

This Instrument Prepared By:
Christopher M. Gill, Esq.
Hand Arendall Harrison Sale LLC
Post Office Box 123
Mobile, AL 36601



20200803000325760 1/10 \$3504.85
Shelby Cnty Judge of Probate, AL
08/03/2020 10:18:09 AM FILED/CERT

EARNEST MONEY MORTGAGE

THIS EARNEST MONEY MORTGAGE (this "Mortgage") is made this 31 day of July, 2020, by **TCG CHELSEA ACRES, LLC**, a Delaware limited liability company ("Borrower"), as mortgagor, to and for the benefit of **D.R. HORTON, INC. – BIRMINGHAM**, an Alabama corporation ("Lender"), as mortgagee.

Recitals:

Borrower is the owner of that certain real property located in Shelby County, Alabama and more particularly described on Exhibit "A" attached hereto and by reference made a part hereof (the "Property"). Borrower has become justly indebted to Lender in the principal sum of TWO MILLION THREE HUNDRED THREE THOUSAND EIGHT HUNDRED FIFTY AND NO/100 DOLLARS (\$2,303,850.00), as evidenced by that certain earnest money promissory note of even date (the "Note"), all to be paid in installments with interest thereon in the manner and at the rates set forth in the Note.

Agreement:

NOW, THEREFORE, Borrower, in consideration of the indebtedness above mentioned, and to secure the prompt payment of same with interest thereon, and any extensions or renewals of same, and further to secure the performance of the covenants, conditions and agreements hereinafter set forth, has bargained and sold and does hereby GRANT, BARGAIN, SELL, MORTGAGE, ALIEN and CONVEY unto Lender, its successors and assigns, all of the estate, right, title and interest in the following described land, real estate, buildings, fixtures and improvements (which together with any additional such property hereafter acquired by Borrower and subject to the lien of this Mortgage is hereafter sometimes referred to as the "Mortgaged Property") to-wit:

(a) The Property;

(b) All buildings, structures, and improvements of every kind whatsoever now or hereafter situated on the Property and all fixtures, machinery and equipment of every nature whatsoever now or hereafter owned by Borrower and located in, on and used or intended to be used in connection with or with the operation of the Property, buildings, structures or other improvements, including all extensions, additions, improvements, betterments, renewals and replacements to any of the foregoing;

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

(i) All rents, 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 and in the name of Borrower to execute and deliver valid acquittances for, and to appeal from, any 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 attorney's fees, on 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 rights, powers, privileges, options, or other benefits associated with, that pertain to, are attributable to, are appurtenant to, apply to, or which otherwise benefit the Property including, without limitation, any and all development rights, applications, permits, approvals, and licenses; deposits, and other fiscal security; utility service commitments, rights, capacity, allocations, taps, and connections (and the right to acquire any of same under any contract or agreement with any utility provider); all plans and specifications for development of or construction of improvements on the Property; agreements with municipal or other public utilities; detention rights; rights to credits, refunds, and reimbursements (including without limitation any credits against, or right to pay reduced, impact fees, application fees, permit fees, or inspection fees) from any municipality, municipal utility district or other governmental (or quasi-governmental) district, entity, political subdivision or authority, or any utility company or provider; rights under any plats, plat applications and other development applications and approvals; rights under any development agreements, reimbursement agreements or similar agreements or contracts with any municipality, municipal utility district or other governmental (or quasi-governmental) district, entity, political subdivision or authority; rights to receive or install water, wastewater, electricity, gas, telephone, telecommunications, drainage, or other utilities or services; rights to build, construct, or install streets, driveways, or other access to the land; rights under any declaration of covenants, conditions, and restrictions, including rights as declarant;

(e) All contracts and subcontracts relating to the construction of improvements on the Property;

(f) All accounts, contract rights, instruments, documents, general intangibles, and chattel paper arising from or by virtue of any transactions relating to the Property;

(g) All permits, licenses, franchises, certificates, and other rights and privileges obtained in connection with the Property;

(h) All proceeds payable or to be payable under each policy of insurance relating to the Property; and

(i) All products and proceeds of the foregoing.

