

## Mortgage and Security Agreement

State of Alabama  
County of Shelby

This Indenture is made this 5<sup>th</sup> day of October, 2006 between COUNTRYVIEW, LLC, an Alabama Limited Liability Company (hereinafter individually and together referred to as "Borrower"), Mortgagor, and William M. Schroeder, Jr. (hereinafter referred to as "Lender"), Mortgagee.

### Witnesseth:

WHEREAS, the Borrower is justly indebted to the Lender on a loan in the principal sum of One Hundred Thousand and no/100 Dollars (\$ 100,000.00) (the "Loan"), as evidenced by a Promissory Note (the "Note") dated of even date herewith, and payable according to its terms;

NOW THEREFORE, the Borrower, in consideration of making the Loan abovementioned, and to secure the prompt payment of same, with the interest thereon, and any extensions, renewals, modifications and refinancing of same, and any future advances thereon, and any extensions, renewals, modifications and refinancing of such future advances, and any charges herein incurred by Lender on account of Borrower, including, but not limited to, attorneys' fees, and further to secure the performance of the covenants, conditions, and agreements hereinafter set forth and set forth in the Note and set forth in all other documents evidencing, securing or executed in connection with the Loan (the "Loan Documents"), has bargained and sold and does hereby grant, bargain, sell, alien and convey unto the Lender, its successors and assigns, the following described land, real estate, estates, buildings, improvements, fixtures, furniture and personal property (which together with any additional such property in the possession of the Borrower or hereafter acquired by the Borrower and subject to the lien of this Mortgage, or intended to be so, as the same may be constituted from time to time is hereinafter sometimes referred to as the "Mortgaged Property") to-wit:

(a) All that tract or parcel or parcels of land and estates more particularly described as follows:

### See Exhibit "A"

(b) All buildings, structures, and improvements of every nature whatsoever now or hereafter situated on the above-described property, and all fixtures, fittings, building materials, machinery, equipment, furniture, and furnishings and personal property of every nature whatsoever now or hereafter owned by the Borrower and used or intended to be used in connection with or with the operation of said property, buildings, structures or other improvements, including all extensions, additions, improvements, betterments, renewals, substitutions and replacements to any of the foregoing, whether such fixtures, fittings, building materials, machinery, equipment, furniture, furnishings and personal property are actually located on or adjacent to the above-described property or not and whether in storage or otherwise wheresoever the same may be located;

(c) Together with all easements, rights of way, gores of land, streets, ways, alleys, passages, sewer rights, waters, water courses, water rights and powers, and all estates, leases, rights, titles, interest, privileges, liberties, tenements, hereditaments, and appurtenances whatsoever, in any way belonging, relating or appertaining to any of the property hereinabove described or which hereafter shall in any way belong, relate or be appurtenant thereto, whether now owned or hereafter acquired by the Borrower, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Borrower of, in and to the same, including but not limited to

i. All rents, royalties, profits, issues and revenues of the Mortgaged Property from time to time accruing, whether under leases or tenancies now existing or hereafter created, reserving to Borrower, however, so long as Borrower is not in default hereunder, the right to receive and retain the rents, issues and profits thereof and

ii. All judgments, awards of damages and settlements hereafter made resulting from condemnation proceedings or the taking of the Mortgaged Property or any part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Mortgaged Property or the improvements thereon or any part thereof, or to any rights appurtenant thereto, including any award for change of grade or streets. Lender is hereby authorized on behalf of and in the name of Borrower to execute and deliver valid acquittances for, and appeal from, any

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such judgments or awards. Lender may apply all such sums or any part thereof so received, after the payment of all its expenses, including costs and attorneys' fees, on any of the indebtedness secured hereby in such manner as it elects, or at its option, the entire amount or any part thereof so received may be released;

(d) All proceeds, cash or non-cash including, but not limited to, all inventory, accounts, chattel paper, documents, instruments, tort and insurance proceeds, equipment, fixtures, consumer goods and general intangibles acquired with cash proceeds of any of the property described above or any of the foregoing types or items of property described in subparagraphs (a), (b) or (c) above.

TO HAVE AND TO HOLD the Mortgaged Property and all parts thereof unto the Lender, its successors and assigns forever, subject however to the terms and conditions herein;

PROVIDED, HOWEVER, that these presents are upon the condition that, if the Borrower shall pay or cause to be paid to the Lender all principal and interest payable in respect to the Note, and any extensions, renewals, modifications, future advances thereon, including extensions, renewals and modifications of said future advances, and refinancing of same, at the times and in the manner stipulated therein and herein, all without any deduction or credit for taxes or other similar charges paid by the Borrower, and shall pay all charges incurred herein by the Lender on account of Borrower, including, but not limited to, attorneys' fees, and shall keep, perform and observe all and singular the covenants, conditions and agreements in this Mortgage, in the Note and in the Loan Documents, all without fraud or delay, then this Mortgage, and all the properties, interest and rights hereby granted, bargained, sold and conveyed shall cease, terminate and be void, but shall otherwise remain in full force and effect.

And the Borrower covenants and agrees with the Lender as follows:

#### Article I

**1.01 Performance of Mortgage, Note and Loan Documents.** The Borrower will perform, observe and comply with all provisions hereof, and of the Note, and of the Loan Documents, and will duly and punctually pay to the Lender the sum of money expressed in the Note, with interest thereon, and all other sums required to be paid by the Borrower pursuant to the provisions of this Mortgage and of the Loan Documents, all without any deductions or credit for taxes or other similar charges paid by the Borrower.

