

<b>UNITED STATES BANKRUPTCY COURT    CENTRAL DISTRICT OF CALIFORNIA</b>	<b>PROOF OF CLAIM</b>
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Name of Debtor  
Cameo Homes, a California corporation

Case Number  
SA 08-13151 RK

NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.

Name of Creditor (the person or other entity to whom the debtor owes money or property):

M.W. Housing Partners III, LP

☐ Check this box to indicate that this claim amends a previously filed claim.

Name and address where notices should be sent:

Steven G. Polard  
Perkins Coie LLP  
1620 26th Street, 6th Floor, South Tower  
Santa Monica, CA 90404

Court Claim  
Number: \_\_\_\_\_  
(If known)

Filed on: \_\_\_\_\_

Telephone number:

Name and address where payment should be sent (if different from above):

M.W. Housing Partners III, LP  
1301 Fifth Avenue, Suite 3100  
Seattle, WA 98101

☐ Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.

☐ Check this box if you are the debtor or trustee in this case.

Telephone number: 206-494-4050

1. Amount of Claim as of Date Case Filed: \$ 18,640,000, plus accrued interest, fees, costs,

If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4.

If all or part of your claim is entitled to priority, complete item 5.

☐ Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.

2. Basis for Claim: Guaranties of Commercial Loans - See addendum "A"  
(See instruction #2 on reverse side.)

3. Last four digits of any number by which creditor identifies debtor: \_\_\_\_\_  
3a. Debtor may have scheduled account as: \_\_\_\_\_  
(See instruction #3a on reverse side.)

4. Secured Claim (See instruction #4 on reverse side.) Guaranties unsecured  
Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information.

Nature of property or right of setoff: ☐ Real Estate ☐ Motor Vehicle ☐ Other  
Describe:

Value of Property: \$ \_\_\_\_\_ Annual Interest Rate \_\_\_\_\_ %

Amount of arrearage and other charges as of time case filed included in secured claim,

If any: \$ \_\_\_\_\_ Basis for perfection: \_\_\_\_\_

Amount of Secured Claim: \$ \_\_\_\_\_ Amount Unsecured: \$ \_\_\_\_\_

6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.

7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.)

DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING.

If the documents are not available, please explain:

5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a). If any portion of your claim falls in one of the following categories, check the box and state the amount.

Specify the priority of the claim.

☐ Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☐ Wages, salaries, or commissions (up to \$10,950\*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4).

☐ Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5)

☐ Up to \$2,425\* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7).

☐ Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8).

☐ Other - Specify applicable paragraph of 11 U.S.C. § 507(a) (      ).

Amount entitled to priority:

\$ \_\_\_\_\_

\*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

Date:  
Oct. 30, 2008

Signature: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any.

PERKINS COIE LLP

By \_\_\_\_\_

Steven G. Polard, Attorney for MW Housing Partners III, LP

FOR COURT USE ONLY

# INSTRUCTIONS FOR PROOF OF CLAIM FORM

The instructions and definitions below are general explanations of the law. In certain circumstances, such as bankruptcy cases not filed voluntarily by the debtor, there may be exceptions to these general rules.

## ITEMS TO BE COMPLETED IN PROOF OF CLAIM FORM

### Court, Name of Debtor, and Case Number:

Fill in the federal judicial district where the bankruptcy case was filed (for example, Central District of California), the bankruptcy debtor's name, and the bankruptcy case number. If the creditor received a notice of the case from the bankruptcy court, all of this information is located at the top of the notice.

### Creditor's Name and Address:

Fill in the name of the person or entity asserting a claim and the name and address of the person who should receive notices issued during the bankruptcy case. A separate space is provided for the payment address if it differs from the notice address. The creditor has a continuing obligation to keep the court informed of its current address. See Federal Rule of Bankruptcy Procedure (FRBP) 2002(g).

### 1. Amount of Claim as of Date Case Filed:

State the total amount owed to the creditor on the date of the Bankruptcy filing. Follow the instructions concerning whether to complete items 4 and 5. Check the box if interest or other charges are included in the claim.

### 2. Basis for Claim:

State the type of debt or how it was incurred. Examples include goods sold, money loaned, services performed, personal injury/wrongful death, car loan, mortgage note, and credit card.

### 3. Last Four Digits of Any Number by Which Creditor Identifies Debtor:

State only the last four digits of the debtor's account or other number used by the creditor to identify the debtor.

### 3a. Debtor May Have Scheduled Account As:

Use this space to report a change in the creditor's name, a transferred claim, or any other information that clarifies a difference between this proof of claim and the claim as scheduled by the debtor.

### 4. Secured Claim:

Check the appropriate box and provide the requested information if the

Check the appropriate place if the claim is a secured claim. You must state the type of value of property that is collateral for the claim, attach copies of the documentation of your lien, and state the amount past due on the claim as of the date the bankruptcy case was filed. A claim may be partly secured and partly unsecured. (See DEFINITIONS, above).

**5. Amount of Claim Entitled to Priority Under 11 U.S.C. §507(a).** If any portion of your claim falls in one or more of the listed categories, check the appropriate box(es) and state the amount entitled to priority. (See DEFINITIONS, below.) A claim may be partly priority and partly non-priority. For example, in some of the categories, the law limits the amount entitled to priority.

### 6. Credits:

An authorized signature on this proof of claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

### 7. Documents:

Attach to this proof of claim form redacted copies documenting the existence of the debt and of any lien securing the debt. You may also attach a summary. You must also attach copies of documents that evidence perfection of any security interest. You may also attach a summary. FRBP 3001(c) and (d). Do not send original documents, as attachments may be destroyed after scanning.

### Date and Signature:

The person filing this proof of claim must sign and date it. FRBP 9011. If the claim is filed electronically, FRBP 5005(a)(2), authorizes courts to establish local rules specifying what constitutes a signature. Print the name and title, if any, of the creditor or other person authorized to file this claim. State the filer's address and telephone number if it differs from the address given on the top of the form for purposes of receiving notices. Attach a complete copy of any power of attorney. Criminal penalties apply for making a false statement on a proof of claim.

## DEFINITIONS

### Debtor

A debtor is the person, corporation, or other entity that has filed a bankruptcy case.

### Creditor

A creditor is the person, corporation, or other entity owed a debt by the debtor on the date of the bankruptcy filing.

### Claim

A claim is the creditor's right to receive payment on a debt that was owed by the debtor on the date of the bankruptcy filing. See 11 U.S.C. §101 (5). A claim may be secured or unsecured.

### Proof of Claim

A proof of claim is a form used by the creditor to indicate the amount of the debt owed by the debtor on the date of the bankruptcy filing. The creditor must file the form with the clerk of the same bankruptcy court in which the bankruptcy case was filed.

### Secured Claim Under 11 U.S.C. §506(a)

A secured claim is one backed by a lien on property of the debtor. The claim is secured so long as the creditor has the right to be paid from the property prior to other creditors. The amount of the secured claim cannot exceed the value of the property. Any amount owed to the creditor in excess of the value of the property is an unsecured claim. Examples of liens on property include a mortgage on real estate or a security interest in a car.

A lien may be voluntarily granted by a debtor or may be obtained through a court proceeding. In some states, a court judgment is a lien. A claim also may be secured if the creditor owes the debtor money (has a right to setoff).

### Unsecured Claim

An unsecured claim is one that does not meet the requirements of a secured claim. A claim may be partly unsecured if the amount of the claim exceeds the value of the property on which the creditor has a lien.

### Claim Entitled to Priority Under 11 U.S.C. §507(a)

Priority claims are certain categories of unsecured claims that are paid from the available money or property in a bankruptcy case before other unsecured claims.

### Redacted

A document has been redacted when the person filing it has masked, edited out, or otherwise deleted, certain information. A creditor should redact and use only the last four digits of any social-security, individual's tax-identification, or financial-account number, all but the initials of a minor's name and only the year of any person's date of birth.

### Evidence of Perfection

Evidence of perfection may include a mortgage, lien, certificate of title, financing statement, or other document showing that the lien has been filed or recorded.

## INFORMATION

### Acknowledgment of Filing of Claim

To receive acknowledgment of your filing, you may either enclose a stamped self-addressed envelope and a copy of this proof of claim or you may access the court's PACER system ([www.pacer.psc.uscourts.gov](http://www.pacer.psc.uscourts.gov)) for a small fee to view your filed proof of claim.

### Offers to Purchase a Claim

Certain entities are in the business of purchasing claims for an amount less than the face value of the claims. One or more of these entities may contact the creditor and offer to purchase the claim. Some of the written communications from these entities may easily be confused with official court documentation or communications from the debtor. These entities do not represent the bankruptcy court or the debtor. The creditor has no obligation to sell its claim. However, if the creditor decides to sell its claim, any transfer of such claim is subject to FRBP 3001(e), any applicable provisions of the Bankruptcy Code (11 U.S.C. § 101 et seq.), and any applicable orders of the bankruptcy court.

**PROOF OF SERVICE**

I, Caroline Mallahi, declare:

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1620 26th Street, Sixth Floor, South Tower, Santa Monica, California 90404-4013.

On October 31, 2008, I served a copy of the within document(s):

**PROOF OF CLAIM**

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- ☒ by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Santa Monica, California addressed as set forth below.
- ☐ by placing the document(s) listed above in a sealed \_\_\_\_\_ envelope and affixing a pre-paid air bill, and causing the envelope to be delivered to a \_\_\_\_\_ agent for delivery.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth below.

Attorney for Joint Debtor, Gianulius:  
Alan J. Friedman  
840 Newport Center Drive, Suite 400  
Newport Beach, CA 92660

Attorney for Official Joint Committee  
of Unsecured Creditors:  
Elissa Miller  
333 S. Hope Street, 35th Floor  
Los Angeles, CA 90071

Attorney for Joint Debtor, Gianulias:  
Kerri A. Lyman  
840 Newport Center Drive, Suite 400  
Newport Beach, CA 92660

Attorney for U.S. Trustee:  
Frank Cadigan  
411 W. 4th Street, Suite 9041  
Santa Ana, CA 92701

Attorney for Debtor, Cameo Homes  
Paul J. Couchot  
Winthrop Couchot PC  
660 Newport Center Drive, Suite 400  
Newport Beach, CA 92660

Attorney for Petitioning Creditor,  
California National Bank  
Joshua D. Wayser  
2029 Century Park East, Ste 2600  
Los Angeles, CA 90067

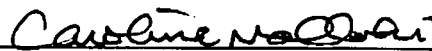
1 Attorney for Petitioning Creditor,  
2 Famille Holdings L.P.  
3 Jess R. Bressi  
4 19800 MacArthur Blvd., Ste 500  
5 Irvine, CA 92612

6 I am readily familiar with the firm's practice of collection and processing correspondence  
7 for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same  
8 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on  
9 motion of the party served, service is presumed invalid if postal cancellation date or postage  
10 meter date is more than one day after date of deposit for mailing in affidavit.

11 I declare that I am employed in the office of a member of the bar of this court at whose  
12 direction the service was made.

13 I declare under penalty of perjury under the laws of the State of California that the above  
14 is true and correct.

15 Executed on October 31, 2008 at Santa Monica, California.

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18 Caroline Mallahi  
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## **ADDENDUM "A"**

Lender made a total of five pertinent loans ("Loans") as follows:

MW made a loan ("Loan I") to Silver Oaks 183, L.L.C., a California limited liability company ("Borrower"), having its principal place of business in Newport Beach, California, in the principal amount of \$7,610,000. Loan I is evidenced by a Promissory Note dated May 21, 2004; a Loan Agreement dated May 21, 2004; a Deed of Trust, Recordation No. 2004-0409147, in the County of Riverside dated May 21, 2004, and recorded May 28, 2004; Subordination Agreements were duly recorded in the County of Riverside, California as Instrument Nos. 2004-0409148 and 2005-0110673.

MW made a loan ("Loan II") to Rancho Fortunado, LLC, a California limited liability company ("Borrower"), having its principal place of business in Newport Beach, California, in the principal amount of \$5,680,000.00. Loan II is evidenced by a Promissory Note dated June 1, 2004; a Loan Agreement as amended, originally dated June 1, 2004; a Deed of Trust dated June 1, 2004, recorded June 9, 2004 as Instrument No. 2004-0440567 in the County of Riverside, California, as Amended; and a Subordination Agreement dated June 2, 2004.

MW made a loan ("Loan III") also to BEG, LLC, a California limited liability company ("Borrower"), having its principal place of business in Newport Beach, California, in the principal sum of \$6,470,000. Loan III is evidenced by a Promissory Note dated May 20, 2005; a Loan Agreement, as Amended, dated May 20, 2005; a Deed of Trust dated May 20, 2005, Instrument No. 2005-0420358 in the County of Riverside, California, recorded May 26, 2005, as Amended; and a modified Subordination Agreement dated May 24, 2005.

MW made a loan ("Loan IV") to 213 Banning, LLC, a California limited liability company ("Borrower"), having its principal place of business in Riverside, California, in the principal sum of \$6,240,000. Loan IV is evidenced by a Promissory Note dated April 7, 2004; a Loan Agreement dated April 7, 2004; a Deed of Trust dated April 7, 2004, Instrument No. 2004-0266996 recorded in Riverside County, California; and a Subordination Agreement, dated February 2, 2005.

WRI made a loan ("Loan V") to Rider & Patterson, LLC ("Borrower"), having its principal place of business in Newport Beach, California, in the principal amount of \$6,870,000. Loan V is evidenced by a Promissory Note dated September 7, 2005; a Loan Agreement dated September 7, 2005; a Deed of Trust dated September 7, 2005, Instrument No. 2005-0752004 recorded in Riverside County, California; and a Subordination Agreement dated September 7, 2005.

