

UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA		PROOF OF CLAIM	
Name of Debtor JAMES C. GIANUZZAS	Case Number 8 08 13150-RK	This Space For Court Use Only	
<small>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.</small>		<div style="border: 2px solid black; padding: 10px; margin: 0 auto; width: 150px;"> <p style="font-size: 1.2em; margin: 0;">FILED</p> <p style="font-size: 1.2em; margin: 0;">NOV 10 2008</p> <p style="font-size: 0.8em; margin: 0;">CLERK U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA BY <i>[Signature]</i> Deputy Clerk</p> </div>	
Name of Creditor (The person or other entity to whom the debtor owes money or property) VRJ Acceptance LLC	<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received my notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.		
Name and Address where notices should be sent VRJ Acceptance LLC 70 Square Sanders & Dempsey 111 P Attn: Patrick J. Fields 555 South Flower Street 31st Floor Los Angeles California 90071	Telephone Number 213 689 5114		
First four digits of account or other number by which creditor identifies debtor		Check here <input type="checkbox"/> replaces if this claim <input type="checkbox"/> amends a previously filed claim dated _____	
1 Basis for Claim <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other: Guaranty </div> <div style="width: 45%;"> <input type="checkbox"/> Retired benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Last four digits of your SS # _____ Unpaid compensation for services performed from _____ to _____ <div style="display: flex; justify-content: space-between; width: 100%;"> (date) (date) </div> </div> </div>			
2 Date debt was incurred		3 If court judgment, date obtained	
4 Classification of Claim Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. <small>See reverse side for important explanations.</small>			
Unsecured Nonpriority Claim <input type="checkbox"/> Check this box if (a) there is no collateral or (b) securing your claim or (c) your claim exceeds the value of the property securing it or (d) none or only part of your claim is entitled to priority.		Secured Claim <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other: _____ Value of Collateral \$ _____ Amount of prepayment and other charges <u>at time case filed</u> included in secured claim if any \$ _____	
Unsecured Priority Claim <input type="checkbox"/> Check this box if you have an unsecured claim, all or part of which is entitled to priority. Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B) <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,000) 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) <input type="checkbox"/> Contributions to an employee benefit plan 11 U.S.C. § 507(a)(5)		<input type="checkbox"/> Up to \$2,225 of deposits toward purchase, lease, or rental of property or services for personal, family, or household use 11 U.S.C. § 507(a)(8) <input type="checkbox"/> Taxes or penalties owed to governmental units 11 U.S.C. § 507(a)(8) <input type="checkbox"/> Other: Specify applicable paragraph of 11 U.S.C. § 507(a)(2). <small>Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.</small>	
5 Total Amount of Claim at Time Case Filed \$12,131,120.97 \$ _____ \$ _____ \$12,131,120.97 <div style="display: flex; justify-content: space-around; font-size: 0.8em;"> (Unsecured) (Secured) (Priority) (Total) </div>			
<input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.			
6 Credits The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. 7 Supporting Documents Attach copies of supporting documents such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary.			This Space For Court Use Only
8 Date Stamped Copy To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim.			
Date 11/07/2008	Sign and print the name and title of any of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any). Seam T. Cork, Esq. <i>[Signature]</i>		



CONSTRUCTION LOAN PROMISSORY NOTE

\$60,629,568 00

September 15, 2006

FOR VALUE RECEIVED, the undersigned, ARENAL ROAD, LLC, a California limited liability company, 1105 Quail Street, Newport Beach, California 92260 ("Borrower") promises to pay to the order of BANK MIDWEST NA, 1100 Main Street Kansas City, Missouri 64105-2105 (together with its successors and assigns called "Lender") the principal sum of Sixty Million Six Hundred Twenty-Nine Thousand Five Hundred Sixty Eight Dollars (\$60,629,568 00), or so much of that sum as may be advanced under this Note by Lender and remains outstanding, together with interest upon the principal balance remaining outstanding from time to time as set forth below, in payments as set forth below. The indebtedness evidenced by this Promissory Note ("Note") is referred to herein as the "Loan". All terms not specifically defined herein shall have the meanings given to such terms in that certain Construction Loan Agreement of even date herewith, executed by Borrower and Lender ("Loan Agreement").

1 **TERM/MATURITY DATE** The "Maturity Date" of this Note shall be the earlier of (a) September 15, 2008, and which date may be extended pursuant to the extension option provided in the Loan Agreement, provided however provided however, the Loan may become due and payable on the "Term-Out Date" (as defined in the Loan Agreement) of September 15, 2007, pursuant to the terms and conditions set forth in the Loan Agreement, or (b) the date on which Lender exercises its right to accelerate the Loan upon the occurrence of an "Event of Default" (as defined below).

2 **INTEREST RATE** From the date of the first advance hereunder and until the first "Rate Adjustment Date" (as defined below), the "Note Rate," prior to the occurrence of an Event of Default, shall be 8.83% per annum. Thereafter, the Note Rate shall be recalculated on the first day of each month during the term of the Loan (each a "Rate Adjustment Date") by adding the "Margin" to the "Index" (both as defined below). As used herein (a) the "Margin" is three and one half percent (3.50%), and (b) the "Index" is the 30 day London Inter bank Offered Rate ("LIBOR") which is in effect on each Rate Adjustment Date based on the published rate in the Wall Street Journal on each Rate Adjustment Date (or if a particular Rate Adjustment Date is not a Business Day, on the first Business Day immediately preceding such Rate Adjustment Date) or such other source as may be selected by Lender in its reasonable discretion. Said Note Rate is to be adjusted each Rate Adjustment Date and is to be computed on the basis of a 360 day year, but accrued on the actual number of days elapsed.

3 **DEFAULT INTEREST RATE** At any time that an uncured Event of Default is outstanding, this Note will bear interest at a rate of interest which is five percent (5.00%) in excess of the Note Rate in effect from time to time ("Default Rate"). The Default Rate shall be paid without prejudice to Lender's rights to collect other amounts due hereunder or to declare a default under any "Loan Document" (as defined in the Loan Agreement). If the Event of Default is cured during the applicable cure period, if any, interest will begin to accrue at the Note Rate commencing on the date the Event of Default is cured.

4 **PAYMENTS** Borrower shall make payments according to the following subsection(s) to Lender at its address or as later communicated to Borrower, in immediately payable U.S. funds. All payments shall be first applied to Lender's fees, costs, and expenses which are reimbursable under the terms of this Note or any Loan Document, then to late charges, then to accrued and unpaid interest, and then to principal. If any payment due date is a Saturday, Sunday, or banking holiday

observed by Lender the due date of the payment shall automatically be extended to the next following banking business day

4.1 Interest-Only Payments Payments of all accrued interest shall be due and payable monthly beginning on October 1, 2006, and continuing on or before the 1st day of each month thereafter through and including the payment due on the Maturity Date

4.2 Partial Payments From time to time, Borrower may request that Lender partially release its lien and security interests which secure repayment of the Loan as to any "Unit" (as defined in the Loan Agreement), provided that Borrower shall satisfy each of the conditions for such a partial release, including, without limitation, the payment to Lender of the applicable "Release Price" (as defined in the Loan Agreement) for such Unit

4.3 Final Payment All accrued and unpaid interest, late payment charges, outstanding principal, and all other amounts chargeable under the Loan Documents shall be due and payable in full on the Maturity Date

5 LATE PAYMENT CHARGE If Borrower fails to make any payment within ten (10) days after the due date (excluding the Maturity Date), a late charge of five percent (5.00%) of the payment amount due will be charged by Lender. A tender to Lender of any payment more than ten (10) days past due which does not include the late fee may be rejected as insufficient or Lender may accept the tendered amount as a partial payment without waiving Lender's right to receive the late payment charge. This Note will remain in default and interest at the Default Rate will accrue until the late payment charge is paid. The late payment charge shall be paid without prejudice to Lender's rights to collect other amounts due hereunder or to declare a default under this Note or any other Loan Document. Borrower acknowledges and agrees that by its execution of this Note, it has received prior notice of Lender's right to collect any late charge payable hereunder in full compliance with the provisions of California Civil Code Section 2954.5 (as such section or any successor section may now or hereafter be in effect), and that no further or additional notice shall be required by Borrower as a condition to Lender's right to collect any such charge in the event Borrower fails to make a timely payment hereunder.

6 SECURITY This Note is secured by a first lien security interest against the Property and the personal property ("Collateral") in favor of Lender, as more fully described in the Loan Documents. The Property and Collateral are sometimes collectively referred to herein as the "Pledged Assets."

7 PREPAYMENT Borrower will be entitled to prepay this Note in part or in full at any time without penalty. Prepayments shall be applied against unpaid installments in inverse order of their scheduled maturity. No prepayment shall affect the amount or due date of any regularly scheduled payments, except to the extent that the principal balance outstanding affects the computation of a new payment amount on each Rate Adjustment Date.

8 CESSATION OF INTEREST, FUNDS AVAILABILITY, SETOFF Upon the occurrence of an Event of Default, and until such time as such Event of Default is cured pursuant to the terms of the Loan Documents, Lender shall have no obligation to (a) pay interest upon any funds kept by Borrower on deposit with Lender, regardless of the form of deposit or account involved, and whether or not the Loan Documents require any affected funds to be maintained on deposit, and/or (b) disburse to Borrower, or on Borrower's behalf or request, any of such funds. Interest will begin to accrue upon affected deposits and accounts and funds will be fully available to Borrower upon completion of cure of the Event of Default during any applicable grace or cure period provided for in the Loan Documents.

During the existence of any Event of Default, and following the expiration of any applicable grace or cure period provided for in the Loan Documents, Lender shall have the right to immediately set off any such funds and apply them in reduction of the sums due to Lender under the Loan Documents. Lender may implement such procedures from time to time as may assist Lender in the exercise of the rights granted above. The foregoing provisions shall not limit any other rights or remedies Lender may have under applicable law or by separate agreement.

9 REMEDIES Upon the occurrence of any Event of Default and after the applicable cure period, if any, at Lender's option, the outstanding principal balance of this Note, all accrued and unpaid interest, and all other amounts, fees, and charges due under the Loan Documents shall immediately become due and payable and Lender shall have the right to enforce its liens and security interests and exercise any rights under the Loan Documents, applicable law, and/or principles of equity. The order and manner of Lender's remedies shall be in its sole and absolute discretion. In any enforcement action, Borrower agrees that Lender's books and records showing the account between Lender and Borrower shall be admissible and binding upon Borrower for the purpose of establishing the items therein set forth and shall constitute prima facie proof thereof.

