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ILLINOIS

Unit No. 1413

915 1927

LEASEHOLD MORTGAGE AND SECURITY AGREEMENT

DEPT-01 RECORDING

\$61.00

Steak and Ale of Illinois, Inc. 74444 TRAN 5577 10/21/91 14:12:00  
12404 Park Central Drive \*4789 : D \*-91-549247  
Dallas, Texas 75251 COOK COUNTY RECORDER

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Mortgagor

to

Citibank, N.A.  
399 Park Avenue  
New York, New York 10043

Mortgagee

DATED: As of October 4, 1991

Leased Premises Located at:

Cook County, Illinois

After recordation, please return to

*60.00 Mail me*

Gibson, Dunn & Crutcher  
1717 Main Street, Suite 5400  
Dallas, Texas 75201  
Attention: Ray T. Khirallah, Esq.



CHATEL MORTGAGE  
552 N. OAKWOOD, #202  
LAKE FOREST, IL 60045

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LEASEHOLD MORTGAGE AND SECURITY AGREEMENT

THIS LEASEHOLD MORTGAGE AND SECURITY AGREEMENT made as of October 4, 1991 (this "Mortgage"), by STEAK AND ALE OF ILLINOIS, INC., a Nevada corporation and a wholly owned subsidiary ("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 CITIBANK, N.A., ("Mortgagee"), a national banking association, having its principal office at 399 Park Avenue, New York, New York 10043;

W I T N E S S E T H:

WHEREAS, pursuant to that certain Credit Agreement (the "Credit Agreement") dated of even date herewith executed by and between S&A Corp. and Mortgagee, Mortgagee has agreed to provide S&A Corp. a credit facility (the "Credit Facility") of up to a maximum principal amount of TWENTY-THREE MILLION DOLLARS (\$23,000,000.00) outstanding at any one time, which Credit Facility is comprised of (a) letters of credit to be issued by Mortgagee in an aggregate amount not to exceed EIGHTEEN MILLION DOLLARS (\$18,000,000.00) at any time outstanding (the "Letters of Credit"); and (b) revolving working capital advances up to an aggregate principal amount of FIVE MILLION DOLLARS (\$5,000,000.00) at any time outstanding; and

WHEREAS, Advances (as defined in the Credit Agreement) under the Credit Agreement are respectively evidenced by notes duly executed on behalf of S&A Corp. dated as of the date hereof, payable to the order of Mortgagee in a principal amount equal to the amount advanced to S&A Corp. by Mortgagee (as the same may be amended, replaced, extended, supplemented, substituted, consolidated, increased, restated or modified from time to time, individually, a "Note" and, collectively, the "Notes"); and

WHEREAS, to induce Mortgagee to issue the Letters of Credit and to make the Advances, Mortgagor has agreed to enter into that certain Guaranty (the "Guaranty") dated of even date herewith executed by Mortgagor and certain other subsidiaries of S&A Corp. in favor of Mortgagee wherein, among other things, Mortgagor has agreed to guarantee the obligations of S&A Corp. under the Credit Agreement and the Notes; and

WHEREAS, pursuant to the requirements of the Credit Agreement, Mortgagor and Mortgagee are entering into this Mortgage to create a lien on and a security interest in the Mortgaged Property (as defined below) to secure the performance by Mortgagor of the terms of the Guaranty. The Credit Agreement also requires Mortgagor and certain other subsidiaries of S&A Corp. (i) to grant mortgages in

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favor of Mortgagee upon certain other leasehold interests (the "Other Mortgages"); and (ii) to grant a security interest in inventory pursuant to the Security Agreement (as defined in the Credit Agreement) to secure the performance by Mortgagor and certain other subsidiaries of S&A Corp. of the terms of the Guaranty; and

WHEREAS, the final maturity date for the Notes pursuant to the Credit Agreement shall be September 30, 1993, or such later date to which Mortgagee may otherwise consent.

## Granting Clauses

NOW THEREFORE, IN CONSIDERATION OF the foregoing and in order to secure (a) the due and punctual payment and performance of the obligations of Mortgagor pursuant to the Guaranty, (b) the due and punctual payment and performance of the obligations of Mortgagor pursuant to this Mortgage, (c) the reimbursement for all disbursements made by Mortgagee for the payment of taxes, ground rents or other rentals, 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 this Mortgage, (d) the payment and performance of all other indebtedness and obligations of every kind and character now existing, whether matured or unmatured, contingent or liquidated, of Mortgagor to Mortgagee, however arising, whether such indebtedness is absolute or contingent, joint or several, matured or unmatured, direct or indirect, and (e) any renewal, extension, modification or rearrangement of any of the foregoing, in whole or in part, Mortgagor by these presents hereby conveys as security, grants a security interest in, hypothecates, mortgages, warrants, grants, sells, conveys, transfers, pledges and sets over unto Mortgagee all the following described property (the "Mortgaged Property") whether now owned or held or hereafter acquired:

(1) all the leasehold estate and all of Mortgagor's right, title, interest, privileges and options created by that certain 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 the 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 Mortgagor 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");