**1.02 Future Advances.** It is expressly understood that this Mortgage is intended to and does hereby secure not only the Loan, and all extensions, modifications, renewals and refinances thereof, but also any and all future advances made hereunder and all extensions, modifications, renewals and refinances of said future advances. Nothing herein shall obligate Lender to extend, modify, renew or refinance the terms of the Note or to advance funds hereunder. Any such extensions, modifications, renewals, advances or refinances made with respect to the original Loan or made hereunder shall be made at the sole discretion of Lender.

**1.03 Warranty of Title.** Borrower hereby warrants that he is lawfully seized of an indefeasible estate in fee simple in the land and real property hereby mortgaged.

#### **1.04 Taxes, Utilities and Liens.**

(a) The Borrower will pay promptly, when and as due, and, if requested, will exhibit promptly to the Lender receipts for the payment of all taxes, assessments, water rates, utility charges, dues, charges, fines, penalties, costs and other expenses incurred, and impositions of every nature whatsoever imposed, levied or assessed or to be imposed, levied or assessed upon or against the Mortgaged Property or any part thereof, or upon the interest of the Lender in the Mortgaged Property, or any charge which, if unpaid, would become a lien or charge upon the Mortgaged Property prior to or equal to the lien of this Mortgage for any amounts secured hereby or would have priority or equality with this Mortgage in distribution of the proceeds of any foreclosure sale of the Mortgaged Property or any part thereof.

(b) The Borrower promptly shall pay and will not suffer any mechanic's, laborer's, statutory or other lien which might or could be prior to or equal to the lien of the Mortgage to be created or to remain outstanding upon any of the Mortgaged Property.

(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, in any manner changing or modifying the laws now in force governing the taxation of mortgages or debts secured by mortgages or the manner of collection taxes, the Borrower immediately shall pay any increased taxes if allowed by law, and if Borrower fails to pay such additional taxes, or if Borrower is prohibited from paying such taxes, or if Lender in any way is adversely affected by such law, order, rule or regulation, then in any or such events, all indebtedness secured by this Mortgage and all interest accrued thereon shall without notice become due and payable forthwith at the option of the Lender.



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**1.05 Insurance.** Borrower shall obtain and maintain in full force and effect, without cost to Lender, fire with all-risk coverage insurance and such other insurance, including rental interruption, as Lender may reasonably require from time to time. All such insurance shall be obtained from such companies in such amounts and with such provisions as Lender may reasonably require from time to time or may deem necessary or desirable to protect its interest and shall contain a waiver of subrogation clause and non-contributory standard mortgagee clauses. Should Borrower fail to insure the Mortgaged Property as provided herein, Lender is hereby authorized to do so, and the premiums so paid by Lender shall be and constitute a part of the debt secured hereby. In the event of loss, Borrower will give immediate notice by mail to Lender and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Lender instead of to Borrower and Lender jointly, and the insurance proceeds may, at Lender's option, either be used to effect restoration of the improvements or applied in payment of the indebtedness secured by the Mortgage, whether or not then due and payable, in any order of priority.

In the event any insurance company fails to disburse directly and solely to the Lender but disburses instead either solely to the Borrower or to the Lender and Borrower jointly, Borrower shall receive such insurance proceeds in trust for the benefit of the Lender and shall immediately endorse and transfer the insurance proceeds to the Lender upon demand. If the Borrower shall fail or refuse to endorse and transfer such insurance proceeds to the Lender upon demand, the Lender may execute such endorsements or transfers for and in the name of the Borrower, and the Borrower hereby irrevocably appoints the Lender as agent and attorney-in-fact of the Borrower with power of substitution to do so.

**1.06 Condemnation.** If all or any part of the Mortgaged Property shall be damaged or taken through condemnation (which term when used in the Mortgage shall include any damage or taking by any governmental or private authority, and any transfer by private sale in lieu thereof), either temporarily or permanently, the entire indebtedness secured hereby shall at the option of the Lender become immediately due and payable. The Lender shall be entitled to all compensation, awards, and their payments or relief therefore and is hereby authorized, at its option, to commence, appear in and prosecute, in its own or the Borrower's name, any action or proceeding relating to any condemnation, and to settle or compromise any claim in connection therewith. All such compensation, awards, damages, claims, rights of action and proceeds and the right thereto are hereby assigned by the Borrower to the Lender, which, after deducting therefrom all its expenses, including attorneys' fees, may release any monies so received by it without affecting the lien of this Mortgage or may apply the same in such manner as the Lender shall determine to the reduction of the indebtedness secured hereby, and any balance of such monies then remaining shall be paid to the Borrower. The Borrower agrees to execute such further assignments of any compensations, awards, damages, claims, rights of action and proceeds as the Lender may require.

**1.07 Care of the Property.**

(a) The Borrower will preserve and maintain the Mortgaged Property in good condition and repair, and will not commit or suffer any waste and will not do or suffer to be done anything which will increase the risk of fire or other hazard to the Mortgaged Property or any part thereof.