10 DUE-ON-SALE Borrower acknowledges and agrees that the creditworthiness and expertise of Borrower in owning and operating the real property covered by the Deed of Trust which secures this Note is the basis upon which Lender has determined that it is protected against impairment of the security and risk of default and thereby has agreed to lend Borrower the principal sum set forth above. Except for the sale, agreement to sell and release of any Unit pursuant to the release provisions set forth in the Deed of Trust, Borrower agrees that said real property shall not be sold, agreed to be sold, conveyed, transferred, assigned, disposed of, or further encumbered, whether voluntarily, involuntarily, by operation of law or otherwise. Except for a "Permitted Transfer" (as defined below) or in connection with the release of any "Unit" (as defined in the Loan Agreement) pursuant to the terms and conditions set forth in the Loan Agreement, any sale, transfer, or other disposition of the manager of Borrower or any membership interest in Borrower or any sale, transfer, or other disposition the ownership interests in any member of Borrower without Lender's prior written consent, which consent will not be unreasonably withheld or delayed, shall constitute a breach hereof. For purposes of this provision, a "Permitted Transfer" shall mean any transfer of up to forty nine percent (49%) in the aggregate of the ownership interests in Borrower or in any member of Borrower or as a result of the death of James Chris Gianulias, provided, however, that following such transfer those persons responsible for the management of the Property, Borrower and said member, as applicable, remain unchanged following such transfer or any replacement management is approved by Lender in its sole discretion. Any transaction in violation of the above restrictions shall cause the then outstanding principal balance and interest thereon and other sums secured by said Deed of Trust, at the option of said holder, to immediately become due and payable. Notwithstanding, any provision herein or in any Loan Document to the contrary, in the event of the death, disability or incapacity of James Chris Gianulias, Lender agrees, that provided Borrower is in full compliance with the terms, conditions and provisions of this Note and other Loan Documents, not to declare an Event of Default under the Loan Documents as a result solely of said death, disability or incapacity for a period of thirty (30) days after such death, disability or incapacity. During such thirty (30) day period, Borrower may present to Lender for its approval, in its reasonable discretion, a replacement guarantor and a new business plan for the continuation of the business of Borrower and/or Cameo Homes. Such substitute guarantor whether it be the estate of said party or an independent third party must have a comparable net worth, with comparable liquidity and business experience in the construction, marketing and sale of residential units. During the period Lender reserves the right to take any action that is not inconsistent with the terms of this paragraph that is permitted by law, in equity or under the Loan Documents.

11 USURY All provisions of this Note which call for the payment of interest are intended to comply with all applicable usury statutes and regulations. If the terms of this Note would require

the payment of interest in excess of the amount permitted by any applicable law or regulation, the terms of this Note shall be deemed to be modified to comply with all such applicable laws or regulations without any action by either party. If Lender receives interest in excess of the amount permitted by any applicable law or regulation, the excess portion of the interest received shall be deemed to be a prepayment of principal without premium as of the date received.

12 WAIVER To the fullest extent permitted by law, and except as expressly provided herein, Borrower and any endorsers, sureties, and guarantors irrevocably

12.1 waive presentment for payment, notice of dishonor, notice of nonpayment, protest, notice of protest, demand, other notices of every kind, and all rights to plead any statute of limitations as a defense to any action hereunder,

12.2 consent that the time of payment of any installment may be extended from time to time, that all or any part of the Pledged Assets may be released, and that any person liable under this Note, including any Guarantor, may be released, all without notice, and all without affecting the liability of any person or the lien on that portion of the Pledged Assets not expressly released, and

12.3 agree that no delay in enforcing any remedy under this Note or any Loan Document shall be construed to be a waiver of that or any other remedy.

Lender's failure to exercise any of its rights, remedies, or powers set forth herein or in the Loan Documents or Lender's acceptance of partial payments or performance shall not constitute a waiver of any Event of Default, but any such right, remedy, or power shall remain continually in force. A waiver of one Event of Default shall not be construed as continuing or as a bar to or waiver of (i) such Event of Default at a later date, (ii) any other Event of Default, or (iii) any other right, remedy, or power.

13 REVIVAL OF LIABILITY If any payments or proceeds received by Lender are subsequently invalidated, declared to be fraudulent or preferential, set aside, or required to be repaid to a trustee to Borrower, directly or as a debtor-in-possession, to a receiver, or any other person, whether directly or indirectly, under any bankruptcy law, state or federal law, common law, or equitable cause, then Borrower's obligation to make all such payments shall be revived and shall continue in full force and effect as if such payment or proceeds had never been received by Lender.

14 MISCELLANEOUS

14.1 Note Binding This Note shall be binding on Borrower and Borrower's heirs, successors and assigns as applicable and shall inure to the benefit of Lender and Lender's successors and assigns.

14.2 Headings Headings are inserted into this Note for convenience only and shall not be considered in construing any provision.

14.3 Waiver of Provisions This Note may not be modified, nor any of its provisions waived, without Lender's prior written consent.

14.4 Time of the Essence Time shall be of the essence of this Note.

14.5 Provisions Separable The provisions of this Note are separable. If any judgment is hereafter entered holding any provision of this Note to be invalid or unenforceable, then the remainder of this Note shall not be affected by such judgment, and the remaining terms of this Note shall be carried out as nearly as possible according to its original terms.

14 6 **Persons** The term "person" includes, but is not limited to natural persons, corporations, partnerships, trusts, trustees, limited liability companies, joint ventures, and/or other legal entities

14 7 **Inference of Favor** No inference in favor of, or against, any person shall be drawn from the fact that such person has drafted all or any part of this Note or any other Loan Document

14 8 **Modifications** The term "modified" means amended, restated, changed, extended, renewed, altered, terminated, or canceled

14 9 **Conflict of Terms** If there is a conflict between or among the terms of this Note or any Loan Document, Lender may elect to enforce from time to time those provisions that would afford Lender the maximum financial benefits and security for the obligations evidenced and secured by the Loan Documents and/or provide Lender the maximum assurance of payment and performance of such obligations in full

15 **CHOICE OF LAW, VENUE** This Note shall be deemed to have been executed and shall be performed in the State of California and shall be governed by its laws

16 **WAIVER OF JURY TRIAL** Borrower and any endorsers, sureties, or guarantors hereby irrevocably and severally (i) waive the right to a trial by jury in any action or proceeding brought by any party in connection with this Note, any Loan Document, or any modification thereof, (ii) have made this waiver knowingly, intentionally and voluntarily, (iii) acknowledge no reliance upon any oral or written statements made by Lender or on Lender's behalf, other than those contained herein, either to induce this waiver of trial by jury or to modify or nullify its effect, (iv) acknowledge reading and understanding the meaning and ramifications of this waiver provision, and (v) agree to take all such actions as may be required by applicable law to allow this waiver to be enforceable By accepting this Note, Lender waives the right to a trial by jury in any action or proceeding brought by any party in connection with this Note

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[Signatures follow on next page]

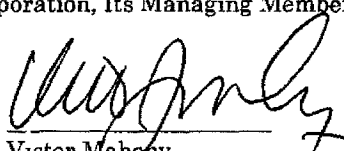
IN WITNESS THEREOF, Borrower has duly executed this Note as of the day and year first above written

BORROWER

ARENAL ROAD, LLC, a California limited liability company

By G Companies Homebuilding, LLC, a California limited liability company,
Its Managing Member

By Cameo Homes, a California corporation, Its Managing Member

By 
Victor Mahony,
Chief Executive Officer



CONTINUING GUARANTY AGREEMENT

[Payment and Completion]

This CONTINUING GUARANTY AGREEMENT ("Agreement"), is entered into as of September 15, 2006, by CAMEO HOMES, a California corporation, JAMES GIANULIAS, an individual, and JAMES GIANULIAS, as trustee of the JAMES CHRIS GIANULIAS TRUST, DATED OCTOBER 14, 2003 (collectively referred to in the singular as "Guarantor") in favor of BANK MIDWEST N A ("Lender")

RECITALS

A ARENAL ROAD, LLC, a California limited liability company ("Borrower"), has agreed to borrow up to the maximum sum of Sixty Million Six Hundred Twenty-Nine Thousand Five Hundred Sixty Eight Dollars (\$60,629,568 00) ("Loan"), to be evidenced by a promissory note of even date herewith executed by Borrower in favor of Lender ("Note")

B The Note is to be secured by, among other things, a Deed of Trust, Assignment of Leases and Rents and Security Agreement (Including Fixture Filing) of even date herewith ("Deed of Trust") The Loan is being made by Lender to Borrower to finance the cost of acquiring, developing and constructing certain improvements ("Improvements") on that certain real property owned by Borrower, which Property is more fully described in Exhibit "A" to the Deed of Trust ("Property") (the Property and Improvements collectively shall be referred to as the "Project") The terms and conditions of the Loan are particularly described in that certain Loan Agreement of even date herewith by and between Borrower and Lender ("Loan Agreement") All of the documents now or in the future which evidence or relate to the Loan collectively shall be referred to as the "Loan Documents" All terms not specifically defined herein shall have the same meanings that are given to such terms in the Loan Agreement

C Lender is willing to make the Loan if, among other conditions, it receives this Agreement from Guarantor Accordingly, Guarantor desires to enter into this Agreement to induce Lender to make such loan

AGREEMENT

In consideration of the making of the Loan and of other valuable consideration, the receipt and sufficiency of which are acknowledged, Guarantor hereby certifies, represents and warrants to Bank, and agrees as follows

1 **GUARANTY** Guarantor hereby unconditionally and independently of any liability of Borrower guarantees and agrees as follows

1.1 **Payment Guaranty.** Guarantor hereby irrevocably, absolutely and unconditionally guarantees and promises to pay to or for the benefit of Lender, its successors and assigns, on demand after the occurrence and during the continuance of an "Event of Default" (as defined in the Loan Agreement), in lawful money of the United States of America, the Loan and all indebtedness and obligations that may now or hereafter be owing from Borrower to Lender thereunder, including not only debts voluntarily contracted, but also every debt, obligation or liability however arising, whether absolute or contingent, joint or several, matured or unmatured, direct or indirect, primary or secondary, and whether or not the same is represented by a writing, and any and all extensions, renewals or modifications of any such indebtedness or obligation, including without limitation,

interest at the rate provided in the Note, as the "Default Rate", late charges yield maintenance payments, attorneys' fees, expenses and court costs (whether incurred in connection with any enforcement activities by Lender or otherwise, in any appeal proceedings or in any bankruptcy proceedings involving Borrower or any Guarantor) (all of the foregoing shall be referred to as the "Payment Obligations", and said obligations, together with the "Construction Obligations" described under Section 1.2 below, collectively shall be referred to herein as the "Guaranteed Obligations")

1.1.1 After the occurrence and during the continuance of an Event of Default, Lender shall not be obligated to make any further disbursements under the Loan Documents until any continuing Event of Default under the Loan Documents has been fully and timely cured. In the event such Event of Default is not timely and fully cured, if a grace or cure period is permitted under the Loan Documents, then Guarantor shall upon the expiration of the stated grace or cure period without further notice, in lawful money of the United States, pay to Lender, on demand, all Payment Obligations. If the Event of Default is fully and timely cured by Borrower or Guarantor, then the Loan shall be reinstated.

