

10/3

B10 (Official Form 10) (12/07)

UNITED STATES BANKRUPTCY <u>Central</u> DISTRICT OF <u>California</u>		PROOF OF CLAIM
Name of Debtor: Cameo Homes, Inc., a California corporation		Case Number: 8:08-13151-RK
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A request for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (the person or other entity to whom the debtor owes money or property): Lain/Sequoia Partners LLC and South Banning Properties LLC		<input type="checkbox"/> Check this box to indicate that this claim amends a previously filed claim.
Name and address where notices should be sent: Susan S. Davis, Esq. Cox, Castle & Nicholson LLP 2049 Century Park East, 28th Fl. Los Angeles, CA 90067-3284 Telephone number: (310) 277-4222		Court Claim Number: _____ (If known)
Name and address where payment should be sent (if different from above):		Filed on: _____
Telephone number: _____		<input type="checkbox"/> Check this box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
1. Amount of Claim as of Date Case Filed: \$ 1,309,326.68 plus lost profits If all or part of your claim is secured, complete item 4 below; however, if all of your claim is unsecured, do not complete item 4. If all or part of your claim is entitled to priority, complete item 5. <input checked="" type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of claim. Attach itemized statement of interest or charges.		<input type="checkbox"/> Check this box if you are the debtor or trustee in this case.
2. Basis for Claim: <u>Guaranty (see Attachment)</u> (See instruction #2 on reverse side.)		5. Amount of Claim Entitled to Priority under 11 U.S.C. § 507(a), if any portion of your claim falls in one of the following categories, check the box and state the amount. Specify the priority of the claim.
3. Last four digits of any number by which creditor identifies debtor: _____		<input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).
3a. Debtor may have scheduled account as: _____ (See instruction #3a on reverse side.)		<input type="checkbox"/> Wages, salaries, or commissions (up to \$10,950*) earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507 (a)(4).
4. Secured Claim (See instruction #4 on reverse side.) Check the appropriate box if your claim is secured by a lien on property or a right of setoff and provide the requested information. Nature of property or right of setoff: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other Describe: Value of Property: \$ _____ Annual Interest Rate: _____ % Amount of arrearage and other charges as of time case filed included in secured claim. If any: \$ _____ Basis for perfection: _____ Amount of Secured Claim: \$ _____ Amount Unsecured: \$ _____		<input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507 (a)(5).
6. Credits: The amount of all payments on this claim has been credited for the purpose of making this proof of claim.		<input type="checkbox"/> Up to \$2,425* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507 (a)(7).
7. Documents: Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements or running accounts, contracts, judgments, mortgages, and security agreements. You may also attach a summary. Attach redacted copies of documents providing evidence of perfection of a security interest. You may also attach a summary. (See definition of "redacted" on reverse side.) DO NOT SEND ORIGINAL DOCUMENTS. ATTACHED DOCUMENTS MAY BE DESTROYED AFTER SCANNING. If the documents are not available, please explain:		<input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507 (a)(8).
Date: <u>September 12, 2008</u>		<input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507 (a)(_____). Amount entitled to priority: \$ _____
Signatures: The person filing this claim must sign it. Sign and print name and title, if any, of the creditor or other person authorized to file this claim and state address and telephone number if different from the notice address above. Attach copy of power of attorney, if any. Peggy Tabas, Authorized Representative		*Amounts are subject to adjustment on 4/1/10 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.

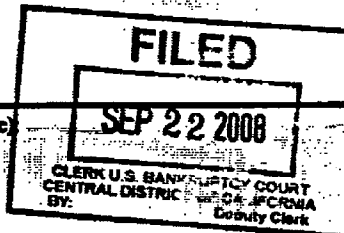


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**ATTACHMENT TO PROOF OF CLAIM
FILED BY LAING/SEQUOIA PARTNERS LLC
AND SOUTH BANNING PROPERTIES LLC**

2 continued:

Laing/Sequoia Partners LLC ("L/S Partners") and 213 Banning LLC ("213 Banning") entered into a written agreement entitled "Limited Liability Company Agreement of South Banning Properties LLC" made as of July 28, 2005 (the "Operating Agreement"), creating South Banning Properties LLC ("South Banning"). A true and correct copy of the Operating Agreement is attached hereto as Exhibit "1".