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(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, to the extent such items are owned by Mortgagor or if leased from third parties, to the extent mortgagable and assignable, including all of Mortgagor'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, waste removal, entertainment, recreational, window or structural, maintenance and all other equipment of 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, stoves, microwave units, ovens, storage bins, office equipment, signs (indoor and outdoor), computer 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, and all parts thereof and all accessions thereto, 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, and further including alcoholic beverage licenses and permits and alcoholic beverage inventory (including proceeds therefrom) but only to the extent Mortgagor is permitted to mortgage or assign such items under applicable law (the property referred to in this paragraph (3) being hereinafter called the "Personal Property"; provided that, to the extent that any Personal Property is governed by the Security Agreement (as defined in the Credit Agreement), the Security Agreement shall govern with respect to such Personal Property);

(4) all general intangibles (excluding trademarks and tradenames) relating to design, development, operation, management and use of the Premises or the Improvements, all certificates of occupancy, zoning variances, building, use or



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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 (as defined in the Credit Agreement and to the extent mortgagable or assignable), 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 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, and premiums on policies of fire and other insurance covering the Mortgaged Property;

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TO HAVE AND TO HOLD by Mortgagee and its successors and assigns forever, subject only to the Permitted Liens (as defined in the Credit Agreement ~~other than the Liens described in subsections (ix) and (xv) in the definition of "Permitted Liens" therein~~) and to satisfaction, discharge 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 a fee simple or leasehold estate in the Improvements subject to no lien, charge or encumbrance except for the Permitted Liens, and this Mortgage is and will remain a valid and enforceable first and prior lien on the Premises and Improvements subject only to the Permitted Liens.

(b) Mortgagor has good and marketable title to all the Personal Property subject to no lien, charge or encumbrance other than the Permitted Liens. The Personal Property will constitute all of such items as are necessary, excluding alcoholic beverage licenses and permits and alcoholic beverage inventory which Mortgagor is not permitted to assign or mortgage under applicable law, 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. The Personal Property is not and will not become the subject matter of any lease or other arrangement whereby the ownership of any Personal Property will be held by any person or entity other than Mortgagor (except to the extent of non-material items of Personal Property leased by Mortgagor from third parties in the ordinary course of business and consistent with Mortgagor's prior business practices), 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 and other than leases of such non-material items as described above.

(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 except as set forth in Exhibit A, no defaults by the lessee or, to Mortgagor's best knowledge, by the

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lessor exist thereunder, and no event with respect to the lessee, nor, to Mortgagor's best knowledge, with respect to the lessor, has occurred or is occurring which after notice or the passage of time or both will result in such a default. The Ground Lease is subject to no lien, charge or encumbrance other than the Permitted Liens. 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, Leases and other instruments hereinabove referred to and mortgaged hereby are, in all material respects, and will remain valid, subsisting and in full force and effect, and Mortgagor is not in default thereunder in any material respect and has fully performed the material terms thereof required to be performed through the date hereof, and has no knowledge of any material 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 material default thereunder. Provided an Event of Default does not then exist, Mortgagor may terminate or modify any of the foregoing which are not essential to the operations conducted on the Mortgaged Property, however, at all times Mortgagor shall maintain in full force and effect all of the foregoing which are necessary for the proper conduct, use or operations on the Mortgaged Property without modification. 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 Liens 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.

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(g) The Premises, the Improvements and the Ground Lease, and the use of the Premises, the Improvements and the Personal Property by Mortgagor and its agents, assignees, employees, invitees, lessees, licensees and tenants, do not violate any applicable requirements of local, state and Federal law (including any zoning, building and environmental protection laws, ordinances, codes or approvals, and any requirement of any building permits, restrictions of record or agreements affecting any of the Mortgaged Property), where such violation could have a material adverse effect on the Mortgaged Property, the lien of this Mortgage or Mortgagor. 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, the noncompliance with which could have a material adverse effect on the Mortgaged Property, the lien of this Mortgage or Mortgagor, and will cure any such 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; Operations; 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 (i) preserve and keep in full force and effect its corporate existence, and its rights (charter and statutory), licenses and corporate franchises, (ii) comply with all conditions prerequisite to its lawfully doing business in the state in which the Mortgaged Property is located, and (iii) comply with all regulations, rules, ordinances, statutes, orders and decrees of any governmental authority or court applicable to Mortgagor, the noncompliance with which could have a material adverse effect on the Mortgagor, its business or operations, or the Mortgaged Property.

(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 as a first class restaurant.

(d) 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.

(e) Mortgagor will comply with and abide by all of the covenants and agreements applicable to it in the Credit Agreement.

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## SECTION 1.03. Payment of Guaranty and Other Amounts.

(a) This Mortgage is given pursuant to the Credit Agreement and the Guaranty. Each and every term and provision of the Guaranty, including the rights, remedies, obligations, covenants, conditions, agreement, 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 obligations of S&A Corp. under the Credit Agreement the same are secured hereby. Any default under the Credit Agreement or the Guaranty, which default continues beyond the applicable notice and cure period under the Credit Agreement or the Guaranty, 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 Guaranty and by law.