1.2 Guaranty of Construction Obligations On demand after the occurrence and during the continuance of an Event of Default, Guarantor absolutely, unconditionally, irrevocably and jointly and severally guarantees to Lender the completion of the Project free and clear of mechanic's and materialmen's liens, in accordance with (a) all applicable laws, ordinances, rules and regulations, (b) the terms and conditions of the Loan Agreement, (c) the "Plans and Specifications" (as defined in the Loan Agreement), (d) the Project schedule established in the Loan Agreement, and (e) the "Budget" (as defined in the Loan Agreement) (all of the foregoing, together with the obligations and liabilities owing under Section 1.2.2 below, being collectively referred to herein as the "Construction Obligations")

1.2.1 Lender's Obligations Following Event of Default Subject to the provisions of Section 1.2.2 below, Lender shall not be obligated to make any further disbursements under the Loan Documents until the Event of Default under the Loan Documents is fully and timely cured. In the event such Event of Default is not timely and fully cured, if a grace or cure period is permitted under the Loan Documents, then Guarantor shall upon the expiration of the stated grace or cure period without further notice, in lawful money of the United States, pay to Lender, on demand, all Construction Obligations. If the Event of Default is fully and timely cured by Borrower or Guarantor, then the Loan shall be reinstated.

1.2.2 Non-Performance of Construction Obligations If Guarantor fails to pay and/or perform any of the Construction Obligations within fifteen (15) days following Lender's demand, Lender may elect, without having any obligation to do so and without further notice to Guarantor, to take any action it reasonably believes necessary to protect its interests, but with the further right to suspend or terminate such actions at any time. No such actions by Lender shall release or limit the liability of Guarantor, and Guarantor agrees to repay Lender all sums expended by it, including any sums expended in excess of the principal amount of the Loan.

1.2.3 Lender's Right To Complete Project If Guarantor does not assume in writing the responsibility for the payment and performance of the Construction Obligations within such 15-day period, or thereafter does not faithfully discharge the same, subject to the terms and conditions relating thereto under the Loan Agreement, Lender may elect, without having any obligation to do so, and without further notice to Guarantor, to take any action it believes necessary to complete the improvements, but with the further right to suspend or terminate such actions at any time. No such actions by Lender shall release or limit the liability of Guarantor, and Guarantor agrees to repay Lender all sums reasonably expended by it in undergoing to complete such

construction, including any sums expended in excess of the principal amount of the Loan whether or not construction is actually completed

1 2.4 Lien-Free Completion of Improvements. Upon the occurrence of any "Triggering Event" (as defined in Section 1 2 5 below), Guarantor agrees to

(a) Assume all responsibility for and to cause the Project to be completed free and clear of mechanic's and materialmen's liens and claims therefor, in accordance with all applicable laws, ordinances, rules and regulations and in accordance with the Plans and Specifications and within the time period established in the Loan Agreement for completion of the Project,

(b) Assume all responsibility for the payment of any and all costs and expenses necessary for such timely and lien-free completion of the Project in excess of the amounts budgeted therefor as set forth in the Budget,

(c) Assume all responsibility for the payment to Lender any sums which the Borrower fails to pay pursuant to Section(s) 3 10, 3 11 and/or 3 12 of the Loan Agreement, and

(d) Indemnify and hold Lender harmless from and against any and all loss, damage, cost, expense, injury or liability that Lender may suffer or incur as a result of any default by Guarantor under this Guaranty

Provided, however, that subject to the satisfaction of the conditions in Section 1 2 6 below, Guarantor shall be permitted to draw any undisbursed Loan proceeds or funds held by Lender pursuant to the Loan Documents for Guarantor's use in performing its Construction Obligations. Notwithstanding anything to the contrary set forth in this Agreement, if Borrower is in compliance with Section 1 2 6, Lender does not permit Guarantor to use undisbursed Loan proceeds, and Lender undertakes to have construction completed, then Guarantor's liability hereunder for costs to complete shall be limited to the Excess Costs and Guarantor shall be relieved of the obligation to directly complete the construction

1 2 5 Definition of Triggering Event. A "Triggering Event" shall be defined as any of the following:

(a) construction of all or any part of the Project shall be ceased or abandoned for a period in excess of thirty (30) days for any reason, whether due to the default of Borrower, "Contractor" (as defined in the Loan Agreement) or any subcontractor, other than because of any "Force Majeure Event(s)" (as defined in the Loan Agreement),

(b) in Lender's judgment it shall appear that Borrower Contractor or any subcontractor may be unable to complete all or any portion of the Project free of mechanic's and materialmen's liens and claims therefor, in accordance with (i) all applicable laws, ordinances, rules and regulations, (ii) the Project completion date established in the Loan Agreement (as may be extended for any Force Majeure Event(s) as permitted under the Loan Agreement), (iii) the terms and conditions of the Loan Agreement, (iv) the Budget (and Borrower has not funded a borrower's fund account to cover the same), and/or (v) the Plans and Specifications,

(c) a "Loan Deficiency" (as defined in the Loan Agreement) shall exist with respect to the construction of the Project which deficiency has not been eliminated pursuant to Section 3 10 of the Loan Agreement,

(d) "Excess Costs" (as defined in the Loan Agreement) shall have not been paid by Borrower pursuant to the term and conditions of the Loan Agreement,

(e) Lender or its agents take possession of the Property prior to the completion of the Project by reason of any Event of Default by Borrower under the Loan Agreement or any of the Loan Documents,

(f) there shall be any Event of Default by Borrower, Guarantor or any other party under the Loan Agreement or any of the Loan Documents, or

(g) the right of Borrower to receive any other or further disbursement or advance under the Loan Agreement shall be terminated or temporarily suspended

1.2.6 Disbursement of Loan Funds Guarantor shall at its option, and without obtaining the consent of Borrower, have the right, subject to the satisfaction of the conditions in the next sentence, to draw any undisbursed Loan proceeds or funds held by Lender pursuant to the Loan Documents for Guarantor's use in performing its Construction Obligations under this Guaranty, provided, however, that even if Guarantor elects to complete the Improvements contemplated by the Loan Documents, Guarantor shall nonetheless remain fully liable for the payment of any remaining Construction Obligations. In order to qualify for the use of the undisbursed Loan funds in order to complete the construction of the Improvements

(a) each of the conditions to any disbursement of Loan proceeds must be fully satisfied

(b) Guarantor shall have cured all Events of Default under the Loan Documents and the Environmental Indemnity which pertain to the construction of the Improvements and which are capable of being cured by Guarantor,

(c) all amounts disbursed to Guarantor (i) are for the account of Borrower, (ii) are part of the Loan, (iii) are secured by the Deed of Trust and the other "Security Documents" (as defined in the Loan Agreement), and (iv) may be included in a credit bid by Lender upon foreclosure and sale of the Property under the Deed of Trust, and

(d) Lender shall have received, at no cost to Lender, such endorsements to Lender's title policy reasonably satisfactory to Lender, continuing the continuing validity and priority of the Deed of Trust (if not previously foreclosed)

1.2.7 Enforcement of Guaranteed Obligations. Upon the occurrence of any Event of Default under this Guaranty (which event shall occur as the result of Guarantor failing to pay any sum or perform any obligation hereunder, after the expiration of any applicable notice and cure period), Lender may perform any or all of Guarantor's Guaranteed Obligations relating to the construction and the completion of the Improvements by itself, through an agent, by entering into contracts with third parties or through a court-appointed receiver

(a) In completing any Improvements, Lender shall have the right to

(i) make such changes to the Lender-approved budget time limits and Plans and Specifications for the Improvements as Lender reasonably deems appropriate,

(ii) modify or terminate existing construction contracts (provided such termination does not result in any additional or new liability for Guarantor or Lender), and

(iii) expend such sums and perform such other acts as Lender, in its reasonable discretion, deems necessary or proper to complete all or any portion of the Improvements

(b) Guarantor shall reimburse Lender from time to time within fifteen (15) days of each demand by Lender, for all costs and expenses incurred by Lender under this Section 1.2, regardless of whether any such costs and expenses are contemplated by, or in excess of the amounts set forth in, the Loan Documents, provided, however, that

(i) Guarantor shall have no obligation to reimburse Lender for any expenditures paid with undisbursed Loan proceeds allocated to such expenditures, and

(ii) Guarantor shall not be liable for any costs and expenses resulting from any decision by Lender to upgrade the Improvements

Notwithstanding anything to the contrary set forth in this Agreement, if Borrower is in compliance with Section 1.2.6, Lender does not permit Guarantor to use undisbursed Loan proceeds, and Lender undertakes to have construction completed, then Guarantor's liability hereunder for costs to complete shall be limited to the Excess Costs and Guarantor shall be relieved of the obligation to directly complete the construction

(c) Guarantor shall pay interest on all such reimbursable costs and expenses from the date Lender incurs such costs and expenses at the Default Interest Rate and commence a lawsuit against Guarantor to compel Guarantor to perform the Construction Obligations hereunder and/or to recover damages under this Guaranty. Lender's damages shall include

(i) the costs of completing the Improvements and/or correcting any construction defects, minus any undisbursed Loan proceeds allocated to construction,

(ii) damages arising from any delay in completing the Improvements, including interest, taxes and insurance premiums, and

(iii) Lender's attorneys' fees and costs, including court costs (whether incurred in trial or on appeal or in any bankruptcy proceeding)

Lender need not perform any work on the Improvements before commencing a lawsuit against Guarantor. GUARANTOR EXPRESSLY ACKNOWLEDGES THAT THE MEASURE OF LENDER'S DAMAGES FOR BREACH OF THIS GUARANTY SHALL BE BASED ON THE COSTS OF COMPLETING THE IMPROVEMENTS, NOT THE EXTENT TO WHICH COMPLETING THE IMPROVEMENTS WOULD INCREASE THE VALUE OF THE PROPERTY.

1.2.8 Continuing Liability Neither the completion of the Project by Lender or any other party as provided herein, nor any failure of said parties to complete the Project, shall relieve the Guarantors of any liabilities hereunder, rather, such liability shall be continuing and may be enforced by Lender to the end that the Project shall timely be completed as contemplated by the Loan Agreement, lien-free, without loss, expense, injury or liability of any kind to Lender, together with any additional sums as may be paid by Guarantor.

1.2.9 Multiple Guaranties Guarantor's Construction Obligations hereunder shall not be in any way affected by the fact that Lender shall accept more than one (1) guaranty of payment or completion, Guarantor agreeing that Lender may proceed against any one (1) or more of the guarantors of all or any part of the Construction Obligations.

1.3 No Waivers Nothing contained in this Section 1 shall be deemed to be a waiver of any right which Lender may have under Section 506(a), 506(b), 1111(b), or any other provisions of the U.S. Bankruptcy Code, or any other provision of applicable law, as the same may be amended from time to time, to file a claim for the full amount of the Guaranteed Obligations or to require that the Property and all other collateral for the payment and performance of all of the Loan obligations shall continue to secure the payment and performance of all of the Loan obligations in accordance with the terms of the Loan Documents.

2 PERFORMANCE BY GUARANTOR

2.1 If Borrower fails to perform the Guaranteed Obligations on or before the times such matters are to be done by Borrower, Guarantor shall do, at Guarantor's expense, any such matter which Borrower has failed to do.

2.2 If Guarantor fails to take any such action promptly, Lender may pursue any remedies at law or in equity against Guarantor, without having to proceed first against Borrower, and may itself take such action, and Guarantor shall be liable to Lender for all expenses, including attorneys' fees incurred by Lender, and all amounts paid by Lender in taking any such action.

