or credit on the books of such Bank or the Agent in favor of the Company or any other person.

SECTION 4. The obligations of each Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason, including, without limitation, any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense or setoff, counterclaim, recoupment or termination whatsoever by reason of the invalidity, illegality or unenforceability of the Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each Guarantor hereunder shall not be discharged or impaired or otherwise affected by the failure of any Bank or the Agent to assert any claim or demand or to enforce any remedy under any Loan Document, any guarantee or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, willful or otherwise, in the performance of the Obligations, or by any other act or omission that may or might in any manner or to any extent vary the risk of any Guarantor or otherwise operate as a discharge of any Guarantor as a matter of law or equity.

SECTION 5. Each Guarantor further agrees that its guarantee shall continue to be effective or be reinstated,

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as the case may be, if at any time payment, or any part thereof, of principal of or interest on any Obligation is rescinded or must otherwise be restored by any Bank upon the bankruptcy or reorganization of the Company, any other Guarantor or otherwise.

SECTION 6. In furtherance of the foregoing and not in limitation of any other right that any Bank or the Agent may have at law or in equity against any Guarantor by virtue hereof, upon the failure of the Company to pay any Obligation when and as the same shall become due, whether at maturity, by acceleration, after notice of prepayment (and failure on the designated date to make such payment) or otherwise, each Guarantor hereby promises to and will, upon receipt or written demand by any Bank, forthwith pay, or cause to be paid, to the Agent for distribution to the Banks in cash the amount of such unpaid Obligations, and thereupon each Bank shall, in a reasonable manner, assign the amount of the Obligations owed to it and paid by such Guarantor pursuant to this guarantee to such Guarantor, such assignment to be pro tanto to the extent to which the Obligations in question were discharged by such Guarantor, or make such other disposition thereof as such Guarantor shall direct (all without recourse to such Bank and without any representation or warranty thereby).

SECTION 7. Each of the Guarantors represents and warrants as to itself that all representations and warranties that relate to it contained in the Credit Agreement are true and correct.

SECTION 8. The guarantees made hereunder shall survive and be in full force and effect so long as any Obligation is outstanding and has not been indefeasibly paid and so long as any of the Commitments under the Credit Agreement have not been terminated and shall be reinstated to the extent provided in Section 5. Each Guarantor shall be released from its guarantee hereunder in the event that all the capital stock of such Guarantor shall be sold, transferred or otherwise disposed of, in accordance with the terms of the Credit Agreement, by the Company or other Guarantor that shall own such stock, to a person that is not an Affiliate of the Company, if the Required Banks shall have consented to such sale, transfer or other disposition (and if the terms of any such consent shall not provide otherwise).

SECTION 9. Whenever in this Agreement any of the parties hereto is referred to, such reference shall be

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deemed to include the successors and assigns of such party; and all covenants, promises and agreements by or on behalf of the Guarantors that are contained in this Agreement shall bind and inure to the benefit of their respective successors and assigns. None of the Guarantors may assign or transfer any of its rights or obligations hereunder without the prior written consent of the Banks, except that the Guarantor Mergers and the subsequent assumption of this Guarantee by the surviving corporations therein is expressly permitted.

SECTION 10. No failure on the part of the Agent to exercise, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy by the Agent preclude any other or further exercise thereof or the exercise of any other right, power or remedy. All remedies hereunder are cumulative and are not exclusive of any other remedies provided by law. Except as provided in the Credit Agreement, neither the Agent nor any of the Banks shall be deemed to have waived any rights hereunder or under any other agreement or instrument unless such waiver shall be in writing and signed by such parties.

SECTION 11. THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

SECTION 12. All communications and notices hereunder shall be in writing and given as provided in Section 10.01 of the Credit Agreement. All communications and notices hereunder to each Guarantor shall be given to it at its address set forth in Schedule II hereto, with a copy to the Company.

SECTION 13. In case any one or more of the provisions contained in this Agreement should be held invalid, illegal or unenforceable in any respect with respect to any Guarantor, no party hereto shall be required to comply with such provision with respect to such Guarantor for so long as such provision is held to be invalid, illegal or unenforceable, and the validity, legality and enforceability of the remaining provisions contained herein, and of such provision with respect to any other Guarantor, shall not in any way be affected or impaired. The parties shall endeavor in good-faith negotiations to replace the invalid, illegal or unenforceable provisions with valid provisions, the economic effect of which comes as close as possible to that of the invalid, illegal or unenforceable provisions.

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SECTION 14. This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but all of which, when taken together, shall constitute but one instrument, provided that this Agreement shall be construed as a separate agreement with respect to each Guarantor and may be amended, modified, supplemented, waived or released with respect to any Guarantor without the approval of any other Guarantor and without affecting the obligations of any other Guarantor hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

EACH OF THE GUARANTORS LISTED
ON SCHEDULE I,

by

Harold O. Rosen

An authorized officer of
each of the Guarantors

CHEMICAL BANK, as Agent,

by

RN Reed

Name: RN Reed
Title: VA

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Schedule I to Guarantee Agreement

Subsidiaries

Benale of Texas No. 1, Inc.
Benale of Texas No. 2, Inc.
Benale of Texas No. 3, Inc.
Benale of Texas No. 4, Inc.
Benale of Texas No. 5, Inc.
Benale of Texas No. 6, Inc.
Benale of Texas No. 7, Inc.
Benale of Texas No. 8, Inc.
Benale of Texas No. 14, Inc.
Benale of Texas No. 15, Inc.
Benale of Texas No. 16, Inc.