(b) If this Mortgage is referred to attorneys for foreclosure or to collect upon the Guaranty, 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, or in the exercise by Mortgagee of remedies contained in this Mortgage or in any action to protect the security hereof, 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, within ten days after delivery of written demand thereon from Mortgagee, together with interest thereon from the date which is ten days after such demand for payment at the rate set forth in Section 2.13 of the Credit Agreement (the "Default Rate"); provided, however, if such costs and expenses are incurred after an Event of Default hereunder, Mortgagor shall pay such sums on demand together with interest at the Default Rate from and after the date such costs are incurred. 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 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 Guaranty shall be governed by the provisions of the Guaranty rather than by the provisions of this Section 1.03(c).

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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 arising in respect of the occupancy, use or possession thereof (all of the foregoing are hereinafter referred to as "Taxes"). Mortgagor shall be permitted to pay Taxes in installments to the extent permitted by the Ground Lease and applicable law and to the extent no delinquency will result thereby. Mortgagor shall promptly deliver to Mortgagee all such information and documents, including all receipts of payment, as requested by Mortgagee with respect to 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 Guaranty, and this Mortgage. 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 performance or enforcement and, subject to the provisions of Section 8.04 (a) of the Credit Agreement, costs and expenses incurred in the preparation, execution, delivery, filing or recording, of this Mortgage, the Guaranty, or the Notes. Mortgagee shall give Mortgagor prompt written notice of the receipt of any claim in respect of which indemnification will be sought pursuant to this paragraph and shall advise Mortgagor in writing prior to paying or settling any such claim, provided that any delay or failure in giving such notice or advising Mortgagor shall not impair Mortgagee's right to such indemnification. Payments under this indemnification shall be made within 30 days from the day Mortgagee makes written demand therefor.

(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 this Mortgage (other than laws governing income, franchise and



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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 Guaranty, 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 Guaranty to be issued in exchange for the Notes or the Guaranty 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 Guaranty.

(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) for more than twenty days after Mortgagor's receipt of notice of the filing thereof upon all or any part of the Premises or the Improvements or on the Rents arising therefrom except the Permitted Liens, 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 paragraphs 1.01(g) and 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; and further provided that Mortgagor shall have made any reserves or other appropriate provisions therefor as may be required by generally accepted accounting principles.

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(f) At any time that an Event of Default shall occur hereunder and for 6 months after the Event of 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. After any later Event of Default, Mortgagee may use such 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. Subject to the provisions of Section 8.04(a) of the Credit Agreement, 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; Notices. (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 Agreement on the part of Mortgagor to be kept and performed thereunder.

(b) Mortgagor will not alter, modify, amend or terminate any Parking Agreement, or 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 materially adversely 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.

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## 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 \$100,000. Mortgagor will not 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, normal wear and tear excepted, and in compliance with the requirements of all public authorities having jurisdiction over standards of maintenance applicable to the Improvements, the noncompliance with which could have a material adverse effect on the Mortgaged Property, the lien of this Mortgage or Mortgagor, 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 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. Mortgagor represents that the Improvements were constructed in compliance with applicable laws sufficient to obtain a Certificate of Occupancy therefor and Mortgagor knows of no additional construction required in order to obtain a Certificate of Occupancy. 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 in all material respects with such certification.

SECTION 1.08. Hazardous Materials; Asbestos. (a) Mortgagor represents that: (i) No Hazardous Materials (as defined in the Credit Agreement) are now located on the Mortgaged Property except in compliance with Environmental Requirements (as defined in the Credit Agreement) and, neither Mortgagor, nor to Mortgagor's

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knowledge, any other person has ever caused or permitted any Hazardous Materials to be placed, located or disposed of on, under or at the Mortgaged Property except in compliance with Environmental Requirements, the noncompliance with which could have a material adverse effect on the Mortgaged Property, the lien of this Mortgage or Mortgagor. There is not constructed, placed, deposited, stored, disposed of nor located on the Mortgaged Property any polychlorinated biphenyls (PCBs) or any asbestos in violation of Environmental Requirements, which violation could have a material adverse effect on the Mortgaged Property, the lien of this Mortgage or Mortgagor. Mortgagor has not caused or suffered, nor to the knowledge of Mortgagor has any other person previously or presently involved in operations at the Mortgaged Property caused or suffered any, Environmental Damages (as defined in the Credit Agreement) with respect to the Mortgaged Property which could have a material adverse effect on the Mortgaged Property, the lien of this Mortgage or Mortgagor. Mortgagor has no knowledge that the Mortgaged Property is currently on or has ever been on, any federal or state "superfund" or "superlien" list. To the best of Mortgagor's knowledge, there are no underground storage tanks on the Mortgaged Property which currently are in violation of Environmental Requirements, which violation could have a material adverse effect on the Mortgaged Property, the lien of this Mortgage or Mortgagor.. (ii) There exists no writ, injunction, decree, order or judgment outstanding, nor any claim, suit, proceeding, citation, directive, summons or investigation, pending, or to Mortgagor's knowledge, threatened, relating to any alleged liability (which liability, if established could have a material adverse effect on the Mortgaged Property, the lien of this Mortgage or Mortgagor) arising out of the presence of Hazardous Materials on the Mortgaged Property attributable to or from any alleged violation of Environmental Requirements in connection with the Mortgaged Property or the business or operations of the Mortgagor thereon, or from the suspected presence of Hazardous Material thereon, nor, to Mortgagor's knowledge, does there exist any basis for such claim, suit, proceeding, citation, directive, summons or investigation being instituted or filed.