Pursuant to the terms of the Operating Agreement and a written agreement entitled "Contribution Agreement" made as of July 28, 2005 (the "Contribution Agreement"), 213 Banning was required to contribute to South Banning on or before October 1, 2006 (1) clear title to two parcels of real property described on Exhibits "A-1" and "A-2" to the Operating Agreement, and (2) all rights, privileges and easements appurtenant thereto, all improvements and fixtures thereto, all right, title and interest to all contractual rights and intangible rights relating thereto, and all personal property on or in, or used in the ownership, use, occupancy or operation thereto (collectively, the "Property"). Pursuant to the Operating Agreement, L/S Partners was required to contribute certain monies to South Banning to pay its costs and expenses, including expenses to develop the Property for sale and overhead fees payable to 213 Banning. A true and correct copy of the Contribution Agreement is attached hereto as Exhibit "2".

Pursuant to a written agreement entitled "Guaranty" executed as of July 25, 2005 (the "Guaranty"), debtor and debtor-in-possession Cameo Homes ("Debtor") unconditionally guaranteed to L/S Partners the full and punctual payment and performance of all of 213 Banning's obligations under the Operating Agreement and the Contribution Agreement. A true and correct copy of the Guaranty is attached hereto as Exhibit "3".

L/S Partners contributed monies in the amount of \$1,309,326.68 as required by the Operating Agreement; however, 213 Banning defaulted on its obligations under the Operating Agreement and the Contribution Agreement by failing to contribute the Property to South Banning. 213 Banning also failed to pay the secured debt on the Property and the lender, MW Housing Partners III, L.P., foreclosed on the Property, acquiring the Property at the foreclosure sale.

If 213 Banning had contributed the Property to South Banning, South Banning and L/S Partners had projected that the Property would have generated a profit of several million dollars. South Banning and L/S Partners have filed a complaint against 213 Banning, Orange County Superior Court Case No. 30-2008 00110497 (the "Action"), seeking the damages for breach of the Operating Agreement and the Contribution Agreement, including, but not limited to, out-of-pocket costs of \$1,309,326.68 and lost profits in an amount to be proven at trial. Pursuant to the Guaranty, Debtor is obligated to pay L/S Partners and South Banning these damages.

Calculation of Estimated Damages:

Out of Pocket Costs (Note 1)	\$ 1,309,326.68
Lost Profits (Note 2)	To Be Determined
Total Estimated Damages	<u>\$ 1,309,326.68</u>

Note 1: A true and correct copy of spreadsheet entitled Project Budget and Commitment Analysis itemizing the monies contributed to the Property is attached hereto as Exhibit "4".

Note 2: The amount of lost profits will be proven at the trial of the Action.

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LIMITED LIABILITY COMPANY AGREEMENT

OF

**SOUTH BANNING PROPERTIES LLC,
a Delaware limited liability company**

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LIMITED LIABILITY COMPANY AGREEMENT

OF

SOUTH BANNING PROPERTIES LLC,

a Delaware limited liability company

THIS LIMITED LIABILITY COMPANY AGREEMENT (the "Agreement") of SOUTH BANNING PROPERTIES LLC, a Delaware limited liability company (the "Company"), is made as of July 22, 2005, by and between 213 BANNING LLC, a California limited liability company ("Cameo"), and Laing/Sequoia Partners LLC, a Delaware limited liability company ("L/S Partners").

ARTICLE I ORGANIZATION

1.01 Formation; Admission of Members. L/S Partners and Cameo (herein individually, a "Member" and collectively, the "Members") hereby form the Company as a limited liability company under the Delaware Limited Liability Company Act, Delaware Code Annotated Title 6, Chapter 18, Sections 18-101 through 18-1109, as amended (the "Act"), upon the terms and subject to the conditions set forth in this Agreement. L/S Partners shall act as the managing member of the Company (the "Managing Member"). Prior to the date hereof, a certificate of formation was filed in accordance with the Act (the "Certificate of Formation"). The Managing Member is hereby authorized to file and record any amendments to the Certificate of Formation and such other documents as may be required or appropriate under the Act or the laws of any other jurisdiction in which the Company may conduct business or own property. Cameo and L/S Partners are each hereby admitted as a Member of the Company and shall be shown as such on the books and records of the Company. For purposes of this Agreement, a "Membership Interest" means a Member's entire right, title and interest in and to the Company including the Net Profits, Net Losses and Cash Flow of the Company, the capital thereof and any other interest therein. Except as expressly permitted by this Agreement, no other Person shall be admitted as a Member of the Company, and no additional Membership Interests shall be issued. No Member shall have the authority to bind any other Member in any capacity other than as a Member of the Company and nothing in this Agreement shall create a relationship between the Members other than for the purposes set forth in this Agreement.