2.3 If there is more than one (1) Guarantor executing this Agreement, the obligations of all Guarantors hereunder shall be joint and several, and all words used herein in the singular shall be deemed to have been used in the plural when the context and construction so require.

3 CERTAIN RIGHTS OF LENDER Lender may, without the consent of Guarantor, at any time and from time to time, either before or after the maturity of the Note:

3.1 amend any provision of the Loan Agreement, the Note and the Deed of Trust or any other documents evidencing or securing the Loan from Lender, including any change in the interest rate therein or any change in the time or manner of payment thereunder,

3.2 make any agreement with Borrower for the extension, payment, compounding, compromise, discharge or release of any provision of the Loan Agreement, the Note, the Deed of Trust or any other terms thereof, without notice to or the consent of Guarantor; and

3.3 without limiting the generality of the foregoing, Lender is expressly authorized to surrender to Borrower or to deal with or modify the form of, any security which Lender may at any time hold to secure the performance of any obligation hereby guaranteed and the guarantees herein made by Guarantor shall not be impaired or affected by any of the foregoing.

4 WAIVERS BY GUARANTOR

4.1 Guarantor hereby waives any and all legal requirements that Lender shall institute any action or proceedings at law or in equity against Borrower or anyone else with respect to the breach of the Guaranteed Obligations or with respect to any other security held by Lender, as a condition precedent to bringing an action against Guarantor pursuant to this Agreement. All remedies afforded to Lender by reason of this Agreement are separate and cumulative remedies and none of such remedies, whether exercised by Lender or not, shall be deemed to be in exclusion of any one of the other remedies available to Lender, and shall not in any way limit or prejudice any other legal or equitable remedy available to Lender.

4 2 Guarantor hereby waives presentment for payment, demand protest, notice of protest and of dishonor, notice of acceptance hereof, notices of default and all other notices now or hereafter provided by law

4 3 Guarantor waives all right to require Lender to proceed against the Borrower or any other person, firm or corporation or to apply any security Lender may hold at any time or to pursue any judicial, nonjudicial and/or provisional remedy Lender may proceed against Guarantor with respect to the Guaranteed Obligations without taking any action against Borrower or any other person, firm or corporation and without proceeding against or applying any security Lender holds

4 4 Until the Guaranteed Obligations have been fully satisfied, Guarantor shall not have any right of subrogation Guarantor waives any benefit of and any right to participate in any collateral or security held by Lender for the performance of the Guaranteed Obligations Guarantor hereby authorizes and empowers Lender, at Lender's sole discretion, without any notice to Guarantor whatsoever, to exercise any right or remedy which Lender may have, including without limitation judicial foreclosure, exercise of rights of power of sale, or taking of a deed or an assignment in lieu of foreclosure, as to any collateral or security in real property or personal property which Lender may hold for the performance of the Guaranteed Obligations Guarantor shall be liable to Lender for any deficiency resulting from the exercise by Lender of any such judicial or nonjudicial remedy, even though any rights, including without limitation any rights of subrogation, contribution and/or indemnity, which the Guarantor may have against Borrower or other parties might be destroyed or dismissed by the exercise of any such judicial or nonjudicial remedy

4 5 Guarantor specifically agrees that Guarantor shall not be released from liability hereunder by any action taken by Lender including, without limitation, a nonjudicial sale under the Deed of Trust, that would afford Borrower a defense based on California's anti-deficiency laws, in general, and Code of Civil Procedure Section 580d, in specific Without limiting the foregoing, Guarantor expressly understands acknowledges and agrees as follows

4 5 1 In the event of a nonjudicial foreclosure (through the exercise of the power of sale under the Deed of Trust)

(a) Borrower would not be liable for any deficiency on the Note under California Code of Civil Procedure Section 580d,

(b) Guarantor's subrogation rights against the Borrower would thereby be destroyed,

(c) Guarantor would be solely liable for any deficiency to Lender (without recourse against Borrower), and

(d) Guarantor would thereby be deprived of the antideficiency protections of said Section 580d

4 5 2 Were it not for Guarantor's knowing and intentional waivers contained herein, the destruction of Guarantor's subrogation rights and antideficiency protections would afford Guarantor a defense to an action against Guarantor hereunder, and

4 5 3 Notwithstanding the foregoing, Guarantor expressly waives any such defense to any action against Guarantor hereunder following a nonjudicial foreclosure sale or in any other circumstance under which Guarantor's subrogation rights against Borrower have been destroyed

4.6 Upon the occurrence of an Event of Default hereunder, Lender may maintain an action upon this Guaranty whether or not action is brought against Borrower and whether or not Borrower is joined in any such action. Lender may maintain successive actions for other defaults, and Lender's rights hereunder shall not be exhausted or waived, and Lender shall not be estopped to proceed against Guarantor pursuant to this Guaranty, by the exercise of any of Lender's rights or remedies or by any such action or by any number of successive actions, until and unless the Guaranteed Obligations have been fully satisfied and each of Guarantor's obligations hereunder has been fully performed or otherwise satisfied.

4.7 Guarantor expressly waives any and all benefits, rights and/or defenses which might otherwise be available to Guarantor under California Civil Code Sections 2787 to 2855, inclusive, and 2899, 2953 and 3433.

4.8 Guarantor expressly waives any and all benefits, rights and/or defenses which might otherwise be available to Guarantor under California Code of Civil Procedure Sections 580a, 580b, 580d and 726. In specific, but not by way of limitation, Guarantor expressly waives any and all fair value rights under California Code of Civil Procedure Section 580a as set forth in *Bank of Southern California v. Dombrow*, 39 Cal App 4th 1457, 46 Cal Rptr 2d 656 (4th Dist., Div. 1, 1995) (decertified).

4.9 Any action, whether judicial or nonjudicial or in pursuit of any provisional remedy, taken by Lender against Borrower or against any collateral or security held by Lender which shall impair or destroy any rights Guarantor may have against Borrower shall not act as a waiver or an estoppel of Lender's rights to proceed against and initiate any action against Guarantor to enforce the terms of this Guaranty and until the Guaranteed Obligations have been fully satisfied.

4.10 Guarantor expressly waives any defense or benefits arising out of any federal or state bankruptcy, insolvency, or debtor relief laws, including without limitation under Sections 364 or 1111(b)(2) of the United States Bankruptcy Code.

4.11 Guarantor acknowledges that Guarantor has been made aware of the provisions of California Civil Code Section 2856, has read and understand the provisions of that statute, have been advised by their counsel as to the scope, purpose and effect of that statute, and based thereon, and without limiting the foregoing waivers, Guarantor agrees to waive all suretyship rights and defenses described in Civil Code Sections 2856(a)-(d). Without limiting any other waivers herein, Guarantor hereby gives the following waiver pursuant to Section 2856(d) of the California Civil Code:

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

4.12 As provided in Civil Code Section 2856(c), Guarantor makes the following waivers of specific rights afforded under California law:

Guarantor waives all rights and defenses that Guarantor may have because Borrower's debt is secured by real property. This means, among other things:

(1) Lender may collect from Guarantor without first foreclosing on any real or personal property collateral pledged by Borrower.

(2) If Lender forecloses on any real property collateral pledged by 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

(B) Lender may collect from Guarantor even if Lender, by foreclosing on the real property collateral has destroyed any right Guarantor may have to collect from Borrower

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

5 ACKNOWLEDGMENT OF WAIVERS Guarantor acknowledges that it has relied on the advice of its own counsel in making this Guaranty and has reviewed the waivers of rights contained herein with its counsel. Guarantor further acknowledges that it understands and accepts as a necessary part of this Guaranty the waivers of rights set forth above, after reviewing the extent and effect of the waivers in this Guaranty with its counsel

6 GUARANTOR'S WARRANTIES

6.1 Guarantor warrants and acknowledges that:

6.1.1 there are no conditions precedent to the effectiveness of this Guaranty, and this Guaranty shall be in full force and effect and binding on Guarantor regardless of whether Lender obtains other collateral or any guarantees from others or takes any other action contemplated by Guarantor,

6.1.2 Guarantor has established adequate means of obtaining from sources other than Lender, on a continuing basis, financial and other information pertaining to Borrower's financial condition and Borrower's activities relating thereto and the status of Borrower's performance of obligations imposed by the Loan Documents, and Guarantor agrees to keep adequately informed from such means of any facts, events or circumstances which might in any way affect Guarantor's risks hereunder, and Lender has made no representation to Guarantor as to any such matters, and

6.1.3 the most recent financial statements of Guarantor previously delivered to Lender are true and correct in all material respects, have been prepared in a manner which fairly presents the financial condition of Guarantor as of the respective dates thereof, and no material adverse change has occurred in the financial condition of Guarantor since the respective dates thereof, and

6.1.4 Guarantor has not and will not, without prior written consent of Lender, sell, lease, assign, encumber, hypothecate, transfer or otherwise dispose of all or substantially all of Guarantor's assets, other than in the ordinary course of Guarantor's business

6.2 Each Guarantor warrants and acknowledges a financial interest in and relationship to Borrower such that Guarantor agrees to enter into this Guaranty to induce Lender to make the Loan described in the Deed of Trust. Guarantor further warrants and acknowledges that it will receive substantial benefit from the making of such Loan

6.3 Guarantor's Representations, Warranties and Affirmative Covenant.

6.3.1 Guarantor is not required to file reports under Section 15(d) of the Securities Exchange Act of 1934, and has no securities registered under Section 12 of the Securities Exchange Act of 1934

6.3.2 Guarantor will notify Lender promptly upon the Guarantor being required to file reports under Section 15(d) of the Securities Exchange Act of 1934, or registering securities under Section 12 of the Securities Exchange Act of 1934

7 NO RELEASE Until the Guaranteed Obligations have been fully satisfied, and until all of the terms, covenants and conditions of this Agreement are fully performed, Guarantor shall not be released by any act or thing which might, but for this paragraph, be deemed a legal or equitable discharge of a surety (including any act by Lender which might have the effect of destroying Guarantor's rights of subrogation against Borrower, such as in the case of foreclosure), or by reason of any waiver, extension, modification, forbearance or delay of Lender or its failure to proceed promptly or otherwise, or by reason of any further obligation or agreement between any then owner of the subject property and the then holder of the Deed of Trust and/or the Note relating to the payment of any sum secured thereby, or to any of the other terms, covenants and conditions contained therein, and Guarantor hereby expressly waives and surrenders any defense to this liability under this Agreement based upon any of the foregoing acts, things, agreements or waivers

8 NOTICES Except as expressly provided herein to the contrary, any notice, demand or request by Lender to Guarantor shall be in writing and shall be duly given or made to Guarantor if either delivered personally or if mailed by U.S. registered or certified mail to Borrower at the address for Borrower appearing in the Deed of Trust

9 TERMINATION Notwithstanding anything herein contained, this Agreement shall remain in full force and effect and shall not terminate until the earlier of (a) payment in full of the amount of principal and interest then owing to Lender, or its successors or assigns, and all other sums and payments which may be or become owing under the Deed of Trust and the Note, and (b) full and satisfactory performance of the Guaranteed Obligations