TO HAVE AND TO HOLD the Mortgaged Property and all parts thereof unto 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 Borrower shall pay or cause to be paid to Lender the principal and interest payable under the Note, 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 Borrower, and shall keep, perform and observe all and singular the covenants and promises in the Note and any renewal, extension or modification thereof, and in this Mortgage and in all other agreements and instruments made and executed by Borrower in connection with the loan evidenced by the Note, then this Mortgage, and all the properties, interest and rights herein granted, bargained and sold shall cease, terminate and be void, but shall otherwise remain in full force and effect.

AND Borrower covenants and agrees with Lender as follows:

ARTICLE I

1.01 Performance of Note and Mortgage. Borrower will perform, observe and comply with all provisions hereof and of the Note secured hereby and will duly and punctually pay to Lender the sums of money expressed in the Note with interest thereon and all other sums required to be paid by Borrower pursuant to the provisions of this Mortgage, all without any set-off, deduction or credit for taxes or other similar charges paid by Borrower.

1.02 Warranty of Title. Borrower is lawfully seized of an indefeasible estate in fee simple in the land and real property hereby mortgaged and has good and absolute title to all existing personal property hereby mortgaged and has good right, full power and lawful authority to sell, convey and mortgage the same in the manner and form aforesaid; that, except for the lien for current ad valorem taxes not yet due and payable, and except as may be set forth on Exhibit A the same is free and clear of all liens, charges and encumbrances whatsoever, and that Borrower shall and will warrant and forever defend the title thereto unto Lender and Lender's successors and assigns against the lawful claims of all persons whomsoever.

1.03 Taxes, Utilities and Liens. Borrower will pay promptly, when and as due, and will promptly exhibit to Lender receipts for the payment of, all taxes, assessments, water rates, dues, charges, fines 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 Lender in the Mortgaged Property, as well as all income taxes, assessments and other governmental charges lawfully levied and imposed by the United States of America or any state, county, municipality or other taxing authority upon Borrower or in respect of the Mortgaged Property or any part thereof; or any charge which, if unpaid, would become a lien or charge upon the Mortgaged Property prior to or equal with the lien of this Mortgage, 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. Borrower will promptly pay all charges by utility companies, whether public or private, for electricity, gas, water, sewer or other utilities. Borrower shall promptly pay and will not suffer to be created or to remain outstanding upon any of the Mortgaged Property any mechanic's, materialman's, laborer's, statutory or other lien which might or could be prior to or equal with the lien of this Mortgage.

1.04 Insurance.

(a) Borrower will procure for, deliver, to, and maintain for the benefit of, Lender during the term of this Mortgage, insurance policies, in such amounts as Lender shall reasonably require, insuring the Mortgaged Property against fire, extended coverage, and such other insurable hazards, casualties and contingencies as Lender may reasonably require. The form of such policies and the companies issuing them shall be reasonably acceptable to Lender. All policies shall contain a standard non-contributory mortgagee endorsement approved by Lender, making losses payable to Lender. At least fifteen (15) days prior to the expiration date of all such policies, renewals thereof satisfactory to Lender shall be delivered to Lender. Borrower shall deliver to Lender receipts evidencing the payment of all such insurance policies and renewals. In the event of the foreclosure of this Mortgage or any other transfer of title to the Mortgaged Property in extinguishment of the indebtedness secured hereby, all right, title and interest of Borrower in and to all insurance policies then in force shall pass to the purchaser or transferee.

(b) If the Mortgaged Property or any part thereof is ever designated as a part of a flood plain area or any other designation which would make such property subject to the Flood Disaster Protection Act of 1973, as amended heretofore or hereafter, or any similar law, then Borrower agrees to comply with the requirements of said law (including all regulations and other requirements applicable thereto) in order that flood insurance will be available to Borrower. Thereafter, Borrower agrees to obtain for the benefit of Lender a flood insurance policy reasonably satisfactory to Lender (including amount, insurer, form and otherwise), to deliver such policy to Lender as soon as possible, to pay all expenses in connection therewith and to maintain such insurance in full force and effect in all times at Borrower's expense.