(b) At its sole cost and expense, Mortgagor shall comply with all Environmental Requirements, the noncompliance with which could have a material adverse effect on the Mortgaged Property, the lien of this Mortgage or Mortgagor, pay immediately when due the cost of removal of any such Hazardous Materials 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 subject to the provisions of paragraph 1.04(e). 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 this Mortgage and (ii) any cure period under applicable law, regulation

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or order, Mortgagee may declare an Event of Default under the Mortgage and/or cause the removal from the Mortgaged Property of the Hazardous Materials or the remedy of the presence of the Hazardous Materials, 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.

(c) 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 Materials, or compliance or noncompliance with any Environmental Requirements 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.

(d) Upon Mortgagee's request and provided that Mortgagee has reason to believe Mortgagor is not complying with all Environmental Requirements, the noncompliance with which could have a material adverse effect on the Mortgaged Property, the lien of this Mortgage or Mortgagor, 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 Materials 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 Materials disclosed by such audit if required to do so by the standards set forth in Section 1.08(b).

(e) Mortgagor shall not install asbestos or permit asbestos or any material containing asbestos to be installed on the Premises or in the Improvements except in compliance with applicable law, the noncompliance with which could have a material adverse effect on the Mortgaged Property, the lien of this Mortgage or Mortgagor. If any such substance shall be installed on the Premises or in the Improvements, Mortgagor shall, if required by applicable law, promptly remove any such material in accordance with all applicable laws. If Mortgagor shall fail to do so within the time period required by applicable law, Mortgagee

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may declare an Event of Default and/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.

(f) 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(e) above, to remove any asbestos at Mortgagor's expense. Mortgagor shall indemnify Mortgagee and defend and hold Mortgagee harmless from and against all loss, costs, 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 Environmental Requirements 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 nonappealable decision of a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of Mortgagee.

SECTION 1.09. Insurance. (a) Except to the extent that the Ground Lease requires otherwise, Mortgagor shall furnish and maintain insurance on the Improvements and Personal Property insuring against loss by fire, casualty and such other hazards as and when required by Section 5.06 of the Credit Agreement and this Section 1.09. 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 without 15 days' prior written notice thereof by insurer to Mortgagee. Prior to 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 this 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



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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 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 as and when required by Section 5.06 of the Credit Agreement.

(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 mortgagee 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) or under the Credit Agreement 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 5.06 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 which in any instance exceeds 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 respect to such Personal Property which is defined as "Collateral" under the Security Agreement, the Security Agreement shall govern.

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Losses which in any instance are less than the Threshold Loss Amount may be adjusted by and paid to Mortgagor to be utilized by Mortgagor for the restoration of the Mortgaged Property and for no other purpose.

(b) Except to the extent that the Ground Lease requires otherwise, and unless an Event of Default shall exist hereunder, 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 reasonable judgment, that sufficient funds will be available to complete the restoration; (3) no Event of Default shall exist hereunder; (4) the Ground Lease is not terminated for any reason during the period of restoration; and (5) 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 reasonable 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 deposit such moneys with Mortgagee 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 costs of same. If Mortgagor does not deposit such moneys with Mortgagee or post such security to Mortgagee's satisfaction 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 in an interest-bearing account as directed by Mortgagor with interest earned thereon to be added to and become a part of such insurance proceeds and to be disbursed by Mortgagee as such restoration is completed. Mortgagee 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 disbursement hereof to Mortgagor including reasonable architectural, engineering, legal and construction and money management fees. The amount so deposited with Mortgagee and 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 less, in each case, any amounts which, under applicable law, may be

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necessary or appropriate to eliminate the filing of mechanic's and materialmen's liens on the Mortgaged Property. 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 or otherwise being contested in accordance with paragraph 1.04(e) hereof). 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 in all material respects with all applicable laws, rules and regulations. 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 reasonable judgment, be sufficient to pay in full the balance of the costs which will be incurred in connection with the restoration, Mortgagor shall, prior to receiving any further disbursement, (1) deposit such moneys with Mortgagee or post adequate security with Mortgagee which, in Mortgagee's reasonable judgment, is sufficient to cover any deficiency, or (2) 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.

(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

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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 costs 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 proceeding 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 award which exceeds in any instance the Threshold Award Amount and is payable in the event of such condemnation proceedings is 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 paid. Any money received by Mortgagor for any such condemnation or taking will be paid over to Mortgagee forthwith in its entirety to be held and disbursed as provided in paragraphs 1.11(b) and (c) below. Amounts which in any instance are below the Threshold Award Amount may be paid to Mortgagor to be utilized by Mortgagor for the restoration of the Mortgaged Property and for no other purpose.