10. GOVERNING LAW This Agreement shall be governed by and construed in accordance with California law, without regard to conflicts of law principles

11 BINDING EFFECT This Agreement shall inure to the benefit of Lender and its successors and assigns and shall be binding upon the heirs, personal representatives, successors and assigns of Guarantor

12. JURY TRIAL WAIVER Guarantor irrevocably waives and agrees not to assert, by way of motion or as a defense or otherwise, any right which it may have to a trial by jury in connection with any suit, action or proceeding arising out of or relating to this Agreement, all to the fullest extent permissible under applicable law

13 SEVERABILITY Every provision of this Agreement is intended to be severable. If any term, provision, section or subsection of this Agreement is declared to be illegal or invalid for any reason whatsoever, by a court of competent jurisdiction, such illegality or invalidity shall not affect the other terms, provisions, sections or subsections of this Agreement, which shall remain binding and enforceable

14 FEES AND EXPENSES Guarantor agrees to pay all of the Lender's costs and expenses, including attorneys' fees, which may be incurred in any effort to enforce any term of this agreement,

including all such costs and expenses which may be incurred by Lender in any legal action reference or arbitration proceeding

15 FINANCIAL COVENANTS Guarantor agrees that all of the financial reporting requirements and covenants set forth in the Loan Agreement and expressly made applicable to Guarantor shall be and are incorporated herein as if set forth in full, and Guarantor agrees to be bound by such reporting requirements and financial covenants, as they apply to Guarantor. In addition, Guarantor acknowledges that said reporting requirements and financial covenants are material inducements to Lender making the Loan to Borrower, and that Guarantor's breach or default of any such requirements and covenants shall constitute a default hereunder and under the Loan Documents. Guarantor acknowledges that (a) it shall not transfer any assets to Guarantor's spouse or otherwise in violation of the above-described financial covenants, and (b) Guarantor's sole and separate property and community property interests shall be liable for payment of all Guaranteed Obligations hereunder notwithstanding the fact that no spouse of any Guarantor has executed this Guaranty.

16 CURRENCY INDEMNITY Guarantor agrees to indemnify Lender against any loss incurred by it as a result of any judgment or order being given or made for the payment of any amount due under this Guaranty and such judgment or order being expressed in a currency other than United States dollars and as a result of any variation having occurred in the rates of exchange between the date of any such amount becoming due under this Guaranty and the date of actual payment thereof. The foregoing indemnity shall constitute a separate and independent obligation of Guarantor and shall apply irrespective of any indulgence granted to Guarantor from time to time and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid.

17 SUBORDINATION OF CERTAIN INDEBTEDNESS

17.1 Subordination of All Guarantor Claims As used herein, the term "Guarantor Claims" shall mean all debts and liabilities of Borrower to Guarantor, whether such debts and liabilities now exist or are hereafter incurred or arise, or whether the obligations of Borrower thereon be direct, contingent, primary, secondary, several, joint and several, or otherwise, and irrespective of whether such debts or liabilities be evidenced by note, contract, open account, or otherwise, and irrespective of the person or persons in whose favor such debts or liabilities may, at their inception, have been, or may hereafter be created, or the manner in which they have been or may hereafter be acquired by Guarantor. The Guarantor Claims shall include without limitation all rights and claims of Guarantor against Borrower (arising as a result of subrogation or otherwise) as a result of Guarantor's payment of all or a portion of the Guaranteed Obligations. Guarantor shall not receive or collect, directly or indirectly, from Borrower or any other party any amount upon Guarantor Claims during the continuance of an Event of Default or if such payment would cause Borrower or Guarantor to be in violation of any covenants in the Loan Documents.

17.2 Claims in Bankruptcy In the event of receivership, bankruptcy reorganization, arrangement, debtor's relief, or other insolvency proceedings involving Guarantor as debtor, Lender shall have the right to prove its claim in any such proceeding so as to establish its rights hereunder and receive directly from the receiver, trustee or other court custodian dividends and payments which would otherwise be payable upon Guarantor Claims. Guarantor hereby assigns such dividends and payments to Lender. Should Lender receive, for application upon the Guaranteed Obligations, any such dividend or payment which is otherwise payable to Guarantor, and which, as between Borrower and Guarantor, shall constitute a credit upon the Guarantor Claims, then upon payment to Lender in full of the Guaranteed Obligations Guarantor shall become subrogated to the rights of Lender to the extent that such payments to Lender on the Guarantor Claims have contributed toward the liquidation of the Guaranteed Obligations, and such subrogation shall be

with respect to that proportion of the Guaranteed Obligations which would have been unpaid if Lender had not received dividends or payments upon the Guarantor Claims

17.3 Payments Held in Trust In the event that notwithstanding anything to the contrary in this Guaranty, Guarantor should receive any funds, payment, claim or distribution which is prohibited by this Guaranty, Guarantor agrees to hold in trust for Lender an amount equal to the amount of all funds, payments, claims or distributions so received, and agrees that it shall have absolutely no dominion over the amount of such funds, payments, claims or distributions so received except to pay them promptly to Lender, and Guarantor covenants promptly to pay the same to Lender.

17.4 Liens Subordinate Guarantor agrees that any liens, security interests, judgment liens, charges or other encumbrances upon Borrower's assets securing payment of the Guarantor Claims shall be and remain inferior and subordinate to any liens, security interests, judgment liens, charges or other encumbrances upon Borrower's assets securing payment of the Guaranteed Obligations, regardless of whether such encumbrances in favor of Guarantor or Lender presently exist or are hereafter created or attach. Without the prior written consent of Lender, Guarantor shall not (a) exercise or enforce any creditor's right it may have against Borrower, or (b) foreclose, repossess, sequester or otherwise take steps or institute any action or proceedings (judicial or otherwise, including without limitation the commencement of, or joinder in, any liquidation, bankruptcy, rearrangement, debtor's relief or insolvency proceeding) to enforce any liens, mortgages, deeds of trust, security interest, collateral rights, judgments or other encumbrances on assets of Borrower held by Guarantor.

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175 **Preference.** If all or any portion of the Guaranteed Obligations are paid or performed, said Guaranteed Obligations shall nonetheless continue and shall remain in full force and effect in the event that all or any part of such payment or performance is avoided or recovered directly or indirectly from Lender as a preference, fraudulent transfer or otherwise under the Bankruptcy Code or other similar laws, irrespective of (a) any notice of revocation given by Guarantor prior to such avoidance or recovery, and (b) full payment and performance of all of the indebtedness and obligations evidenced and secured by the Loan Documents

IN WITNESS WHEREOF Guarantor has executed this Agreement as of the date first above written


GUARANTOR

CAMEO HOMES, a California corporation

By


J.C. Gianulias, its President


JAMES GIANULIAS


JAMES GIANULIAS, as trustee of the JAMES
CHRIS GIANULIAS TRUST DATED OCTOBER
14, 2003

SPOUSAL WAIVER AND CONSENT

The undersigned spouse of Guarantor ("Spouse") consents to Guarantor's execution and delivery to Lender of the attached Guaranty and acknowledges that, by virtue of the marital estate, Spouse may acquire an ownership interest in certain property of Guarantor (hereinafter "said property") Being fully apprised of the foregoing, Spouse does hereby forever unconditionally and irrevocably

Subordinate and subject any rights, titles, or interests of Spouse in said property, together with replacements and additions thereto, to Lender's rights under said Guaranty,

Consent to all terms and conditions of, as well as all obligations of Guarantor arising under, the Guaranty, and agree that any and all such obligations may be satisfied out of or applied against any property or other interest Spouse owns or may own at any time in said property, now and forever,

Covenant and agree not to assert, by suit or otherwise, any claim or right Spouse may have or hereafter acquire in said property against Lender;

Acknowledge that Lender is relying on this Consent and Waiver in making the Loan to Borrower and in accepting the Guaranty from Guarantor,

Agree that Lender, Borrower, and Guarantor may agree in writing to modify the Loan from time to time and such modification shall not affect Spouse's Consent and Waiver described herein,

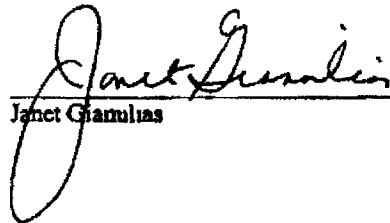
Agree that any modification of the Loan shall not affect Spouse's Consent and Waiver granted herein,

Subordinate all rights, titles, and interest in said property to Lender; and

Agree not to take any action to hinder the operation of the Guaranty or frustrate in any way Lender's recourse against Spouse's interest in said property

Lender agrees that the execution of this Consent and Waiver shall not in any way make Spouse liable for the Loan, but shall only subject Spouse's joint property interest in said property to the collection of the Guaranteed Obligations described in said Guaranty

IN WITNESS WHEREOF, Spouse has executed this Consent and Waiver as of September 15, 2006


Janet Giamulias

LOAN SALE AGREEMENT

This Loan Sale Agreement ("Agreement") is made effective this 11th day of June, 2008, by **Bank Midwest, N A**, a national banking association, whose address is 1111 Main St, Suite 1600, Kansas City, MO 64105 ("Seller") and **VRE Acceptance, L L C.**, a Missouri limited liability company ("Buyer"), whose address is 100 South Brentwood Boulevard, Suite 240, Clayton, MO 63105

RECITALS

WHEREAS, Buyer desires to purchase the Mortgage Loan (as defined below), and

WHEREAS, Seller desires to sell the Mortgage Loan to Buyer,

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants, conditions, and promises hereinafter contained, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows

1 DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings indicated

1 1 Borrower shall mean Arenal Road, LLC, a California limited liability company with an address of 1105 Quail St, Newport Beach, CA 92260, and all other parties who are obligors under the respective Mortgage Loan ("Borrower")

1 2 Closing Date or Closing shall mean the date of delivery of such documents, instruments, writings, and disbursement of such funds as is necessary to complete the purchase and sale of the Mortgage Loan. The Closing Date shall occur on or about June 11, 2008 and Closing shall occur prior to 5 00 p m E D T

1 3 Collateral Property shall mean with respect to the Mortgage Loan, each and every collateral document or account or security securing the Mortgage Loan, including, without limitation, any Mortgage, security agreement, UCC financing statement (if applicable), pledge agreement (if applicable), guaranty, title insurance policies, tax and insurance escrows or deposits or escrows of any kind, fire and casualty insurance policies, legal opinions, other insurance and other documents, agreements or instruments under which legal rights or obligations are created or exist, if any, provided to Seller or a predecessor in interest to secure the Mortgage Loan and held by Seller

1 4 Credit Files shall mean the items pertaining to the Mortgage Loan required to be delivered by the Seller pursuant to Section 4, any Collateral Property and all other documents executed or provided to the Seller or in the possession of the Seller in connection with the Mortgage Loan and any additional documents required to be added to the Credit File pursuant to this Agreement, but shall not include documents created by Seller for its own internal purposes or created by a third party for Seller's benefit which Seller deems to be proprietary or legally privileged

1 5 Cut-off Date shall mean 5 00 p m E D T on the last business day preceding the Closing Date