(c) Notwithstanding anything to the contrary contained in this Section 1.04, any application of insurance proceeds to the payment of principal shall be applied by Lender to the payment of principal due under this Mortgage at maturity, but in no event shall such principal payments operate to reduce the obligation of Borrower to make the regular payments of principal and/or interest due and payable pursuant to the Note and under this Mortgage.

(d) All policies of insurance required hereunder shall provide that such policies may not be terminated, canceled, endorsed or amended unless the issuer thereof shall have given at least thirty (30) days' prior written notice thereof to Lender, and that the proceeds thereof shall be payable to Lender without contribution.


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1.05 Condemnation.

(a) If all or any part of the Mortgaged Property shall be damaged or taken through condemnation (which term used in this Mortgage shall include any damage or taking by any governmental authority, and any transfer by private sale in lieu thereof), either temporarily or permanently, Lender shall be entitled to all compensation, awards, and other payments or relief therefor and is hereby authorized, at its option, to commence, appear in and prosecute, in its own name or in the name of Borrower's any action or proceedings 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 rights thereto are hereby assigned by Borrower to Lender, who, after deducting therefrom all Lender's expenses, including reasonable attorney's fees, may release any moneys so received by Lender without affecting the lien of this Mortgage or may apply the same in such manner as Lender shall determine to the reduction of the sums secured hereby, and any balance of such moneys then remaining shall be paid to Borrower. Borrower agrees to execute such further assignment of any compensations, awards, damages, claims, rights of action and proceeds as Lender may require.

(b) Notwithstanding anything to the contrary contained in this Section 1.05, any application of any condemnation proceeds to the payment of principal shall be applied by Lender to the payment of principal due under this Mortgage at maturity, but in no event shall such principal payments operate to reduce the obligation of Borrower to make the regular payments of principal and/or interest due and payable pursuant to the Note and under this Mortgage.

1.06 Care of the Property.

(a) 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, Borrower will give immediate written notice of the same to Lender.

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

(d) 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, 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 therefor. If a part of the Mortgaged Property shall be physically damaged through condemnation, Borrower will promptly restore, repair or alter the remaining property in a manner reasonably satisfactory to Lender.

(f) Borrower shall not cause or permit the presence, use, disposal, storage or release of any Hazardous Substance (as defined in the hereinafter defined "Contract") on or in the Property.

1.07 Further Assurances; After Acquired Property. At any time, and from time to time, upon request by Lender, Borrower will make, execute and deliver or cause to be made, executed and delivered, to Lender and, where appropriate, to cause to be recorded and/or filed and from time to time thereafter to be re-recorded and/or refiled at such time and in such offices and places as shall be deemed desirable by Lender any and all such other and further mortgages, instruments of further assurance, certificates and other documents as may, in the opinion of Lender, be necessary or desirable in order to effectuate, complete, enlarge, or perfect, or to continue and preserve the obligation of Borrower under the Note and this Mortgage, and the lien of this Mortgage as a first and prior lien upon all of the Mortgaged Property, whether now owned or hereafter acquired by Borrower. Upon any failure by Borrower so to do, Lender may make, execute, and record any and all such mortgages, instruments, certificates, and documents for and in the name of Borrower, and Borrower hereby irrevocably appoints Lender the agent and attorney-in-fact of Borrower so to do. The lien hereof will automatically attach, without further act, to all after acquired property attached to and/or used in the operation of the Mortgaged Property or any part thereof.

