



MTG 2016019359



MAR 18 2016 13:39 P 9

Fee amount: 58.00  
 FB: 58-30540  
 COMP: BW

Received - DIANE L. BATTIATO  
 Register of Deeds, Douglas County, NE  
 03/18/2016 13:39:55.00



2016019359

After recording, please return to:

Joseph J. Skudlarek, Trustee,  
 1055 N 115 Street, Suite 301  
 Omaha NE 68154

402 522 6001

#### **PURCHASE MONEY DEED OF TRUST SECURING PROMISSORY NOTE**

This Purchase Money Deed of Trust Securing Promissory Note is made on the date opposite the signatures below by and among **7802 & 7812 Military Avenue, LLC**, a Nebraska limited liability company, ("Trustor"), whose address is 7636 Mary Street, Omaha NE 68122 and **JOSEPH J. SKUDLAREK, Trustee**, a member of the Nebraska State Bar Association, NE Bar #13869, ("Trustee"), whose address is 1055 North 115 Street, STE 301, Omaha NE, 68154, and **THE ELEMENT GROUP, L.L.C.**, a Nebraska Limited Liability Company, whose address is 6910 N 102 Circle Omaha, NE 68122, ("Beneficiary").

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Trustor, irrevocably transfers, conveys and assigns to Trustee, IN TRUST, WITH POWER OF SALE, for the benefit and security of Beneficiary, under and subject to the terms and conditions of this Purchase Money Deed of Trust, the real properties legally/commonly described as:

**Lots 33, 34 and 35, Pinecrest**, an Addition to the City of Omaha, Douglas County, Nebraska, **except** that portion of Lots 33 and 34 conveyed to the State of Nebraska by the Warranty Deed filed July 16, 1963 in Book 1191, Page 9 in the office of the Register of Deeds of Douglas County, Nebraska,

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which is the identical property described in prior instruments in this chain of title as:

**PINECREST LOT 34 BLOCK 0 IRREG W 62 FT LT 33 & -EX IRREG W 16 FT in Omaha, Douglas County Nebraska** Commonly known as 7802 Military Ave, Omaha NE 68134 Key Number 1247 0000 20 Parcel Number 2012470000  
**And**  
**PINECREST LOT 35 BLOCK 0 LT 35 IRREG in Omaha Douglas County Nebraska** Commonly known as 7812 Military Ave, Omaha NE 68134 Key Number 1249 0000 20 Parcel Number 2012490000

together any interest therein that Trustor now has, or may acquire therein in the future, including, but not limited to, all rents, easements, appurtenances, hereditaments, interests in adjoining roads, streets and alleys, improvements and buildings of any kind situated thereon and all personal property that may be or hereafter become an integral part of such buildings and improvements, (the "Trust Estate"), to have and to hold the Trust Estate in fee simple, with all rights, privileges and appurtenances thereto belonging to Trustor, Trustor's successors and assigns and all right, title, claim, interest and benefit therein. Trustor warrants with Trustee that Trustor will forever warrant and defend the title to the Trust Estate against all lawful claims of all persons.

**THIS PURCHASE MONEY DEED OF TRUST IS GIVEN TO SECURE A SECURED PROMISSORY NOTE FROM TRUSTOR TO BENEFICIARY FOR THE PURPOSE OF SECURING:**

- a.** Trustor's performance and payment of, and under, a certain Secured Promissory Note from **7802 & 7812 Military Avenue, LLC**, a Nebraska limited liability company (as Maker of such Note) to Beneficiary (as Holder) with respect to amounts required to purchase the Trust Estate and owed to Beneficiary from Maker, (this is a Purchase Money Deed of Trust) or, to be owed to Beneficiary from Maker, in the (aggregate) present principal amount of One Hundred Five Thousand Dollars (\$105,000.00), including interest and charges thereon (the "Secured Promissory Note"); and
- b.** any and all past advances and future advances, past goods and services previously delivered or, goods and services to be delivered in the future, and not paid for by Trustor, payments of any kind from Trustor to Beneficiary that may have been dishonored, or may be dishonored, loans, payments and future execution and deliveries of Promissory Notes from Trustor to Beneficiary, if any, and any and each extension, modification, renewal and replacement of any loan and or document reference in this Purchase Money Deed of Trust or the Secured Promissory Note, if any, which, by this reference, are hereby made a part hereof; and

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c. Payment of all sums required of Trustor pursuant to this Promissory Note, including all indemnifications made by Trustor in favor of Beneficiary; and

d. Payment of all sums advanced by Beneficiary to protect the Trust Estate.

This Purchase Money Deed of Trust, the Secured Promissory Note and any other instrument given to evidence or further secure the payment and performance of any obligation secured hereby are referred to collectively as the "Instruments".