For good and valuable consideration, the receipt and sufficiency of which was acknowledged, and in order to induce MW to enter into the foregoing Loan Agreements as to Loans I-V inclusive, and to make the above-described Loans I-V inclusive, certain guarantors specified below including the Debtor, each agreed to and entered into written Guaranties ("MW Guaranties I-V") of the specified Loans, in favor of MW, to pay MW or its order any and all indebtedness to MW, and to perform any and all obligations of each such Borrower under the pertinent Loan Documents. A true and correct copy of each of Guaranties I-V is attached hereto and incorporated hereat as Exhibits "A" – "E", inclusive.

A. Project: Silver Oaks Ranch. Guaranty , a true and correct copy of which is attached as Exhibit "A", in the sum of \$2,300,000, plus fees and expenses. Guarantors: both Gianulias and Cameo.

B. Project: Rancho Fortunado. Guaranty, a true and correct copy of which is attached as Exhibit "B" in the sum of \$1,500,000, plus fees and expenses. Guarantors: both Gianulias and Cameo.

C. Project: Whispering Creek. Guaranty, a true and correct copy of which is attached as Exhibit "C", in the sum of \$6,470,000, plus accrued interest, fees and costs. Guarantor: Cameo only.

D. Project: Perris. Guaranty, a true and correct copy of which is attached as Exhibit "D", in the principal sum of \$6,870,000, plus accruing interest, fees and costs. Guarantors: G Cameo and G Companies Housebuilding , LLC.

E. Project: Banning. Guaranty, a true and correct copy of which is attached as Exhibit "E", in the sum of \$1,500,000, plus fees, expenses, and Guarantors: both Gianulias and Cameo.

Loan I matured as reflected in a Demand made on October 16, 2007, and Loan I remains due, owing and unpaid, and is in default. As of March 31, 2008 there is now due and owing the total sum of \$1,505,088.64, not including attorneys' fees and costs, (the "Loan I Indebtedness").

Loan II matured on November 8, 2007, remains due, owing and unpaid, and is in default. As of March 31, 2008 there is now due and owing \$6,445,936.10 including interest at the default rate, and not including attorneys' fees and costs, with a per diem accruing at the rate of \$3,151.12 per day (the "Loan II Indebtedness").

Loan III went into default as of January 7, 2008 as referenced in the Assertion of a Cross-Default by Demand Letter dated March 20, 2008. Loan III remains due, owing and unpaid, and is accelerated. As of March 31, 2008, there is now due and owing \$5,761,728.78 including interest at the default rate, and not including attorneys' fees and

costs, with a per diem accruing at the rate of \$1,851.87 per day (the “Loan III Indebtedness”).

Loan IV matured not later than February 14, 2008 (after an earlier Event of Default noticed on December 21, 2007), remains due, owing and unpaid, and is in default. As of March 31, 2008 there is now due and owing \$8,159,499.23 including interest at the default rate, and not including attorneys’ fees and costs, with a per diem accruing at the rate of \$2,591.02 per day (the “Loan IV Indebtedness”).

Loan V went into default as of a December 21, 2007 Demand Letter with monetary Events of Default, and with service of this Complaint, the Lender asserts an acceleration of the entire indebtedness, which remains due, owing and unpaid, and is in default. As of March 31, 2008, there is now due and owing \$8,731,620.35 including interest at the default rate, and not including attorneys’ fees and costs, with a per diem accruing at the rate of \$3,731.63 per day (the “Loan V Indebteness”).



**EXHIBIT "A"**

## GUARANTY



PROJECT NAME: Silver Oaks Ranch  
WRI LOAN NO: 07476  
ORIGINATING OFFICE: Irvine

This Guaranty is made as of this May 21, 2004, by CAMEO HOMES, INC., a California corporation, and JAMES C. GIANULIAS, as to his sole and separate estate and his interest in the marital community, (each a "**Guarantor**" and together the "**Guarantors**"), for the benefit of MW HOUSING PARTNERS III, L.P., a California limited partnership ("**Lender**").

### RECITALS

A. Lender has agreed to make a loan (the "**Loan**") to SILVER OAKS 183, L.L.C., a California limited liability company ("**Borrower**") in a principal amount up to \$7,610,000 to provide financing for the acquisition and development of certain real property located in Riverside County, California (the "**Land**"), the construction of certain improvements thereon (the "**Improvements**"). The Land and Improvements to be constructed thereon by Borrower, together with all personal property now or hereafter acquired by Borrower and located on or acquired for use in connection with the Land or Improvements, are hereinafter collectively referred to as the "**Project**".

B. The Loan will be evidenced by, among other documents, a promissory note (the "**Note**") executed by Borrower in favor of Lender in the amount of the Loan, and by a Loan Agreement (the "**Loan Agreement**") executed by Borrower and Lender. The Loan shall be secured by, among other documents, a Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing (the "**Deed of Trust**"). The Loan Agreement, Note, Deed of Trust, and any and all other documents evidencing or securing the Loan are referred to as the "**Loan Documents**." Terms used but not defined herein shall have the meanings assigned to them in the Loan Agreement. If there is only one Guarantor, all plural references to the "**Guarantors**" herein shall be deemed to refer only to such Guarantor.

C. Each Guarantor is affiliated with Borrower in various ways and will receive substantial benefit from the Loan. Accordingly, to induce Lender to make the Loan, each Guarantor has executed this Guaranty knowing and intending that Lender will materially rely upon this Guaranty in entering the Loan Agreement and making the Loan.

### AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Lender to enter the Loan Agreement and to make the Loan, Guarantors hereby agree as follows:

## 1. Scope of Guaranty.

1.1 Guarantors hereby absolutely and unconditionally guaranty and promise to pay to Lender or its order any and all indebtedness of Borrower to Lender and to perform any and all obligations of Borrower under the Loan Documents. Guarantors acknowledge that they have reviewed and are fully familiar with the terms and conditions of the Loan Agreement, Note, Deed of Trust, and other Loan Documents, and fully understand the obligations of Borrower thereunder.

1.2 The words "*indebtedness*" and "*obligations*" are used herein in their most comprehensive sense and include any and all advances, debts, obligations and liabilities of any kind whatsoever, including the obligation to construct and complete the Project in a timely and lien-free manner, to make such deposits with Borrower as are necessary to keep the Loan "in balance," and to perform all of Borrower's other obligations with respect to the collateral for the Loan.

1.3 Notwithstanding the foregoing, Guarantors do not guarantee payment of "*Additional Interest*" (as defined in the Loan Agreement) on any portion of the Project that remains unsold by Borrower if and when Lender forecloses against the Project (whether judicially or non-judicially) or accepts a deed-in-lieu of foreclosure.

1.4 This Guaranty is continuing and shall terminate only upon full payment and performance by Borrower or Guarantors of all the terms, covenants, and conditions of the Loan that are guaranteed by Guarantors hereunder.

1.5 Notwithstanding any other provision herein or in any other Loan Document, the maximum cumulative amount that Lender may recover from the Guarantors under this Guaranty is \$2,300,000 plus attorneys' fees and other expenses reasonably incurred by Lender in enforcing or seeking a recovery under this Guaranty from the Guarantors. Lender may seek to recover such amount from any one of the Guarantors or from any combination of the Guarantors, and any rights of contribution or indemnity among the Guarantors are matters solely among themselves, but shall not diminish or otherwise affect Lender's rights hereunder.

2. **Guarantors' Independent Obligations.** Guarantors understand that their obligations to Lender hereunder are direct, personal, and independent obligations to pay and perform all of Borrower's obligations under the Loan Documents, and not as a collection guarantor, surety, endorser, or other party having only secondary liability. The obligations of each Guarantor hereunder are joint and several and independent of the obligations of Borrower, and a separate action or actions may be brought against any Guarantor whether or not separate actions are brought against Borrower or other Guarantors, and whether or not Borrower or other Guarantors are joined in any such action or actions. Moreover, any partial payment by Borrower or other circumstance that operates to toll any statute of limitations as to Borrower shall operate to toll such statute of limitations as to Guarantors. Lender's rights under this Guaranty shall not be exhausted until and unless all indebtedness and obligations hereby guaranteed have been paid and fully performed.

3. **Modifications.** Guarantors authorize Lender from time to time, without notice or demand to or approval by Guarantors, and even though Borrower's financial condition may have deteriorated or Guarantors may object: (a) to renew, extend, or otherwise change the time for payment of the obligations of Borrower to Lender, (b) to increase the amount of the Loan, (c) to modify any other terms of the Loan,

(d) to take and hold security for the payment of this Guaranty or any other indebtedness guaranteed, and exchange, enforce, waive, or release any such security; (e) to release Borrower or one or more Guarantors from obligations under the Loan or any guaranty thereof, (f) to apply such security and direct the amount or manner of sale thereof as the Lender in its sole discretion may determine; (g) to extend Lender's credit limits for loans to Borrower; or (h) to take any other actions with respect to the terms of or security for Borrower's indebtedness to Lender. Notwithstanding any such action by Lender, Guarantors' unconditional guarantee shall remain in full force and effect and guarantee prompt payment and performance of all indebtedness and obligations owing by Borrower to Lender.

#### **4. Guarantors' Waivers.**

**4.1 Particular Actions by Lender.** Guarantors hereby waive any right to require Lender to: (i) give notice of acceptance of this Guaranty, notice of presentment or non-performance, demands for performance, or notice of the existence, creation, or modification of any indebtedness of Borrower under the Loan, (ii) record, perfect, maintain, or enforce any security for the obligations of Borrower, Guarantors, or any other guarantor of the Loan; (iii) proceed against Borrower, any Guarantor, any other guarantor, or any other party, including the filing of any claims in any bankruptcy, probate, or other proceeding; (iv) proceed against or exhaust any security received from Borrower, any Guarantor, or any other guarantor, (v) dispose of any repossessed collateral in a "commercially reasonable" or other manner as required by the Uniform Commercial Code or other applicable statute; or (vi) pursue any other remedy in Lender's power whatsoever. Guarantors agree that their obligations hereunder shall not be affected by any circumstances, whether or not referred to herein, that might otherwise constitute a legal or equitable discharge of a guarantor or a surety, provided Lender acts in good faith.

**4.2 Other Defenses.** Guarantors also waive any rights, claims, defenses, abatement, or rights of setoff or recoupment based on or arising out of: (i) any legal disability, discharge, or limitation of the liability of Borrower to Lender, whether consensual or arising by operation of law or any proceeding; (ii) the death or disability of Borrower, any Guarantor, or any other guarantors; (iii) any right to cause a marshaling of Borrower's assets, and (iv) any right to require Lender to exhaust any security for the performance of Borrower's obligations or to proceed against Borrower, any particular Guarantor, or any other guarantors in any particular order, whether such right exists by statute or otherwise.

#### **4.3 Anti-Deficiency and One-Form-of-Action Rules.**

**4.3.1** Guarantors understand that certain statutes, commonly referred to as "anti-deficiency" and "one form of action" rules, may prevent or inhibit a lender, after completing a non-judicial foreclosure or accepting a deed in lieu of foreclosure, from obtaining a deficiency judgment against a borrower or from collecting the amount of the deficiency from a guarantor, unless such borrower or guarantor has knowingly waived the application of such statutes and the benefits that it would otherwise receive from such statutes. This curtailment of a lender's rights to recover a deficiency from a guarantor is based in part on the fact that a lender's election of a non-judicial foreclosure or a deed in lieu of foreclosure from among other possible default remedies impairs or eliminates a guarantor's rights of subrogation and reimbursement against the borrower, the collateral, or any other surety for borrower's obligations.

**4.3.2** Guarantors understand that, unless they waive the protection that such rules would ordinarily confer, these "anti-deficiency" and "one form of action" rules might provide a defense to enforcement of this Guaranty if Lender elects to proceed with a non-judicial foreclosure or to accept a

deed-in-lieu of foreclosure. Nevertheless, as an inducement for Lender to make the Loan, Guarantors hereby knowingly waives, in advance, all of their rights to rely on the anti-deficiency and one-form-of-action rules in connection with the impairment of its subrogation rights, as a defense to this Guaranty. Guarantors hereby acknowledge and agree that Lender may, in its sole discretion, exercise any right or remedy whatsoever that it may have against Borrower or any security held by Lender, including, without limitation, the right to foreclose upon any collateral for the Loan by judicial or non-judicial sale or to take a deed-in-lieu of foreclosure, without affecting or impairing in any way the liability of Guarantors hereunder (except to the extent that the indebtedness has been fully paid and performed), even if such election operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of Guarantors against Borrower or any security for the Loan. Guarantors further waive any statutes that provide "fair value" protection by limiting a deficiency judgment to the difference between the property's fair market value (or foreclosure sale price, if greater) and the amount of the obligation being foreclosed.

4.3.3 If this Guaranty is governed by California law, Guarantors also agree and affirm that:

4.3.3.1 Pursuant to Cal. Civil Code § 2856(c) and without limiting the other waivers contained herein, Guarantors waive all rights and defenses that Guarantors may have because the Borrower's debt is secured by real property. This means, among other things: (1) Lender may collect from any of the Guarantors without first foreclosing on any real or personal property collateral pledged by the Borrower, and (2) if the Lender forecloses on any real property collateral pledged by the Borrower: (a) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (b) the Lender may collect from any or all of the Guarantors even if the Lender, by foreclosing on the real property collateral, has destroyed any right any of the Guarantors may have to collect from the Borrower.

4.3.3.2 This is an unconditional and irrevocable waiver of any rights and defenses the Guarantors may have because the Borrower's debt is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the Code of Civil Procedure.

4.3.3.3 Guarantors also waive all rights and defenses arising out of an election of remedies by the Lender even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed the Guarantors' rights of subrogation and reimbursement against the principal by the operation of Section 580d of the Code of Civil Procedure or otherwise.