1 6 Guarantors shall mean CAMEO HOMES, a California corporation, JAMES GIANULIAS, an individual and JAMES GIANULIAS, as trustee of the JAMES CHRIS GIANULIAS 1998 TRUST (each, a "Guarantor", and collectively sometimes referred to as the "Guarantors") under that certain Continuing Guaranty Agreement [payment and completion] dated as of September 15, 2006 ("Guaranty Agreement")

1 7 **Loan Documents** shall mean the Note, the Collateral Property and all documents which secure and/or evidence the repayment thereof, including but not limited to

- (a) that certain Construction Deed of Trust, Assignment of Leases and Rents and Security Agreement (Including Fixture Filing) dated September 15, 2006 made by Borrower, as Trustor, to Fidelity National Title Company, as Trustee, in favor of Seller, as Beneficiary, and recorded in the Official Records of San Diego County As Document No 2006-0659225, as amended by that certain Agreement to Modify Loan Documents and Amendment to Deed of Trust dated June 8, 2007, between Borrower and Lender (as amended, the 'Deed of Trust'), which Deed of Trust encumbers certain real property and improvements located in the City of Carlsbad, CA, as more fully described in such Deed of Trust
- (b) that certain Construction Loan Agreement (Construction Line of Credit) between borrower and Seller dated as of September 15, 2006, as amended by that certain Agreement to Modify Loan documents and Amendment to Deed of Trust between Borrower and Seller dated June 8, 2007 (as amended from time to time, the "Loan Agreement")

1 8 **Mortgage Loan** shall mean the indebtedness evidenced by the Note

1 9 **Note** shall mean that certain Construction Loan Promissory Note in the original principal amount of \$60,629,568.00, dated as of September 15, 2006 given by Borrower in favor of Seller, as lender, as it may be amended from time to time

1 10 **Principal Balance** shall mean the total principal balance of the Mortgage Loan outstanding as of the Cut-off Date

2 PURCHASE AND SALE

Seller agrees to sell, and Buyer agrees to purchase, all of Seller's right title, and interest in the Mortgage Loan in accordance with and upon the terms, provisions, and conditions set forth in this Agreement

3 PURCHASE PRICE

The "Purchase Price" for the purchase of the Mortgage Loan shall be all of the unpaid principal balance for the Mortgage Loan, equal to \$11,154,173.26, plus all unpaid accrued interest through the Closing Date (calculated at 5% rather than the note rate), plus real estate taxes paid by Seller on behalf of Borrower, plus title fees and attorneys fees not previously paid by or borne by the Borrower (collectively, the "Purchase Price"), all as itemized on the Payoff Statement attached hereto. The Purchase Price shall be paid by wire transfer to Seller on the Closing Date. The Purchase Price shall be deemed paid and received as of the date and time Seller receives the wire transfer.

4 ASSIGNMENT AND TRANSFER OF POSSESSION AND ENDORSEMENTS

Upon Seller's receipt of the Purchase Price, Seller shall sell, transfer, assign, set-over and convey to Buyer, without recourse and without representation or warranty express or implied, except as provided in Section 6.2 of this Agreement, the Loan Documents, with the exception of the document described in Paragraph 4.3 hereof.

4 1 **Endorsements to Note** On the Closing Date, in a contemporaneous closing the Seller shall deliver to Buyer the Note, together with an Allonge assigning the Note to Buyer.

4.2 Assignment of Loan Documents On the Closing Date, in a contemporaneous closing the Seller shall

- (a) Sell, assign, convey and transfer to Buyer all Seller's right, title and interest in and to the Mortgage Loan, together with all Collateral Property
- (b) Deliver the Credit Files to Buyer
- (c) With respect to the Mortgage Loan, deliver to the Buyer

- (i) The original of the Note, endorsed to Buyer as provided in Section 4.1 above

- (ii) The original Deed of Trust, and all amendments thereto, in each instance with evidence of recording thereon

- (iii) The assignment of the Deed of Trust, to Buyer or Buyer's designee, which assignment shall be in form and substance acceptable for recording

- (iv) With respect to the Mortgage Loan, the original policy of title insurance or, if the original policy of title insurance has not been delivered to Seller by the title insurance company or is not in Seller's files, a marked title binder delivered by the title insurance company's agent

4.3 Conveyance Agreement Excluded It is specifically acknowledged and agreed between Buyer and Seller that (i) Seller has disclosed to Buyer the full text and terms of that certain Conveyance Agreement by and between Arenal Road, LLC, a California Limited Liability Company 1105 Quail Street, Newport Beach, California 92660 ("Borrower") and Bank Midwest N.A., a national banking association, 1111 Main Street, Suite 1600, Kansas City, Missouri 64105 ("Lender" or its nominee) for real property located in Carlsbad, San Diego County, California effective as of May 7, 2008 (the "Conveyance Agreement") and (ii) that Seller is not, on the Closing Date assigning to Buyer any of its rights under the Conveyance Agreement

4.4 Recording Buyer shall be responsible for recording any and all assignments (including a UCC-3 Financing Statement) and obtaining any necessary title or insurance endorsements, provided that as a condition to Closing, Buyer shall receive an endorsement to each title policy raising no additional title matters. The assignment for the Mortgage Loan shall be substantially in the form of Schedule 1 attached hereto

4.5 Risk of Loss Conveyance of the Credit Files and Loan Documents to Buyer shall be deemed to occur at such time as Seller has received payment of the Purchase Price and Buyer has received delivery of same. Thereafter, Seller shall have no responsibility for the Loan Documents and Credit Files and the risk of loss or damage with respect thereto, and any other documents to be transferred hereunder, shall be solely borne by Buyer

4.6 Servicing From and after the Closing Date, Seller shall not, without the prior written consent of Buyer (a) release any Collateral Property or any party from any liability on or with respect to the Mortgage Loan, (b) compromise or settle any claims of any kind or character with respect to the Mortgage Loan, (c) enter into any modification or forbearance agreement with respect to the Mortgage Loan, or (d) initiate, complete or otherwise take any action with respect to a foreclosure on any of the related property. Unless there is a separate agreement between the parties for the servicing of the Mortgage Loan by Seller, all rights, obligations, liabilities, and responsibilities with respect to the servicing of the Mortgage Loan shall pass to Buyer and Seller shall be discharged from all liability therefor on the Closing Date

5 PAYMENTS AFTER CUT-OFF DATE

5.1 Receipt Prior to Closing Date All payments received by Seller with respect to the Mortgage Loan on and after the Cut-off Date and prior to the Closing Date shall belong to Buyer and shall be, within two (2) business days after the Closing Date, transferred to Buyer, with any and all negotiable instruments being endorsed by Seller without recourse, representation, or warranty

5.2 Receipt Following the Closing Date Any payments received by Seller subsequent to the Closing Date shall belong to Buyer, and Seller shall promptly remit such payments within two (2) business days to Buyer, with any and all negotiable instruments being endorsed by Seller without recourse, representation, or warranty

6 SELLER'S REPRESENTATIONS, WARRANTIES AND COVENANTS.

6.1 Seller's Covenants Seller covenants and agrees as follows

6.1.1 Seller agrees to cooperate with Buyer to the extent required by law, or by any government agency, or any private insurance carrier, to complete, upon Buyer's request, necessary reporting forms associated with such agency and any other insurance carriers, and to do any other acts reasonably required to complete the transfer of the Mortgage Loan to Buyer

6.1.2 Seller shall take such other actions that Buyer may reasonably request to complete the transfer of the Mortgage Loan pursuant to the terms of this Agreement

6.1.3 After the Closing Date, Seller shall notify the Borrower that Buyer has purchased the Mortgage Loan and direct such party that payments under the Mortgage Loan from and after the Closing Date shall be made to Buyer at the address specified in the written notice

6.2 Seller's Warranties and Representations Seller hereby warrants and represents, as of the date hereof and as of the Closing Date, the following

6.2.1 To the best of Seller's knowledge, no statement, report or other document or instrument constituting a part of the Credit File contains any untrue statement of fact or omits to state a fact necessary to make the statements contained therein not misleading

6.2.2 The information with respect to the Mortgage Loan set forth on Exhibit A is true and correct in all material respects

6.2.3 The documents set forth on Exhibit B to this Agreement reflects all of the documents, instruments and agreements that evidence and/or secure the Mortgage Loan, a true and complete original of such Loan Documents is being delivered to Purchaser simultaneously with the closing

6.2.4 Seller's execution, delivery, and performance of this Agreement have been duly authorized by all necessary action

6.2.5 This Agreement constitutes a legal, valid, and binding agreement of Seller, enforceable against Seller in accordance with its terms

6.2.6 To the best of Seller's actual knowledge, Seller has complied with all laws, statutes, rules, regulations, charter provisions, articles, and bylaws to which it may be subject

6.2.7 Compliance with the duties and obligations under this Agreement will not conflict with, result in a breach of, default under, or be adversely affected by any agreements, instruments, decrees, judgments, injunctions, orders, writs, laws, rules, regulations, or any determination or award of any arbitrator to which Seller is a party or by which the Mortgage Loan are bound

6 2 8 To the best of Seller's actual knowledge, there are no claims, off-sets, defenses, agreements or other arrangements affecting or modifying Borrower's obligations under the Mortgage Loan or the Loan Documents, or Guarantors' obligations under the Guaranty Agreement other than those set forth in the text of the Conveyance Agreement which has been provided to Buyer

6 2 9. Seller represents that it has not imposed the default rate of interest on any Borrower, and the unpaid, accrued interest represents interest accrued on the Mortgage Loan at the contract rate of interest provided for in the respective Loan Documents

6 2 10 The terms of the Mortgage Loan have not been waived, altered or modified in any respect, except by written instruments that are part of the Credit File (as same existed as of the Cut-Off Date)

6 2 11 The Seller is not holding any reserves or funds in escrow

6 2 12 The "New Borrower Equity" requirement, as described in Section 3 of that certain Agreement to Modify Loan Documents and Amendment to Deed of Trust between Borrower and Seller dated as of June 8, 2007 ("Agreement to Modify"), has not been satisfied by Borrower

6 2 13 Seller did not receive the notice described in the final paragraph of Section 4 of the Agreement to Modify on or before January 28, 2008

6 3 Limitation on Seller's Warranties No person acting on behalf of Seller is authorized to make, and by execution hereof, Buyer acknowledges that no such person has made any representation, warranty, guaranty, or promise whether oral or written, except as set forth in Section 6 2 above, and no such agreement, statement, representation, or promise made by any such person which is not contained herein shall be valid or binding upon Seller Without limiting the foregoing, Seller has not made, does not make, and specifically disclaims any warranties, representations, promises, covenants, agreements, or guaranties of any kind, whether express or implied, oral or written, past, present or future regarding a) the marketability, value, nature, quality, condition, or collectibility of the Mortgage Loan and the Loan Documents, b) the creditworthiness of any Borrower, c) the form or sufficiency of the documentation evidencing, securing, and/or related to the Mortgage Loan, d) the value of any collateral which secures the repayment of the Mortgage Loan, e) the validity, transferability, priority, enforceability, or perfection of the Loan Documents, f) the state of title of the Properties, or g) the authenticity, validity or completeness of the Credit Files, h) the income, if any, to be derived from the Mortgage Loan i) the suitability of the Mortgage Loan for any activities and uses which Buyer may intend, j) the compliance with all applicable federal, state, or local laws as related to the Mortgage Loan, k) environmental matters relating to any property securing the Mortgage Loan Except as otherwise expressly provided in Section 6 2 of this Agreement, the Mortgage Loan is to be sold and transferred to Buyer on an **"AS IS", "WHERE IS" BASIS**, without warranties or representations either expressed or implied by law