1.08 Expenses. Borrower will pay or reimburse Lender for all reasonable attorney's fees, costs and expenses incurred by Lender in any proceedings involving the estate of a decedent or an insolvent, or in any action, proceeding or dispute of any kind in which Lender is made a party, or appears as party plaintiff or defendant, affecting the Note, this Mortgage, Borrower or the Mortgaged Property, including but not limited to the foreclosure of this Mortgage, any condemnation action involving the Mortgaged Property, or any action to protect the security hereof; and any such amounts paid by Lender shall be added to the indebtedness and secured by the lien of this Mortgage and such amounts shall bear interest at a rate of eighteen percent (18%) per annum.

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 Borrower to pay as and when due and payable any installments of principal and/or interest due under the Note;
- (b) Failure by Borrower to duly perform or observe any other term covenant, condition, agreement or warranty of this Mortgage;
- (c) Any default or the occurrence of any default under the Note or any other document securing the Note;
- (d) The making or furnishing of any representation, statement, or warranty to Lender by or on behalf of Borrower which is incorrect in any material respect when made or furnished;
- (e) Any default by Borrower under that certain Lot Purchase Agreement dated September 27, 2019, to which Borrower and Lender are parties, and which pertains to the Property (the "Contract");
- (f) Borrower defaults under any Development Loan (as defined in the Contract) or any Tri-Party Agreement (as defined in the Contract);
- (g) The attachment, seizure of or levy upon the Mortgaged Property (or any portion thereof) under any legal process which is not removed within ten (10) days.

2.02 Acceleration of Maturity. If an Event of Default shall have occurred, then the entire principal amount of the indebtedness secured hereby with interest accrued thereon shall, at the option of Lender, become due and payable without notice or demand; and any omission on the part of Lender to exercise such option when entitled to do so shall not be considered as a waiver of such right.

2.03 Right of Lender to Enter and Take Possession.

- (a) If an Event of Default shall have occurred and be continuing, Borrower, upon demand of Lender, shall forthwith surrender to Lender the actual possession of the Mortgaged Property, and if and to the extent permitted by law, Lender may enter and take possession of all the Mortgaged Property, and may exclude Borrower and its agents and employees wholly therefrom.
- (b) Upon every such entering upon or taking of possession, Lender may hold, store, 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 Borrower in Borrower's 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 Lender, all as Lender from time to time may determine to be to Lender's best advantage; and Lender may collect and receive all the income, revenues, rents, issues and profits of the same including those past due as well as those accruing thereafter and, after deducting:

- (1) all expenses of taking, holding, managing and operating the Mortgaged Property (including compensation for the services of all persons employed for such purposes);
- (2) the cost of all such maintenance, repairs, renewals, replacements, additions, betterments, improvements and purchases and acquisitions;
- (3) the cost of such insurance;
- (4) such taxes, assessments and other charges prior to the lien of this Mortgage as Lender may determine to pay;
- (5) other property charges upon the Mortgaged Property or any part thereof; and
- (6) the reasonable compensation, expenses and disbursements of the attorneys as agent of Lender;

shall apply the remainder of the moneys so received by Lender, first to the payment of accrued interest, then to the payment of any other sums advanced by Lender pursuant to the terms of this Mortgage, and finally to the payment of overdue installments of principal.

(c) The collection of such rents, issues and profits or the entering upon and taking possession of the Mortgaged Property, or the application thereof as aforesaid, shall not cure or waive any Event of Default hereunder or invalidate any act done in response to such Event of Default. Whenever all such Events of Default have been cured and satisfied, Lender may, at its option, surrender possession of the Mortgaged Property to Borrower. 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, 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) Borrower will pay to Lender upon demand all expenses, including receiver's fees, attorneys' fees, costs and agent's compensation, incurred pursuant to the provisions contained in this Paragraph, 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, 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/or (c) to pursue any other remedy available to Lender, all as 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 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 therefor. At the

foreclosure sale the Mortgaged Property may be offered for sale and sold as a whole without first offering it in any other manner or may be offered for sale and sold in any other manner as Lender may elect and as permitted by applicable law.

2.07 Application of Foreclosure Proceeds. The proceeds of any foreclosure sale pursuant to Paragraph 2.06 of this Mortgage 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;

(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 is such owner, or as may otherwise be provided by law.