TO PROTECT THE SECURITY OF THIS PURCHASE MONEY DEED OF TRUST, TRUSTOR, AND EACH OF THEM, HEREBY AGREE:

**1. PAYMENT OF INDEBTEDNESS.** Trustor shall pay when due the principal of, and the interest on, any indebtedness described in the Secured Promissory Note, and all charges, fees and all other sums as provided in the Instruments.

**2. TAXES.** Trustor shall pay, and shall indemnify and hold harmless Trustee and Beneficiary, and each of them, from, each installment of all taxes and special assessments of every kind, now or hereafter levied against the Trust Estate or any part thereof, before delinquency, without notice or demand, and shall provide Beneficiary with evidence of the payment of same.

**3. ACTIONS AFFECTING TRUST ESTATE.** Trustor shall appear in and contest any action or proceeding purporting to affect the Trust Estate or the rights or powers of Beneficiary or Trustee hereunder, and shall pay all costs and expenses, including cost of evidence of title, in any such action or proceeding in which Beneficiary or Trustee may appear. Should Trustor fail to make any payment or do any act as and in the manner provided in any of the Instruments, Beneficiary and/or Trustee, each in its own discretion, without obligation to do so and without notice to or demand upon Trustor and without releasing Trustor from any obligation, may make or do the same in such manner and to such extent as either may deem necessary to protect their respective interest in and to the Trust Estate. Trustor shall, immediately upon demand therefore by Beneficiary or Trustee, pay all costs and expenses incurred by Beneficiary or Trustee in connection with the exercise by Beneficiary or Trustee of the foregoing rights, including without limitation costs of evidence of title, court costs, appraisals, and surveys.

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**4. EMINENT DOMAIN.** Should the Trust Estate, or any part thereof or interest therein, be taken or damaged by reason of any public improvement or condemnation proceeding or in any other manner including a deed in lieu of condemnation ("Condemnation"), or should Trustor receive any notice or other information regarding any such proceeding, Trustor shall give prompt written notice thereof to Beneficiary. Beneficiary shall be entitled to all compensation, awards and other payments or relief therefore not exceeding the amount then due or to be due under any of the Instruments. Beneficiary shall be entitled, at their sole option, to commence, appear in and prosecute in their own name any such action or proceedings. Beneficiary shall also be entitled to make any compromise or settlement in connection with such taking or damage. All such compensation, awards, damages, rights of action and proceeds awarded to Trustor (not exceeding the amount then due to Beneficiary pursuant to the Instruments) (the "Proceeds") are hereby assigned to Beneficiary; and Trustor shall execute such further assignments of the Proceeds as Beneficiary or Trustee may require.

**5. APPOINTMENT OF SUCCESSOR TRUSTEE.** Beneficiary, may, from time to time, by a written instrument executed and acknowledged by all Beneficiary, mailed to Trustor and recorded in the County in which the Trust Estate is located and by otherwise complying with the provisions of the applicable law of the State of Nebraska substitute a successor or successors to the Trustee named herein or acting hereunder.

**6. SUCCESSORS AND ASSIGNS.** This Purchase Money Deed of Trust applies to, inures to the benefit of and binds all parties hereto, their respective heirs, legatees, devisees, personal representatives, successors and assigns.

**7. INSPECTIONS.** Beneficiary, or its agents, representatives or workers, are authorized to enter at any reasonable time upon or in any part of the Trust Estate for the purpose of inspecting the same and for the purpose of performing any of the acts it is authorized to perform under the terms of any of the Instruments.

**8. EVENTS OF DEFAULT.** Any of the following events shall be deemed an "Event of Default" hereunder:

- a.** If Trustor fails to make payment of any sum required by the Secured Promissory Note secured hereby when due or when rightfully demanded by Beneficiary; or
- b.** If Trustor fails to make payment of any sum secured hereby when due or when rightfully demanded by Beneficiary; or
- c.** If a breach of or a default under any term, covenant, agreement, condition, provision, representation or warranty contained in any of the Instruments occurs.