(b) Except to the extent that the Ground Lease provides otherwise, and unless an Event of Default shall exist hereunder, 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 reasonable judgment, that sufficient funds will be available to complete the restoration; (3) no Event of Default shall exist hereunder; (4) the Ground Lease is not terminated for any reason during the period of restoration; and (5) 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 reasonable 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 deposit such moneys with Mortgagee 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

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deposit such moneys with Mortgagee or post such security to Mortgagee's satisfaction 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 in an interest-bearing account as directed by Mortgagor with interest earned thereon to be added to and to become a part of such condemnation proceeds and to be disbursed by Mortgagee as such restoration is completed. Mortgagee 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, any amounts which, under applicable law, may be necessary or appropriate to eliminate the filing of mechanic's or materialmen's liens on the Mortgaged Property. Any amounts deposited by Mortgagor with Mortgagee to cover any excess of the estimated costs 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 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 or otherwise being contested in accordance with paragraph 1.04(e) hereof). 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 in all material respects with all applicable laws.



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rules and regulations. 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 reasonable judgment, be sufficient to pay in full the balance of the costs which will be incurred in connection with the restoration, Mortgagor shall, prior to receiving any further disbursement, (1) deposit such moneys with Mortgagee or post adequate security with Mortgagee which, in Mortgagee's reasonable judgment is sufficient to cover any deficiency, or (2) 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.

(e) 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 and the Rents, together with any and all extensions and renewals thereof for purposes of securing and discharging the performance by Mortgagor of its obligations under the Guaranty 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 Mortgagor will not do any act or execute or fail to execute any document that impairs or might impair the rights of Mortgagee to the Leases or the Rents under this Mortgage.

(b) Subject to paragraph 1.12(c), Mortgagor hereby assigns and transfers 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(c) 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.

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(c) Until an Event of Default occurs under this Mortgage, Mortgagee will not exercise any of its rights under paragraph 1.12(b), and Mortgagor shall receive and collect the Rents accruing under the Leases; but during the continuance of any Event of Default, Mortgagee may, at its option, receive and collect all Rents accruing under 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.

(d) 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.

(e) 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.

## 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

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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 easements 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. (a) 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. If Mortgagee should dispose of any of the Mortgaged Property pursuant to the Uniform Commercial Code, ten (10) days' written notice by Mortgagee to Mortgagor shall be deemed to be reasonable notice; provided, however, Mortgagee may dispose of such property in accordance with the foreclosure procedures of this Mortgage in lieu of proceeding under the Uniform Commercial Code.

(b) Mortgagor shall give thirty (30) days' advance notice in writing to Mortgagee of any proposed change in Mortgagor's name or structure and will execute and deliver to Mortgagee, fifteen (15) days' prior to the occurrence of any such change, all additional financing statements that Mortgagee may require to establish and maintain the validity and priority of Mortgagee's security interest with respect to any of the Mortgaged Property described or referred to herein.

(c) Some of the items of the Mortgaged Property described herein are goods that are, or are to become, fixtures related to the Premises, and it is intended that, as to those goods, this Mortgage shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the Premises are situated. Information concerning the security interest created by this

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instrument may be obtained from Mortgagee, as secured party, at the address of Mortgagee stated above. The mailing address of the Mortgagor, as debtor, is as stated above.

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.

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, financing statements, 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.

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SECTION 1.18. Records; Access. (a) Pursuant to Section 5.02 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 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, (y) constitute a material change to the terms and provisions of the Ground Lease or (z) otherwise materially adversely affect the security interest and liens granted by this Mortgage in the Mortgaged Property, the value of the Mortgaged Property or the interests of Mortgagee), (ii) cancel, release, terminate or surrender the Ground Lease (except as permitted by Section 1.20(f) hereof) 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. Furthermore, Mortgagor shall not sublease or assign the entire Premises without the prior written consent of Mortgagee.

(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.

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(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 lessor. Mortgagor shall promptly notify Mortgagee of any default under the Ground Lease by the 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 a duplicate original executed copy of the Ground Lease if in Mortgagor's possession 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 without notice to Mortgagor if such failure could result in a termination of 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 10 days after demand, with interest at the Default Rate from and after the date which is 10 days after such demand. 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 Premises and Improvements or any part thereof to such extent and

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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 (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 to renew or extend the term of the Ground Lease if (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 agrees to provide to Mortgagee, at Mortgagor's sole cost and expense, substitute collateral substantially equal in value to the Mortgaged Property, 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), or fails to deliver to Mortgagee at least one month prior to the Final Renewal Day, the substitute collateral as provided above, 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

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proceeding without Mortgagee's consent unless such dispute or approval, in Mortgagee's reasonable judgment, would adversely affect Mortgagee's security hereunder, in which case Mortgagor shall have no right to compromise any such dispute or approval without the prior written consent of Mortgagee. 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 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, 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 Mortgage, on the part of the 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 an 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 notify Mortgagee of any such acquisition and, 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.

(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.

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(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.