1.02 Name and Principal Place of Business.

(a) The Company shall conduct its business under the name "SOUTH BANNING PROPERTIES LLC." The Members may change the name of the Company and may adopt one or more fictitious names for use by the Company. All business of the Company shall be conducted under such name and title to all Company assets shall be held in such name.

(b) The Company shall maintain an office in the State of California which shall be initially located at the offices of the Managing Member at Suite 280, 19800 MacArthur

Boulevard, Irvine, California 92612. The Company may have such other places of business or offices as the Managing Member shall determine.

1.03 Term. The term of the Company shall commence on the date hereof and shall expire on the date which is five (5) years after the date of this Agreement unless sooner terminated pursuant to the provisions of this Agreement.

1.04 Registered Agent and Registered Office. The name of the Company's registered agent for service of process in Delaware shall be Corporation Service Company and the address of the Company's registered agent and the address of the Company's registered office in the State of Delaware shall be 2711 Centerville Road, #400, Wilmington, Delaware 19808. Such agent and such office may be changed from time to time by the Managing Member. The Company's agent for service of process in the State of California shall be Stacy McDaniel, whose address is 895 Dove Street, Suite 200, Newport Beach, California 92660. Such agent and address may be changed from time to time by the Members. The Company shall deliver copies of any service of process received by its agents for service of process to its Members.

1.05 Project and Business Plan.

(a) **Description of Project.** The express, limited and only purposes of this Company are (i) to acquire the real property described in Exhibit "A-1" attached hereto (the "63 Acre Property") and the real property described in Exhibit "A-2" attached hereto (the "160 Acre Property") and collectively with the 63 Acre Property, the "Property"), (ii) to entitle the 63 Acre Property and the 160 Acre Property for development in accordance with the Business Plan, as the same may be revised in accordance with the terms of this Agreement, (iii) to sell, exchange, finance, refinance, operate, manage, encumber or otherwise dispose of the Properties (collectively, the "Project"), and (iv) to engage in any lawful act or activity and to exercise any powers permitted to limited liability companies formed under the laws of the State of Delaware that are related or incidental to and necessary, convenient or advisable for the accomplishment of the purposes set forth in subsections (i), (ii) and/or (iii), above. The Company shall not engage in any other business without the prior written consent of all of the Members, which consent may be withheld in their discretion.

(b) **Business Plan.** For purposes of this Agreement, the term "Business Plan" shall mean the projected overall plan and budget for the Project prepared by the Managing Member and unanimously approved by all of the Members. At such times as the Managing Member shall, in the performance of its duties hereunder, determine that the Business Plan is no longer appropriate, the Managing Member shall have the right to submit to the Members for their consideration a proposed revised Business Plan for the Project. Notwithstanding anything contained in this Agreement to the contrary (except as otherwise expressly provided in Section 4.01(a)), in no event shall any amendment, update, modification or revision of the Business Plan be effective until such time as all of the Members have consented thereto. The initial Business Plan, which has been approved by all of the Members, is attached hereto as Exhibit "B".

ARTICLE II
CAPITAL AND LOANS

2.01 **Company Accounts.** The Company shall maintain for accounting purposes the following memorandum accounts for each Member:

(a) **Capital Accounts.** A separate capital account ("**Capital Account**") shall be maintained for each Member in accordance with the provisions of **Exhibit "C"** attached hereto. Except as otherwise set forth herein, all amounts funded as capital contributions by a Member to the Company under this Agreement shall be credited to such Member's Capital Account as of the date of the contribution. Net Profits and Net Losses of the Company shall be allocated and charged to each Member's Capital Account in accordance with the requirements of **Exhibit "C"** attached hereto.

(b) **Unrecovered Capital Accounts.** A separate unrecovered contribution account ("**Unrecovered Capital Account**") shall be maintained for each Member. Cameo's Unrecovered Capital Account shall be credited with amounts funded by it as its Initial Capital in accordance with Section 2.02(b) below as well as any Additional Capital funded by it as herein provided. L/S Partners' Unrecovered Capital Account shall be credited with amounts funded by it as its Base Capital in accordance with Section 2.02(a) below, and any Additional Capital funded by it as herein provided. Except as otherwise set forth herein, all amounts funded as capital contributions by a Member to the Company shall be credited to such Member's Unrecovered Capital Account as of the date of contribution. Each Member's Unrecovered Capital Account shall be decreased by distributions of Cash Flow in reduction of its Unrecovered Capital Account and/or the agreed fair market value of any property (in excess of any indebtedness encumbering such property) distributed to such Member as a reduction of its Unrecovered Capital Account.