4.3.3.4 Guarantors affirm their intention to waive all benefits that might otherwise be available to Guarantor or Borrower under California Code of Civil Procedure Sections 580a, 580b, 580d, and 726 and California Civil Code Sections 2809, 2810, 2819, 2822, 2839, 2845, 2849, 2850, 2899, and 3433, among others.

4.4 Jury Trial. Guarantors hereby waive any and all rights to demand a trial by jury in any proceeding relating to this Guaranty.

4.5 Subrogation Rights. Until Lender shall have received full payment and performance of all of Borrower's obligations under the Loan, Guarantors shall have no right of subrogation and waive

any right to enforce any remedy that Lender now has or hereafter may have against Borrower and waive any benefit of, and any right to participate in, any security now or hereafter held by Lender for the performance of Borrower's obligations to Lender.

**5. Subordination and Assignment of Borrower Debts to Guarantors.** Guarantors hereby assign to Lender any and all rights they now or may hereafter have to receive payments from or other performance by Borrower on debts or other obligations of Borrower in favor of Guarantors. All rights of Guarantors under such debts and obligations of Borrower in favor of Guarantors are hereby subordinated to Lender's rights to payments from and performance by Borrower under the Loan Documents. Notwithstanding the foregoing assignment and subordination, prior to an Event of Default under the Loan, payments by Borrower to Guarantors may be collected and retained by Guarantors (subject to Lender's recourse against such payments under this Guaranty), but upon any Event of Default, all payments thereafter received by Guarantors under such debts shall be immediately paid over to Lender pursuant to this Guaranty or, if Lender so requests, any unpaid debts shall be collected, enforced and received by Guarantors, in trust, for the benefit of Lender, and be paid over to Lender on account of any unperformed obligations of Borrower under the Loan. Lender's receipt of such payments shall not reduce or affect in any manner the liability of Guarantors under the other provisions of this Guaranty, other than reducing the obligations under the Loan by the amount so paid.

**6. Warranties.** Guarantors represent and warrant to Lender that:

**6.1** The financial reports of Guarantors and other written statements that have been furnished to Lender to induce Lender to make the Loan fairly and accurately present Guarantors' financial position as of the date of such statements. Guarantors have title to all assets shown in such financial reports, there has been no material adverse change in the financial condition of any Guarantor since the date of the last report so furnished, and Guarantors hereby agree to give Lender written notice of any material adverse change in the financial condition or assets of any Guarantor, with such notice to be given within 10 days after Guarantors become aware of such material adverse change;

**6.2** There are no actions, suits or proceedings pending or, to Guarantors' actual knowledge, threatened against any Guarantor that might result in any material adverse change in the financial condition of any Guarantor; and

**6.3** Guarantors (and the persons executing this Guaranty on behalf of any non-individual Guarantors) have the requisite power, authority, capacity, and legal right to execute and deliver this Guaranty; no further consent, approval, resolution, or other authorization is required, and neither the execution nor delivery of this Guaranty nor compliance with the terms hereof will conflict with or constitute a breach or default under any agreement or instrument to which Guarantors are a party or will provide a basis for acceleration of any indebtedness of Guarantors to any party whatsoever.

All such warranties shall be deemed to be continuing representations and warranties until full payment and performance of the Borrower's obligations under the Loan Documents.

**7. Assignment.** This Guaranty shall benefit any and all successors and assigns of Lender, including the assignees of or participants in any indebtedness hereby guaranteed. Lender may, in its sole discretion, sell or assign participation interests in the Loan and this Guaranty, in whole or in part, without any requirement to give notice to or receive the approval of Guarantors, and may disclose any and all

financial information about Guarantors to any actual or proposed assignee or participant in the Loan. Guarantors may not assign or delegate any of their obligations under this Guaranty without Lender's prior written consent, and any attempt to do so without such consent shall be of no effect and shall not release Guarantors from any obligation hereunder.

**8. Guarantors' Ongoing Reporting Obligations.** Each Guarantor shall provide Lender with updated financial statements for such Guarantor on an annual basis within 90 days after the end of each calendar year and shall notify Lender in writing of any change of address, telephone number, facsimile number, marital status (if an individual), or legal organization (if an entity) within 10 days after such event.

## **9. General Provisions**

**9.1 No Waiver.** No forbearance or delay on the part of Lender in the exercise of any power, right, or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any such power, right, or privilege preclude any other or further exercise of such power, right or privilege. All powers, rights, and privileges hereunder are cumulative with and not exclusive of any powers, rights, or privileges otherwise available to Lender at law or under any documents that shall evidence or secure any loans from Lender to Borrower.

**9.2 Entire Agreement.** Except as provided in any other written agreement now or in the future executed between Lender and Guarantors, this Guaranty shall constitute the entire agreement of Guarantors with Lender with respect to the subject matter hereof. No representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon Lender unless expressed in this Guaranty. No provision of this Guaranty or right of Lender hereunder can be waived nor can Guarantors be released from Guarantors' obligations hereunder except by a writing duly executed by an authorized representative of Lender.

**9.3 Severability of Provisions.** Any provision of this Guaranty that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

**9.4 Consultation with Counsel.** Guarantors acknowledge that they has consulted with counsel of its choice or had an adequate opportunity to do so in connection with execution of this Guaranty.

**9.5 Costs and Reasonable Attorneys' Fees.** Guarantors shall pay all of Lender's expenses incurred in any effort to enforce any terms of this Guaranty, whether or not any suit is filed, including, without limitation, reasonable attorneys' fees and disbursements, foreclosure costs, and title charges, and including all attorney's fees and costs incurred by Lender in connection with a bankruptcy or other insolvency proceeding of Borrower or any Guarantor and relating to any kind of review, claim, approval, relief, or procedure whatsoever in such bankruptcy. Such sums shall be immediately due and payable and shall bear interest from the date of disbursement at the Default Rate set forth in the Loan Documents, or the maximum rate that may be collected from Borrower under applicable law, if less.

**9.6 Community and Trust Property.** Each Guarantor who is a natural person and who is married agrees, represents, and warrants that: (i) he or she is executing this Guaranty with the knowledge and consent of his or her spouse, and has authority to bind his or her marital community to the terms and conditions hereof, and (i) recourse for his or her obligations under this Guaranty shall be

available against his or her separate property and any and all property of his or her marital community, whether now existing or hereafter acquired, together with any proceeds thereof. Each such Guarantor further agrees that recourse under this Guaranty shall also be available against any such property that is subsequently conveyed to a living, family, or other trust in which such Guarantor and/or his or her spouse is a settlor, trustee, or beneficiary or otherwise controls.

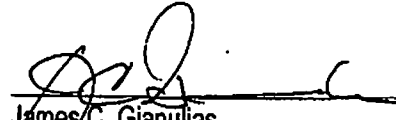
**9.7 Governing Law.** This Guaranty shall be governed by and construed in accordance with the laws of the State in which the Project is located, without regard to the choice of law rules of such State.



Executed as of the date first set forth above.

GUARANTOR:

CAMEO HOMES, INC.,  
a California corporation

  
James C. Gianulias  
Its President

Social Security or Federal Tax ID No.:

95-2593087

Business Address:

1105 Quail Street  
Newport Beach, California  
92660


Business Telephone:

949-955-3832

Business Fax No.:

949-250-8574

GUARANTOR:

  
JAMES C. GIANULIAS, as to his sole and  
separate estate and his interest in the marital  
community

Social Security or Federal Tax ID No.:

REDACTED

Home Address:

-----  
Newport Coast, CA 92657

**EXHIBIT "B"**

## GUARANTY



PROJECT NAME: Rancho Fortunado  
WRI LOAN No: 07482  
ORIGINATING OFFICE: Irvine

This Guaranty is made as of this June 1, 2004, by CAMEO HOMES, a California corporation, and JAMES C. GIANULIAS, as to his sole and separate estate and his interest in the marital community, (each a "Guarantor" and together the "Guarantors"), for the benefit of MW HOUSING PARTNERS III, L.P., a California limited partnership ("Lender").

### RECITALS

A. Lender has agreed to make a loan (the "Loan") to RANCHO FORTUNADO, L.L.C., a California limited liability company ("Borrower") in a principal amount up to \$5,680,000 to provide financing for the acquisition and development of certain real property located in Riverside County, California (the "Land"), the construction of certain improvements thereon (the "Improvements"). The Land and Improvements to be constructed thereon by Borrower, together with all personal property now or hereafter acquired by Borrower and located on or acquired for use in connection with the Land or Improvements, are hereinafter collectively referred to as the "Project".

B. The Loan will be evidenced by, among other documents, a promissory note (the "Note") executed by Borrower in favor of Lender in the amount of the Loan, and by a Loan Agreement (the "Loan Agreement") executed by Borrower and Lender. The Loan shall be secured by, among other documents, a Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing (the "Deed of Trust"). The Loan Agreement, Note, Deed of Trust, and any and all other documents evidencing or securing the Loan are referred to as the "Loan Documents." Terms used but not defined herein shall have the meanings assigned to them in the Loan Agreement. If there is only one Guarantor, all plural references to the "Guarantors" herein shall be deemed to refer only to such Guarantor.

C. Each Guarantor is affiliated with Borrower in various ways and will receive substantial benefit from the Loan. Accordingly, to induce Lender to make the Loan, each Guarantor has executed this Guaranty knowing and intending that Lender will materially rely upon this Guaranty in entering the Loan Agreement and making the Loan.

### AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Lender to enter the Loan Agreement and to make the Loan, Guarantors hereby agree as follows:

## 1. Scope of Guarantee.

1.1 Guarantors hereby absolutely and unconditionally guaranty and promise to pay to Lender or its order any and all indebtedness of Borrower to Lender and to perform any and all obligations of Borrower under the Loan Documents. Guarantors acknowledge that they have reviewed and are fully familiar with the terms and conditions of the Loan Agreement, Note, Deed of Trust, and other Loan Documents, and fully understand the obligations of Borrower thereunder.

1.2 The words "*indebtedness*" and "*obligations*" are used herein in their most comprehensive sense and include any and all advances, debts, obligations and liabilities of any kind whatsoever, including the obligation to construct and complete the Project in a timely and lien-free manner, to make such deposits with Borrower as are necessary to keep the Loan "in balance," and to perform all of Borrower's other obligations with respect to the collateral for the Loan.

1.3 Notwithstanding the foregoing, Guarantors do not guarantee payment of "*Additional Interest*" (as defined in the Loan Agreement) on any portion of the Project that remains unsold by Borrower if and when Lender forecloses against the Project (whether judicially or non-judicially) or accepts a deed-in-lieu of foreclosure.

1.4 This Guaranty is continuing and shall terminate only upon full payment and performance by Borrower or Guarantors of all the terms, covenants, and conditions of the Loan that are guaranteed by Guarantors hereunder.

1.5 Notwithstanding any other provision herein or in any other Loan Document, the maximum cumulative amount that Lender may recover from the Guarantors under this Guaranty is \$1,500,000 plus attorneys' fees and other expenses reasonably incurred by Lender in enforcing or seeking a recovery under this Guaranty from the Guarantors. Lender may seek to recover such amount from any one of the Guarantors or from any combination of the Guarantors, and any rights of contribution or indemnity among the Guarantors are matters solely among themselves, but shall not diminish or otherwise affect Lender's rights hereunder.

2. **Guarantors' Independent Obligations.** Guarantors understand that their obligations to Lender hereunder are direct, personal, and independent obligations to pay and perform all of Borrower's obligations under the Loan Documents, and not as a collection guarantor, surety, endorser, or other party having only secondary liability. The obligations of each Guarantor hereunder are joint and several and independent of the obligations of Borrower, and a separate action or actions may be brought against any Guarantor whether or not separate actions are brought against Borrower or other Guarantors, and whether or not Borrower or other Guarantors are joined in any such action or actions. Moreover, any partial payment by Borrower or other circumstance that operates to toll any statute of limitations as to Borrower shall operate to toll such statute of limitations as to Guarantors. Lender's rights under this Guaranty shall not be exhausted until and unless all indebtedness and obligations hereby guaranteed have been paid and fully performed.

3. **Modifications.** Guarantors authorize Lender from time to time, without notice or demand to or approval by Guarantors, and even though Borrower's financial condition may have deteriorated or Guarantors may object: (a) to renew, extend, or otherwise change the time for payment of the obligations of Borrower to Lender, (b) to increase the amount of the Loan, (c) to modify any other terms of the Loan,

(d) to take and hold security for the payment of this Guaranty or any other indebtedness guaranteed, and exchange, enforce, waive, or release any such security; (e) to release Borrower or one or more Guarantors from obligations under the Loan or any guaranty thereof; (f) to apply such security and direct the amount or manner of sale thereof as the Lender in its sole discretion may determine; (g) to extend Lender's credit limits for loans to Borrower; or (h) to take any other actions with respect to the terms of or security for Borrower's indebtedness to Lender. Notwithstanding any such action by Lender, Guarantors' unconditional guarantee shall remain in full force and effect and guarantee prompt payment and performance of all indebtedness and obligations owing by Borrower to Lender.

#### **4. Guarantors' Waivers.**

**4.1 Particular Actions by Lender.** Guarantors hereby waive any right to require Lender to: (i) give notice of acceptance of this Guaranty, notice of presentment or non-performance, demands for performance, or notice of the existence, creation, or modification of any indebtedness of Borrower under the Loan, (ii) record, perfect, maintain, or enforce any security for the obligations of Borrower, Guarantors, or any other guarantor of the Loan; (iii) proceed against Borrower, any Guarantor, any other guarantor, or any other party, including the filing of any claims in any bankruptcy, probate, or other proceeding; (iv) proceed against or exhaust any security received from Borrower, any Guarantor, or any other guarantor, (v) dispose of any repossessed collateral in a "commercially reasonable" or other manner as required by the Uniform Commercial Code or other applicable statute; or (vi) pursue any other remedy in Lender's power whatsoever. Guarantors agree that their obligations hereunder shall not be affected by any circumstances, whether or not referred to herein, that might otherwise constitute a legal or equitable discharge of a guarantor or a surety, provided Lender acts in good faith.