## 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) Any failure by the Guarantors (as defined in the Guaranty) to perform or fulfill any covenant or obligation under and pursuant to the Guaranty after the giving of any applicable notice thereunder, if any, and the passage of any applicable cure period, if any, (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 15 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 15 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 covenant or agreement 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 thirty (30) days after a written notice of default shall be given by Mortgagee to Mortgagor;

(iii) any representation or warranty made by or on behalf of Mortgagor in this Mortgage or any other Loan Document (as defined in the Credit Agreement) shall prove to have been incorrect in any material respect when made or deemed to have been made;

(iv) any sale, conveyance, transfer, other disposition, pledge, mortgage, collateral component, hypothecation, encumbrance, grant of a security interest in or assignment of the Mortgaged Property, the Leases or Rents or incurrence of indebtedness not permitted under this Mortgage, modification of or termination, cancellation or acceptance or surrender of the Ground Lease other than as permitted by this Mortgage, cancellation or failure to renew any insurance required to be

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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 Liens) upon and/or security interest in any of the Mortgaged Property; and

(v) any breach by Mortgagor as tenant under the Ground Lease of any covenant or term of such Ground Lease, or any requirement of this Mortgage relating to such Ground Lease, which breach is not cured at least 15 days prior to the last day of any applicable cure period in the Ground Lease; provided, however, such breach shall not constitute an Event of Default hereunder so long as Mortgagor is diligently contesting the existence of such breach and so long as there is no imminent danger of termination of the Ground Lease, in Mortgagor's sole determination.

SECTION 2.02. Acceleration (a) If an Event of Default shall occur and be continuing, upon demand of Mortgagee, Mortgagor will pay to Mortgagee upon demand all amounts due under the Guaranty and 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 Guaranty 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 and operate 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.



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(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.

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. Mortgagee's exercise of its rights to cure under this Section 2.04 shall in no event constitute a waiver of the Event of Default so cured.

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, agents' compensation and other costs 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, specifically including, without limitation, the failure of S&A Corp. to satisfy its deposit obligations pursuant to Section 7.01 of the Credit Agreement, 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, or take such other action as applicable law may allow, at law or in equity, for the enforcement hereof and

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realization on the Mortgaged Property or any other security which is herein or elsewhere provided, to be applied towards the satisfaction of amounts due under the Guaranty and this Mortgage, including, without limitation, S&A Corp.'s obligation to deliver such deposits to Mortgagee as required in Section 7.01 by the Credit Agreement. Reference is made to Article IV of this Mortgage for provisions relating to the particular laws of the State wherein the Premises are located. Any person, including Mortgagee, may purchase at such sale.

(b) The Mortgaged Property may be sold subject to unpaid taxes and the Permitted Liens, 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 2.18.

(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 Guaranty 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 now existing or that may be hereafter enacted in any way extending the time for the enforcement or the collection of amounts due under the Guaranty, 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 appraisal, 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, appraisal, stay of execution, notice of election to mature or declare due the whole of the obligations secured by the Guaranty 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.

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(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 Guaranty, 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.

(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, or require Mortgagor 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 and Improvements 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.

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(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 Guaranty and other amounts hereby secured, Mortgagee shall be entitled to enforce payment of and to receive up to the principal amount of the Guaranty, plus all other charges, payments and costs due under this Mortgage and any other amounts hereby secured, and to recover a deficiency judgment for any portion of the aggregate principal amount of the Guaranty and any other amounts hereby secured 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 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 expenses 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 of all obligations hereby secured, including, without limitation, all obligations due, owing or unpaid under the Guaranty, including, without limitation, any obligation to make any deposits required pursuant to Article 7 of the Credit Agreement;

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 Guaranty or this Mortgage;

Fourth: To the payment of any of the Permitted Liens or any other liens or encumbrances affecting the Mortgaged Property; and

Fifth: If there then be any surplus, to the persons or entities legally entitled thereto.

SECTION 2.09. Mortgagor as Tenant Holding Over. If Mortgagor remains in possession of any of the Premises after any foreclosure sale by Mortgagee, at 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.

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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 applicable law, neither Mortgagor nor anyone claiming through or under it shall or will set up, claim or seek to take advantage of any appraisement, 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 modified by such proceeding.

SECTION 2.12. Suits to Protect the Mortgaged Property. Mortgagee shall have power (a) after an Event of Default 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. 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



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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 Guaranty, 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 Guaranty, 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 existing or of any subsequent default; nor, except as otherwise 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 Guaranty 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 2.14. 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.

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## 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 invalidity, 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. Except as otherwise provided in Article IV of this Mortgage, all notices to be sent and all documents to be delivered hereunder shall be sent in accordance with Section 9.02 of the Credit Agreement.

SECTION 3.03. Successors and Assigns. All of the grants, covenants, terms, provisions and conditions herein shall run with the Premises and the Improvements 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 Guaranty, the Notes and this Mortgage shall be paid in full in accordance with their respective terms, then this conveyance shall be null and void, this Mortgage, the Guaranty, 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. Except as otherwise expressly set forth therein to the contrary, Mortgagee has the

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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 Guaranty. 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 guaranty of 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. Mortgagor 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 Mortgagor waives any rights of subrogation.

## 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. THIS MORTGAGE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, EXCEPT TO THE EXTENT OF THE PROCEDURAL AND SUBSTANTIVE MATTERS RELATING ONLY TO THE CREATION, PERFECTION, VALIDITY AND FORECLOSURE OF LIENS AND ENFORCEMENT OF RIGHTS AND REMEDIES AGAINST ANY OF THE MORTGAGED PROPERTY, WHICH MATTERS SHALL BE GOVERNED BY THE LAW OF THE STATE WHEREIN THE PREMISES ARE LOCATED.

