

# UNOFFICIAL COPY

## TRUST DEED - SECOND MORTGAGE AND NOTE



Doc#: 0634646128 Fee: \$30.00  
Eugene "Gene" Moore RHSP Fee: \$10.00  
Cook County Recorder of Deeds  
Date: 12/12/2006 02:17 PM Pg: 1 of 4

**THIS INDENTURE**  
**WITNESSETH** that the  
undersigned, **DAVID W.**  
**SCHAUER**, individually, and as  
President and Owner of **KDL**  
**CONSTRUCTION, INC.**, an  
Illinois Corporation, and  
**LINDA J. SCHAUER**,

Individually (as defined in the Note herein below) and as an Officer and Agent of **KDL CONSTRUCTION, INC.**, an Illinois Corporation, also included herein by virtue of her entitlement with her husband in Tenancy by the Entireties, of 12911 South 80th Avenue, Palos Park, County of Cook, State of Illinois, Zip Code: 60464, as Grantor(s), for and in consideration of the sum of One Dollar and other good and valuable consideration, in hand paid, conveys and warrants to **I.N.R. BEATTY LUMBER CO.**, c/o Mr. Robert J. Dolezal, Credit Manager, 11950 South Harlem Avenue, Palos Heights, Illinois 60463, as Trustee, the following described Real Estate with all improvements thereon, situated in the County of Cook, State of Illinois, to wit:

**THE SOUTH 142.50 FEET OF THE NORTH 345 FEET OF THE WEST 420 FEET OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 36, TOWNSHIP 37 NORTH RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS.**

Permanent Real Estate Index Number(s) (PIN): 23-36-101-009-0000

Commonly known by the address of: 12911 South 80th Avenue, Palos Park, Illinois 60464

### THIS IS A JUNIOR MORTGAGE

Hereby releasing and waiving all rights under and by virtue of the homestead exemption laws of the State of Illinois; IN TRUST, nevertheless, for the purpose of securing performance of the covenants and agreements herein: WHEREAS, the Grantors, **DAVID W. SCHAUER**, individually, as President and Owner of **KDL CONSTRUCTION, INC.**, an Illinois Corporation, and **LINDA J. SCHAUER**, individually (as defined in the Note herein) and as an officer and agent of **KDL CONSTRUCTION, INC.**, and Illinois Corporation, are justly indebted upon the principal promissory Note below and bearing the date herewith payable to the order of **I.N.R BEATTY LUMBER CO.**, in the amount of \$200,000.00.

**THE GRANTORS** covenant and agree: 1) to pay all prior encumbrances and the interest thereon, when due and payable, 2) to pay such indebtedness, and the interest thereon as herein and in said notes and any coupons provided, or according to any agreement extending time of payment; 3) to pay prior to the time that penalty which will attach in each year, all taxes and assessments against such premises, and on demand to exhibit receipts therefore; 4) within sixty (60) days after destruction or damage to rebuild or to restore all

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buildings or improvements on such premises that may have been destroyed or damaged; 5) that waste to such premises shall not be committed or suffered; 6) to keep all buildings at any time on such premises insured against loss by fire, tornado, and flood to their full insurable value, in companies to be approved by the Grantee herein, who is hereby authorized to place such insurance in companies acceptable to the holder of the first mortgage indebtedness, with loss claimable, first, to the first trustee(s), or mortgagee(s), and second, to the Trustee herein, as their several interests may appear, which policy or policies shall be deposited and remain with said trustees or mortgagees until this indebtedness shall be fully paid; 7) to keep the said property tenantable and in good repair; and 8) not to suffer any mechanic's lien or other lien to attach to said premises. In the event of failure of the Grantor to comply with any of the above covenants, then Grantee, or the holder of such indebtedness may take such action under the covenants above as may be necessary, and the Grantors agree to repay immediately without demand, and the same, with interest thereon from the date of payment at eighteen percent (18%) per annum shall be so much additional indebtedness secured hereby.

**IN THE EVENT OF A BREACH** of any of the aforesaid covenants or agreements, the whole of said indebtedness, including principal and all earned interest, shall, at the option of the legal holder thereof, without notice, become immediately due and payable and with interest thereon from the time of such breach, at eighteen percent (18%) per annum, and shall be recoverable by foreclosure hereof, or by suit at law, or both, the same as if all of such indebtedness had then matured by express terms.