(b) If the Mortgaged Property or any part thereof is damaged by fire or any other cause, the Borrower will give immediate written notice of the same to the Lender.

(c) The Lender is hereby authorized to enter upon and inspect the Mortgaged Property at any time during normal business hours.

(d) The Borrower will promptly comply with all present and future laws, ordinances, rules and regulations of any governmental authority affecting the Mortgaged Property or any part thereof.

(e) If all or any part of the Mortgaged Property shall be damaged by fire or other casualty, the Borrower will promptly restore the Mortgaged Property to the equivalent of its original condition, regardless of whether or not there shall be any insurance proceeds therefore.

**1.08 Further Assurances; After Acquired Property.** At any time, and from time to time, upon request by the Lender, the Borrower, at Borrower's sole expense, will make, execute and deliver or cause to be made, executed and delivered to the Lender and, where appropriate, to cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or re-filed at such times and in such offices and places as shall be deemed desirable by the Lender any and all such other and further mortgages, instruments of further assurances, certificates and other documents as may, in the opinion of the Lender, be necessary or desirable in order to effectuate, complete, or perfect, or to continue and preserve the obligation of the Borrower under the Note and this Mortgage, and the priority of this Mortgage as a first and prior lien upon all of the Mortgaged Property, whether now owned or hereinafter acquired by the Borrower. Upon any failure by the Borrower so to do, the Lender may make, execute, and record any and all such



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mortgages, instruments, certificates, and documents for and in the name of the Borrower. The lien and rights hereunder automatically will attach, without further act, to all after-acquired property (except consumer goods, other than accessions, not acquired within ten (10) days after the Lender has given value under the Note) attached to and/or used in the operation of the Mortgaged Property or any part thereof.

**1.09 Leases Affecting Mortgaged Property.**

(a) The Borrower will comply with and observe its obligations as landlord or tenant under all leases affecting the Mortgaged Property or any part thereof. If requested by Lender, Borrower will furnish Lender with executed copies of all leases now or hereafter created on the Mortgaged Property; and all leases now or hereafter entered into will be in form and substance subject to approval of Lender. Borrower will not accept payment of rent more than one (1) month in advance without the express written consent of Lender. If requested by the Lender, the Borrower will execute and deliver to Lender, as additional security, such other documents as may be requested by Lender to further evidence the assignment to Lender hereunder, and to assign any and all such leases whether now existing or hereafter created, including, without limitation, all rents, royalties, issues and profits of the Mortgaged Property from time to time accruing.

(b) As and when requested by Lender, Borrower shall obtain from tenants under leases affecting the Mortgaged Property such subordination agreements as may be necessary or convenient to evidence the priority of this Mortgage and such estoppel certificates as may be necessary or convenient to reflect the status of the leases, all in such form and content as shall be satisfactory to Lender, in its sole discretion.

**1.10 Expenses.** The Borrower will pay or reimburse the Lender for all reasonable attorneys' fees, costs, recording or other fees, postage and expenses incurred by Lender with respect to:


(a) Further mortgages, instruments, assignments, notices, instruments of further assurances, certificates and other documents as shall be deemed necessary or desirable, in the sole discretion of Lender, in order to effectuate, complete, perfect, or to continue or preserve the obligation of the Borrower under the Note, this Mortgage and the Loan Documents, and the priority of this Mortgage as a first and prior lien upon all of the Mortgaged Property, whether now owned or hereinafter acquired by the Borrower;

(b) Any proceeding involving the estate of a decedent or an insolvent, or any action, proceeding or dispute of any kind in which the Lender appears, responds to a subpoena, provides an affidavit, testifies, is deposed or is made a party, or appears as party plaintiff or defendant, affecting this Mortgage, the Note, the Loan Documents, Borrower or the Mortgaged Property, including but not limited to the foreclosure of this Mortgage, any redemption proceeding or condemnation action involving the Mortgaged Property, or any action to protect the security hereof;

And any such amounts paid by the Lender shall be added to the indebtedness secured hereby and shall be further secured by this Mortgage.

**1.11 Performance by Lender of Defaults by Borrower.** If the Borrower shall default in the payment of any tax, lien, assessment or charge levied or assessed against the Mortgaged Property, in the payment of any utility charge, whether public or private, in the payment of insurance premiums, in the procurement of insurance coverage and the delivery of the insurance policies required hereunder, or in the performance or observance of any other covenant, condition or term of this Mortgage, of the Note, or of the Loan Documents, then the Lender, at its option, may perform or observe the same; and all payments made for costs or expenses incurred by the Lender in connection therewith shall be secured hereby and shall be, without demand, immediately repaid by the Borrower to the Lender with interest thereon at the rate set forth in the Note after default. The Lender shall be the sole judge of the legality, validity and priority of any such tax, lien, assessment, charge, claim and premium, of the necessity for any such actions and of the amount necessary to be paid in satisfaction thereof. The Lender is hereby empowered to enter and to authorize others to enter upon the Mortgaged Property or any part thereof for the purpose of performing or observing any such defaulted covenant, condition or term, without thereby becoming liable to the Borrower or any person in possession holding under the Borrower for trespass or otherwise.