(c) **Preferred Returns.** The Company's books and records shall be maintained to reflect the following preferred return accounts:

(i) A preferred return ("**Cameo Preferred Return**") account shall be maintained for Cameo calculated at twelve percent (12%) per annum, compounded monthly (the "**Cameo Preferred Return Rate**"), on the portion of Cameo's Unrecovered Capital Account attributable to its Initial Capital outstanding from time to time; provided, however, that during the pendency of any Event of Default by L/S Partners, the Cameo Preferred Return Rate shall be increased to twenty percent (20%) per annum, compounded monthly.

(ii) A preferred return ("**L/S Partners Preferred Return**") account shall be maintained for L/S Partners calculated at twelve percent (12%) per annum, compounded monthly (the "**L/S Partners Preferred Return Rate**"), on the portion of L/S Partners' Unrecovered Capital Account attributable to its Base Capital outstanding from time to time; provided, however, that during the pendency of an Event of Default by Cameo, the L/S Partners Preferred Return Rate shall be increased to twenty percent (20%) per annum, compounded monthly.

(iii) A preferred return ("Additional Capital Preferred Return") account shall be maintained for each Member calculated at twelve percent (12%) per annum, compounded monthly (the "Additional Capital Preferred Return Rate"), on the portion of such Member's Unrecovered Capital Account attributable to such Member's Additional Capital contributions outstanding from time to time; provided, however, that during the pendency of an Event of Default, the Additional Capital Preferred Return Rate with respect to the non-defaulting Member shall be increased to twenty percent (20%) per annum, compounded monthly.

(iv) For purposes of this Agreement, unless otherwise specified, the term "Preferred Return" shall include the Cameo Preferred Return, the L/S Partners Preferred Return and the Additional Capital Preferred Return. Each Preferred Return account shall be decreased to the extent that such Member has received distributions from the Company in reduction of such Preferred Return account as set forth in this Agreement.

2.02 Capital Contributions. Except as otherwise expressly provided in this Agreement or as may otherwise be agreed to in writing by the Members (1) no part of the capital contributions of any Member to the Company may be withdrawn by such Member, (2) no Member shall be entitled to receive interest on its capital contributions to the Company, (3) no Member shall have the right to demand or receive property other than cash in return for its contributions to the Company, (4) no capital contributions or loans made by any Member to the Company shall increase its Percentage Interest; and (5) no Member shall have any right or obligation to make any capital contribution or loan to the Company. For purposes of this Agreement, "Percentage Interest" means fifty percent (50%) with respect to Cameo and fifty percent (50%) with respect to L/S Partners, subject to adjustment as provided in this Agreement.

(a) L/S Partners' Base Capital Contributions. Subject to the terms of Section 7.01(a), L/S Partners shall contribute capital to the Company from time to time to pay Project Costs specified in the Business Plan (or otherwise permitted pursuant to Section 4.01(a)); provided, however, at no time shall L/S Partners have the right or obligation to contribute in excess of Two Million One Hundred Eighteen Thousand Five Hundred Dollars (\$2,118,500) pursuant to the terms of this Section 2.02(a). All capital contributions funded by L/S Partners pursuant to the terms of this Section 2.02(a) shall constitute its "Base Capital".

(b) Cameo's Initial Capital Contribution

(i) Upon the date (the "Property Contribution Date") which is the earlier to occur of (A) the date which is seven (7) days after the date upon which all requisite governmental approvals have been obtained to the specific plan for the development of the 63 Acre Property, or (B) October 1, 2006, Cameo shall convey all of the Property to the Company in accordance with the terms of that certain Contribution Agreement entered into concurrently herewith by and between the Company and Cameo (the "Contribution Agreement"). Cameo shall, upon the closing of the conveyance of the Property to the Company in accordance with the terms of the Contribution Agreement (the "Property Contribution Closing") (and in no event prior thereto), receive a credit to its Capital Account and Unrecovered Capital Account in the amount of Two Million One Hundred Eighteen Thousand Five Hundred Dollars (\$2,118,500) by reason of such contribution as its initial capital contribution to the Company ("Initial Capital").