Seller shall indemnify the Buyer and hold it harmless against any loss, damages, penalties, fines, forfeitures, legal fees and related costs, judgments, and other costs and expenses resulting from a breach of the Seller's representations and warranties contained in this Agreement or the failure of the Seller to perform its obligations under this Agreement

7 BUYER'S REPRESENTATIONS, WARRANTIES, AND COVENANTS

7 1 Buyer's Covenants Buyer covenants and agrees as follows

7.1.1 [INTENTIONALLY BLANK]

7 1 2 After the Closing Date, Buyer shall promptly notify Seller of any documentation or knowledge Buyer acquires regarding a claim made in writing, threatened claim expressly mentioning Seller, or any litigation filed by any Borrower that relates to the Mortgage Loan

7 1 3 Prior to the Closing Date, Buyer agrees that Seller shall have the right to use, inspect, and make extracts from or copies of any Credit Files for any reason

7 2 Buyer's Warranties and Representations Buyer hereby warrants and represents, as of the date hereof and as of the Closing Date the following

7 2 1 Buyer is duly organized and validly existing and in good standing under the laws of the state where it is organized

7 2 2 Buyer has not relied upon any information, written or oral, given to Buyer by any representative of Seller other than the information contained in the Credit Files and in this Agreement. Buyer is sophisticated and has knowledge and experience in financial and business matters that enable it to evaluate the merits and risks of the transactions contemplated by this Agreement

7 2 3 Buyer has the full power and authority to purchase the Mortgage Loan on the terms set forth in this Agreement

7 2 4 Buyer's execution, delivery, and performance of this Agreement have been duly authorized by all necessary action

7 2 5 This Agreement constitutes a legal, valid, and binding agreement of Buyer, enforceable against Buyer in accordance with its terms

7 2 6 Compliance with the duties and obligations under this Agreement will not conflict with, result in a breach of, default under, or be adversely affected by any agreements, instruments, decrees, judgments, injunctions, orders, writs, laws, rules, regulations, or any determination or award of any arbitrator to which Buyer is a party or by which its properties or the Mortgage Loan are bound

7 2 7 The acquisition of the Mortgage Loan by Buyer will not violate any applicable law or regulations or any governmental or quasi-governmental entity having jurisdiction over Buyer and/or the Mortgage Loan

7 2 8 Buyer agrees to indemnify Seller and to hold Seller harmless from and against any and all claims, demands, losses, damages, penalties, fines, forfeitures, judgments, legal fees, and other costs, fees, and expenses heretofore or hereafter incurred by Seller as a result of i) a breach by Buyer of its representations and warranties, or ii) any unlawful collection practices by or on behalf of Buyer subsequent to the Closing Date in connection with the Mortgage Loan

7 2 9 Neither Buyer nor any of its officers, partners, agents, representatives, employees, or parties in interest has colluded, conspired, connived or agreed, directly or indirectly, with any other firm or person to submit a collusive or same offer to purchase the Mortgage Loan

7 2 10 Buyer acknowledges that certain internal analyses, attorney-client privileged documents, internal memoranda, credit information, regulatory reports, internal assessments, and other similar documents may be, but are not necessarily, missing or excluded from the Credit Files. Buyer further acknowledges and agrees that the excluded documents are not to be sold, transferred, assigned, or conveyed by Seller to Buyer, and Buyer shall not ask for or be provided access to any or all of such excluded documents, provided that Seller, if requested, shall provide to Buyer a list of the documents not to be provided to Buyer with a brief description of the

general nature and subject of the document that enables Buyer to reasonably understand the information covered by the document

7.2.11 Buyer shall not institute any enforcement or legal action or proceeding in Seller's name or in the name of any prior holder of the Mortgage Loan, or any local, state, or federal regulatory agency or association or make reference to any of the foregoing entities (other than reciting the historical ownership of the Mortgage Loan) or any correspondence to or discussion with the Borrower regarding enforcement or collection of the Mortgage Loan

8 MISCELLANEOUS

8.1 Brokerage Commissions. Buyer and Seller represent and warrant to each other that neither party has dealt with a broker in connection with the Mortgage Loan and the transactions described herein. Each party hereto agrees to indemnify, defend and hold the other harmless from and against any and all claims, causes of action, losses, costs, expenses, damages or liabilities, including reasonable attorneys' fees and disbursements, which the other may sustain, incur or be exposed to, by reason of any claim or claims by any broker, finder or other person for fees, commissions or other compensation arising out of the transactions contemplated in this Agreement if such claim or claims are based in whole or in part on dealings or agreements with the indemnifying party

8.2 Assignment. This Agreement shall bind and inure to the benefit of and be enforceable by the Seller and the Buyer and the respective successors and assigns of the Seller and the Buyer as allowed herein

8.3 Disclaimers

8.3.1 Except with respect to a breach of this Agreement, Buyer, its affiliates, officers, directors, agents, successors or assigns thereof, and all subsequent transferees of the Mortgage Loan hereby waive any right or cause of action they may now or in the future have against Seller, and all prior holders of the Mortgage Loan, and any of their respective officers, directors, employees, representatives, agents, contractors, attorneys and predecessors in interest as a result of the purchase of the Mortgage Loan. From and after the date of this Agreement, Buyer shall indemnify and hold harmless Seller against and from any and all liability for, and from and against any and all losses or damages Seller may suffer as a result of, any claim that Seller shall incur or suffer as a result of a) any act or omission of Buyer, its affiliates, officers, directors, agents, successors or assigns in connection with the Mortgage Loan and this Agreement, b) the inaccuracy of any of Buyer's representations or warranties herein, c) the breach of any of Buyer's covenants herein, or d) any claim by any Borrower regarding the assignment, subsequent enforcement, servicing, or administration of the Mortgage

8.3.2 Except with respect to a breach of this Agreement, Seller, its affiliates, officers, directors, agents, successors or assigns thereof, hereby waive any right or cause of action they may now or in the future have against Buyer, and all subsequent holders of the Mortgage Loan, and any of their respective officers, directors, employees, representatives, agents, contractors, attorneys and successors in interest as a result of the sale of the Mortgage Loan. From and after the date of this Agreement, Seller shall indemnify and hold harmless Buyer against and from any and all liability for, and from and against any and all losses or damages Buyer may suffer as a result of, any claim that Buyer shall incur or suffer as a result of a) any act or omission of Seller, its affiliates, officers, directors, agents, successors or assigns in connection with the Mortgage Loan and this Agreement, b) the inaccuracy of any of Seller's representations or warranties herein, c) the breach of any of Seller's covenants herein, or d) any claim by any Borrower regarding the assignment, pre-sale enforcement, servicing, or administration of the Mortgage by Seller

8.4 Notices. All communications required hereunder be given to Buyer and Seller at their respective addresses as set forth above, or at such other addresses as either party may designate by notice given in accordance with the terms of this paragraph. All communications to Seller shall also be sent to Bank Midwest, N.A. 1111 Main St., Ste 1600, Kansas City, MO 64015, Attn: John Baxter. All communications to Buyer shall be sent to Virtual Realty Enterprises, LLC,

100 South Brentwood Boulevard, Suite 240, Clayton, MO 63105, Attn: Henry Warshaw All communications or notices required or permitted pursuant to this Agreement shall be in writing and shall be deemed to have been properly given and received a) if sent by hand delivery, then upon such delivery, b) if sent by overnight courier, then 1 day after dispatch, and c) if mailed by registered or certified U S Mail, postage prepaid and return receipt requested, then 3 days after deposit in the mail

8.5 Miscellaneous a) Headings in this Agreement are for convenience only and shall not define or limit the provisions hereof b) This Agreement shall be construed according to its ordinary meaning and shall not be strictly construed for or against any party hereto c) This Agreement shall be governed by the laws of the State of Missouri d) All of the terms, covenants, rights, benefits, and conditions herein contained, including any exhibit shall inure to the benefit of and be binding upon the parties hereto and their successors and assigns e) Any modification or waiver of any term of this Agreement, must be in writing, signed by the party or parties against which enforcement of the modification or waiver is sought f) This Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof and all prior and contemporaneous agreements, representations, and understandings, written or oral, are hereby superseded and merged into this Agreement g) The parties hereto agree to execute such additional documents and to perform such additional acts as may be reasonably necessary to carry out the purpose and intent of this Agreement h) Should any term, provision, covenant, or condition of this Agreement be void, invalid, or inoperative, the same shall not affect any other term, provision, covenant, or condition of this Agreement but the remainder thereof shall be given effect as though such void, invalid, or inoperative term, provision, covenant, or condition had not been contained herein i) This Agreement may be executed in counterpart, and each such counterpart, when taken together with all other counterparts, shall be deemed one and the same original document j) Any exhibits to this Agreement are incorporated into this Agreement by reference as if fully set forth herein

[THE REMAINDER OF THIS PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF the parties hereto have signed this Agreement as of the day and year first above written

SELLER

Bank Midwest, N A

By 

John Baxter, Senior Vice President

BUYER

VRE Acceptance, LLC

By Ocala First Corporation, Inc , a Florida
corporation, its manager

By _____

Henry Warshaw Its President

EXHIBIT "A"

(Mortgage Loan Balance)

Principal Balance as of June 11, 2008	\$ 11,154,173 26
Accrued But Unpaid Interest as of June 11, 2008 (at 5%)	\$ 295,895 29
1 st & 2 nd installment 2007-08 RE Taxes	\$ 294,349 93
Title Fees	\$ 750 00
Attorneys Fees	\$ 9,573 50
Per Diem Interest \$1,549 19	
TOTAL	<u>\$ 11,754,741.98</u>

EXHIBIT "B"

(Mortgage Loan Documents)

SAN DIEGO

- 1 Construction Loan Promissory Note, dated September 15, 2006, by Arenal Road, LLC in favor of Bank Midwest N A , in the principal amount of \$60,629,568 00
- 2 Construction Loan Agreement (Construction Line of Credit) between Arenal Road, LLC and Bank Midwest, N A dated September 15, 2006
- 3 Construction Deed of Trust, Assignment of Leases and Rents and Security Agreement (Including Fixture Filing) made by Arenal Road, LLC, as Trustor, to Fidelity National Title Company, as Trustee, in favor of Bank Midwest, N A , as Beneficiary, dated a s of September 15, 2006 C
- 4 Agreement to Modify Loan Documents and Amendment to Deed of Trust dated as of June 8, 2007 by and between Arenal Road, LLC and Bank Midwest, N A
- 5 All other documents from Arenal Road, LLC in favor of Bank Midwest, N A executed in connection with the Mortgage Loan, except as set forth herein