Benale of Nevada No. 1, Inc.
Benale of Nevada No. 2, Inc.
Benale of Nevada No. 3, Inc.
Benale of Nevada No. 4, Inc.
Benale of Nevada No. 5, Inc.
Benale of Nevada No. 6, Inc.
Benale of Nevada No. 7, Inc.
Benale of Nevada No. 8, Inc.
Benale of Nevada No. 9, Inc.
Benale of Nevada No. 10, Inc.
Benale of Nevada No. 11, Inc.
Benale of Nevada No. 12, Inc.
Benale of Nevada No. 13, Inc.
Benale of Nevada No. 14, Inc.
Benale of Nevada No. 15, Inc.
Benale of Nevada No. 16, Inc.
Benale of Nevada No. 17, Inc.
Benale of Nevada No. 18, Inc.
Benale of Nevada No. 19, Inc.
Benale of Nevada No. 20, Inc.
Benale of Nevada No. 21, Inc.
Benale of Nevada No. 22, Inc.
Benale of Nevada No. 23, Inc.
Benale of Nevada No. 24, Inc.
Benale of Nevada No. 25, Inc.
Benale of Nevada No. 26, Inc.
Benale of Nevada No. 27, Inc.
Benale of Maryland No. 1, Inc.
Benale of Maryland No. 2, Inc.

Benale of Maryland No. 3, Inc.
Benale of Maryland No. 4, Inc.
Benale of Maryland No. 5, Inc.
Benale of Maryland No. 6, Inc.
Benale of Maryland No. 7, Inc.

Benale of Indiana No. 1, Inc.

Benale of Kansas No. 1, Inc.

Benale of Oklahoma No. 1, Inc.
Benale of Oklahoma No. 2, Inc.
Benale of Oklahoma No. 3, Inc.
Benale of Oklahoma No. 4, Inc.
Benale of Oklahoma No. 5, Inc.
Benale of Oklahoma No. 6, Inc.
Benale of Oklahoma No. 7, Inc.
Benale of Oklahoma No. 8, Inc.

Benale of Texas No. 9, Inc.
Benale of Texas No. 17, Inc.
Benale of Texas No. 18, Inc.
Benale of Texas No. 22, Inc.
Benale of Texas No. 68, Inc.
Benale of Texas No. 103, Inc.

Benale of Delaware No. 1, Inc.
Benale of Delaware No. 2, Inc.
Benale of Delaware No. 3, Inc.
Benale of Delaware No. 4, Inc.

Benale of Texas No. 19, Inc.
Benale of Texas No. 20, Inc.
Benale of Texas No. 21, Inc.
Benale of Texas No. 23, Inc.
Benale of Texas No. 25, Inc.
Benale of Texas No. 26, Inc.
Benale of Texas No. 27, Inc.
Benale of Texas No. 28, Inc.
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Benale of Texas No. 86, Inc.
Benale of Texas No. 87, Inc.
Benale of Texas No. 89, Inc.
Benale of Texas No. 90, Inc.
Benale of Texas No. 93, Inc.
Benale of Texas No. 96, Inc.
Benale of Texas No. 97, Inc.
Benale of Texas No. 98, Inc.
Benale of Texas No. 99, Inc.
Benale of Texas No. 101, Inc.
Benale of Texas No. 102, Inc.

Benale of Texas No. 13, Inc.

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Schedule A 2 2 2 6 1

"Permitted Exceptions" shall mean:

(i) liens or encumbrances relating to Mortgator's failure to pay, discharge or remove any tax, assessment, levy, fee, charge, lien or encumbrance, or to comply with any legal requirement as provided in paragraph 1.07(b) of the Mortgage applicable to the Premises or to the ownership, occupancy or use thereof, so long as all requirements of paragraph 1.04(e) of the Mortgage are satisfied;

(ii) minor survey exceptions, minor encumbrances, easements and reservations of, or rights of others for, rights of way, highways and railroad crossings, sewers, electric lines, telegraph and telephone lines and other similar purposes, or zoning or other covenants and restrictions as to the use of real properties or other liens incidental to the conduct of the business of the Mortgagor/Grantor or the ownership of its property in each case which liens do not in the aggregate materially detract from the value of any such property or materially impair the operation of the business of Mortgagor/Grantor conducted at such property;

(iii) liens created pursuant to and permitted under the Credit Agreement; and

(iv) liens which are an encumbrance upon the estate or interest in the Land of landlord or if applicable, its landlord, except that any such lien or encumbrance will be unpermitted if it is the obligation of tenant pursuant to the Ground Lease to remove such lien or encumbrance.

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Appendix A

1. The following language is included immediately following the first comma in paragraph 2.07(b):

"to the full extent permitted under applicable law".

2. The following language is included immediately following the first comma in Section 2.08:

"and except as otherwise provided by law."

3. The maturity date of the Loans secured hereby is January 24, 1994.

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