**1.12 Books and Records.** The Borrower shall keep and maintain at all times, true and accurate books of accounts and records, adequate to reflect correctly the results of the operation of the Mortgaged Property. Upon request of the Lender, the Borrower will furnish to the Lender, within ten (10) days of such request, a balance sheet and a statement of income and expenses, both in reasonable detail and form satisfactory to Lender and certified by a Borrower, and a rent schedule of the Mortgaged Property, certified by the Borrower, showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date and the rent paid.

  
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**1.13 Estoppel Affidavits.** The Borrower, within ten (10) days after written request from the Lender, shall furnish a written statement, duly acknowledged, setting forth the unpaid principal and interest on the Note and Loan Documents and whether or not any offsets or defenses exist against any principal and interest.

**1.14 Alienation or Sale of Mortgaged Property.** The Borrower shall not sell, assign, mortgage, encumber, or otherwise convey the Mortgaged Property. If Borrower should sell, assign, mortgage, encumber or convey all, or any part of, the Mortgaged Property, then, in such event, the entire balance of the indebtedness, including the Loan and all other indebtedness under the Loan Documents, secured by this Mortgage and all interest accrued thereon shall without notice become due and payable forthwith.

**1.15 Environmental Matters.** The Borrower warrants and represents that to the best of Borrower's knowledge, the Mortgaged Property and the facility do not contain (a) asbestos in any form, (b) urea formaldehyde, (c) transformers or other equipment which contain fluid containing polychlorinated biphenyls, (d) underground storage tanks, (e) or any other chemical, material or substance, including, but not limited to, radon, the exposure to which is prohibited, limited or regulated by any federal, state, county, regional or local authority (the "Authorities") or which poses a hazard to the health or safety of the occupants of the Mortgaged Property or the facility, or the occupants of adjacent property, and the Mortgaged Property and facility are not, and have not been, the subject of any past existing or threatened investigation, inquiry or proceeding concerning environmental matters by the Authorities, and no notice or submission concerning environmental matters has been given or should be given with regard to the Mortgaged Property and the facility to the Authorities, and the Mortgaged Property and facility are not subject to, or covered by, the requirements of Title III of the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. Section 11001 *et seq.* Borrower and Guarantor jointly and severally agree to indemnify, defend and hold Lender harmless from and against any and all claims, damages, actions, liabilities, causes of actions, suits, investigations, and judgments of whatever kind and nature, arising out of, directly or indirectly, any attempt by any federal, state, or local governing authority to impose liability or seek damages against Lender occasioned by the existence on the Mortgaged Property of any substance set forth in this section.

## **Article II**

**2.01 Event of Default.** The term, Event of Default, wherever used in this Mortgage, shall mean any one or more of the following events:


(a) Failure by the Borrower to pay as and when due and payable any installment of principal, interest or other charge payable under the Note, this Mortgage or under any other Loan Document; or

(b) Failure by the Borrower to duly observe any other covenant, condition or agreement of this Mortgage, of the Note, or of any of the Loan Documents; or

(c) The filing by the Borrower or any guarantor of any indebtedness secured hereby of a voluntary petition in bankruptcy or the Borrower's or any guarantor's adjudication as a bankrupt or insolvent, or the filing by the Borrower or any guarantor of any petition or answer seeking or acquiescing in any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the Borrower's or any guarantor's seeking or consenting to or acquiescence in the appointment of any trustee, receiver or liquidator of the Borrower or any guarantor or of all or any substantial part of the Mortgaged Property or of any or all of the rents, revenues, issues, earnings, profits or income thereof, or the making of any general assignment for the benefit of creditors or the admission in writing of its inability to pay its debts generally as they became due; or

(d) The entry by a court of competent jurisdiction or any order, judgment, or decree approving a petition filed against the Borrower or any guarantor of any of the indebtedness secured hereby seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, which order, judgment or decree remains unvacated and unstayed for an aggregate of thirty (30) days, whether or not consecutive, from the date of entry thereof, or the appointment of any trustee, receiver or liquidator of the Borrower or any guarantor or of all or any substantial part of the Mortgaged Property or of any or all of the rents, revenues, issues, earnings, profits or income thereof without the consent or acquiescence of the Borrower which appointment shall remain unvacated and unstayed for an aggregate of thirty (30) days, whether or not consecutive; or

(e) The enforcement of any prior or junior lien or encumbrance on the Mortgaged Property or any part thereof; or

  
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(f) Any other event of default set forth in any of the Loan Documents.

**2.02 Remedies.** Upon the occurrence of any one or more of the above-listed Events of Default, then, or at any time thereafter,

(a) if default be made in payment of any installment, principal or interest of the Note or any part thereof when due or in payment, when due, of any other sum secured hereby, and if a monetary default is not cured within ten (10) days after receiving a written notice from Lender specifying the exact nature of the default, or

(b) if there be any non-monetary default in performance of any of Borrower's obligations, covenants or agreements hereunder or under any other Loan Document or instrument delivered by Borrower to Lender in connection with the Note and the Mortgage including without limitation any Collateral Assignment of Rents and Leases, and if said non-monetary default is not cured within thirty (30) days following receipt by Borrower of written notice thereof specifying the exact nature of said default, except that (i) if the default relates to the failure to provide or maintain any required insurance coverages, Borrower shall only have five (5) days after receipt of written notice to cure such default, or (ii) if the default relates to an event of bankruptcy, insolvency or other similar action of debtor relief or protection, no notice shall be required, or (iii) if the default is, in Lender's reasonable judgment, of such a nature that it cannot reasonably be cured within thirty (30) days, then Borrower shall have such additional time for cure as Lender may reasonably approve in writing after receipt by Lender within such thirty (30) day period of a written request by Borrower therefore, provided Borrower commences such cure within said thirty (30) day period and diligently pursues such cure to completion within the time limit set by Lender:

Lender may, after such notice, declare the Loan in default and such amounts thereupon shall become immediately due and payable, without presentment, demand, protest, notice of protest or notice of any kind, all of which are hereby expressly waived by Borrower, and if all such amounts are not immediately paid in full, Lender may exercise all rights given to it under the laws of the State of Alabama and any other state and under this Agreement, the Note, the Mortgage, any Guaranty, and the other Loan Documents, including without limitation, foreclosure of the Mortgage and/or the filing of actions in law or in equity.

**2.03 Right of Lender to Enter and Take Possession.**

(a) If an Event of Default shall have occurred and be continuing, the Borrower, upon demand of the Lender, shall forthwith surrender to the Lender the actual possession of the Mortgaged Property, and if and to the extent permitted by law, the Lender may enter and take possession of all the Mortgaged Property, and may exclude the Borrower and its agents and employees wholly therefrom.

(b) Upon every such entering upon or taking of possession, the Lender may hold, use, operate, manage and control the Mortgaged Property and conduct the business thereof and, from time to time: (i) make all necessary and proper maintenance, repairs, renewals, replacements, additions, betterments and improvements thereto and thereon and purchase or otherwise acquire additional fixtures, personalty and other property; (ii) insure or keep the Mortgaged Property insured; (iii) manage and operate the Mortgaged Property and exercise all the rights and powers of the Borrower in its name or otherwise, with respect to the same; (iv) enter into any and all agreements with respect to the exercise by others of any of the powers herein granted the Lender, all as the Lender from time to time may determine to be to its best advantage; and the Lender may collect and receive all the income, revenues, rents, issues and profits of the Mortgaged Property, including those past due as well as those accruing thereafter, and, after deducting (aa) all expenses of taking, holding, managing, and operation of the Mortgaged Property, including compensation for the services of all persons employed for such purposes, (bb) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements and purchases and acquisitions, (cc) the cost of such insurance, (dd) such taxes, assessments and other charges prior to this Mortgage as the Lender may determine to pay, (ee) other proper charges upon the Mortgaged Property or any part thereof, and (ff) the reasonable compensation, expenses and disbursements of the attorneys and agents of the Lender, shall apply the remainder of the moneys so received by the Lender, first to the payment of accrued interest under the Note, second to the payment of any other sums required to be paid by Borrower under this Mortgage or under the Loan Documents, third to the payment of overdue installments of principal, and the balance, if any, to the Borrower, or the party appearing of record to be the owner of the Mortgaged Property, or as otherwise required by law.

(c) Whenever all such Events of Default have been cured and satisfied, the Lender may, at its option, surrender possession of the Mortgaged Property to the Borrower, or Borrower's heirs, successors or



assigns. The same right of taking possession, however, shall exist if any subsequent Event of Default shall occur and be continuing.

**2.04 Receiver.**

(a) If an Event of Default shall have occurred and be continuing, the Lender, upon application to a court of competent jurisdiction, shall be entitled, without notice and without regard to the adequacy of any security for the indebtedness hereby secured or the solvency of any party bound for its payment, to the appointment of a receiver to take possession of and to operate the Mortgaged Property and to collect the rents, profits, issues, and revenues thereof.

(b) The Borrower will pay to the Lender upon demand all expenses, including receiver's fees, attorneys' fees, costs and agents' compensation, incurred pursuant to the provisions contained in this Paragraph 2.04; and all such expenses shall be secured by this Mortgage.

**2.05 Lender's Power of Enforcement.** If an Event of Default shall have occurred and be continuing, the Lender may, either with or without entry or taking possession as hereinabove provided or otherwise, proceed by suit or suits at law or in equity or any other appropriate proceeding or remedy (a) to enforce payment of the Note, (b) to foreclose this Mortgage, and (c) to pursue any other remedy available to Lender, all as the Lender may elect.

**2.06 Power of Sale.** If an Event of Default shall have occurred Lender may sell the Mortgaged Property to the highest bidder at public auction in front of the courthouse door in the county or counties, as may be required, where the Mortgaged Property is located, either in person or by auctioneer, after having first given notice of the time, place and terms of sale, together with a description of the property to be sold, by publication once a week for three (3) successive weeks prior to said sale in some newspaper published in said county or counties, as may be required and, upon payment of the purchase money, Lender or any person conducting the sale for Lender is hereby authorized to execute to the purchaser at said sale a deed to the Mortgaged Property so purchased. Lender may bid at said sale and purchase the Mortgaged Property, or any part thereof, if the highest bidder therefore. At the foreclosure sale the Mortgaged Property may be offered for sale and sold in any other manner as Lender may elect. The provisions of Paragraph 3.05 of this Mortgage shall apply with respect to Lender's enforcement of rights or interests in personal property, which constitutes Mortgaged Property hereunder.