2.08 Lender's Option on Foreclosure. At the option of 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 Mortgagor, a defense to any proceedings instituted by 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. 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 the interest of Lender.

2.11 Delay or Omission No Waiver. No delay or omission of 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 this Mortgage to Lender may be exercised from time to time and as often as may be deemed expedient by Lender.

2.12 No Waiver of One Default to Affect Another. No waiver of any default hereunder shall extend to or shall affect any subsequent or any other then existing default or shall impair any rights, powers or remedies consequent thereto.

2.13 Borrower Not Released. If Lender:

(a) grants forbearance or an extension of time for the payment of any sums secured hereby;

(b) takes other or additional security for the payment thereof;



- (c) waives or does not exercise any right granted herein or in the Note;
- (d) releases any part of the Mortgaged Property from the lien of the Mortgage or otherwise changes any of the terms of the Note or this Mortgage; or
- (e) makes or consents to any agreement subordinating the lien hereof;

any such act or omission shall not release, discharge, modify, change or affect the original liability of Borrower under the Note or this Mortgage, or of any endorser, surety or guarantor; nor shall any such act or omission preclude 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 Lender shall the lien of this 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, Lender, without notice to any person or corporation is hereby authorized and empowered to deal with any such grantee or transferee with reference to the Mortgaged Property or the indebtedness secured hereby, or with reference to any of the terms or conditions 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 of the liabilities or undertakings hereunder.

2.14 Discontinuance of Proceedings; Position of Parties Restored. In case 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 Lender, then and in every such case Borrower and Lender shall be restored to their former positions and rights hereunder, and all rights, powers and remedies of Lender shall continue as if no such proceeding has been taken.

2.15 Remedies Cumulative. No right, power or remedy conferred upon or reserved to Lender by this Mortgage is intended to be exclusive of any 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 now or hereafter existing at law or in equity or by statute.

ARTICLE III

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

3.02 Headings; Pronouns. 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. Wherever herein used and where appropriate, the singular number shall include the plural, and the plural number shall include the singular.

3.03 Invalid Provisions. In case any one or more of the covenants, agreements, terms or provisions contained in this Mortgage or in the Note 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 shall be in no way affected, prejudiced or disturbed thereby.

3.04 Transfer or Additional Encumbrance. Borrower agrees and does hereby stipulate that no interest or title in or with respect to all or any part of the Mortgaged Property shall be transferred, assigned or conveyed without the express written consent of Lender, which consent will not be unreasonably withheld by Lender, excluding, however, the creation of a lien or other encumbrance subordinate to Lender's security instrument which does not relate to a transfer of rights of occupancy in the property. In the event of any violation of this provision, the entire unpaid principal balance of the Note, together with all unpaid interest thereon and all other sums secured by or due with respect to this Mortgage shall become due and payable immediately on demand by Lender.

3.05 Applicable Law. This Mortgage shall be governed by the laws of the State of Alabama.

3.06 Recording and Filing. Borrower shall pay all recording, filing, re-recording and re-filing taxes, fees and other charges incurred in connection with the execution of the Note and this Mortgage and the recording and filing of this Mortgage.

3.07 Partial Releases. Borrower agrees that it will release, at its cost, individual lots in the subdivision developed on the Property, if applicable, from this Mortgage as such lots are taken down by Lender as the buyer under the Contract, upon application of the agreed upon amount of Earnest Money to the closing of such lots as set forth in the Contract, all as applicable under the terms of the Contract.