**4.2 Other Defenses.** Guarantors also waive any rights, claims, defenses, abatement, or rights of setoff or recoupment based on or arising out of: (i) any legal disability, discharge, or limitation of the liability of Borrower to Lender, whether consensual or arising by operation of law or any proceeding; (ii) the death or disability of Borrower, any Guarantor, or any other guarantors; (iii) any right to cause a marshaling of Borrower's assets, and (iv) any right to require Lender to exhaust any security for the performance of Borrower's obligations or to proceed against Borrower, any particular Guarantor, or any other guarantors in any particular order, whether such right exists by statute or otherwise.

#### **4.3 Anti-Deficiency and One-Form-of-Action Rules.**

**4.3.1** Guarantors understand that certain statutes, commonly referred to as "anti-deficiency" and "one form of action" rules, may prevent or inhibit a lender, after completing a non-judicial foreclosure or accepting a deed in lieu of foreclosure, from obtaining a deficiency judgment against a borrower or from collecting the amount of the deficiency from a guarantor, unless such borrower or guarantor has knowingly waived the application of such statutes and the benefits that it would otherwise receive from such statutes. This curtailment of a lender's rights to recover a deficiency from a guarantor is based in part on the fact that a lender's election of a non-judicial foreclosure or a deed in lieu of foreclosure from among other possible default remedies impairs or eliminates a guarantor's rights of subrogation and reimbursement against the borrower, the collateral, or any other surety for borrower's obligations.

**4.3.2** Guarantors understand that, unless they waive the protection that such rules would ordinarily confer, these "anti-deficiency" and "one form of action" rules might provide a defense to enforcement of this Guaranty if Lender elects to proceed with a non-judicial foreclosure or to accept a

deed-in-lieu of foreclosure. Nevertheless, as an inducement for Lender to make the Loan, Guarantors hereby knowingly waives, in advance, all of their rights to rely on the anti-deficiency and one-form-of-action rules in connection with the impairment of its subrogation rights, as a defense to this Guaranty. Guarantors hereby acknowledge and agree that Lender may, in its sole discretion, exercise any right or remedy whatsoever that it may have against Borrower or any security held by Lender, including, without limitation, the right to foreclose upon any collateral for the Loan by judicial or non-judicial sale or to take a deed-in-lieu of foreclosure, without affecting or impairing in any way the liability of Guarantors hereunder (except to the extent that the indebtedness has been fully paid and performed), even if such election operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of Guarantors against Borrower or any security for the Loan. Guarantors further waive any statutes that provide "*fair value*" protection by limiting a deficiency judgment to the difference between the property's fair market value (or foreclosure sale price, if greater) and the amount of the obligation being foreclosed.

**4.3.3** If this Guaranty is governed by California law, Guarantors also agree and affirm that:

**4.3.3.1.** Pursuant to Cal. Civil Code § 2856(c) and without limiting the other waivers contained herein, Guarantors waive all rights and defenses that Guarantors may have because the Borrower's debt is secured by real property. This means, among other things: (1) Lender may collect from any of the Guarantors without first foreclosing on any real or personal property collateral pledged by the Borrower, and (2) if the Lender forecloses on any real property collateral pledged by the Borrower: (a) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (b) the Lender may collect from any or all of the Guarantors even if the Lender, by foreclosing on the real property collateral, has destroyed any right any of the Guarantors may have to collect from the Borrower.

**4.3.3.2** This is an unconditional and irrevocable waiver of any rights and defenses the Guarantors may have because the Borrower's debt is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the Code of Civil Procedure.

**4.3.3.3** Guarantors also waive all rights and defenses arising out of an election of remedies by the Lender even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed the Guarantors' rights of subrogation and reimbursement against the principal by the operation of Section 580d of the Code of Civil Procedure or otherwise.

**4.3.3.4** Guarantors affirm their intention to waive all benefits that might otherwise be available to Guarantor or Borrower under California Code of Civil Procedure Sections 580a, 580b, 580d, and 726 and California Civil Code Sections 2809, 2810, 2819, 2822, 2839, 2845, 2849, 2850, 2899, and 3433, among others.

**4.4 Jury Trial.** Guarantors hereby waive any and all rights to demand a trial by jury in any proceeding relating to this Guaranty.

**4.5 Subrogation Rights.** Until Lender shall have received full payment and performance of all of Borrower's obligations under the Loan, Guarantors shall have no right of subrogation and waive

any right to enforce any remedy that Lender now has or hereafter may have against Borrower and waive any benefit of, and any right to participate in, any security now or hereafter held by Lender for the performance of Borrower's obligations to Lender.

**5. Subordination and Assignment of Borrower Debts to Guarantors.** Guarantors hereby assign to Lender any and all rights they now or may hereafter have to receive payments from or other performance by Borrower on debts or other obligations of Borrower in favor of Guarantors. All rights of Guarantors under such debts and obligations of Borrower in favor of Guarantors are hereby subordinated to Lender's rights to payments from and performance by Borrower under the Loan Documents. Notwithstanding the foregoing assignment and subordination, prior to an Event of Default under the Loan, payments by Borrower to Guarantors may be collected and retained by Guarantors (subject to Lender's recourse against such payments under this Guaranty), but upon any Event of Default, all payments thereafter received by Guarantors under such debts shall be immediately paid over to Lender pursuant to this Guaranty or, if Lender so requests, any unpaid debts shall be collected, enforced and received by Guarantors, in trust, for the benefit of Lender, and be paid over to Lender on account of any unperformed obligations of Borrower under the Loan. Lender's receipt of such payments shall not reduce or affect in any manner the liability of Guarantors under the other provisions of this Guaranty, other than reducing the obligations under the Loan by the amount so paid.

**6. Warranties.** Guarantors represent and warrant to Lender that:

**6.1** The financial reports of Guarantors and other written statements that have been furnished to Lender to induce Lender to make the Loan fairly and accurately present Guarantors' financial position as of the date of such statements. Guarantors have title to all assets shown in such financial reports, there has been no material adverse change in the financial condition of any Guarantor since the date of the last report so furnished, and Guarantors hereby agree to give Lender written notice of any material adverse change in the financial condition or assets of any Guarantor, with such notice to be given within 10 days after Guarantors become aware of such material adverse change;

**6.2** There are no actions, suits or proceedings pending or, to Guarantors' actual knowledge, threatened against any Guarantor that might result in any material adverse change in the financial condition of any Guarantor; and

**6.3** Guarantors (and the persons executing this Guaranty on behalf of any non-individual Guarantors) have the requisite power, authority, capacity, and legal right to execute and deliver this Guaranty; no further consent, approval, resolution, or other authorization is required, and neither the execution nor delivery of this Guaranty nor compliance with the terms hereof will conflict with or constitute a breach or default under any agreement or instrument to which Guarantors are a party or will provide a basis for acceleration of any indebtedness of Guarantors to any party whatsoever.

All such warranties shall be deemed to be continuing representations and warranties until full payment and performance of the Borrower's obligations under the Loan Documents.

**7. Assignment.** This Guaranty shall benefit any and all successors and assigns of Lender, including the assignees of or participants in any indebtedness hereby guaranteed. Lender may, in its sole discretion, sell or assign participation interests in the Loan and this Guaranty, in whole or in part, without any requirement to give notice to or receive the approval of Guarantors, and may disclose any and all

financial information about Guarantors to any actual or proposed assignee or participant in the Loan. Guarantors may not assign or delegate any of their obligations under this Guaranty without Lender's prior written consent, and any attempt to do so without such consent shall be of no effect and shall not release Guarantors from any obligation hereunder.

**8. Guarantors' Ongoing Reporting Obligations.** Each Guarantor shall provide Lender with updated financial statements for such Guarantor on an annual basis within 90 days after the end of each calendar year and shall notify Lender in writing of any change of address, telephone number, facsimile number, marital status (if an individual), or legal organization (if an entity) within 10 days after such event.

## **9. General Provisions**

**9.1 No Waiver.** No forbearance or delay on the part of Lender in the exercise of any power, right, or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any such power, right, or privilege preclude any other or further exercise of such power, right or privilege. All powers, rights, and privileges hereunder are cumulative with and not exclusive of any powers, rights, or privileges otherwise available to Lender at law or under any documents that shall evidence or secure any loans from Lender to Borrower.

**9.2 Entire Agreement.** Except as provided in any other written agreement now or in the future executed between Lender and Guarantors, this Guaranty shall constitute the entire agreement of Guarantors with Lender with respect to the subject matter hereof. No representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon Lender unless expressed in this Guaranty. No provision of this Guaranty or right of Lender hereunder can be waived nor can Guarantors be released from Guarantors' obligations hereunder except by a writing duly executed by an authorized representative of Lender.

**9.3 Severability of Provisions.** Any provision of this Guaranty that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

**9.4 Consultation with Counsel.** Guarantors acknowledge that they has consulted with counsel of its choice or had an adequate opportunity to do so in connection with execution of this Guaranty.

**9.5 Costs and Reasonable Attorneys' Fees.** Guarantors shall pay all of Lender's expenses incurred in any effort to enforce any terms of this Guaranty, whether or not any suit is filed, including, without limitation, reasonable attorneys' fees and disbursements, foreclosure costs, and title charges, and including all attorney's fees and costs incurred by Lender in connection with a bankruptcy or other insolvency proceeding of Borrower or any Guarantor and relating to any kind of review, claim, approval, relief, or procedure whatsoever in such bankruptcy. Such sums shall be immediately due and payable and shall bear interest from the date of disbursement at the Default Rate set forth in the Loan Documents, or the maximum rate that may be collected from Borrower under applicable law, if less.

**9.6 Community and Trust Property.** Each Guarantor who is a natural person and who is married agrees, represents, and warrants that: (i) he or she is executing this Guaranty with the knowledge and consent of his or her spouse, and has authority to bind his or her marital community to the terms and conditions hereof, and (i) recourse for his or her obligations under this Guaranty shall be




available against his or her separate property and any and all property of his or her marital community, whether now existing or hereafter acquired, together with any proceeds thereof. Each such Guarantor further agrees that recourse under this Guaranty shall also be available against any such property that is subsequently conveyed to a living, family, or other trust in which such Guarantor and/or his or her spouse is a settlor, trustee, or beneficiary or otherwise controls.

**9.7 Governing Law.** This Guaranty shall be governed by and construed in accordance with the laws of the State in which the Project is located, without regard to the choice of law rules of such State.

Executed as of the date first set forth above.

GUARANTOR:

CAMEO HOMES,  
a California corporation

  
James C. Gianulias  
Its President

Social Security or Federal Tax ID No.:

95-2593087

Business Address:

1105 Quail Street  
Newport Beach, California  
92660


Business Telephone:

949-955-3832

Business Fax No.:

949-250-8574

GUARANTOR:

  
JAMES C. GIANULIAS, as to his sole and  
separate estate and his interest in the marital  
community

Social Security or Federal Tax ID No.:

REDACTED

Home Address:

Newport Coast, CA 92657

# Exhibit R

**EXHIBIT "C"**

## GUARANTY



PROJECT NAME: Whispering Creek  
WRI LOAN NO: 07525  
ORIGINATING OFFICE: Irvine

This Guaranty is made as of this May 20, 2005, by CAMEO HOMES, a California corporation (the "**Guarantor**"), for the benefit of MW HOUSING PARTNERS III, L.P., a California limited partnership ("**Lender**").

### RECITALS

A. Lender has agreed to make a loan (the "**Loan**") to BEG, LLC, a California limited liability company ("**Borrower**") in a principal amount up to \$6,470,000 to provide financing for the acquisition and development of certain real property located in Riverside County, California (the "**Land**"), the construction of certain improvements thereon (the "**Improvements**"). The Land and Improvements to be constructed thereon by Borrower, together with all personal property now or hereafter acquired by Borrower and located on or acquired for use in connection with the Land or Improvements, are hereinafter collectively referred to as the "**Project**".

B. The Loan will be evidenced by, among other documents, a promissory note (the "**Note**") executed by Borrower in favor of Lender in the amount of the Loan, and by a Loan Agreement (the "**Loan Agreement**") executed by Borrower and Lender. The Loan shall be secured by, among other documents, a Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing (the "**Deed of Trust**"). The Loan Agreement, Note, Deed of Trust, and any and all other documents evidencing or securing the Loan are referred to as the "**Loan Documents**." Terms used but not defined herein shall have the meanings assigned to them in the Loan Agreement. If there is only one Guarantor, all plural references to the "**Guarantors**" herein shall be deemed to refer only to such Guarantor.

C. Each Guarantor is affiliated with Borrower in various ways and will receive substantial benefit from the Loan. Accordingly, to induce Lender to make the Loan, each Guarantor has executed this Guaranty knowing and intending that Lender will materially rely upon this Guaranty in entering the Loan Agreement and making the Loan.

### AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Lender to enter the Loan Agreement and to make the Loan, Guarantors hereby agree as follows:

## 1. Scope of Guaranty.

1.1 Guarantors hereby absolutely and unconditionally guaranty and promise to pay to Lender or its order any and all indebtedness of Borrower to Lender and to perform any and all obligations of Borrower under the Loan Documents. Guarantors acknowledge that they have reviewed and are fully familiar with the terms and conditions of the Loan Agreement, Note, Deed of Trust, and other Loan Documents, and fully understand the obligations of Borrower thereunder.