**2.07 Application of Foreclosure Proceeds.** The proceeds of any foreclosure sale pursuant to Paragraph 2.06 of Article II shall be applied as follows:

(a) First, to the expenses of making the sale, including a reasonable attorneys' fee for such services as may be necessary in the collection of the indebtedness secured by this Mortgage or the foreclosure of this Mortgage;

(b) Second, to the repayment of any money, with interest thereon, which Lender may have paid, or become liable to pay, or which it may then be necessary to pay for taxes, insurance, assessments or other charges, liens, or debts as hereinabove provided, and as may be provided in the Loan Documents;

(c) Third, to the payment and satisfaction of the indebtedness secured hereby with interest to date of sale, whether or not all of such indebtedness be then due;

(d) Fourth, the balance, if any, shall be paid to the party or parties appearing of record to be the owner of the Mortgaged Property at the time of the sale, after deducting any expense of ascertaining who such owner is, or as may otherwise be provided by law.

**2.08 Lender's Option on Foreclosure.** At the option of the Lender, this Mortgage may be foreclosed as provided by law or in equity, in which event a reasonable attorneys' fee shall, among other costs and expenses, be allowed and paid out of the proceeds of the sale. In the event Lender exercises its option to foreclose this Mortgage in equity, Lender may, at its option, foreclose this Mortgage subject to the rights of any tenants of the Mortgaged Property, and the failure to make any such tenants parties defendants to any such foreclosure proceeding and to foreclose their rights will not be, nor be asserted to be by the Borrower, a defense to any proceedings instituted by the Lender to collect the sums secured hereby, or to collect any deficiency remaining unpaid after the foreclosure sale of the Mortgaged Property.

**2.09 Waiver of Exemption.** Borrower waives all rights of exemption pertaining to real or personal property as to any indebtedness secured by or that may be secured by this Mortgage, and Borrower waives the benefit of any statute regulating the obtaining of a deficiency judgment or requiring that the value of the Mortgaged Property be set off against any part of the indebtedness secured hereby.

**2.10 Suits to Protect the Mortgaged Property.** The Lender shall have power (a) to institute and maintain such suits and proceedings as it may deem expedient to prevent any impairment of the Mortgaged Property by any acts which may be unlawful or in violation of this Mortgage, (b) to preserve or protect its



interest in the Mortgaged Property and in the income, revenues, rents and profits 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 hereunder or be prejudicial to the interest of the Lender.

**2.11 Borrower to Pay the Note on any Default in Payment; Application of Monies by Lender.** If default shall be made in the payment of any amount due under this Mortgage, the Note, or the Loan Documents, then, upon demand of the Lender, the Borrower will pay to the Lender the whole amount due and payable under the Note; and in case the Borrower shall fail to pay the same forthwith upon such demand, the Lender shall be entitled to sue for and to recover judgment for the whole amount so due and unpaid together with costs, which shall include the reasonable compensation, expenses and disbursements of the Lender's agents and attorneys.

**2.12 Delay or Omission No Waiver.** No delay or omission of the Lender or of any holder of the Note to exercise any right, power or remedy accruing upon any default shall exhaust or impair any such right, power or remedy or shall be construed to be a waiver of any such default, or acquiescence therein; and every right, power and remedy given by the Note, this Mortgage, or the Loan Documents to the Lender may be exercised from time to time and as often as may be deemed expedient by the Lender.

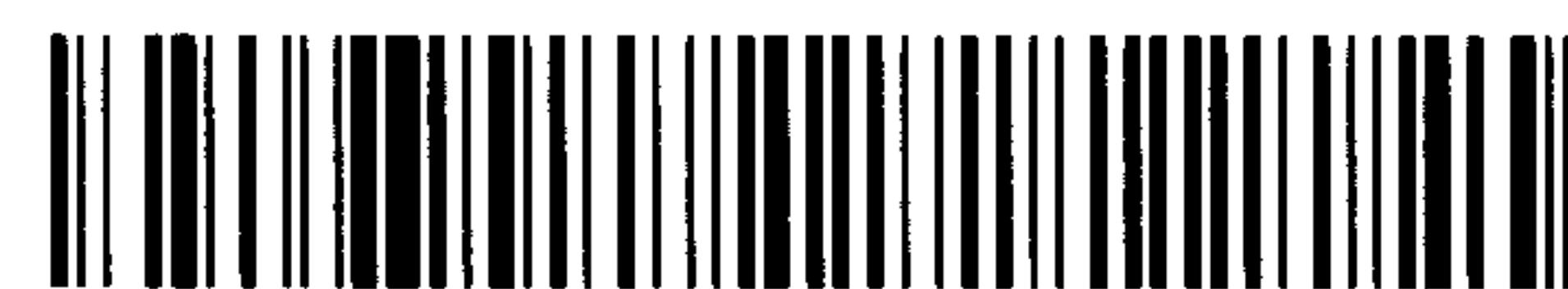
**2.13 No Waiver of One Default to Affect Another.** No waiver of any default hereunder or under the Loan Documents shall extend to or shall affect any subsequent or any other then existing default or shall impair any rights, powers or remedies consequent thereon. If the Lender (a) grants forbearance or an extension of time for the payment of any indebtedness secured hereby, (b) takes other or additional security for the payment thereof, (c) waives or does not exercise any right granted herein, in the Note or in the Loan Documents, (d) releases any part of the Mortgaged Property from this Mortgage or otherwise changes any of the terms of the Mortgage, the Note or the Loan Documents, (e) consents to the filing of any map, plat, or replat of or consents to the granting of any easement on all or any part of the Mortgaged Property, or (f) makes or consents to any agreement subordinating the priority of this Mortgage, any such act or omission shall not release, discharge, modify, change, or affect the original liability under this Mortgage, the Note or the Loan Documents of the Borrower or any subsequent purchaser of the Mortgaged Property or any part thereof, or any maker, co-signer, endorser, surety or guarantor; nor shall any such act or omission preclude the Lender from exercising any right, power or privilege herein granted or intended to be granted in the event of any other default then made or of any subsequent default, nor, except as otherwise expressly provided in an instrument or instruments executed by the Lender, shall the provisions of the Mortgage be altered thereby. In the event of the sale or transfer by operation of law or otherwise of all or any part of the Mortgaged Property, the Lender, without notice to any person, corporation or other entity (except notice shall be given to Borrower so long as Borrower remains liable under the Note, this Mortgage and the Loan Documents) is hereby authorized and empowered to deal with any such vendee or transferee with reference to the Mortgaged Property or the indebtedness secured hereby, or with reference to any of the terms or conditions hereof, or of the Loan Documents, 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 of the liabilities or undertakings hereunder.