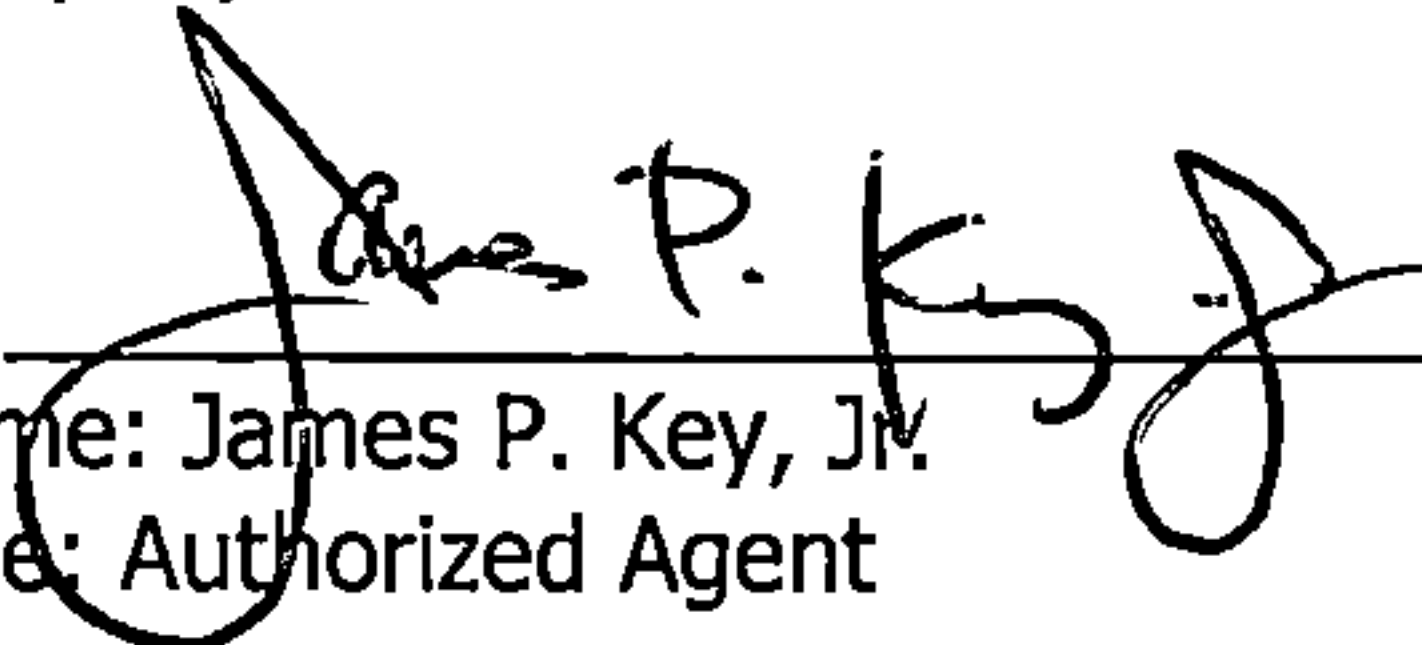
3.08 Notices. Any notice required or permitted under this Mortgage shall be in writing and deemed delivered if delivered to Borrower or Lender, as applicable, at the address for such party and in accordance with the notice requirements of Section 28 of the Contract.

3.09 Instrument Under Seal. This Mortgage is given under seal and it is intended that this Mortgage is and shall constitute and have the effect of a sealed instrument according to law.

IN WITNESS WHEREOF, Borrower has executed this instrument by and through its duly authorized representative effective as of the date first set forth above.

BORROWER:

TCG CHELSEA ACRES, LLC, a Delaware limited liability company

By: 
Name: James P. Key, Jr.
Title: Authorized Agent

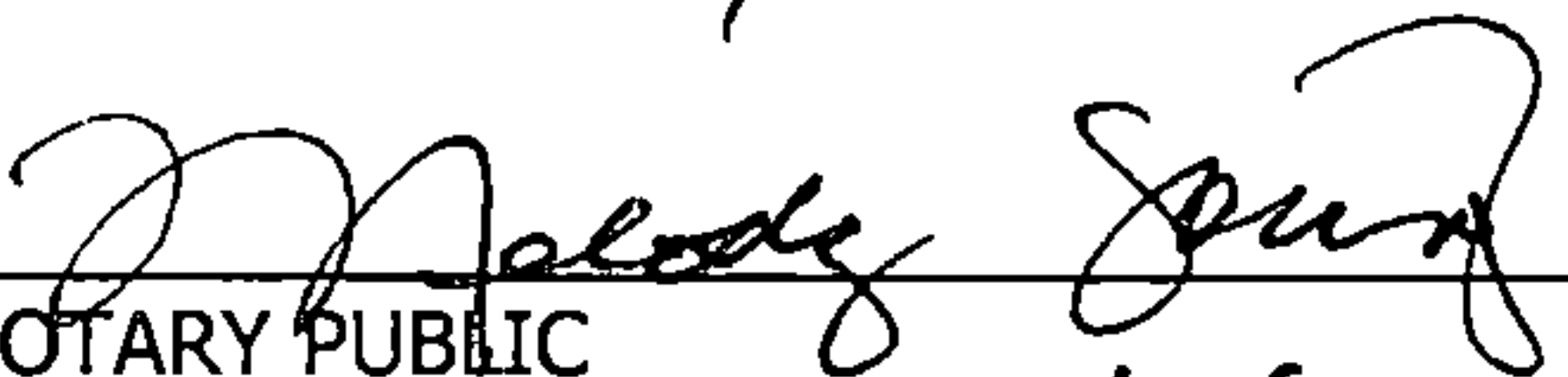
STATE OF ALABAMA :
COUNTY OF Shelby :

I, the undersigned, Notary Public in and for said County in said State, hereby certify that James P. Key, Jr., whose name as Authorized Agent of TCG Chelsea Acres, LLC, a Delaware limited liability company, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Authorized Agent and with full authority executed the same voluntarily for and as the act of said limited liability company.

Given under my hand and official seal this the 15th day of July, 2020.

[SEAL]




NOTARY PUBLIC
My Commission Expires: 2/7/2024



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EXHIBIT "A"
Legal Description of the Property

Tract of land Situated in Section 35, and Section 36, Township 19 South, Range 1 West, Shelby County, Alabama being more particularly described as follows:

BEGIN at a nail in a 3" Post being the Southwest corner of the Northeast ¼ of the Southwest ¼ of Section 35, Township 19 South, Range 1 West, Shelby County, Alabama; Thence run North 88°12'22" East along the south line of said ¼ - ¼ line a distance of 1366.14 feet to the Southwest corner of the Northwest ¼ of the Southeast ¼ of said Section; Thence run North 88°15'21" East along the south line of said ¼ - ¼ Section a distance of 1356.20 feet to the Southwest corner of the Northeast ¼ of the Southeast ¼ of said Section; Thence run North 88°33'02" East along the south line of said ¼ - ¼ Section a distance of 1402.08 feet to the Southwest corner of the Northwest ¼ of the Southwest ¼ of Section 36, Township 19 South, Range 1 West; Thence run North 89°39'09" East along the south line of said ¼ - ¼ Section a distance of 665.69 feet to a point lying on the centerline of Little Creek; Thence run along the centerline of Little Creek having a chord bearing of North 20°58'20" East a distance of 1570.35 feet to a point lying 329.29 feet south of the northwest corner of Lot 3, according to the survey of Mitchem Family Subdivision, as recorded in Map Book 27, Page 119, in the Probate Office of Shelby County, Alabama; Thence leaving the centerline of Little Creek run North 00°42'59" East along the west line of Lot 3 of said Survey a distance of 329.29 feet to a found iron (capped "RYS") being the southwest corner of Lot 1b, according to a Resurvey of Lots 1 & 2 of Mitchem Family Subdivision, as recorded in Map Book 44, Page 71, in the Probate Office of Shelby County, Alabama; Thence run North 00°42'15" East along the west line of Lot 1b and Lot 1A of said survey a distance of 1399.05 feet more or less to the south right-of-way line of Liberty Road being described in Deed Book 2002, Page 8616, in the Probate Office of Shelby County, Alabama; Thence run along Liberty Road the following courses: Thence run North 48°58'24" West a distance of 236.13 feet to a curve to the left with a radius of 489.80 feet, with a delta angle of 09°39'07", a chord bearing of North 53°47'57" West, and a chord length of 82.41 feet; Thence run along said curve a distance of 82.51 feet to a point; Thence run North 58°37'31" West a distance of 561.70 feet to curve to the left with a radius of 113.31 feet, with a delta angle of 33°51'31", a chord bearing of North 75°33'16" West, and a chord length of 65.99 feet; Thence run along said curve a distance of 66.96 feet to a compound curve to the left with a radius of 1200.00 feet, with a delta angle of 06°59'07", a chord bearing of South 84°01'24" West, and a chord length of 146.21 feet; Thence run along said curve a distance of 146.30 feet to a point; Thence run South 80°31'51" West a distance of 153.42 feet to a curve to the right with a radius of 115.00 feet, with a delta angle of 45°25'05", a chord bearing of North 76°45'37" West, and a chord length of 88.79 feet; Thence run along said curve a distance of 91.16 feet to a point; Thence run North 54°03'04" West a distance of 51.86 feet to curve to the left with a radius of 126.00 feet, with a delta angle of 48°39'21", a chord bearing of North 78°22'45" West, and a chord length of 103.81 feet; Thence run along said curve a distance of 107.00 feet to a point; Thence run South 77°17'35" West a distance of 32.49 feet to the northeast corner of Lot 1, according to the survey of Chelsea Estates First Addition, as recorded in Map book 5, Page 65, in the Probate Office of Shelby County, Alabama; Thence leaving the south right-of-way of Liberty Road run South 00°34'21" West along the east line of Lots 1, 2, 3, 4, 6, 7, and 8, a distance of 1101.62 feet to the southeast corner of Lot 8 of said survey and the Northeast corner of the Southeast ¼ of the Northeast ¼ of Section 35, Township 19 South, Range 1 West, Shelby County, Alabama; Thence run South 88°31'22" West along the north line of said ¼ - ¼ Section a distance of 1334.91 feet to the Northwest corner of the Southeast ¼ of the Northeast ¼ of said Section; Thence run South 00°30'23" West along the west line of said ¼ - ¼ Section a distance of 1327.81 feet to the Northeast corner of the Northwest ¼ of the Southeast ¼ of said Section; Thence run South 88°32'24" West along the south line of said Section a distance of 1334.36 feet to the Northeast corner of the Northeast ¼ of the Southwest ¼ of said Section; Thence run South 88°31'37" West along the south line of said Section a distance of 1208.18 feet to a non-tangent curve to the right with a radius of 375.00 feet, with a delta angle of 25°58'58", a chord bearing of North 57°26'32" West, and a chord length of 168.60 feet; Thence leaving the south line of said Section run along said curve a distance of 170.06 feet to a point; Thence run North 44°27'02" West a distance of 217.57 feet to a curve to the right with a radius of 325.00 feet, with a delta angle of 43°36'14", a chord bearing of North 22°38'56" West, and a chord length of 241.41 feet; Thence run along said curve a distance of 247.33 feet to a compound curve to the right with a radius of 25.00 feet, with a delta angle of 89°11'19", a chord bearing of North 43°44'51" East, and a chord length of 35.10 feet; Thence run along said curve a distance of 38.92 feet to a point on the south right-of-way line of Liberty Road; Thence run South 88°20'30" West along said road right-of-way a distance of 209.26 feet to a point; Thence leaving the south right-of-way line of Liberty Road run South 00°22'45" West a distance of 1167.37 feet to a point; Thence run North 88°30'55" East a distance of 450.17 feet to a point on the west line of the Northeast 1/4 of the Southwest 1/4 of Section 35, Township 19 South, Range 1 West; Thence run South 00°20'24" East along the west line of said 1/4 - 1/4 section a distance of 658.42 feet to the POINT OF BEGINNING.