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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 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.

SECTION 4.03. Revolving Credit. The indebtedness secured hereby constitutes, in part, a revolving credit loan secured by a mortgage on real property, pursuant to the terms and provisions of Chapter 17, paragraph 312.3 of the Illinois Revised Statutes. Mortgagor covenants and agrees that this Mortgage shall secure (to the extent covered by the Guaranty) the payment of all loans and advances made under the terms and provisions of the Credit Agreement, whether made as of the date hereof or to be made at any time in the future (but not advances or loans made more than twenty years after the date hereof), to the same extent as if such future advances or loans were made on the date hereof, and Mortgagor further agrees and covenants that the lien of this mortgage shall be valid as to all such future advances and loans from the date that this Mortgage is filed for record in the office of the Recorder of Deeds or the Registrar of Titles of the county where the property is located.

SECTION 4.04. Foreclosure. If an Event of Default shall occur and be continuing, Mortgagee shall have the right to foreclose the lien hereof in accordance with the Illinois Mortgage Foreclosure Act, Ill. Rev. Stat. ch. 110, para. 15-1101 et seq. (1987) (the "Act") and to exercise any other remedies of Mortgagee provided in the Notes, this Mortgage, the other Loan Documents (as defined in the Credit Agreement), or which Mortgagee may have at law, in equity or otherwise. In any suit to foreclose the lien hereof, there shall be allowed and included as additional indebtedness secured hereby in the decree of sale, all expenditures and expenses which may be paid or incurred by or on behalf of Mortgagee for attorneys' fees, appraisers' fees, outlays for documentary and expert evidence, stenographers' charges, publication costs, costs (which may be estimated as to items to be expended after entry of the decree) of procuring all such abstracts of title, title searches and examinations, title insurance policies, and similar data and assurance with respect to title as Mortgagee may deem reasonably necessary either to prosecute such suit or to evidence to bidders at sales which may be had pursuant to such decree the true conditions of the title to or the value of the Premises, and any other expenses and expenditures which may be paid or incurred by or on behalf of Mortgagee and permitted by the Act to be included in such decree. All expenditures and expenses of the nature mentioned in this

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Section, and such other expenses and fees as may be incurred in the protection of the Premises and rents and income therefrom and the maintenance of the lien of this Mortgage, including the fees of any attorney employed by Mortgagee in any litigation or proceedings affecting this Mortgage or the Premises, including probate and bankruptcy proceedings, or in preparation of the commencement or defense of any proceedings or threatened suit or proceeding, or otherwise in dealing specifically therewith, shall be additional indebtedness secured hereby and shall be immediately due and payable by Mortgagor, with interest thereon at the Default Rate until paid. To the extent any other provision of this Mortgage conflicts with the terms or provisions of this Section 4.04, the terms and provisions of this Section 4.04 shall prevail.

SECTION 4.05. Receiver. Upon the filing of a complaint to foreclose this Mortgage or at any time thereafter, the court in which such complaint is filed may appoint upon petition of Mortgagee, and at Mortgagee's sole option, a receiver of the Premises pursuant to the Act. Such appointment may be made either before or after sale, without notice, without regard to solvency or insolvency of Mortgagor at the time of application for such receiver, and without regard to the then value of the Premises or whether or not the same shall be then occupied as a homestead; and Mortgagee hereunder or any employee or agent thereof may be appointed as such receiver. Such receiver shall have all powers and duties prescribed by the Act, including the power to make leases to be binding upon all parties, including the Mortgagor, the purchaser at a sale pursuant to a judgment of foreclosure and any person acquiring an interest in the Premises after entry of a judgment of foreclosure, all as provided in the Act. In addition, such receiver shall also have the power to extend or modify any then existing Leases, which extensions and modifications may provide for terms to expire, or for options to lessees to extend or renew terms to expire, beyond the maturity date of the Notes and beyond the date the issuance of a deed or deeds to a purchaser or purchasers at a foreclosure sale, it being understood and agreed that any such Leases, and the options or other provisions to be contained therein, shall be binding on Mortgagor and all the persons whose interest in the Premises are subject to the lien hereof and upon the purchaser or purchasers at any foreclosure sale, notwithstanding any redemption, reinstatement, discharge of the indebtedness secured hereby, satisfaction of any foreclosure judgment, or issuance of any certificate of sale or deed to any purchaser. In addition, such receiver shall have the power to collect the rents, issues and profits of the Premises during the pendency of such foreclosure suit and, in case of a sale and deficiency, during the full statutory period of redemption, if any, whether or not there is a redemption, as well as during any further times when Mortgagor, except for the intervention of such receiver, would be entitled to collection of such rents, issues and profits, and such receiver shall have all other powers which may be necessary or are usual in such cases for the protection, possession, control, management and operation of the Premises.



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during the whole of said period. The court, from time to time, may authorize the receiver to apply the net income from the Premises in payment in whole or in part of: (a) the indebtedness secured hereby or the indebtedness secured by a decree foreclosing this Mortgage, or any tax, special assessment, or other lien which may be or become superior to the lien hereof or of such decree, provided such application is made prior to the foreclosure sale; or (b) the deficiency in case of a sale and deficiency. To the extent any other provision of this Mortgage conflicts with the terms or provisions of this Section 4.05, the terms and provisions of this Section 4.05 shall prevail.