**9. ACCELERATION UPON DEFAULT, ADDITIONAL REMEDIES.** Should an Event of Default occur, then, subject to the provisions of the Nebraska Trust Deeds Act, Beneficiary may declare all payments and/or amounts secured hereby to be immediately due and payable and the same shall thereupon become due and payable without any presentment, demand, protest or notice of any kind. Thereafter Beneficiary, at its sole option, may:

- a.** either in person or by agent, with or without bringing any action or proceeding, or by a receiver appointed by a court and without regard to the adequacy of its security, enter upon and take possession of the Trust Estate, or any part thereof, in its own name or in the name of Trustee, and do any acts which it deems necessary or desirable to preserve the value, marketability or rent-ability of the Trust Estate, or any part thereof or any interest therein, increase the income therefrom or protect the security hereof and, with or without taking possession of the Trust Estate, sue for or otherwise collect the rents, issues and profits thereof, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, upon any indebtedness secured hereby, all in such order as Beneficiary may determine; the entering upon and taking possession of the Trust Estate, the collection of such rents, issues and profits and the application thereof as aforesaid shall not cure or waive any default or notice of default hereunder or invalidate any act done in response to such default or pursuant to such notice of default, notwithstanding the continuance in possession of the Trust Estate or the collection, receipt and application of rents, issues or profits. Trustee or Beneficiary shall be entitled to exercise every right provided for in any of the Instruments or by law upon the occurrence of any Event of Default, **INCLUDING THE RIGHT TO EXERCISE THE POWER OF SALE;** or
- b.** commence an action to foreclose this Purchase Money Deed of Trust as a mortgage, appoint a receiver or specifically enforce any of the covenants hereof; or
- c.** deliver to Trustee a written Declaration of Default and Demand for Sale, and a written Notice of Default and Election to cause Trustor's interest in the Trust Estate to be sold, which notice Trustee shall cause to be duly filed for record in the appropriate Official Records of the County in which the Trust Estate is located.

**10. FORECLOSURE BY POWER OF SALE.** Should Beneficiary elect to foreclose by exercise of the Power of Sale herein contained, Beneficiary shall notify Trustee and shall deposit with Trustee this Purchase Money Deed of Trust and the Secured Promissory Note and such receipts and evidence of expenditures made and secured hereby as Trustee may require. Thereafter and only in accordance with or as permitted by Nebraska law:

- a.** upon receipt of such notice from Beneficiary, Trustee shall cause to be recorded, published and delivered to Trustor such Notice of Default and Notice of Sale and any other notice or document or instrument as then required by law and/or by this Purchase Money Deed of Trust. Trustee shall, without demand on Trustor, after such time as may then be required by law and after recordation and/or delivery of such Notice of Default, Notice of Sale and/or any other notice required by law, sell the Trust Estate at the time and place of sale fixed by it in such Notice of Sale, either as a whole, or in separate lots or parcels or items as Trustee shall deem expedient, and in such order as he may determine, at public auction to the highest bidder for cash in lawful money of the United States payable at the time of sale. Trustee shall deliver to such purchaser or purchasers thereof his good and sufficient deed or deeds conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including, without limitation, Trustor, Trustee and Beneficiary, may purchase at such sale and Trustor hereby covenants to warrant and defend the title of such purchaser or purchasers; and
- b.** after deducting all costs, fees and expenses of Trustee and those allowed or permitted by the Instruments, including costs of evidence of title in connection with sale, Trustee shall apply the proceeds of sale to payment of (i) all sums expended under the terms hereof, not then repaid, with accrued interest at the then highest legal rate per annum, (ii) all other sums then secured hereby, and (iii) the remainder, if any, to the person or persons legally entitled thereto; and
- c.** Trustee may in the manner provided by law postpone sale of all or any portion of the Trust Estate.

**11. REMEDIES NOT EXCLUSIVE.** Trustee and Beneficiary, and each of them, shall be entitled to enforce payment and performance of any indebtedness or obligations secured hereby and to exercise all rights and powers under this Purchase Money Deed of Trust or under any Instrument or other agreement or any laws now or hereafter in force, notwithstanding some or all of such indebtedness and obligations secured hereby may now or hereafter be otherwise secured, whether by mortgage, deed of trust, pledge, lien, assignment or otherwise. Neither the acceptance of this Purchase Money Deed of Trust nor its enforcement, whether by court action or pursuant to the power of sale or other powers herein contained, shall prejudice or in any manner affect Trustee's or Beneficiary's right to

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realize upon or enforce any other security now or hereafter held by Trustee or Beneficiary, it being agreed that Trustee and Beneficiary, and each of them, shall be entitled to enforce this Purchase Money Deed of Trust and any other security now or hereafter held by Beneficiary or Trustee in such order and manner as they, or any of them, may in their absolute discretion determine. No remedy herein conferred upon or reserved to Trustee or Beneficiary is intended to be exclusive of any other remedy herein or by law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Instruments to Trustee or Beneficiary, or to which either of them may be otherwise entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Trustee or Beneficiary and either of them may pursue inconsistent remedies. Nothing herein shall be construed as prohibiting Beneficiary from seeking a deficiency judgment against Trustor to the extent such action is permitted by law.

