BILL GARRETT, Davidson County
Trans:T20130000073 DEEDINST
Recvd: 01/02/13 08:48 11 pgs
Fees:58.00 Taxes:2048.70
20130102-0000080

STATE OF TENNESSEE )
COUNTY OF DAVIDSON )

The actual consideration or value, whichever is greater, for this transfer is $430,000.00.

Affiant

Subscribed to and sworn before me this the 31st day of December, 2012.

Notary Public

My Commission Expires:

ANNA E. VALENTINE STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY My Commission Expires 01-09-2016

**THIS INSTRUMENT PREPARED BY:**

**ANNA E. VALENTINE**
Howard Mobley Hayes & Gontarek, PLLC
2319 Crestmoor Road
Nashville, Tennessee 37215
(615) 627-4444

| Address New Owner: | Send Tax Bills To: | Parcel ID Number: |
|---|---|---|
| Ultimate Real Estate Holdings, LLC<br>815 Ewing Avenue<br>Nashville, TN 37203 | Same | 093 14 0 560.00 |

## INSTALLMENT CONTRACT DEED

For and in consideration of the sum of Four Hundred and Thirty Thousand Dollars ($430,000.00),

(a) of which Thirty Thousand Dollars ($30,000.00) has been paid in cash by Ultimate Real Estate Holdings, LLC, a Tennessee limited liability company (the "LLC"), the receipt of which is hereby acknowledged by the herein named Grantor, and

(b) for the remainder of Four Hundred Thousand Dollars ($400,000.00), the LLC has executed a promissory note of even date herewith, personally guaranteed by James E. Baxter, Robert L. Armstrong, Kenneth G. Petersen, and Caron Petersen (collectively hereinafter the "Guarantor"), described as follows: The Promissory Note made in Nashville, Tennessee between Ultimate Real Estate Holdings, LLC, a Tennessee limited liability company as the maker and Chester C. Whitaker, Trustee of the Chester C. Whitaker Living Trust dated August 24, 2004 as the payee, payment of which is jointly and severally guaranteed by James E. Baxter, Robert L. Armstrong, Kenneth G. Petersen, and Caron Petersen under the Guaranty Agreement of even date, both incorporated herein by reference, with a payment in the amount of Four Thousand Two Hundred Dollars ($4,200), applied first to all accrued interest and any remainder in payment of principal, on the 1st day of each calendar month beginning March 1, 2013 and the entire unpaid principal balance to be paid on February 1, 2023. The borrower understands that the payment of the installments as set out in the promissory note may not fully amortize the principal balance of the contract, and therefore, a balloon payment may be due on the due date.

**NOW THEREFORE,** know all persons, with a lien being herby expressly retained on the land herein conveyed to secure the payment of the above-described promissory note and all sums due thereunder, Chester C. Whitaker, Trustee of the Chester C. Whitaker Living Trust, established by the Revocable Trust Agreement of Chester C. Whitaker dated August 24, 2004, hereinafter called the Grantor, has bargained and sold, and by these presents does transfer and convey unto the LLC, its successor and assigns subject however to the lien expressly retained on the land herein conveyed, a certain tract of or parcel of land in Davidson County, Tennessee described on Exhibit A attached hereto and incorporated herein by reference.

**TO HAVE AND TO HOLD,** said tract or parcel of land, with the appurtenances, estate, title and interest thereto belonging to said LLC, its successors and assigns; and Grantor does covenant with said LLC that Grantor is lawfully seized and possessed of said land in fee simple, has a good right to convey it, and the same unencumbered, except as otherwise herein set out; and Grantor does further covenant and bind itself, its successors and representatives, to warrant and forever defend the title to said land to said LLC, its successors and assigns, against the lawful claims of all persons whomsoever.

And now, for the purpose of better and more effectively securing the payment of said promissory note, and so that court proceedings will not be necessary to enforce the herein described lien in the event of non-payment of the note according to its terms, or a breach thereof, and for and in consideration of the sum of One Dollar ($1.00) to it paid, and other consideration herein mentioned, the receipt and sufficiency of which are hereby acknowledged, the LLC has this day bargained and sold, and does hereby transfer and convey, to Anna E. Valentine, Trustee, whose address is 2319 Crestmoor Road, Nashville, Davidson County, Tennessee, and her successors in trust, the land hereinabove described.