**2.14 Discontinuance of Proceedings—Position of Parties, Restored.** In case the Lender shall have proceeded to enforce any right or remedy under this Mortgage by foreclosure, entry or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Lender, then and in every such case the Borrower and the Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of the Lender shall continue as if no such proceeding had been taken.

**2.15 Remedies Cumulative.** No right, power, or remedy conferred upon or reserved to the Lender by this Mortgage is intended to be exclusive of any other right, power or remedy, but each and every such right, power and remedy shall be cumulative and concurrent and shall be in addition to any other right, power and remedy given hereunder, or under the Note, or the Loan Documents, now or hereafter existing at law or in equity or by statute.

### Article III

**3.01 Heirs, Successors and Assigns Included in Parties.** Wherever in this Mortgage one of the parties hereto is named or referred to, the heirs, administrators, executors, successors and assigns of such party shall be included, and all covenants and agreements contained in the Mortgage by or on behalf of the Borrower or by or on behalf of Lender shall bind and inure to the benefit of their respective heirs, administrators, executors, successors, and assigns, whether so expressed or not.





**3.02 Headings.** The headings of the articles, sections, paragraphs and subdivisions of this Mortgage are for convenience of reference only, are not to be considered a part hereof, and shall not limit or otherwise affect any of the terms hereof.

**3.03 Gender.** Whenever the context so requires, the masculine includes the feminine and neuter, and the singular includes the plural.

**3.04 Invalid Provisions to Affect No Others.** In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage, in the Note or in the Loan Documents shall be invalid, illegal or unenforceable in any respect, the validity of the remaining covenants, agreements, terms or provisions contained herein, and in the Note and in the Loan Documents shall be in no way affected, prejudiced or disturbed thereby.

**3.05 Lien on Personal Property.** This Mortgage creates a lien on the personal property of the Borrower located on the Mortgaged Property and it shall constitute a security agreement under the Uniform Commercial Code of the state in which the Mortgaged Property is located, or other law applicable to the creation of liens on personal property. Borrower covenants and agrees to execute, file and refile such financing statements, continuation statements or other documents as Lender shall require from time to time with respect to such personal property. If an Event of Default occurs, the Lender shall have and may exercise any or all of the rights and remedies of a second party under the Uniform Commercial Code of such state, including without limitation, any or all of the following, to the extent allowed by law:

(a) The right to take possession of the collateral without judicial process and to enter upon any premises where the collateral may be located for the purposes of taking possession of, securing, removing, and/or disposing of the collateral without interference from Borrower and without any liability for rent, storage, utilities or other sums;

(b) The right to sell, lease, or otherwise dispose of any or all of the collateral, whether in its then condition or after further processing or preparation, at public or private sale. Unless the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market, Lender shall give Borrower at least ten (10) days prior notice of time and place of any public sale of the collateral or of the time after which any private sale or other intended disposition of the collateral is to be made, all of which Borrower agrees shall be reasonable notice of any sale or disposition of the collateral;

(c) The right to require Borrower, upon request of Lender, to assemble and make the collateral available to Lender at a place reasonably convenient to Borrower and Lender; and

(d) The right to notify account debtors, and demand and receive payment therefrom.

To effectuate the rights and remedies of Lender upon default, Borrower does hereby irrevocably appoint Lender attorney-in-fact for Borrower, with full power of substitution to sign, execute, and deliver any and all instruments and documents and do all acts and things to the same extent as Borrower could do, and to sell, assign, and transfer any collateral to Lender or any other party.

**3.06 Conflict in Loan Documents.** In the event of conflict in the terms of any provision in this Mortgage, the Note or the Loan Documents, the provision most favorable to the Lender shall apply.

**3.07 Prepayment.** There shall be no prepayment penalty.

**3.08 Cross Default.** It is understood by Lender and Borrower that nonperformance by Borrower of any other obligation, note or mortgage due or owing to Lender by Borrower, whether outstanding on this date or arising hereafter, referenced herein or not, shall be a default of this agreement as well, and considered an Event of Default under Paragraph 2.01 hereof.