1.2 The words "*indebtedness*" and "*obligations*" are used herein in their most comprehensive sense and include any and all advances, debts, obligations and liabilities of any kind whatsoever, including the obligation to construct and complete the Project in a timely and lien-free manner, to make such deposits with Borrower as are necessary to keep the Loan "in balance," and to perform all of Borrower's other obligations with respect to the collateral for the Loan.

1.3 Notwithstanding the foregoing, Guarantors do not guarantee payment of "*Additional Interest*" (as defined in the Loan Agreement) on any portion of the Project that remains unsold by Borrower if and when Lender forecloses against the Project (whether judicially or non-judicially) or accepts a deed-in-lieu of foreclosure.

1.4 This Guaranty is continuing and shall terminate only upon full payment and performance by Borrower or Guarantors of all the terms, covenants, and conditions of the Loan that are guaranteed by Guarantors hereunder.

2. **Guarantors' Independent Obligations.** Guarantors understand that their obligations to Lender hereunder are direct, personal, and independent obligations to pay and perform all of Borrower's obligations under the Loan Documents, and not as a collection guarantor, surety, endorser, or other party having only secondary liability. The obligations of each Guarantor hereunder are joint and several and independent of the obligations of Borrower, and a separate action or actions may be brought against any Guarantor whether or not separate actions are brought against Borrower or other Guarantors, and whether or not Borrower or other Guarantors are joined in any such action or actions. Moreover, any partial payment by Borrower or other circumstance that operates to toll any statute of limitations as to Borrower shall operate to toll such statute of limitations as to Guarantors. Lender's rights under this Guaranty shall not be exhausted until and unless all indebtedness and obligations hereby guaranteed have been paid and fully performed.

3. **Modifications.** Guarantors authorize Lender from time to time, without notice or demand to or approval by Guarantors, and even though Borrower's financial condition may have deteriorated or Guarantors may object: (a) to renew, extend, or otherwise change the time for payment of the obligations of Borrower to Lender, (b) to increase the amount of the Loan, (c) to modify any other terms of the Loan, (d) to take and hold security for the payment of this Guaranty or any other indebtedness guaranteed, and exchange, enforce, waive, or release any such security; (e) to release Borrower or one or more Guarantors from obligations under the Loan or any guaranty thereof, (f) to apply such security and direct the amount or manner of sale thereof as the Lender in its sole discretion may determine; (g) to extend Lender's credit limits for loans to Borrower; or (h) to take any other actions with respect to the terms of or security for Borrower's indebtedness to Lender. Notwithstanding any such action by Lender, Guarantors' unconditional guarantee shall remain in full force and effect and guarantee prompt payment and performance of all indebtedness and obligations owing by Borrower to Lender.

#### **4. Guarantors' Waivers.**

**4.1 Particular Actions by Lender.** Guarantors hereby waive any right to require Lender to: (i) give notice of acceptance of this Guaranty, notice of presentment or non-performance, demands for performance, or notice of the existence, creation, or modification of any indebtedness of Borrower under the Loan, (ii) record, perfect, maintain, or enforce any security for the obligations of Borrower, Guarantors, or any other guarantor of the Loan; (iii) proceed against Borrower, any Guarantor, any other guarantor, or any other party, including the filing of any claims in any bankruptcy, probate, or other proceeding; (iv) proceed against or exhaust any security received from Borrower, any Guarantor, or any other guarantor, (v) dispose of any repossessed collateral in a "commercially reasonable" or other manner as required by the Uniform Commercial Code or other applicable statute; or (vi) pursue any other remedy in Lender's power whatsoever. Guarantors agree that their obligations hereunder shall not be affected by any circumstances, whether or not referred to herein, that might otherwise constitute a legal or equitable discharge of a guarantor or a surety, provided Lender acts in good faith.

**4.2 Other Defenses.** Guarantors also waive any rights, claims, defenses, abatement, or rights of setoff or recoupment based on or arising out of: (i) any legal disability, discharge, or limitation of the liability of Borrower to Lender, whether consensual or arising by operation of law or any proceeding; (ii) the death or disability of Borrower, any Guarantor, or any other guarantors; (iii) any right to cause a marshaling of Borrower's assets, and (iv) any right to require Lender to exhaust any security for the performance of Borrower's obligations or to proceed against Borrower, any particular Guarantor, or any other guarantors in any particular order, whether such right exists by statute or otherwise.

#### **4.3 Anti-Deficiency and One-Form-of-Action Rules.**

**4.3.1** Guarantors understand that certain statutes, commonly referred to as "anti-deficiency" and "one form of action" rules, may prevent or inhibit a lender, after completing a non-judicial foreclosure or accepting a deed in lieu of foreclosure, from obtaining a deficiency judgment against a borrower or from collecting the amount of the deficiency from a guarantor, unless such borrower or guarantor has knowingly waived the application of such statutes and the benefits that it would otherwise receive from such statutes. This curtailment of a lender's rights to recover a deficiency from a guarantor is based in part on the fact that a lender's election of a non-judicial foreclosure or a deed in lieu of foreclosure from among other possible default remedies impairs or eliminates a guarantor's rights of subrogation and reimbursement against the borrower, the collateral, or any other surety for borrower's obligations.

**4.3.2** Guarantors understand that, unless they waive the protection that such rules would ordinarily confer, these "anti-deficiency" and "one form of action" rules might provide a defense to enforcement of this Guaranty if Lender elects to proceed with a non-judicial foreclosure or to accept a deed-in-lieu of foreclosure. Nevertheless, as an inducement for Lender to make the Loan, Guarantors hereby knowingly waives, in advance, all of their rights to rely on the anti-deficiency and one-form-of-action rules in connection with the impairment of its subrogation rights, as a defense to this Guaranty. Guarantors hereby acknowledge and agree that Lender may, in its sole discretion, exercise any right or remedy whatsoever that it may have against Borrower or any security held by Lender, including, without limitation, the right to foreclose upon any collateral for the Loan by judicial or non-judicial sale or to take a deed-in-lieu of foreclosure, without affecting or impairing in any way the liability of Guarantors hereunder (except to the extent that the indebtedness has been fully paid and performed), even if such election operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of Guarantors against

Borrower or any security for the Loan. Guarantors further waive any statutes that provide "*fair value*" protection by limiting a deficiency judgment to the difference between the property's fair market value (or foreclosure sale price, if greater) and the amount of the obligation being foreclosed.

**4.3.3** If this Guaranty is governed by California law, Guarantors also agree and affirm that:

**4.3.3.1.** Pursuant to Cal. Civil Code § 2856(c) and without limiting the other waivers contained herein, Guarantors waive all rights and defenses that Guarantors may have because the Borrower's debt is secured by real property. This means, among other things: (1) Lender may collect from any of the Guarantors without first foreclosing on any real or personal property collateral pledged by the Borrower, and (2) if the Lender forecloses on any real property collateral pledged by the Borrower: (a) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (b) the Lender may collect from any or all of the Guarantors even if the Lender, by foreclosing on the real property collateral, has destroyed any right any of the Guarantors may have to collect from the Borrower.

**4.3.3.2** This is an unconditional and irrevocable waiver of any rights and defenses the Guarantors may have because the Borrower's debt is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the Code of Civil Procedure.

**4.3.3.3** Guarantors also waive all rights and defenses arising out of an election of remedies by the Lender even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed the Guarantors' rights of subrogation and reimbursement against the principal by the operation of Section 580d of the Code of Civil Procedure or otherwise.

**4.3.3.4** Guarantors affirm their intention to waive all benefits that might otherwise be available to Guarantor or Borrower under California Code of Civil Procedure Sections 580a, 580b, 580d, and 726 and California Civil Code Sections 2809, 2810, 2819, 2822, 2839, 2845, 2849, 2850, 2899, and 3433, among others.

**4.4 Jury Trial.** Guarantors hereby waive any and all rights to demand a trial by jury in any proceeding relating to this Guaranty.

**4.5 Subrogation Rights.** Until Lender shall have received full payment and performance of all of Borrower's obligations under the Loan, Guarantors shall have no right of subrogation and waive any right to enforce any remedy that Lender now has or hereafter may have against Borrower and waive any benefit of, and any right to participate in, any security now or hereafter held by Lender for the performance of Borrower's obligations to Lender.

**5. Subordination and Assignment of Borrower Debts to Guarantors.** Guarantors hereby assign to Lender any and all rights they now or may hereafter have to receive payments from or other performance by Borrower on debts or other obligations of Borrower in favor of Guarantors. All rights of Guarantors under such debts and obligations of Borrower in favor of Guarantors are hereby subordinated to Lender's rights to payments from and performance by Borrower under the Loan Documents. Notwithstanding the foregoing assignment and subordination, prior to an Event of Default under the Loan,

payments by Borrower to Guarantors may be collected and retained by Guarantors (subject to Lender's recourse against such payments under this Guaranty), but upon any Event of Default, all payments thereafter received by Guarantors under such debts shall be immediately paid over to Lender pursuant to this Guaranty or, if Lender so requests, any unpaid debts shall be collected, enforced and received by Guarantors, in trust, for the benefit of Lender, and be paid over to Lender on account of any unperformed obligations of Borrower under the Loan. Lender's receipt of such payments shall not reduce or affect in any manner the liability of Guarantors under the other provisions of this Guaranty, other than reducing the obligations under the Loan by the amount so paid.

**6. Warranties.** Guarantors represent and warrant to Lender that:

**6.1** The financial reports of Guarantors and other written statements that have been furnished to Lender to induce Lender to make the Loan fairly and accurately present Guarantors' financial position as of the date of such statements. Guarantors have title to all assets shown in such financial reports, there has been no material adverse change in the financial condition of any Guarantor since the date of the last report so furnished, and Guarantors hereby agree to give Lender written notice of any material adverse change in the financial condition or assets of any Guarantor, with such notice to be given within 10 days after Guarantors become aware of such material adverse change;

**6.2** There are no actions, suits or proceedings pending or, to Guarantors' actual knowledge, threatened against any Guarantor that might result in any material adverse change in the financial condition of any Guarantor; and

**6.3** Guarantors (and the persons executing this Guaranty on behalf of any non-individual Guarantors) have the requisite power, authority, capacity, and legal right to execute and deliver this Guaranty; no further consent, approval, resolution, or other authorization is required, and neither the execution nor delivery of this Guaranty nor compliance with the terms hereof will conflict with or constitute a breach or default under any agreement or instrument to which Guarantors are a party or will provide a basis for acceleration of any indebtedness of Guarantors to any party whatsoever.

All such warranties shall be deemed to be continuing representations and warranties until full payment and performance of the Borrower's obligations under the Loan Documents.

**7. Assignment.** This Guaranty shall benefit any and all successors and assigns of Lender, including the assignees of or participants in any indebtedness hereby guaranteed. Lender may, in its sole discretion, sell or assign participation interests in the Loan and this Guaranty, in whole or in part, without any requirement to give notice to or receive the approval of Guarantors, and may disclose any and all financial information about Guarantors to any actual or proposed assignee or participant in the Loan. Guarantors may not assign or delegate any of their obligations under this Guaranty without Lender's prior written consent, and any attempt to do so without such consent shall be of no effect and shall not release Guarantors from any obligation hereunder.

**8. Guarantors' Ongoing Reporting Obligations.** Each Guarantor shall provide Lender with updated financial statements for such Guarantor on an annual basis within 90 days after the end of each calendar year and shall notify Lender in writing of any change of address, telephone number, facsimile number, marital status (if an individual), or legal organization (if an entity) within 10 days after such event.



**9. Financial Covenants.** Guarantor shall, at all times prior to full repayment of all amounts owing under the Loan and release of all Collateral securing the Loan, comply with the following financial covenants and failure at any such time to comply shall constitute an Event of Default under the Loan.

**9.1 Debt-to-Worth Ratio.** Guarantor shall maintain a Debt-to-Worth Ratio not exceeding 3.00 to 1.00. "**Debt-to-Worth Ratio**" refers to the ratio of the total Debt of Guarantor to its total Tangible Net Worth. "**Debt**" means all liabilities, whether now or hereafter existing, voluntary or involuntary, due or not due, absolute or contingent, liquidated or unliquidated. "**Tangible Net Worth**" means the total assets of Guarantor, excluding all intangible assets (i.e., goodwill, trademarks, organizational expenses, and similar intangible items, but including leaseholds and leasehold improvements), less Debt.

**9.2 Tangible Net Worth.** Guarantor shall maintain a minimum Tangible Net Worth of \$25,000,000.

**9.3 Liquidity.** Guarantor shall maintain a minimum Unencumbered Liquidity of \$2,000,000. "**Unencumbered Liquidity**" means the sum of cash, stocks, bonds, and other near-cash investments held by the specified party and immediately available with unimpaired value; but not including pledged assets or IRA, 401(k), annuity, or trust accounts.

Within 60 days of the end of each fiscal quarter, an officer of Guarantor shall provide written certification to Lender of compliance with the above financial covenants.

## **10. General Provisions**

**10.1 No Waiver.** No forbearance or delay on the part of Lender in the exercise of any power, right, or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any such power, right, or privilege preclude any other or further exercise of such power, right or privilege. All powers, rights, and privileges hereunder are cumulative with and not exclusive of any powers, rights, or privileges otherwise available to Lender at law or under any documents that shall evidence or secure any loans from Lender to Borrower.

**10.2 Entire Agreement.** Except as provided in any other written agreement now or in the future executed between Lender and Guarantors, this Guaranty shall constitute the entire agreement of Guarantors with Lender with respect to the subject matter hereof. No representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon Lender unless expressed in this Guaranty. No provision of this Guaranty or right of Lender hereunder can be waived nor can Guarantors be released from Guarantors' obligations hereunder except by a writing duly executed by an authorized representative of Lender.