WHEN RECORDED RETURN TO

SCHEDULE 1

ASSIGNMENT

This Assignment ("Assignment") is made as of June 11, 2008, by **Bank Midwest, N A**, 1111 Main Street, Suite 1600, Kansas City, Missouri 64105 ("Seller"), in favor of Virtual Realty Enterprises, LLC, a Missouri limited liability company, whose address is 700 Corporate Park Dr., Suite 310, St Louis, MO 63105-4209 ("Buyer")

RECITALS

- A Seller is the owner and holder of that certain loan ("Loan") evidenced by that certain Construction Loan Promissory Note ("Note") dated September 15, 2006 in the amount of \$60,629,568.00 executed by Arenal Road, LLC, a California limited liability company ("Borrower"), in favor of Seller, as modified from time to time
- B The Note is secured in part by that certain Construction Deed of Trust, Assignment of Leases and Rents and Security Agreement (Including Fixture Filing) dated as of September 15, 2006, as Instrument No. 2006-0659225 in the Official Records of San Diego County, executed by Borrower to Fidelity National Title Company, as Trustee, in favor of Seller, as Beneficiary ("Deed of Trust")
- C The Deed of Trust encumbers, among other things, certain real property ("Premises") legally described on the attached **Exhibit A**, which is incorporated herein by this reference as if fully set forth

NOW THEREFORE, in consideration of the foregoing recitals, the covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Seller hereby absolutely assigns, sells, transfers, sets over, and conveys to Buyer the Note, the Deed of Trust and the Loan Documents set forth in the Loan Sale Agreement (hereafter defined), which is incorporated herein by this reference as if fully set forth, and the Credit Files (as defined in that certain Loan Sale Agreement dated as of June 11, 2008 (the "Loan Sale Agreement") entered into between Buyer and Seller) **without recourse**, all indebtedness secured thereby, and all rights, titles, interests, interest reserve accounts, and all remedies arising thereunder or relating thereto

Except as specifically set forth in Section 6.2 of that certain Loan Sale Agreement dated June 11, 2008 between Seller and Buyer, Seller does not make, has not made, and specifically disclaims any representations, warranties, promises, covenants, agreements or guarantees of any kind or character whatsoever, whether express or implied, oral or written, past, present or future related to the Loan

IN WITNESS WHEREOF, Seller has executed this Assignment by and through the undersigned officer, pursuant to due authorization, on the day and year first above written

~~Bank Midwest, N.A.~~

By John Baxter
Name John Baxter
Title Senior Vice President

ACKNOWLEDGMENT

State of Missouri

SS

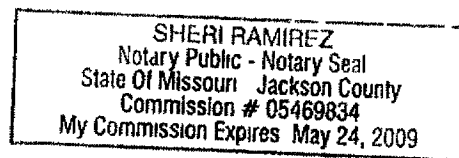
County of Jackson

State of Missouri)
) ss On this 14th day of June, 2008, before me personally
County of Jackson) appeared John Bryant, to me personally known, who, being
by me duly sworn, did say that he is the Sr VP of Bank Midwest, N A, and that this
instrument was signed on behalf of Bank Midwest for the purposes described therein and he
acknowledged this instrument to be the free act and deed of Bank Midwest

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal on the day and year next written above

My term expires

Notary Public



10784

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL 1A

That portion of the Northeast 1/4 of Section 35, Township 12 South, Range 4 West, San Bernardino Meridian, in the City of Carlsbad, County of San Diego, State of California, according to Official Plat thereof, being also described as that certain parcel of land labeled "NOT A PART", located North and contiguous with Lot 17 of Carlsbad Tract No. 03-01, La Costa Resort and Spa, in the City of Carlsbad, County of San Diego, State of California, according to Map thereof No. 14984, filed in the Office of the County Recorder of San Diego County, March 18, 2005, described as follows

Beginning at the Northeast corner of said Lot 17, thence along the Northerly line of said Lot 17 the following 2 courses North 86° 15' 35" West 34 92 feet, thence North 74° 11' 24" West 359 68 feet to the Northwest corner thereof, said point being also on the Easterly line of Lot 20 of said Map No. 14984, thence along said Easterly line the following 6 courses North 20° 02' 21" East 248 71 feet thence South 69° 57' 39" East 2 00 feet, thence North 20° 02' 21" East 26 27 feet, thence North 69° 59' 20" East 44 56 feet to the beginning of a non-tangent curve concave Northerly and having a radius of 760 00 feet, a radial line of said curve to said point bears South 19° 02' 41" West, thence along said curve Easterly 228 50 feet, through a central angle of 17° 13' 35", thence radial from said curve North 01° 49' 06" East 10 00 feet to the Southerly line of Arenal Road as shown on said Map No. 14984, said point being the beginning of a non-tangent curve concave Southwesterly and having a radius of 25 00 feet, a radial line of said curve to said point bears North 01° 49' 06" East, thence along said Southerly line of Arenal Road and along said curve Easterly, Southeasterly and Southerly, 37 76 feet through a central angle of 86° 32' 31", to the Northwest corner of Lot 22 of said Map No. 14984, said point being on the Westerly sideline of Estrella De Mar Road, and also being the beginning of a compound curve concave Westerly and having a radius of 3470 00 feet a radial line of said curve to said point bears North 88° 21' 37" East, thence along the Westerly line of said Lot 22 and along said curve Southerly 317 84 feet through a central angle of 05° 14' 53" to the point of beginning

Excepting therefrom all oil, minerals, natural gas, and other hydrocarbons by whatsoever name known, geothermal resources, metalliferous or other ores, and all products derived from any of the foregoing, that may be within or under the property and all rights associated with the foregoing, together with the perpetual right of drilling, mining, exploring and operating therefor and storing in and removing the same from said land or any other land, including the right to whipstock or directionally drill and mine from lands other than the property, oil or gas wells, tunnels and shafts into, through or across the subsurface of the property and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines without, however, the right to drill, mine, store, explore and operate through the surface of the upper 500 feet of the subsurface of the property as reserved in the deed recorded February 21, 2006, Instrument No. 20060120295 Official Records

PARCEL 1B

Non exclusive easements and rights for pedestrian and vehicular access, ingress and egress over, across and through Lot 22 of Carlsbad Tract no. 03-01-01 according to Map thereof No. 14984 filed in the Office of the County Recorder of San Diego County, California, on March 18, 2005, as granted by Grant of Access Easement recorded Sep 15, 2001, as Instrument No. 2001-0459220, Official Records of San Diego County, California

PARCEL 2A

That portion of the Northeast 1/4 of Section 35, Township 12 South, Range 4 West, San Bernardino Meridian, in the City of Carlsbad, County of San Diego, State of California, according to Official Plat thereof, being also described as that certain parcel of land labeled "NOT A PART", lying South and Southeast of Lots 7 and 19 of Carlsbad Tract No 03-01, La Costa Resort and Spa, in the City of Carlsbad, County of San Diego, State of California, according to Map thereof No 14984, filed in the Office of the County Recorder of San Diego County, March 18, 2005, described as follows

Beginning at the Southeast corner of said Lot 7, said point being on the Northwestern line of Costa Del Mar Road as shown on said Map No 14984 and being on the arc of a non-tangent curve concave Northwesternly and having a radius of 699 00 feet, a radial line of said curve to said point bears South 49° 44' 05" East, thence along said Northwesternly line and the Northwesternly line of Lot 24 of said Map No 14984, along said curve Southwesterly 475 42 feet through a central angle of 38° 58' 09", to the beginning of a compound curve concave Northerly and having a radius of 50 00 feet, a radial line of said curve to said point bears South 10° 45' 56" East, thence continuing along said Northwesternly line of Lot 24, along said curve Westerly 8 98 feet through a central angle of 10° 17' 37" to the most Southerly corner of Lot 20 of said Map No 14984, thence along the Easterly line of said Lot 20 the following 2 courses non-tangent from said curve North 23° 49' 07" West 52 86 feet to the beginning of a non-tangent curve concave Easterly and having a radius of 1411 00 feet, a radial line of said curve to said point bears South 85° 31' 43" West, thence along said curve Northerly 499 91 feet through a central angle of 20° 17' 58" to the Southwest corner of Lot 19 of said Map No 14984, thence along the Southerly line of said Lot 19, non-tangent from said curve South 69° 58' 22" East 145 68 feet to the Westerly line of said Lot 7; thence along the Westerly and Southerly lines of said Lot 7 the following 8 courses South 19° 40' 00" West 57 47 feet, thence South 70° 20' 00" East 25 00 feet, thence South 19° 40' 00" West 20 00 feet, thence South 70° 20' 00" East 112 50 feet, thence South 19° 40' 00" West 56 95 feet, thence South 25° 20' 00" East 11 31 feet, thence South 70° 20' 00" East 128 66 feet thence South 49° 44' 05" East 48 20 feet to the point of beginning

Excepting therefrom all oil, minerals, natural gas, and other hydrocarbons by whatsoever name known, geothermal resources, metalliferous or other ores, and all products derived from any of the foregoing, that may be within or under the property, and all rights associated with the foregoing, together with the perpetual right of drilling, mining, exploring and operating therefor and storing in and removing the same from said land or any other land, including the right to whipstock or directionally drill and mine from lands other than the property, oil or gas wells, tunnels and shafts into, through or across the subsurface of the property and to bottom such whipstocked or directionally drilled wells, tunnels and shafts under and beneath or beyond the exterior limits thereof, and to redrill, retunnel, equip, maintain, repair, deepen and operate any such wells or mines without, however, the right to drill, mine, store, explore and operate through the surface of the upper 500 feet of the subsurface of the property

PARCEL 2B

Non-exclusive easements and rights for pedestrian and vehicular access, ingress and egress over, across and through Lot 24 of Carlsbad Tract no 03-01-01 according to Map thereof No 14984 filed in the Office of the County Recorder of San Diego County, California, on March 18, 2005, as granted by Grant of Access Easement recorded Sep 5 2005, as Instrument No 2005-069220, Official Records of San Diego County California

Central District Of California Claims Register

8-08-bk-13150-RK James C Granulias CASE CONVERTED on 07/02/2008

Judge Robert N Kwan **Chapter** 11

Office Santa Ana

Last Date to file claims 11/12/2008

Trustee:

Last Date to file (Govt)

<i>Creditor</i> (22591617)	Claim No 38	<i>Status</i>
VRE Acceptance LLC	<i>Filed</i> 11/10/2008	<i>Filed by</i> CR
c/o Squire Sanders & Dempsey LLP	<i>Entered</i> 11/20/2008	<i>Entered by</i> Mccall, Audrey
Attn Patrick J Fields		<i>Modified</i>
555 S Flower St 31st FL		
Los Angeles CA 90071		
Unsecured claimed \$12131120 97		
Total	claimed	\$12131120 97
<i>History</i>		
38-1 11/10/2008 Claim #38 filed by VRE Acceptance LLC , total amount claimed \$12131120 97 (Mccall, Audrey)		
<i>Description</i>		
<i>Remarks</i>		

Claims Register Summary