SECTION 4.06. Foreclosure Sale Proceeds. Except to the extent otherwise required by the Act, the proceeds of any foreclosure sale of the Premises shall be distributed and applied in accordance with the terms and provisions of Section 2.08.

SECTION 4.07. Insurance During Foreclosure. All of Mortgagee's rights and powers under this Mortgage, from and after the entry of judgment of foreclosure, shall continue in the Mortgagee as decree creditor until confirmation of sale. In case of an insured loss after foreclosure proceedings have been instituted, the proceeds of any insurance policy with respect to the Mortgaged Property, if not applied in rebuilding or restoring the Improvements, as provided in this Mortgage, shall be used to pay the amount due in accordance with any decree of foreclosure that may be entered in any such proceedings, and the balance, if any, shall be paid as the court may direct. The foreclosure decree may provide that the mortgagee's clause attached to each of the casualty insurance policies may be cancelled and that the decree creditor may cause a new loss clause to be attached to each of said casualty insurance policies making the loss thereunder payable to said decree creditors. In the event of foreclosure sale, Mortgagee, without the consent of Mortgagor, may assign any insurance policies to the purchaser at the sale, or take such other steps as Mortgagee may deem advisable to protect the interest of such purchaser.

SECTION 4.08. Non-Agricultural or Residential. Mortgagor acknowledges that the Premises do not constitute agricultural real estate as defined in Section 15-1201 of the Act or residential real estate defined in Section 15-1219 of the Act.

SECTION 4.09. Unpaid Principal Balance. The maximum amount of the unpaid principal balance secured by the Mortgage is \$60,000,000.00.

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9-15-49-2

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: *[Signature]*  
Name: Harold H. McLean  
Title: Senior Vice President

[SEAL]

Attest:

*Marion R. Buntick*  
Title: Trustee Secretary

In the presence of:

*Ronny C. Cagnano*  
Name:

*Cherri Buchanan*  
Name:

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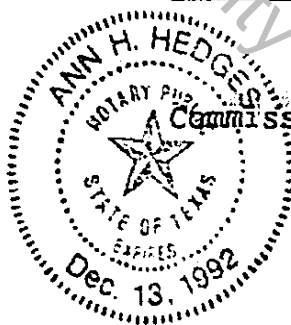
STATE OF TEXAS  
COUNTY OF DALLAS

NOTARY

I, Ann H. Hedges, a notary public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Marci M. McLean personally known to me to be the Senior Vice President of STEAK AND ALE OF ILLINOIS, a Nevada corporation and Marguerite Brindeck personally known to me to be the Assistant Secretary of said corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Senior Vice President and Assistant Secretary, they signed and delivered the said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation, as their free and voluntary act, and as the free and voluntary act of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notary seal this 8<sup>th</sup> day of October, 1991.

Ann H. Hedges  
NOTARY PUBLIC



Commission Expires: 12-13-92

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Unit No. 1413

## EXHIBIT A

1. Sub-Lease of Store Site dated February 18, 1974, between J.C. Penney Properties, Inc. ("J.C. Penney") and S and A Leasing Corporation ("SALC").
2. Memorandum of Sub-Lease between J.C. Penney and SALC dated February 18, 1974, recorded June 17, 1974, as Document No. 22752208.
3. Assignment of Sub-Lease dated September 1, 1976, by SALC to Steak and Ale of Illinois, Inc.

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8480 Golf Road  
Niles, IL

## TREASURY PARCEL-A

That part of Lot 4 in Owners Subdivision of the West 24 feet of the Northeast Fractional  $\frac{1}{4}$  of Section II, Township 41 North, Range 12, East of the Third Principal Meridian, and the East  $\frac{1}{2}$  of the Northwest Fractional  $\frac{1}{4}$  of said Section II, and part of Lot 1, in Assessor's Division of the Southwest  $\frac{1}{4}$  of said Section 11 and all of Lots 2, 3 and 4 in Assessor's Division of the East  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  and the West  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  of said Section, and of the South 6.19 Acres of that part of the West  $\frac{1}{2}$  of the Southwest  $\frac{1}{4}$  of said Section East of center line of Milwaukee Avenue described as follows: Commencing at the point of intersection of the East line of said Lot 4 with the North line of Golf Road per Document No. 11094861; thence West 74.20 feet along said North line of Golf Road to the point of beginning of the herein described parcel of land; thence continuing West along said North line 299.00 feet; thence North 30.50 feet along a line drawn perpendicularly with said North line of Golf Road; thence West 18.00 feet; thence North, 114.878 feet; thence East 325.00 feet; thence South 114.878 feet; thence West 18.00 feet; thence South 30.50 feet to the hereinabove described place of beginning, all in Cook County, Illinois.

Area: 46,150.0 Sq. Ft. or 1.0595 Acres

TOGETHER WITH a non-exclusive easement for automobile parking purposes only to a rectangular parcel of land containing approximately 20,000 square feet located northerly from the above described Treasury Parcel A, which easement area is shown on Exhibit B hereto.

Pin # 09-11-302-015-0000

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