**10.3 Severability of Provisions.** Any provision of this Guaranty that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

**10.4 Consultation with Counsel.** Guarantors acknowledge that they has consulted with counsel of its choice or had an adequate opportunity to do so in connection with execution of this Guaranty.

**10.5 Costs and Reasonable Attorneys' Fees.** Guarantors shall pay all of Lender's expenses incurred in any effort to enforce any terms of this Guaranty, whether or not any suit is filed, including, without limitation, reasonable attorneys' fees and disbursements, foreclosure costs, and title charges, and including all attorney's fees and costs incurred by Lender in connection with a bankruptcy or other insolvency proceeding of Borrower or any Guarantor and relating to any kind of review, claim, approval, relief, or procedure whatsoever in such bankruptcy. Such sums shall be immediately due and payable and shall bear interest from the date of disbursement at the Default Rate set forth in the Loan Documents, or the maximum rate that may be collected from Borrower under applicable law, if less.

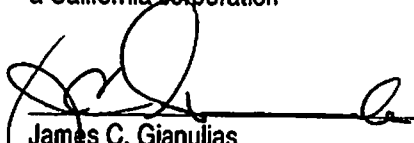
**10.6 Community and Trust Property.** Each Guarantor who is a natural person and who is married agrees, represents, and warrants that: (i) he or she is executing this Guaranty with the knowledge and consent of his or her spouse, and has authority to bind his or her marital community to the terms and conditions hereof, and (i) recourse for his or her obligations under this Guaranty shall be available against his or her separate property and any and all property of his or her marital community, whether now existing or hereafter acquired, together with any proceeds thereof. Each such Guarantor further agrees that recourse under this Guaranty shall also be available against any such property that is subsequently conveyed to a living, family, or other trust in which such Guarantor and/or his or her spouse is a settlor, trustee, or beneficiary or otherwise controls.

**10.7 Governing Law.** This Guaranty shall be governed by and construed in accordance with the laws of the State in which the Project is located, without regard to the choice of law rules of such State.

Executed as of the date first set forth above.

GUARANTOR:

CAMEO HOMES,  
a California corporation

  
James C. Gianulias  
Its President

Social Security or Federal Tax ID No.: 95-2593087

Business Address: 1105 Quail Street  
Newport Beach, California  
92660

Business Telephone: 949-955-3832

Business Fax No.: 949-250-8574

**EXHIBIT "D"**

# GUARANTY



PROJECT NAME: Perris 130  
WRI LOAN NO: 07531  
ORIGINATING OFFICE: Irvine

This Guaranty is made as of this September 7, 2005, by CAMEO HOMES, a California corporation, and G Companies Homebuilding, LLC, a California limited liability company (each a "**Guarantor**" and together the "**Guarantors**"), for the benefit of WRI FM INVESTMENTS III LLC, a Washington limited liability company ("**Lender**").

## RECITALS

A. Lender has agreed to make a loan (the "**Loan**") to RIDER & PATTERSON, LLC, a California limited liability company ("**Borrower**") in a principal amount up to \$6,870,000 to provide financing for the acquisition and development of certain real property located in Riverside County, California (the "**Land**"), the construction of certain improvements thereon (the "**Improvements**"). The Land and Improvements to be constructed thereon by Borrower, together with all personal property now or hereafter acquired by Borrower and located on or acquired for use in connection with the Land or Improvements, are hereinafter collectively referred to as the "**Project**".

B. The Loan will be evidenced by, among other documents, a promissory note (the "**Note**") executed by Borrower in favor of Lender in the amount of the Loan, and by a Loan Agreement (the "**Loan Agreement**") executed by Borrower and Lender. The Loan shall be secured by, among other documents, a Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing (the "**Deed of Trust**"). The Loan Agreement, Note, Deed of Trust, and any and all other documents evidencing or securing the Loan are referred to as the "**Loan Documents**." Terms used but not defined herein shall have the meanings assigned to them in the Loan Agreement. If there is only one Guarantor, all plural references to the "**Guarantors**" herein shall be deemed to refer only to such Guarantor.

C. Each Guarantor is affiliated with Borrower in various ways and will receive substantial benefit from the Loan. Accordingly, to induce Lender to make the Loan, each Guarantor has executed this Guaranty knowing and intending that Lender will materially rely upon this Guaranty in entering the Loan Agreement and making the Loan.

## AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Lender to enter the Loan Agreement and to make the Loan, Guarantors hereby agree as follows:

## **1. Scope of Guaranty.**

**1.1** Guarantors hereby absolutely and unconditionally guaranty and promise to pay to Lender or its order any and all indebtedness of Borrower to Lender and to perform any and all obligations of Borrower under the Loan Documents. Guarantors acknowledge that they have reviewed and are fully familiar with the terms and conditions of the Loan Agreement, Note, Deed of Trust, and other Loan Documents, and fully understand the obligations of Borrower thereunder.

**1.2** The words "*indebtedness*" and "*obligations*" are used herein in their most comprehensive sense and include any and all advances, debts, obligations and liabilities of any kind whatsoever, including the obligation to construct and complete the Project in a timely and lien-free manner, to make such deposits with Borrower as are necessary to keep the Loan "in balance," and to perform all of Borrower's other obligations with respect to the collateral for the Loan.

**1.3** Notwithstanding the foregoing, Guarantors do not guarantee payment of "*Additional Interest*" (as defined in the Loan Agreement) on any portion of the Project that remains unsold by Borrower if and when Lender forecloses against the Project (whether judicially or non-judicially) or accepts a deed-in-lieu of foreclosure.

**1.4** This Guaranty is continuing and shall terminate only upon full payment and performance by Borrower or Guarantors of all the terms, covenants, and conditions of the Loan that are guaranteed by Guarantors hereunder.

**2. Guarantors' Independent Obligations.** Guarantors understand that their obligations to Lender hereunder are direct, personal, and independent obligations to pay and perform all of Borrower's obligations under the Loan Documents, and not as a collection guarantor, surety, endorser, or other party having only secondary liability. The obligations of each Guarantor hereunder are joint and several and independent of the obligations of Borrower, and a separate action or actions may be brought against any Guarantor whether or not separate actions are brought against Borrower or other Guarantors, and whether or not Borrower or other Guarantors are joined in any such action or actions. Moreover, any partial payment by Borrower or other circumstance that operates to toll any statute of limitations as to Borrower shall operate to toll such statute of limitations as to Guarantors. Lender's rights under this Guaranty shall not be exhausted until and unless all indebtedness and obligations hereby guaranteed have been paid and fully performed.

**3. Modifications.** Guarantors authorize Lender from time to time, without notice or demand to or approval by Guarantors, and even though Borrower's financial condition may have deteriorated or Guarantors may object: (a) to renew, extend, or otherwise change the time for payment of the obligations of Borrower to Lender, (b) to increase the amount of the Loan, (c) to modify any other terms of the Loan, (d) to take and hold security for the payment of this Guaranty or any other indebtedness guaranteed, and exchange, enforce, waive, or release any such security; (e) to release Borrower or one or more Guarantors from obligations under the Loan or any guaranty thereof, (f) to apply such security and direct the amount or manner of sale thereof as the Lender in its sole discretion may determine; (g) to extend Lender's credit limits for loans to Borrower; or (h) to take any other actions with respect to the terms of or security for Borrower's indebtedness to Lender. Notwithstanding any such action by Lender, Guarantors' unconditional guarantee shall remain in full force and effect and guarantee prompt payment and performance of all indebtedness and obligations owing by Borrower to Lender.

#### **4. Guarantors' Walvers.**

**4.1 Particular Actions by Lender.** Guarantors hereby waive any right to require Lender to: (i) give notice of acceptance of this Guaranty, notice of presentment or non-performance, demands for performance, or notice of the existence, creation, or modification of any indebtedness of Borrower under the Loan, (ii) record, perfect, maintain, or enforce any security for the obligations of Borrower, Guarantors, or any other guarantor of the Loan; (iii) proceed against Borrower, any Guarantor, any other guarantor, or any other party, including the filing of any claims in any bankruptcy, probate, or other proceeding; (iv) proceed against or exhaust any security received from Borrower, any Guarantor, or any other guarantor, (v) dispose of any repossessed collateral in a "commercially reasonable" or other manner as required by the Uniform Commercial Code or other applicable statute; or (vi) pursue any other remedy in Lender's power whatsoever. Guarantors agree that their obligations hereunder shall not be affected by any circumstances, whether or not referred to herein, that might otherwise constitute a legal or equitable discharge of a guarantor or a surety, provided Lender acts in good faith.

**4.2 Other Defenses.** Guarantors also waive any rights, claims, defenses, abatement, or rights of setoff or recoupment based on or arising out of: (i) any legal disability, discharge, or limitation of the liability of Borrower to Lender, whether consensual or arising by operation of law or any proceeding; (ii) the death or disability of Borrower, any Guarantor, or any other guarantors; (iii) any right to cause a marshaling of Borrower's assets, and (iv) any right to require Lender to exhaust any security for the performance of Borrower's obligations or to proceed against Borrower, any particular Guarantor, or any other guarantors in any particular order, whether such right exists by statute or otherwise.

#### **4.3 Anti-Deficiency and One-Form-of-Action Rules.**

**4.3.1** Guarantors understand that certain statutes, commonly referred to as "anti-deficiency" and "one form of action" rules, may prevent or inhibit a lender, after completing a non-judicial foreclosure or accepting a deed in lieu of foreclosure, from obtaining a deficiency judgment against a borrower or from collecting the amount of the deficiency from a guarantor, unless such borrower or guarantor has knowingly waived the application of such statutes and the benefits that it would otherwise receive from such statutes. This curtailment of a lender's rights to recover a deficiency from a guarantor is based in part on the fact that a lender's election of a non-judicial foreclosure or a deed in lieu of foreclosure from among other possible default remedies impairs or eliminates a guarantor's rights of subrogation and reimbursement against the borrower, the collateral, or any other surety for borrower's obligations.

**4.3.2** Guarantors understand that, unless they waive the protection that such rules would ordinarily confer, these "anti-deficiency" and "one form of action" rules might provide a defense to enforcement of this Guaranty if Lender elects to proceed with a non-judicial foreclosure or to accept a deed-in-lieu of foreclosure. Nevertheless, as an inducement for Lender to make the Loan, Guarantors hereby knowingly waives, in advance, all of their rights to rely on the anti-deficiency and one-form-of-action rules in connection with the impairment of its subrogation rights, as a defense to this Guaranty. Guarantors hereby acknowledge and agree that Lender may, in its sole discretion, exercise any right or remedy whatsoever that it may have against Borrower or any security held by Lender, including, without limitation, the right to foreclose upon any collateral for the Loan by judicial or non-judicial sale or to take a deed-in-lieu of foreclosure, without affecting or impairing in any way the liability of Guarantors hereunder (except to the extent that the indebtedness has been fully paid and performed), even if such election operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of Guarantors against

Borrower or any security for the Loan. Guarantors further waive any statutes that provide "*fair value*" protection by limiting a deficiency judgment to the difference between the property's fair market value (or foreclosure sale price, if greater) and the amount of the obligation being foreclosed.

**4.3.3** If this Guaranty is governed by California law, Guarantors also agree and affirm that:

**4.3.3.1.** Pursuant to Cal. Civil Code § 2856(c) and without limiting the other waivers contained herein, Guarantors waive all rights and defenses that Guarantors may have because the Borrower's debt is secured by real property. This means, among other things: (1) Lender may collect from any of the Guarantors without first foreclosing on any real or personal property collateral pledged by the Borrower, and (2) if the Lender forecloses on any real property collateral pledged by the Borrower: (a) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (b) the Lender may collect from any or all of the Guarantors even if the Lender, by foreclosing on the real property collateral, has destroyed any right any of the Guarantors may have to collect from the Borrower.

**4.3.3.2** This is an unconditional and irrevocable waiver of any rights and defenses the Guarantors may have because the Borrower's debt is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the Code of Civil Procedure.

**4.3.3.3** Guarantors also waive all rights and defenses arising out of an election of remedies by the Lender even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed the Guarantors' rights of subrogation and reimbursement against the principal by the operation of Section 580d of the Code of Civil Procedure or otherwise.

**4.3.3.4** Guarantors affirm their intention to waive all benefits that might otherwise be available to Guarantor or Borrower under California Code of Civil Procedure Sections 580a, 580b, 580d, and 726 and California Civil Code Sections 2809, 2810, 2819, 2822, 2839, 2845, 2849, 2850, 2899, and 3433, among others.

**4.4 Jury Trial.** Guarantors hereby waive any and all rights to demand a trial by jury in any proceeding relating to this Guaranty.

**4.5 Subrogation Rights.** Until Lender shall have received full payment and performance of all of Borrower's obligations under the Loan, Guarantors shall have no right of subrogation and waive any right to enforce any remedy that Lender now has or hereafter may have against Borrower and waive any benefit of, and any right to participate in, any security now or hereafter held by Lender for the performance of Borrower's obligations to Lender.

**5. Subordination and Assignment of Borrower Debts to Guarantors.** Guarantors hereby assign to Lender any and all rights they now or may hereafter have to receive payments from or other performance by Borrower on debts or other obligations of Borrower in favor of Guarantors. All rights of Guarantors under such debts and obligations of Borrower in favor of Guarantors are hereby subordinated to Lender's rights to payments from and performance by Borrower under the Loan Documents. Notwithstanding the foregoing assignment and subordination, prior to an Event of Default under the Loan,

payments by Borrower to Guarantors may be collected and retained by Guarantors (subject to Lender's recourse against such payments under this Guaranty), but upon any Event of Default, all payments thereafter received by Guarantors under such debts shall be immediately paid over to Lender pursuant to this Guaranty or, if Lender so requests, any unpaid debts shall be collected, enforced and received by Guarantors, in trust, for the benefit of Lender, and be paid over to Lender on account of any unperformed obligations of Borrower under the Loan. Lender's receipt of such payments shall not reduce or affect in any manner the liability of Guarantors under the other provisions of this Guaranty, other than reducing the obligations under the Loan by the amount so paid.