**3.09 Notices.** Notices hereunder shall be sufficient only if made in writing and sent by first class or certified U.S. Mail and (a) addressed to Borrower at the street address of the Mortgaged Property or at the last address provided by the Borrower to the Lender in writing, or (b) addressed to Lender at the last address provided by the Lender to the Borrower in writing.

**3.10 Homestead.** Borrower hereby waives any and all homestead rights that he or she may now have or may obtain in the Mortgaged Property.

**3.11 Governing Law.** This Mortgage shall be governed by and construed according to the laws of the State of Alabama.

**IT IS EXPRESSLY UNDERSTOOD BY THE UNDERSIGNED BORROWER THAT THE LENDER SHALL HAVE NO OBLIGATION TO RENEW THE INDEBTEDNESS SECURED BY THIS MORTGAGE OR TO REFINANCE THE SAME AT THE TIME OF MATURITY OF THE NOTE.**



20061013000509010 9/11 \$191.00  
Shelby Cnty Judge of Probate, AL  
10/13/2006 01:30:10PM FILED/CERT



In Witness Whereof, Borrower has caused this instrument to be executed and effective as of the day and year first above written.

COUNTRYVIEW, LLC, an Alabama Limited Liability Company

  
By: Connor Farmer  
Its: Managing Member  
Borrower

STATE OF ALABAMA  
COUNTY OF Shelby

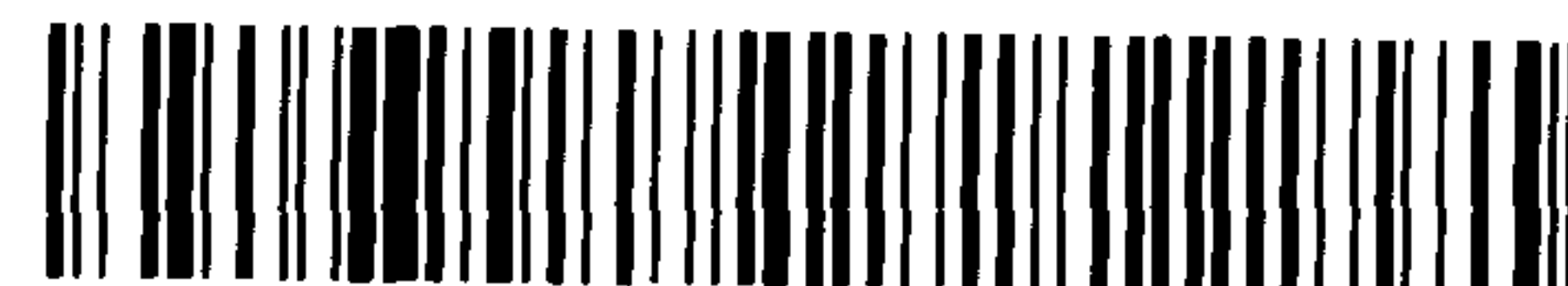
I, Matthew T. Ellis, a Notary Public, in and for said County and State hereby certify that Connor Farmer whose name as Managing Member of COUNTRYVIEW, LLC an Alabama Limited Liability Company, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance he, as Managing Member and with full authority, executed the same voluntarily for and as the act of said company/

  
Matthew T. Ellis  
Notary Public

[NOTARIAL SEAL]

My commission expires: 7/15/09

This instrument prepared by:  
Matthew T. Ellis  
Parnell & Crum, P.A.  
641 S. Lawrence  
Montgomery, AL 36104  
334-832-4200

  
20061013000509010 10/11 \$191.00  
Shelby Cnty Judge of Probate, AL  
10/13/2006 01:30:10PM FILED/CERT



Commence at the NW corner of the NW 1/4 of the SW 1/4 of Section 23, Township 22 South, Range 2 West, Shelby County, Alabama, said point being the POINT OF BEGINNING; thence S00°30'45"W, a distance of 221.93'; thence S48°02'55"E, a distance of 192.36' to the point of curve of a non tangent curve to the right, having a 90°00'00" of and a radius of 40.00', said curve subtended by a chord bearing N86°57'05"E and a chord distance of 56.57'; thence easterly along the arc of said curve a distance of 62.83'; thence S48°09'07"E, a distance of 10.92'; thence N07°23'29"E, a distance of 120.00'; thence N39°03'32"E, a distance of 195.00'; thence N47°08'49"E, a distance of 155.22'; thence N42°03'25"E, a distance of 134.15'; thence N48°04'14"E, a distance of 211.31'; thence S41°25'46"E, a distance of 7.06'; thence N48°34'45"E, a distance of 143.04'; thence N08°49'32"W, a distance of 74.73'; thence N58°19'55"W, a distance of 54.15'; thence N46°31'22"W, a distance of 118.00'; thence N54°03'45"W, a distance of 188.91'; thence N49°18'28"W, a distance of 119.91'; thence S38°38'16"W, a distance of 129.79'; thence S44°34'11"W, a distance of 493.47'; thence S00°30'38"W, a distance of 270.94' to the POINT OF BEGINNING.

Containing 10.32 acres, more or less.



20061013000509010 11/11 \$191.00  
Shelby Cnty Judge of Probate, AL  
10/13/2006 01:30:10PM FILED/CERT