**IT IS EXPRESSLY AGREED** that all expenses and disbursements, paid or incurred on behalf of the complainant in connection with the collection, foreclosure, or lawsuit upon this indebtedness, including actual attorney's fees and all costs, shall be paid by the Grantors, and that such expenditure by the Grantee shall be an additional lien upon such premises, and shall be taxed as costs and included in any judgment that may be rendered in such foreclosure proceeding or lawsuit, which proceeding(s) shall not be dismissed, nor any release given, until all such expenditures have been paid. The Grantors waive all right to the possession of and income from such premises pending such foreclosure proceedings or lawsuit, and until the period of redemption from any sale there under expires, and agree that upon the filing of any action to foreclose this Trust Deed, a receiver shall upon motion of the attorneys for the complainant, without notice, be immediately appointed by the court before which such motion for the appointment of a receiver shall come on for hearing, to take possession or charge of such premises, and collect such income and the same less receivership expenditures including repairs, insurance premiums, taxes, assessments and his commissions, to pay to the person entitled thereto in reduction of the indebtedness hereby secured, in reduction of the amount of any judgment of sale entered in any foreclosure proceeding, in payment or reduction of any deficiency after a judicial sale under any decree of sale, in payment or reduction of any deficiency judgment entered thereon, or if not in either matter so applied, the court approving the receiver's report shall order that the same be paid to the person entitled to the deed under the judicial sale. A bond on the application for receiver is hereby expressly waived and it shall not be the duty of the Trustee, legal holder of the notes or purchaser at any judicial or other sale to see to the application of the principal sum hereby secured or of the purchase money, or to inquire into the validity of any taxes, assessments, tax sales, tax titles, mechanic's or other liens, or titles, or the necessity for repairs, in advancing money as hereinbefore provided.

**IT IS FURTHER EXPRESSLY AGREED**, that as further and additional security hereto such Grantors agree to assign and by this document do assign, all the rents, issues and profits arising or to arise out of such premises to the Grantee herein and authorize him, in his own name, as assignee, or otherwise, to receive, sue for or otherwise collect such rents, issues, and profits, to serve all notices which may be or become necessary, to institute forcible entry and detainer proceedings, to receive possession, to re-rent and release such premises, or any portion thereof, for such term or terms and on such conditions as he may deem proper, and apply the proceeds thereof: First, to the payment of the expenses and charges against such property; Second, to the

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payment of interest and expenses of this trust including advancements, if any; and Third, to the payment of the principal sum hereby secured, rendering the surplusage, if any, to the undersigned when the indebtedness hereby secured shall have been fully paid and cancelled.

**IN THE EVENT** of the death, the inability, failure, or refusal to serve, or the removal of the Trustee, then Attorney **ERIC M. JOHNSON**, of ERIC M. JOHNSON, P.C., PO Box 6195, of the City of Elgin, County of Kane, and the State of Illinois, Zip Code 60121, is hereby appointed to be the first successor in this trust, and if for any like cause the first successor shall fail or refuse to act, then the person who shall be the acting Recorder of Deeds of such County is hereby appointed to be the second successor in this trust.

**WHEN ALL THE AFORESAID COVENANTS AND AGREEMENTS ARE PERFORMED**, the Trustee, or his successor in trust, shall release such premises to the party entitled thereto on receiving his reasonable charges.