**6. Warranties.** Guarantors represent and warrant to Lender that:

**6.1** The financial reports of Guarantors and other written statements that have been furnished to Lender to induce Lender to make the Loan fairly and accurately present Guarantors' financial position as of the date of such statements. Guarantors have title to all assets shown in such financial reports, there has been no material adverse change in the financial condition of any Guarantor since the date of the last report so furnished, and Guarantors hereby agree to give Lender written notice of any material adverse change in the financial condition or assets of any Guarantor, with such notice to be given within 10 days after Guarantors become aware of such material adverse change;

**6.2** There are no actions, suits or proceedings pending or, to Guarantors' actual knowledge, threatened against any Guarantor that might result in any material adverse change in the financial condition of any Guarantor; and

**6.3** Guarantors (and the persons executing this Guaranty on behalf of any non-individual Guarantors) have the requisite power, authority, capacity, and legal right to execute and deliver this Guaranty; no further consent, approval, resolution, or other authorization is required, and neither the execution nor delivery of this Guaranty nor compliance with the terms hereof will conflict with or constitute a breach or default under any agreement or instrument to which Guarantors are a party or will provide a basis for acceleration of any indebtedness of Guarantors to any party whatsoever.

All such warranties shall be deemed to be continuing representations and warranties until full payment and performance of the Borrower's obligations under the Loan Documents.

**7. Assignment.** This Guaranty shall benefit any and all successors and assigns of Lender, including the assignees of or participants in any indebtedness hereby guaranteed. Lender may, in its sole discretion, sell or assign participation interests in the Loan and this Guaranty, in whole or in part, without any requirement to give notice to or receive the approval of Guarantors, and may disclose any and all financial information about Guarantors to any actual or proposed assignee or participant in the Loan. Guarantors may not assign or delegate any of their obligations under this Guaranty without Lender's prior written consent, and any attempt to do so without such consent shall be of no effect and shall not release Guarantors from any obligation hereunder.

**8. Guarantors' Ongoing Reporting Obligations.** Each Guarantor shall provide Lender with updated financial statements for such Guarantor on an annual basis within 90 days after the end of each calendar year and shall notify Lender in writing of any change of address, telephone number, facsimile number, marital status (if an individual), or legal organization (if an entity) within 10 days after such event.



**9. Financial Covenants.** Guarantors shall, at all times prior to full repayment of all amounts owing under the Loan and release of all Collateral securing the Loan, comply with the following "**Financial Covenants**" and failure at any such time to comply shall constitute an Event of Default under the Loan.

**9.1 Debt-to-Worth Ratio.** Guarantors shall maintain a consolidated Debt-to-Worth Ratio not exceeding 3.00 to 1.00. "**Debt-to-Worth Ratio**" refers to the ratio of the total Debt of Guarantors to their total Tangible Net Worth. "**Debt**" means all liabilities, whether now or hereafter existing, voluntary or involuntary, due or not due, absolute or contingent, liquidated or unliquidated. "**Tangible Net Worth**" means the total assets of Guarantors, excluding all intangible assets (i.e., goodwill, trademarks, organizational expenses, and similar intangible items, but including leaseholds and leasehold improvements), less Debt.

**9.2 Tangible Net Worth.** Guarantors shall maintain a consolidated minimum Tangible Net Worth of \$25,000,000.

**9.3 Liquidity.** Guarantors shall maintain a consolidated minimum Unencumbered Liquidity of \$2,000,000. "**Unencumbered Liquidity**" means the sum of cash, stocks, bonds, and other near-cash investments held by the specified party and immediately available with unimpaired value; but not including pledged assets or IRA, 401(k), annuity, or trust accounts.

Within 60 days of the end of each fiscal quarter, an officer of Guarantors shall provide written certification to Lender of compliance with the above financial covenants.

**10. Recovery of Prohibited Distributions.** Guarantors agree that so long as any Indebtedness remains outstanding under the Loan, Guarantors shall not make any of the following payments or distributions (the "**Prohibited Distributions**") if the making of such Prohibited Distributions would cause the Guarantors to violate the Financial Covenants set forth in Section 9 above: (i) payment of any bonuses, commissions, dividends, distributions, or incentive compensation, (ii) payment of any salaries or other compensation at above-market rates, or (iii) any other distribution, payment, gift, assignment, or transfer, to shareholders, members, officers, directors, or employees of Guarantors or their affiliates, or to any family members of any such persons. The making of any Prohibited Distribution shall constitute an Event of Default under the Loan if such Prohibited Distribution is not returned to Guarantor within thirty (30) days of written notice from Lender regarding such Prohibited Distribution, and Guarantors shall cause the recipient of any Prohibited Distribution to immediately return such Prohibited Distribution to Guarantors. Guarantors, on their own behalf and acting as an agent for Guarantors' officers, managers, directors, employees, shareholders, and affiliates, further agree that Lender shall have recourse under this Guaranty against any and all funds or other assets that are distributed as part of a Prohibited Distribution, and shall have a right to commence an action against any recipient of a Prohibited Distribution to seek recovery thereof.

## **11. General Provisions**

**11.1 No Waiver.** No forbearance or delay on the part of Lender in the exercise of any power, right, or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any such power, right, or privilege preclude any other or further exercise of such power, right or privilege. All powers, rights, and privileges hereunder are cumulative with and not exclusive of any powers, rights, or privileges otherwise available to Lender at law or under any documents that shall evidence or secure any loans from Lender to Borrower.

**11.2 Entire Agreement.** Except as provided in any other written agreement now or in the future executed between Lender and Guarantors, this Guaranty shall constitute the entire agreement of Guarantors with Lender with respect to the subject matter hereof. No representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon Lender unless expressed in this Guaranty. No provision of this Guaranty or right of Lender hereunder can be waived nor can Guarantors be released from Guarantors' obligations hereunder except by a writing duly executed by an authorized representative of Lender.

**11.3 Severability of Provisions.** Any provision of this Guaranty that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

**11.4 Consultation with Counsel.** Guarantors acknowledge that they has consulted with counsel of its choice or had an adequate opportunity to do so in connection with execution of this Guaranty.

**11.5 Costs and Reasonable Attorneys' Fees.** Guarantors shall pay all of Lender's expenses incurred in any effort to enforce any terms of this Guaranty, whether or not any suit is filed, including, without limitation, reasonable attorneys' fees and disbursements, foreclosure costs, and title charges, and including all attorney's fees and costs incurred by Lender in connection with a bankruptcy or other insolvency proceeding of Borrower or any Guarantor and relating to any kind of review, claim, approval, relief, or procedure whatsoever in such bankruptcy. Such sums shall be immediately due and payable and shall bear interest from the date of disbursement at the Default Rate set forth in the Loan Documents, or the maximum rate that may be collected from Borrower under applicable law, if less.

**11.6 Community and Trust Property.** Each Guarantor who is a natural person and who is married agrees, represents, and warrants that: (i) he or she is executing this Guaranty with the knowledge and consent of his or her spouse, and has authority to bind his or her marital community to the terms and conditions hereof, and (i) recourse for his or her obligations under this Guaranty shall be available against his or her separate property and any and all property of his or her marital community, whether now existing or hereafter acquired, together with any proceeds thereof. Each such Guarantor further agrees that recourse under this Guaranty shall also be available against any such property that is subsequently conveyed to a living, family, or other trust in which such Guarantor and/or his or her spouse is a settlor, trustee, or beneficiary or otherwise controls.

**11.7 Governing Law.** This Guaranty shall be governed by and construed in accordance with the laws of the State in which the Project is located, without regard to the choice of law rules of such State.

Executed as of the date first set forth above.

GUARANTOR:

CAMEO HOMES,  
a California corporation



James C. Gianulias  
Its President

Social Security or Federal Tax ID No.:

95-2593087

Business Address:

1105 Quail Street  
Newport Beach, California  
92660

Business Telephone:

949-955-3832

Business Fax No.:

949-250-8574

GUARANTOR:

G COMPANIES HOMEBUILDING, LLC,  
a California limited liability company

By Cameo Homes,  
a California corporation  
Its Manager

By   
James C. Gianulias  
Its President

Federal Tax ID No.:

\_\_\_\_\_

Business Address:

c/o Cameo Homes  
1105 Quail Street  
Newport Beach, California  
92660

Business Telephone:

949-955-3832

Business Fax No.:

949-250-8574

### AGREEMENT OF PRINCIPAL OF GUARANTORS

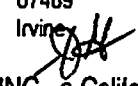
By executing the signature block below, the undersigned principal of Guarantors hereby acknowledges and agrees to the terms of Section 10 of the attached Guaranty governing the making and recovery of Prohibited Distributions, including, but not limited to the undersigned's responsibility to return any Prohibited Distributions from Guarantors.

  
JAMES C. GIANULIAS

**EXHIBIT "E"**

# GUARANTY



PROJECT NAME: Banning 213  
WRI LOAN NO: 07469  
ORIGINATING OFFICE: Irvine 

This Guaranty is made as of this April 7, 2004, by CAMEO HOMES, INC., a California corporation, and JAMES C. GIANULIAS, as to his sole and separate estate and his interest in the marital community, (each a "**Guarantor**" and together the "**Guarantors**"), for the benefit of MW HOUSING PARTNERS III, L.P., a California limited partnership ("**Lender**").

## RECITALS

A. Lender has agreed to make a loan (the "**Loan**") to 213 Banning, LLC, a California limited liability company ("**Borrower**") in a principal amount up to \$6,240,000 to provide financing for the acquisition and/or development of certain real property located in Riverside County, California (the "**Land**"), the construction of certain improvements thereon (the "**Improvements**") and the sale of certain "as-is" sub-parcels of the Land. The Land and Improvements to be constructed thereon by Borrower, together with all personal property now or hereafter acquired by Borrower and located on or acquired for use in connection with the Land or Improvements, are hereinafter collectively referred to as the "**Project**".

B. The Loan will be evidenced by, among other documents, a promissory note (the "**Note**") executed by Borrower in favor of Lender in the amount of the Loan, and by a Loan Agreement (the "**Loan Agreement**") executed by Borrower and Lender. The Loan shall be secured by, among other documents, a Deed of Trust, Assignment of Rents, Security Agreement, and Fixture Filing (the "**Deed of Trust**"). The Loan Agreement, Note, Deed of Trust, and any and all other documents evidencing or securing the Loan are referred to as the "**Loan Documents**." Terms used but not defined herein shall have the meanings assigned to them in the Loan Agreement. If there is only one Guarantor, all plural references to the "**Guarantors**" herein shall be deemed to refer only to such Guarantor.

C. Each Guarantor is affiliated with Borrower in various ways and will receive substantial benefit from the Loan. Accordingly, to induce Lender to make the Loan, each Guarantor has executed this Guaranty knowing and intending that Lender will materially rely upon this Guaranty in entering the Loan Agreement and making the Loan.

## AGREEMENT

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Lender to enter the Loan Agreement and to make the Loan, Guarantors hereby agree as follows:

## 1. Scope of Guarantee.

1.1 Guarantors hereby absolutely and unconditionally guaranty and promise to pay to Lender or its order any and all indebtedness of Borrower to Lender and to perform any and all obligations of Borrower under the Loan Documents. Guarantors acknowledge that they have reviewed and are fully familiar with the terms and conditions of the Loan Agreement, Note, Deed of Trust, and other Loan Documents, and fully understand the obligations of Borrower thereunder.

1.2 The words "*indebtedness*" and "*obligations*" are used herein in their most comprehensive sense and include any and all advances, debts, obligations and liabilities of any kind whatsoever, including the obligation to construct and complete the Project in a timely and lien-free manner, to make such deposits with Borrower as are necessary to keep the Loan "in balance," and to perform all of Borrower's other obligations with respect to the collateral for the Loan.

1.3 Notwithstanding the foregoing, Guarantors do not guarantee payment of "*Additional Interest*" (as defined in the Loan Agreement) on any portion of the Project that remains unsold by Borrower if and when Lender forecloses against the Project (whether judicially or non-judicially) or accepts a deed-in-lieu of foreclosure.

1.4 This Guaranty is continuing and shall terminate only upon full payment and performance by Borrower or Guarantors of all the terms, covenants, and conditions of the Loan that are guaranteed by Guarantors hereunder.

1.5 Notwithstanding any other provision herein or in any other Loan Document, the maximum cumulative amount that Lender may recover from the Guarantors under this Guaranty is \$1,500,000 plus attorneys' fees and other expenses reasonably incurred by Lender in enforcing or seeking a recovery under this Guaranty from the Guarantors. Lender may seek to recover such amount from any one of the Guarantors or from any combination of the Guarantors, and any rights of contribution or indemnity among the Guarantors are matters solely among themselves, but shall not diminish or otherwise affect Lender's rights hereunder.

2. **Guarantors' Independent Obligations.** Guarantors understand that their obligations to Lender hereunder are direct, personal, and independent obligations to pay and perform all of Borrower's obligations under the Loan Documents, and not as a collection guarantor, surety, endorser, or other party having only secondary liability. The obligations of each Guarantor hereunder are joint and several and independent of the obligations of Borrower, and a separate action or actions may be brought against any Guarantor whether or not separate actions are brought against Borrower or other Guarantors, and whether or not Borrower or other Guarantors are joined in any such action or actions. Moreover, any partial payment by Borrower or other circumstance that operates to toll any statute of limitations as to Borrower shall operate to toll such statute of limitations as to Guarantors. Lender's rights under this Guaranty shall not be exhausted until and unless all indebtedness and obligations hereby guaranteed have been paid and fully performed.