(ii) In the event that the Contribution Agreement is terminated in accordance with its terms prior to the Property Contribution Closing for any reason other than a default by Cameo thereunder, then, upon the written demand therefor by any Member, such termination shall work an immediate dissolution of the Company.

(iii) Notwithstanding anything contained in this Agreement to the contrary (with the sole exception of the express terms of Sections 2.02(b)(i) and (iv) hereof), in the event that the Company (A) becomes entitled to, is paid or otherwise obtains or derives any damages or other compensation in connection with any breach by Cameo or Guarantor of the Contribution Agreement or Guaranty, respectively, and/or (B) receives any payments or other consideration from Cameo or Guarantor pursuant to the terms of the Contribution Agreement or Guaranty, respectively, Cameo shall not be entitled to or otherwise receive any credit to its Capital Account or Unrecovered Capital Account or any other credit hereunder in connection therewith.

(iv) Notwithstanding anything contained in this Agreement to the contrary, in the event that Cameo breaches its obligation to contribute the Property to the Company in accordance with the terms of the Contribution Agreement, the parties hereto do hereby agree that upon the occurrence of such a default by Cameo, and without any limitation on any other rights and remedies of the Company and/or L/S Partners in connection therewith, (A) Cameo's rights under Section 7.01 shall be deemed terminated and of no further force or effect, and (B) L/S Partners shall have the authority to take sole and exclusive charge and control of the Company free and clear of any and all restrictions imposed upon Managing Member by this Agreement (including any and all restrictions set forth in ARTICLE IV and any and all consent, voting or approval rights granted to Cameo).

(v) As a material inducement of L/S Partners to become a Member in the Company, Cameo Homes, a California corporation (the "Guarantor"), shall execute and deliver to L/S Partners that certain Guaranty, of even date herewith ("Guaranty"), for the benefit of L/S Partners.

(c) Additional Capital. The Members acknowledge and agree that except as hereinafter provided, any additional funds needed by the Company shall be contributed as additional capital ("Additional Capital") to pay Project Costs in excess of those required to be contributed by the Members pursuant to Section 2.02(a) and (b) above. If Managing Member determines that additional funds are or will be needed, Managing Member may give written notice of such projected cash deficit to the Members which shall summarize, with reasonable particularity, the Company's actual and projected obligations to be funded. Within ten (10) days following the unanimous agreement of the Members, in their sole discretion, that such additional capital is required ("Funding Date"), the Members shall each fund fifty percent (50%) of such additional required funds to the Company. Except as otherwise expressly provided in this Agreement, in no event shall any Member have any right or obligation to fund any Additional Capital unless and until the Funding Date occurs with respect to such Additional Capital.

ARTICLE III
CASH MANAGEMENT AND DISTRIBUTIONS

3.01 Bank Accounts.

(a) **Collection Account.** Except for Capital Proceeds, any and all revenues, distributions, payments, refunds, rebates, reimbursements and the like, of any kind or nature, received by the Company with respect to any of its assets in excess of Costs of Sale incurred by it (collectively, "Net Proceeds") shall be deposited directly into an account established by the Managing Member (the "Collection Account"). For purposes of this Agreement, "Costs of Sale" means the following Project Costs that are deducted from gross sales proceeds and are not available until the close of escrow for each portion of the Property: outside broker fees, actual closing costs and prorations as shown on a certified closing statement, and other related fees and costs. Disbursements from the Collection Account shall only be made on the signatures of authorized representatives of both of the Members acting together.

(b) **Project Cost Account.** All proceeds of capital contributions, as well as all funds drawn under any Company financing (collectively, "Capital Proceeds"), shall be deposited directly into an account in the name of the Company established by the Managing Member (the "Project Cost Account"). Disbursements from the Project Cost Account shall be made for payment of the costs and liabilities to be paid or assumed by the Company in connection with the Project ("Project Costs"). Disbursements from the Project Cost Account shall only be made on the signatures of authorized representatives of both of the Members acting together.

3.02 Distributions of Cash Flow. Except as provided elsewhere in this Agreement, cash held in the Collection Account from time to time in excess of such reserves as are established from time to time by the unanimous reasonable agreement of the Members for anticipated cash disbursements that will have to be made before anticipated additional cash receipts will provide the funds therefor (the "Cash Flow") shall be distributed to the Members as soon as it becomes available for distribution, but in no event less often than monthly by the 25th day of each calendar month, in the following order of priority:

(a) **Preferred Return on Additional Capital.** First, to the Members in the ratio that the accrued and unpaid Preferred Return on Additional Capital contributed by each Member bears to the aggregate of the accrued and unpaid Preferred Return on Additional Capital contributed by both Members, until and to the extent required to reduce each Member's accrued and unpaid Preferred Return on all such Additional Capital to zero (0).