Maximum principal indebtedness for Tennessee recording tax purposes is Four Hundred Thousand Dollars ($400,000.00).

**TO HAVE AND TO HOLD** said tract or parcel of land to said Anna E. Valentine, Trustee, and her successors in trust, forever. The LLC covenants that it is lawfully seized and possessed of said land, has a good right to convey it, and that the same is unencumbered except as hereinabove set out.

The LLC furthers covenants and binds itself, it successors and representatives, to warrant and defend the title to said land to said Anna E. Valentine, Trustee, and her successors in trust, and her assigns, forever, against the lawful claims of all persons. However, this conveyance to said Anna E. Valentine, Trustee, is made IN TRUST to secure the payment of said promissory note and all sums due thereunder and for the uses and trusts herein set forth, and for no other purpose.

No part of said land or any interest therein shall be sold or transferred or further encumbered by additional mortgages or loans by the LLC without the prior written consent and approval of the owner and holder of the indebtedness secured herein. Said written consent and approval shall not be unreasonably withheld.

Now if the LLC shall pay the indebtedness aforesaid when due, according to its terms of said promissory note, then this instrument is to be of no further force or effect. However, if it fails to pay said sums of money when due as aforesaid, or any part of said sum, according to the terms above expressed, then all of the indebtedness hereby secured shall, at the option of the owner and holder thereof, and without notice, become immediately due and payable, and upon such default, this conveyance remains in full force and effect, and said Trustee or her successor in trust, is hereby authorized and empowered, to:

(a) Upon giving ten (10) days' notice in writing to the LLC, describing with sufficient detail the nature of the default, to cancel the contract and to reclaim the Property, taking immediately possession thereof, retain all payments of principal and interest made to date under the contract as liquidated damages and rentals, and retain title free of any and all rights the LLC has under this instrument, or any and all rights available according to law, if said default is

not cured by the LLC within twenty days of receipt of written notice, and the Trustee is authorized to make a deed re-conveying all right, title and interest in fee simple to the Grantor hereunder; or

(b) Upon giving twenty (20) days' notice, by three (3) publications in Davidson County, Tennessee, to sell said land at the Courthouse door in said County, to the highest bidder, for cash, and free from the statutory right of redemption, equity of redemption, homestead rights, statutory and elective rights, and all other exemptions of every kind, all of which are hereby expressly waived, and said Trustee is authorized to make a deed to the purchaser. The owner and holder of the indebtedness herein secured may bid at any sale under this conveyance. The LLC agrees that the Trustee may, at any time after default in payment of principal or interest as each falls due respectively, enter and take possession of said land, and shall only account for net rents received by her.

Upon receipt of all payments required under the lien herein secured, the Grantor will furnish the LLC with a Warranty Deed wherein the Grantor will convey all of its right, title, and interest in said Property.

In case of sale under the deed of trust herein contained, the proceeds will be applied by the Trustee:

First – To pay all the costs and charges of executing this trust, including attorneys' fees and the expenses of any litigation that may arise on account of the execution and enforcement of this trust.

Second – To pay any unpaid taxes or assessments.

Third – To pay said debt, or any balance thereof then remaining unpaid.

Fourth – The residue to be paid to the undersigned LLC or order.

In case of death, absence, inability, or refusal to act of said Trustee at any time when action under the foregoing powers and trust may be required, the owner and holder of the debt herein secured is hereby authorized to name and appoint a successor to execute this trust, and the title herein conveyed Anna E. Valentine, Trustee, shall be vested in said successor.

In the event of a sale of said land under and by virtue of this trust, said LLC, and all persons holding under it, shall be and become tenants at will of the purchaser of the same, from and after the execution and delivery of a deed to such purchaser, said tenancy to be terminated at the option of said purchaser upon five (5) days' written notice.

It is further agreed that said Trustee, or her successors, may execute the power of sale herein contained and the other powers and rights without giving bond or taking oath.