**PROMISSORY NOTE**

October 19, 2006

**\$200,000.00**

FOR VALUE RECEIVED, the Grantors promise to pay to the order of I.N.R. BEATTY LUMBER CO., the sum of TWO HUNDRED THOUSAND AND 00/100ths DOLLARS (\$200,000.00), at the office of the legal holder of this instrument, I.N.R. BEATTY LUMBER CO., c/o Mr. Robert J. Dolezal, Credit Manager, 11950 South Harlem Avenue, Palos Heights, Illinois 60463, or its Successor Trustee, with the accrual of interest through "late payment charges" of eighteen percent (18%) per annum (as authorized through and specified by the Credit Agreement and Personal Guaranty between the Parties, a copy of which is attached hereto and specifically incorporated and made a part of this document as **EXHIBIT "A"**) suspended for a period of seven (7) months (until May 31, 2007) while Grantor is not in default of the additional specified terms herein, which are that Grantors intend to make full payment of the principle balance due of \$200,000.00 in installment payments which shall occur in amounts of and at the time of Grantors' choosing, mainly during or by the end of Spring, 2007, but nevertheless on or before May 31, 2007; provided, however, that if Grantors have not paid such \$200,000.00 balance due in full by that May 31, 2007 date, then the full late payment charges due pursuant to the Credit Agreement and Personal Guaranty between the Parties shall accrue as to the remaining balance due on May 31, 2007, calculated from the time each such balance became delinquent. Further, upon any other such default of any such terms of this document, the full amount of interest due from this date through the time of payment shall accrue and be assessed at eighteen percent (18%) per annum after the date hereof until paid, with full payment of principal and interest otherwise due and payable at or before any closing of any sale of the premises, upon which a contract may be currently pending at the time of the execution of this instrument, but nevertheless and in any event the full principal and interest due (or expressed as Late Payment Charges pursuant to the Credit Agreement and Personal Guaranty between the Parties) shall be payable one (1) year from the date of the execution of this instrument (on or before October 31, 2007).

And to secure the payment of such amount, the Grantors hereby authorize, irrevocably, any attorney of any court of record in any County or State in the United States, to appear for us in such court, at any time after maturity hereof, and confess a judgment without process in favor of the holder of this instrument, for such amount as may appear to be unpaid thereon, together with actual attorney's fees and costs, and to waive and to release all errors which may intervene in any such proceedings, and to consent to immediate execution upon such judgment, hereby ratifying and confirming all that our attorney may do by virtue hereof.

For the purposes of this Trust Deed - Second Mortgage and Note, and as an inducement in consideration for Grantee agreeing to extend further credit to Grantors and to forego legal action under either **EXHIBIT "A"** or this document during the time when Grantors are not in default under this document, Grantor LINDA J. SCHAUER

Oct. 19. 2006 6:18PM

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executes this document not only as an Officer and Agent of KDL CONSTRUCTION, INC., by virtue of her status as Secretary of such corporation, but also for the purposes of expressly agreeing in her Individual Capacity as wife of DAVID W. SCHAVER to be liable for the debt stated herein, along with her husband, DAVID W. SCHAVER, pursuant to the exception allowed in the Illinois "Rights of Married Persons" Act, 750 ILCS 65/15(a)(2)(A) for such an agreement for liability in writing, and further pursuant to the Illinois "Joint Tenancy" Act, 765 ILCS 1005/1c, "Devise, conveyance, assignment or other transfer of property; tenancy by the entirety", hereby expressly assenting along with her husband as tenants by the entireties to the remedies stated herein for default of Grantors, including the severance of such tenancy through foreclosure, of the "Real Estate" described herein above.

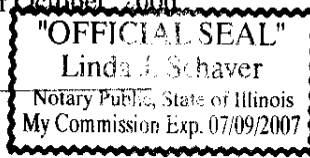
IN WITNESS HEREOF, the Corporate Grantor has caused this document to be signed by its duly-authorized officer (and the Grantee shall be conclusively entitled to rely upon such authorization as evidencing proper corporate action and execution of proper corporate documentation by the Corporate Grantor), and the individual Grantor has affixed his signature hereto, signifying his and its understanding and agreement to each of the above provisions of this instrument, on this 19th day of October, 2006.

*David W. Schaver*

**KDL CONSTRUCTION, by David W. Schaver,  
its President and Owner,**

Subscribed and Sworn to before me this 19<sup>th</sup> day of October, 2006.

*Linda J. Schaver*  
Notary Public

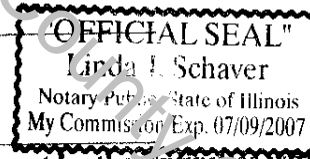


*David W. Schaver*

**DAVID W. SCHAVER (Individually, and as Tenant by the Entireties with LINDA J. SCHAVER)**

Subscribed and Sworn to before me this 19<sup>th</sup> day of October, 2006.

*Linda J. Schaver*  
Notary Public



*Linda J. Schaver*

**LINDA J. SCHAVER (Individually, and as Tenant by the Entireties with DAVID W. SCHAVER)**

Subscribed and Sworn to before me this 19<sup>th</sup> day of October, 2006.

Notary Public

This instrument was prepared by ERIC M. JOHNSON, P.C., PO Box 6195, Elgin, Illinois 60121, Telephone: (847) 721-6701  
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