(b) **Unpaid Preferred Return.** Next, to the Members in the ratio that the accrued and unpaid Preferred Return of each Member bears to the aggregate of the accrued and unpaid Preferred Return of both Members, until and to the extent required to reduce each Member's accrued and unpaid Preferred Return to zero (0).

(c) **Additional Capital.** Next, to each Member as a reduction of its Unrecovered Capital Account in the ratio that the Additional Capital contributed by each

Member bears to the aggregate of the Additional Capital contributed by both Members, until and to the extent required to reduce each Member's Additional Capital to zero (0).

(d) **Unrecovered Capital.** Next, to each Member as a reduction of its Unrecovered Capital Account in the ratio that the Unrecovered Capital Account of each Member bears to the aggregate Unrecovered Capital Account of both Members, until and to the extent required to reduce each Member's Unrecovered Capital Account to zero (0).

(e) **Balance.** Thereafter, to the Members in accordance with their respective Percentage Interests.

ARTICLE IV **MANAGEMENT**

4.01 Authority; Major Decisions.

(a) **In General.** The business, property and affairs of the Company shall be managed exclusively by the Managing Member. Except for where this Agreement expressly requires the approval of the Members, the Managing Member shall have full, complete and exclusive authority, power and discretion to manage and control the business, property and affairs of the Company and to make all decisions regarding those matters, including, without limitation, the decision to acquire property, to sell, transfer, encumber or otherwise dispose of the assets of the Company, and to perform any and all other actions customary or incident to the management of the Company's business, property and affairs. Notwithstanding anything contained herein to the contrary, in no event shall the Managing Member have any authority to make any decision, take any action or give any approval or consent on behalf of the Company which is in conflict with the Business Plan, except to the extent approved by all of the Members. Any person may rely on a certificate addressed to that person and signed by the Managing Member:

- (i) as to who are the Members hereunder;
- (ii) as to the existence or nonexistence of any fact which constitutes a condition precedent to acts by the Members or the Managing Member or in any other manner germane to the affairs of the Company;
- (iii) as to who is authorized to execute, acknowledge, seal, verify or deliver any instrument or document of the Company;
- (iv) as to the authenticity of any copy of the Certificate of Formation, this Agreement, amendments thereto or restatements thereof, and any other document relating to the conduct of the affairs of the Company; or
- (v) as to any act or failure to act by the Company or as to any other matter whatsoever involving the Company or any Member.

(b) **Major Decisions.** Notwithstanding anything contained in this Agreement to the contrary, the Managing Member shall not have the power or authority to authorize or

approve any of the following on behalf of the Company (individually, a "Major Decision" and collectively, the "Major Decisions") without the prior written consent of all of the Members:

- (i) Constructing any improvements on the Property.
- (ii) Selling any or all of the Property, any other real property or any interest therein.
- (iii) Hiring any employees.
- (iv) Adopting, amending, modifying, altering or changing the Business Plan (except as permitted in Section 4.01(a)).
- (v) Merging the Company into any other entity or otherwise entering into any similar entity reorganization.
- (vi) Admitting any Person as a Member of the Company, except as otherwise expressly permitted pursuant to the terms of Section 11.03.
- (vii) Amending or modifying this Agreement or any of the other organizational documents and organizational instruments governing the Company
- (viii) Amending or modifying the Contribution Agreement.
- (ix) Causing the formation of any corporation or other subsidiary entity owned or controlled, in whole or in part, by the Company.
- (x) Making any decision or taking any action which, under the provisions of this Agreement, is required to be approved by all of the Members or which is required to be approved by the Member which is not the Managing Member.
- (xi) Seeking relief under federal or state bankruptcy law, instituting proceedings to have the Company adjudicated a bankrupt or insolvent, consenting to the institution of bankruptcy or insolvency proceedings against the Company, filing a petition or a consent to a petition seeking reorganization or relief under any applicable federal or state bankruptcy law, consenting to the appointment of a receiver, liquidator, trustee or similar official, making any assignment for the benefit of the Company's creditors or admitting in writing the Company's inability to pay its debts generally as they become due.
- (xii) Confess a judgment against the Company.
- (xiii) Mortgage, pledge, hypothecate or subject any of the Company's assets to any type of lien or encumbrance (other than inchoate liens for contractors and subcontractors established by applicable law).
- (xiv) Do any act (A) in contravention of this Agreement, or (B) which would make it impossible or unreasonably burdensome to carry on the business of the Company.