**12. REQUESTS FOR NOTICE.** Trustor hereby requests a copy of any Notice of Default and any Notice of Sale hereunder be mailed to Trustor at the address set forth in the first paragraph of this Purchase Money Deed of Trust. While hereby expressly reserving the priority of this Purchase Money Deed of Trust as established by law, Trustee and Beneficiary, hereunder (and each of them) request that a copy of any Notice of Default and any Notice of Sale under any Deed of Trust recorded against the Trust Estate either prior to, if any, or subsequent to the date this Purchase Money Deed of Trust is recorded be mailed to each at the addresses set forth in the first paragraph of this Purchase Money Deed of Trust.

**13. GOVERNING LAW.** This Purchase Money Deed of Trust shall be governed by the Nebraska Trust Deeds Act. If any provision or any clause of any of the Instruments conflicts with applicable laws, such conflicts shall not affect other provisions of such Instruments which can be given effect without the conflicting provision, and to this end the provisions of the Instruments are declared to be severable. This instrument cannot be waived, changed, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of any waiver, change, discharge or termination is sought.

**14. RECONVEYANCE BY TRUSTEE.** Upon written request of all Beneficiary stating that all amounts secured hereby have been paid and satisfied, in full, Trustee shall re-convey to Trustor, or to the person or persons legally entitled thereto, without warranty, any portion of the Trust Estate then held hereunder. The recitals in such re-conveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The grantee in any re-conveyance may be described as "the person or persons legally entitled thereto."

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**15. TRANSFER OF TRUST ESTATE.** If all or any part of the Trust Estate, or any interest therein, is sold or transferred by Trustor, including, but not limited to, by an option to sell, a sale or transfer by deed or by land contract or by contract for deed, without Beneficiary's prior written consent, excluding the creation of a lien or encumbrance subordinate to this Purchase Money Deed of Trust, Beneficiary may, at its option, declare all the sums and payments secured by this Purchase Money Deed of Trust to be immediately due and payable.

If Beneficiary exercise the foregoing option to accelerate, Beneficiary shall mail to Trustor a notice of acceleration which notice shall provide a period of not less than 30 days from the date the notice is mailed within which Trustor must pay the sums and payments declared due. If Trustor fail to pay such sums or payments prior to the expiration of such period, Beneficiary may, without further notice of demand on Trustor, invoke any remedies granted or permitted herein.

**16. NOTICES.** Whenever Beneficiary, Trustor or Trustee shall desire to give or serve any notice, demand, request or other communication with respect to this Purchase Money Deed of Trust, each such notice, demand, request or other communication shall be in writing and shall be effective only if the same is delivered in person or by personal service or mailed by United States mail, (Certified Mail with a Tracking number) postage prepaid, addressed to each at the address set forth at the beginning of this Purchase Money Deed of Trust. Any party may at this time change its address for such notices by delivering or mailing to the other parties hereto, as aforesaid, a notice of such change.

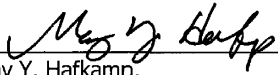
**17. ACCEPTANCE BY TRUSTEE.** By Trustor delivering this Instrument to Beneficiary or to Trustee, Trustee thereby accepts the trust created hereunder and this Purchase Money Deed of Trust.

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SIGNATURE AND ACKNOWLEDGEMENT IS ON THE NET PAGE – Page 9 of 9 pages

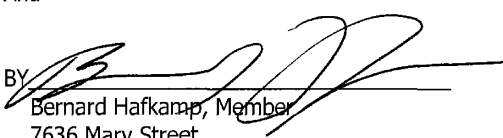


7802 & 7812 MILITARY AVENUE, LLC,  
a Nebraska limited liability company

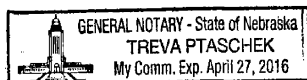
Executed on March 17, 2016

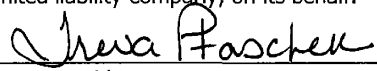
BY   
May Y. Hafkamp,  
Member/Managing Member  
7636 Mary Street  
Omaha NE 68122  
And

Executed on March 17, 2016

BY   
Bernard Hafkamp, Member  
7636 Mary Street  
Omaha NE 68122

In Douglas County, Nebraska} ss The foregoing Purchase Money Deed of Trust  
Securing Promissory Note was acknowledged and signed before me on March 17, 2016, by  
May Y. Hafkamp, Member and Managing Member and Bernard Hafkamp, Member, of 7802 &  
7812 MILITARY AVENUE, LLC, a Nebraska limited liability company, on its behalf.



  
Notary Public

After recording, please return to:

Joseph J. Skudlarek, Trustee  
1055 N 115 Street, Suite 301  
Omaha NE 68154

402 522 6001

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