The LLC hereby agrees to indemnify Grantor against and to hold harmless from, any and all claims or demands for loss of or damage to the Property or assets thereon or for injury or death to any person from any cause whatsoever while in, upon, or about said Property until the sum herein secured is fully paid. To the extent permitted by law, the LLC agrees to defend Grantor from and against any loss, claims, liabilities and expenses, including reasonable attorney fees, if any, which the LLC may suffer or incur in connection with the LLC's possession, use or misuse of the Property.

The LLC further agrees to keep all of the buildings, permanent fixtures and improvements on said property insured against hazard by a reputable insurance company at its sole cost and expense, for the amount of the original principal indebtedness, until the sum herein secured is fully paid, and to have the loss made payable on the policy or policies to said Trustee

for the benefit of the owner and holder of the debt herein secured. The LLC shall provide a certificate by the insurer showing said coverage to be in effect. Any failure or non-coverage by such policies shall not affect the indemnity or hold harmless provisions provided herein.

The LLC further agrees to keep all buildings, permanent fixtures and improvements, currently or subsequently added to the property in good repair and preservation and to pay all taxes and assessments, and to pay them when due; and in case it fails to do either, then said Trustee, or the owner and holder of the debt herein secured, may do either, and charge and treat the amount so expended as part of the debt herein secured. In the event of default under this Installment Contract Deed, any and all permanent fixtures and improvements made on the Property will remain with the Property.

The LLC agrees and recognizes the Property is being sold and transferred **"AS IS"** and the Grantor is under no obligation to make any improvements or repairs during the time of the Installment Contract Deed.

Any notice required hereunder shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the Property address or to such other address as may be designated in writing by the LLC. The notice shall be deemed received when delivered or signed for, or on the third day after mailing if not signed for.

If any portion of this Installment Contract Deed shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provisions of this Installment Contract Deed is invalid or unenforceable, but that by limiting such provision it would become

valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

This Installment Contract Deed shall be recorded immediately upon execution by all parties. The Grantor shall be responsible for all privilege taxes to be paid on both the transfer of the Property and on the lien contained herein securing the amount financed.

A new legal description was not prepared for this transaction. The legal description is the same as the previous instrument of record.

The rights conveyed under this Installment Contract Deed are subject to such limitations, restrictions and encumbrances as may affect the Property.

**IN WITNESS WHEREOF**, the parties have executed this instrument on this the 31st day of December, 2012.

**GRANTOR:**
THE CHESTER C. WHITAKER LIVING TRUST DATED AUGUST 24, 2004

Chester C. Whitaker, Trustee

**PURCHASER:**

Ultimate Real Estate Holdings, LLC

By: JAMES E. BAXTER

Title: MEMBER

**GUARANTORS:**

James E. Baxter

Robert L. Armstrong

Kenneth G. Petersen

Caron Petersen

STATE OF TENNESSE )
COUNTY OF DAVIDSON )

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, **Chester C. Whitaker, Trustee**, with whom I am personally acquainted, and who acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 31st day of December, 2012.

Anna Elizabeth Valentine
Notary Public

My Commission Expires:

ANNA E. VALENTINE STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY My Commission Expires 01-09-2016

STATE OF TENNESSEE
COUNTY OF DAVIDSON

Personally appeared before me, a Notary Public in and for the County and State aforesaid, James E. Baxter, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged him/herself to be an authorized signatory member of **Ultimate Real Estate Holdings, LLC**, the within named bargainor, a Tennessee limited liability company, and that s/he, as a member, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by him/herself as such member.

WITNESS my hand, at office, this 31st day of December, 2012.

Anna Elizabeth Valentine
Notary Public

My Commission Expires:

ANNA E. VALENTINE STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY My Commission Expires 01-09-2016

STATE OF TENNESSE
COUNTY OF DAVIDSON

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, **James E. Baxter, Guarantor**, with whom I am personally acquainted, and who acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 31st day of December, 2012.