(c) **Use of System's Name.** In no event may the Company use the name of the State of California Public Employees Retirement System (the "System"), an investor in a member of L/S Partners, or identify the System as having any involvement of any kind in the Company or the Project including in advertising, press releases or responding to inquiries without the prior written consent of L/S Partners, which consent may be withheld in its discretion.

4.02 Managing Member. The Company shall have one (1) Managing Member. The Managing Member shall be L/S Partners. The Managing Member may only be removed upon the unanimous consent of all of the Members. Any vacancy occurring for any reason in the position of Managing Member may only be filled by the unanimous consent of all of the Members; provided, however, in the event that L/S Partners transfers its Membership Interest in accordance with the terms of Section 11.01(a) hereof, such transferee shall automatically become the substitute Managing Member effective as of the date of such transfer and the consent of the Members shall not be required in connection therewith. Notwithstanding the foregoing provisions of this Section 4.02, upon and effective as of the making of a Project Termination Election by L/S Partners in accordance with the terms of Section 7.01 hereof, L/S Partners shall be deemed to have been removed as Managing Member and Cameo shall be deemed to have been appointed as the substitute Managing Member; provided, however, notwithstanding such substitution, L/S Partners shall nevertheless remain in joint control of the Collection Account, and Managing Member shall continue to deposit all Net Proceeds into such Collection Account, until such time as L/S Partners has been distributed all of its accrued Preferred Return, its Unrecovered Capital Account has been reduced to zero (0) and all other amount due to it pursuant to this Agreement have been paid to it.

4.03 Representatives of Members.

(a) **Authorized Representatives.** L/S Partners hereby designates Douglas C. Neff, Jay Pruitt, Wayne Stelmar and Terry Neale as its authorized representatives hereunder. Cameo hereby designates Vic Mahony and Jim Gianulias as its authorized representatives hereunder. Each representative appointed by a Member shall act as agent for and under the sole and exclusive direction and control of such Member. Each Member may, by written notice to the other, appoint and/or remove any representative appointed by such Member and appoint a substitute therefor; provided, however, that any new representative appointed by any Member must either (i) be an officer, director, partner, member, manager, principal or employee of such Member, or of an Affiliate of such Member; or (ii) be approved by the other Member.

(b) **Meetings.** There shall be no regularly scheduled meetings of the Members; however, the Members' representatives shall meet as often as necessary or desirable to carry out the business of the Company. Meetings shall be held at the principal offices of the Company unless otherwise agreed. Any Member may convene a meeting upon at least three (3) business days prior notice to the other Member specifying the date, time and place of meeting and the agenda for the meeting. The Members may also hold meetings by telephone and may make decisions without a meeting by unanimous written consent.

(c) **Voting Rights of Members.** In their capacity as Members (as opposed to Managing Member where and if applicable), no Member of the Company shall have any

management or approval authority over the activities of the Company except as otherwise expressly provided in this Agreement.

4.04 Miscellaneous Covenants

(a) Other Business Opportunities. No Member or Affiliate shall have any obligation, fiduciary or otherwise, with respect to the Company or to the other Member insofar as making other opportunities available to the Company or to the other Member. The Members may, notwithstanding the existence of this Agreement, engage in whatever activities they choose, whether the same is competitive with the Company or otherwise, without having or incurring any obligation to offer any interest in such activities to the Company or to the other Member.

(b) Related Party Contracts. For purposes of this Agreement, "Affiliate" means (i) any Person which, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with the Person in question; or (ii) any officer, director, partner, member, manager, trustee, employee or beneficial holder of an interest of twenty-five percent (25%) or more in the Person in clause (i) above; and "Person" means any individual or any corporation, partnership, limited liability company, limited liability partnership, joint venture, trust, business trust, cooperative or association. For purposes of this definition, the term "control" means the ownership of twenty-five percent (25%) or more of the beneficial interest or the voting power of the appropriate Person. All transactions of the Company with any Member or its Affiliate shall be on terms and conditions which are at least as favorable to the Company as the terms generally available in arm's-length transactions with independent third parties for equivalent goods or services. The Member which is not the Managing Member, acting alone, shall have the sole right on behalf of the Company to send any appropriate notice of default or termination, to make any election, to institute legal proceedings and/or to take such other action as may be necessary or appropriate to enforce the rights and remedies and protect the interests of the Company pursuant to any agreement now or hereafter entered into between the Company and the Managing Member or any Affiliate of the Managing Member.