3. **Modifications.** Guarantors authorize Lender from time to time, without notice or demand to or approval by Guarantors, and even though Borrower's financial condition may have deteriorated or Guarantors may object: (a) to renew, extend, or otherwise change the time for payment of the obligations of Borrower to Lender, (b) to increase the amount of the Loan, (c) to modify any other terms of the Loan,

(d) to take and hold security for the payment of this Guaranty or any other indebtedness guaranteed, and exchange, enforce, waive, or release any such security; (e) to release Borrower or one or more Guarantors from obligations under the Loan or any guaranty thereof, (f) to apply such security and direct the amount or manner of sale thereof as the Lender in its sole discretion may determine; (g) to extend Lender's credit limits for loans to Borrower; or (h) to take any other actions with respect to the terms of or security for Borrower's indebtedness to Lender. Notwithstanding any such action by Lender, Guarantors' unconditional guarantee shall remain in full force and effect and guarantee prompt payment and performance of all indebtedness and obligations owing by Borrower to Lender.

#### **4. Guarantors' Waivers.**

**4.1 Particular Actions by Lender.** Guarantors hereby waive any right to require Lender to: (i) give notice of acceptance of this Guaranty, notice of presentment or non-performance, demands for performance, or notice of the existence, creation, or modification of any indebtedness of Borrower under the Loan, (ii) record, perfect, maintain, or enforce any security for the obligations of Borrower, Guarantors, or any other guarantor of the Loan; (iii) proceed against Borrower, any Guarantor, any other guarantor, or any other party, including the filing of any claims in any bankruptcy, probate, or other proceeding; (iv) proceed against or exhaust any security received from Borrower, any Guarantor, or any other guarantor, (v) dispose of any repossessed collateral in a "commercially reasonable" or other manner as required by the Uniform Commercial Code or other applicable statute; or (vi) pursue any other remedy in Lender's power whatsoever. Guarantors agree that their obligations hereunder shall not be affected by any circumstances, whether or not referred to herein, that might otherwise constitute a legal or equitable discharge of a guarantor or a surety, provided Lender acts in good faith.

**4.2 Other Defenses.** Guarantors also waive any rights, claims, defenses, abatement, or rights of setoff or recoupment based on or arising out of: (i) any legal disability, discharge, or limitation of the liability of Borrower to Lender, whether consensual or arising by operation of law or any proceeding; (ii) the death or disability of Borrower, any Guarantor, or any other guarantors; (iii) any right to cause a marshaling of Borrower's assets, and (iv) any right to require Lender to exhaust any security for the performance of Borrower's obligations or to proceed against Borrower, any particular Guarantor, or any other guarantors in any particular order, whether such right exists by statute or otherwise.

#### **4.3 Anti-Deficiency and One-Form-of-Action Rules.**

**4.3.1** Guarantors understand that certain statutes, commonly referred to as "anti-deficiency" and "one form of action" rules, may prevent or inhibit a lender, after completing a non-judicial foreclosure or accepting a deed in lieu of foreclosure, from obtaining a deficiency judgment against a borrower or from collecting the amount of the deficiency from a guarantor, unless such borrower or guarantor has knowingly waived the application of such statutes and the benefits that it would otherwise receive from such statutes. This curtailment of a lender's rights to recover a deficiency from a guarantor is based in part on the fact that a lender's election of a non-judicial foreclosure or a deed in lieu of foreclosure from among other possible default remedies impairs or eliminates a guarantor's rights of subrogation and reimbursement against the borrower, the collateral, or any other surety for borrower's obligations.

**4.3.2** Guarantors understand that, unless they waive the protection that such rules would ordinarily confer, these "anti-deficiency" and "one form of action" rules might provide a defense to enforcement of this Guaranty if Lender elects to proceed with a non-judicial foreclosure or to accept a



deed-in-lieu of foreclosure. Nevertheless, as an inducement for Lender to make the Loan, Guarantors hereby knowingly waives, in advance, all of their rights to rely on the anti-deficiency and one-form-of-action rules in connection with the impairment of its subrogation rights, as a defense to this Guaranty. Guarantors hereby acknowledge and agree that Lender may, in its sole discretion, exercise any right or remedy whatsoever that it may have against Borrower or any security held by Lender, including, without limitation, the right to foreclose upon any collateral for the Loan by judicial or non-judicial sale or to take a deed-in-lieu of foreclosure, without affecting or impairing in any way the liability of Guarantors hereunder (except to the extent that the indebtedness has been fully paid and performed), even if such election operates to impair or extinguish any right of reimbursement or subrogation or other right or remedy of Guarantors against Borrower or any security for the Loan. Guarantors further waive any statutes that provide "fair value" protection by limiting a deficiency judgment to the difference between the property's fair market value (or foreclosure sale price, if greater) and the amount of the obligation being foreclosed.

**4.3.3** If this Guaranty is governed by California law, Guarantors also agree and affirm that:

**4.3.3.1.** Pursuant to Cal. Civil Code § 2856(c) and without limiting the other waivers contained herein, Guarantors waive all rights and defenses that Guarantors may have because the Borrower's debt is secured by real property. This means, among other things: (1) Lender may collect from any of the Guarantors without first foreclosing on any real or personal property collateral pledged by the Borrower, and (2) if the Lender forecloses on any real property collateral pledged by the Borrower: (a) the amount of the debt may be reduced only by the price for which that collateral is sold at the foreclosure sale, even if the collateral is worth more than the sale price, and (b) the Lender may collect from any or all of the Guarantors even if the Lender, by foreclosing on the real property collateral, has destroyed any right any of the Guarantors may have to collect from the Borrower.

**4.3.3.2** This is an unconditional and irrevocable waiver of any rights and defenses the Guarantors may have because the Borrower's debt is secured by real property. These rights and defenses include, but are not limited to, any rights or defenses based upon Section 580a, 580b, 580d, or 726 of the Code of Civil Procedure.

**4.3.3.3** Guarantors also waive all rights and defenses arising out of an election of remedies by the Lender even though that election of remedies, such as a nonjudicial foreclosure with respect to security for a guaranteed obligation, has destroyed the Guarantors' rights of subrogation and reimbursement against the principal by the operation of Section 580d of the Code of Civil Procedure or otherwise.

**4.3.3.4** Guarantors affirm their intention to waive all benefits that might otherwise be available to Guarantor or Borrower under California Code of Civil Procedure Sections 580a, 580b, 580d, and 726 and California Civil Code Sections 2809, 2810, 2819, 2822, 2839, 2845, 2849, 2850, 2899, and 3433, among others.

**4.4 Jury Trial.** Guarantors hereby waive any and all rights to demand a trial by jury in any proceeding relating to this Guaranty.

**4.5 Subrogation Rights.** Until Lender shall have received full payment and performance of all of Borrower's obligations under the Loan, Guarantors shall have no right of subrogation and waive

any right to enforce any remedy that Lender now has or hereafter may have against Borrower and waive any benefit of, and any right to participate in, any security now or hereafter held by Lender for the performance of Borrower's obligations to Lender.

**5. Subordination and Assignment of Borrower Debts to Guarantors.** Guarantors hereby assign to Lender any and all rights they now or may hereafter have to receive payments from or other performance by Borrower on debts or other obligations of Borrower in favor of Guarantors. All rights of Guarantors under such debts and obligations of Borrower in favor of Guarantors are hereby subordinated to Lender's rights to payments from and performance by Borrower under the Loan Documents. Notwithstanding the foregoing assignment and subordination, prior to an Event of Default under the Loan, payments by Borrower to Guarantors may be collected and retained by Guarantors (subject to Lender's recourse against such payments under this Guaranty), but upon any Event of Default, all payments thereafter received by Guarantors under such debts shall be immediately paid over to Lender pursuant to this Guaranty or, if Lender so requests, any unpaid debts shall be collected, enforced and received by Guarantors, in trust, for the benefit of Lender, and be paid over to Lender on account of any unperformed obligations of Borrower under the Loan. Lender's receipt of such payments shall not reduce or affect in any manner the liability of Guarantors under the other provisions of this Guaranty, other than reducing the obligations under the Loan by the amount so paid.

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**6.1** The financial reports of Guarantors and other written statements that have been furnished to Lender to induce Lender to make the Loan fairly and accurately present Guarantors' financial position as of the date of such statements. Guarantors have title to all assets shown in such financial reports, there has been no material adverse change in the financial condition of any Guarantor since the date of the last report so furnished, and Guarantors hereby agree to give Lender written notice of any material adverse change in the financial condition or assets of any Guarantor, with such notice to be given within 10 days after Guarantors become aware of such material adverse change;

**6.2** There are no actions, suits or proceedings pending or, to Guarantors' actual knowledge, threatened against any Guarantor that might result in any material adverse change in the financial condition of any Guarantor; and

**6.3** Guarantors (and the persons executing this Guaranty on behalf of any non-individual Guarantors) have the requisite power, authority, capacity, and legal right to execute and deliver this Guaranty; no further consent, approval, resolution, or other authorization is required, and neither the execution nor delivery of this Guaranty nor compliance with the terms hereof will conflict with or constitute a breach or default under any agreement or instrument to which Guarantors are a party or will provide a basis for acceleration of any indebtedness of Guarantors to any party whatsoever.

All such warranties shall be deemed to be continuing representations and warranties until full payment and performance of the Borrower's obligations under the Loan Documents.

**7. Assignment.** This Guaranty shall benefit any and all successors and assigns of Lender, including the assignees of or participants in any indebtedness hereby guaranteed. Lender may, in its sole discretion, sell or assign participation interests in the Loan and this Guaranty, in whole or in part, without any requirement to give notice to or receive the approval of Guarantors, and may disclose any and all

financial information about Guarantors to any actual or proposed assignee or participant in the Loan. Guarantors may not assign or delegate any of their obligations under this Guaranty without Lender's prior written consent, and any attempt to do so without such consent shall be of no effect and shall not release Guarantors from any obligation hereunder.

**8. Guarantors' Ongoing Reporting Obligations.** Each Guarantor shall provide Lender with updated financial statements for such Guarantor on an annual basis within 90 days after the end of each calendar year and shall notify Lender in writing of any change of address, telephone number, facsimile number, marital status (if an individual), or legal organization (if an entity) within 10 days after such event.

## **9. General Provisions**

**9.1 No Waiver.** No forbearance or delay on the part of Lender in the exercise of any power, right, or privilege hereunder shall operate as a waiver thereof, nor shall a single or partial exercise of any such power, right, or privilege preclude any other or further exercise of such power, right or privilege. All powers, rights, and privileges hereunder are cumulative with and not exclusive of any powers, rights, or privileges otherwise available to Lender at law or under any documents that shall evidence or secure any loans from Lender to Borrower.

**9.2 Entire Agreement.** Except as provided in any other written agreement now or in the future executed between Lender and Guarantors, this Guaranty shall constitute the entire agreement of Guarantors with Lender with respect to the subject matter hereof. No representation, understanding, promise or condition concerning the subject matter hereof shall be binding upon Lender unless expressed in this Guaranty. No provision of this Guaranty or right of Lender hereunder can be waived nor can Guarantors be released from Guarantors' obligations hereunder except by a writing duly executed by an authorized representative of Lender.

**9.3 Severability of Provisions.** Any provision of this Guaranty that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provision in any other jurisdiction.

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**9.6 Community and Trust Property.** Each Guarantor who is a natural person and who is married agrees, represents, and warrants that: (i) he or she is executing this Guaranty with the knowledge and consent of his or her spouse, and has authority to bind his or her marital community to the terms and conditions hereof, and (i) recourse for his or her obligations under this Guaranty shall be


available against his or her separate property and any and all property of his or her marital community, whether now existing or hereafter acquired, together with any proceeds thereof. Each such Guarantor further agrees that recourse under this Guaranty shall also be available against any such property that is subsequently conveyed to a living, family, or other trust in which such Guarantor and/or his or her spouse is a settlor, trustee, or beneficiary or otherwise controls.

**9.7 Governing Law.** This Guaranty shall be governed by and construed in accordance with the laws of the State in which the Project is located, without regard to the choice of law rules of such State.

Executed as of the date first set forth above.

**GUARANTOR:**

CAMEO HOMES, INC.   
a California corporation

  
James C. Gianulias  
Its President

**Social Security or Federal Tax ID No.:**

95-2593087

**Business Address:**

1105 Quail Street  
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**Business Telephone:**

949-955-3832

**Business Fax No.:**

949-250-8574

**GUARANTOR:**

  
JAMES C. GIANULIAS, as his sole and separate  
estate and his interest in the marital community

**Social Security or Federal Tax ID No.:**

REDACTED

**Home Address:**

Newport Coast, CA 92657

# Central District Of California Claims Register

**8:08-bk-13151-RK Cameo Homes** CASE CONVERTED on 07/02/2008

**Judge:** Robert N. Kwan


**Chapter:** 11

**Office:** Santa Ana

**Last Date to file claims:**

**Trustee:**

**Last Date to file (Govt):**

<i>Creditor:</i> (22376185) MW Housing Partners III, LP 1301 Fifth Avenue, Suite 3100 Seattle, WA 98101	<b>Claim No: 10</b> <i>Filed:</i> 10/31/2008 <i>Entered:</i> 10/31/2008	<i>Status:</i> <i>Filed by:</i> CR <i>Entered by:</i> Polard, Steven <i>Modified:</i>
Unsecured claimed: \$18640000.00 <b>Total      claimed: \$18640000.00</b>		
<i>History:</i>  <a href="#">10-1</a> 10/31/2008 Claim #10 filed by MW Housing Partners III, LP , total amount claimed: \$18640000 (Polard, Steven)		
<i>Description:</i>		
<i>Remarks:</i>		

## Claims Register Summary