Anna Elizabeth Valentine
Notary Public

My Commission Expires:

ANNA E. VALENTINE STATE OF TENNESSEE NOTARY PUBLIC DAVIDSON COUNTY My Commission Expires 01-09-2016

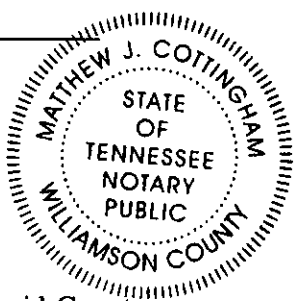
STATE OF TENNESSE )
COUNTY OF DAVIDSON )

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, **Robert L. Armstrong, Guarantor**, with whom I am personally acquainted, and who acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 27th day of DECEMBER, 2012.

Notary Public

My Commission Expires: MAY 25th, 2014



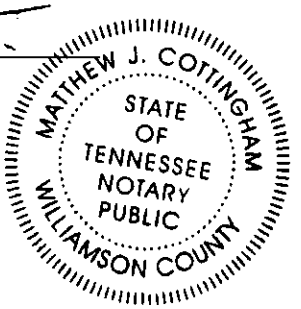

STATE OF TENNESSE )
COUNTY OF DAVIDSON )

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, **Kenneth G. Petersen, Guarantor**, with whom I am personally acquainted, and who acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 27th day of DECEMBER, 2012.

Notary Public

My Commission Expires: MAY 25th, 2014




STATE OF TENNESSE )
COUNTY OF DAVIDSON )

Personally appeared before me, the undersigned, a Notary Public in and for said County and State, **Caron Petersen, Guarantor**, with whom I am personally acquainted, and who acknowledged that she executed the within instrument for the purposes therein contained.

WITNESS my hand, at office, this 27th day of DECEMBER, 2012.

Notary Public

My Commission Expires: MAY 25th, 2014

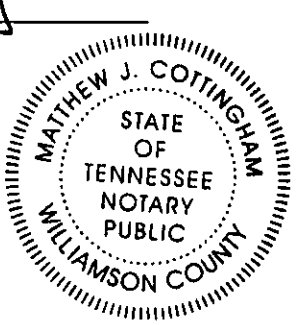


**EXHIBIT A**

**Legal Description**

Land in Davidson County, Tennessee, being parts of Lots Nos. 80, 81, 82, 83, 87, 89, 90, 91 and 92; being all of Lot No. 88 and being part of Allison Street, as shown on the Map of Ewing and Wetmore's Addition, of record in Book 14, pages 202 and 203; Register's Office for said County and described in part according to a survey by James A. Hamilton, Jr., dated August 17, 1963, as follows:

Beginning at a point on the westerly margin of Ewing Avenue, said point being the southeast corner of Lot No. 91, as shown on the plan above cited; thence with the westerly margin of Ewing Avenue northwardly 215.5 feet, more or less to the southerly right-of-way of a railroad spur track; thence westwardly with the southerly right-of-way of said spur track and with a curve to the right 265 feet, more or less, to the point of intersection of the southerly right-of-way of said spur track and the northeasterly right-of-way of line of the former N. C. & St. L. Railroad; thence with the said northeasterly right-of-way of the former N. C. & St. L. Railroad southeastwardly 323 feet, more or less, to a point on the northerly margin of an alley, said point being in the southerly line of Lot No. 91 of the above cited plan; thence eastwardly with the northerly margin of said alley 21 feet, more or less, to the point of beginning.

This conveyance is made subject to reservation in deed from the Nashville Chattanooga & St. Louis Railway to Ted Beckwith, of record in Book 2147, page 567, Register's Office for Davidson County, Tennessee, and an easement and rights with reference to spur tracks on or across premises, easements located within Allison Street and alley, No. 195, retained by City of Nashville in Ordinances Nos. 54-386 and 387, and an easement for an alley lying west of Lots Nos. 88 and 89 and east of Lot No. 92 on premises.

Being the same property conveyed to Chester C. Whitaker by deed from Marvin E. Baker and wife, Carrie H. Baker, of record in Book 9231, page 903, Register's Office for Davidson County, Tennessee.

Also being the same property conveyed to Chester C. Whitaker, Trustee of the Chester C. Whitaker Living Trust dated August 24, 2004 by deed from Chester C. Whitaker of record as Instrument Number 20050429-0047886, Register's Office for Davidson County, Tennessee.

This is improved property known as 815 Ewing Avenue, Nashville, Tennessee 37203.