(c) Contribution Agreement. Notwithstanding anything contained in this Agreement to the contrary, L/S Partners, acting alone, shall have the sole right on behalf of the Company (i) to send any appropriate notice of default or termination, to make any election, to institute legal proceedings and/or to take such other action as may be necessary or appropriate to enforce the rights and remedies and protect the interests of the Company pursuant to the terms of the Contribution Agreement and/or the Guaranty and (ii) to enter into any amendment or modification to, to cause or consent to the termination of, and/or to cause or consent to the waiver of any rights under, the Contribution Agreement and/or the Guaranty.

(d) Insurance. Managing Member shall, at the sole cost and expense of the Company, cause the Company to maintain (or cause to be maintained on the Company's behalf) such insurance as the Managing Member shall deem to be reasonably necessary.

4.05 Emergency Authority. Notwithstanding the provisions of Section 4.01, the Managing Member shall have the right to take such action as it deems necessary for the protection of life or health, or the preservation of Company assets if, under the circumstances, in the good faith judgment of the Managing Member, there exists an emergency situation requiring

an immediate decision which should not be delayed until the approval of the Members, if so required, is obtained.

4.06 Cooperation of Cameo. Cameo shall provide, at no out of pocket cost or expense to itself, such assistance in connection with the Project as may be reasonably requested by the Managing Member, including, without limitation, in obtaining the requisite entitlements for the Project. To the extent that Cameo incurs any such out of pocket costs or expenses, such costs and expenses shall be reimbursed by the Company to Cameo if and to the extent they were included in the Business Plan and approved by the Managing Member prior to being incurred by Cameo. Nothing contained in this Agreement shall be interpreted so as to limit any of Cameo's obligations under the Contribution Agreement, including, without limitation, its obligations under Section 7(b) of the Contribution Agreement.

ARTICLE V **FEES AND REIMBURSEMENTS**

5.01 Fees and Reimbursements. Except as otherwise set forth in this Section 5.01, neither the Company nor any Member shall pay any fees or reimbursements to a Member or any Affiliate of a Member including any charge or reimbursement for general overhead or administrative services or for reimbursements for salaries or benefits of employees. The Company shall pay the following fees and reimbursements:

(a) **L/S Partners Overhead Fee.** In consideration of its services to be rendered to the Company, L/S Partners shall be paid an overhead fee equal to \$240,000 (the "**L/S Partners Overhead Fee**"), which fee shall be payable in 24 equal monthly installments of \$10,000 each, with the first payment being made on the first calendar day of the first month following the execution of this Agreement and thereafter on the first calendar day of each following month until the entirety of such fee has been paid to L/S Partners.

(b) **Cameo Overhead Fee.** In consideration of its services to be rendered to the Company, Cameo shall be paid an overhead fee equal to \$96,000 (the "**Cameo Overhead Fee**"), which fee shall be payable in 24 equal monthly installments of \$4,000 each, with the first payment being made on the first calendar day of the first month following the execution of this Agreement and thereafter on the first calendar day of each following month until the entirety of such fee has been paid to Cameo.

(c) **Insurance.** So long as the Managing Member and/or its Affiliates provide and keep in force the insurance detailed in Section 4.04(d) above, the Managing Member and its Affiliates, as applicable, shall be reimbursed by the Company for all payments made in connection therewith.

(d) **Due Diligence and Formation Expenses.** L/S Partners shall be entitled to be reimbursed by the Company for its out-of-pocket expenses incurred in the due diligence investigation of the Property and the Project, including fees for attorneys, accountants, allocated costs for in house legal services, consultants, and other professionals, but only to the extent set forth on **Exhibit "E"** attached hereto. Each of the Members shall be entitled to be reimbursed by the Company for its out-of-pocket expenses incurred in the formation of the Company and the

drafting and negotiation of this Agreement, the Contribution Agreement and all other agreements entered into in connection herewith, including fees for attorneys and allocated costs for in-house legal services. In the event that Managing Member elects to obtain a policy of title insurance to ensure the Company's rights to acquire the Property pursuant to the Contribution Agreement, the Company shall pay the cost of such policy.

(c) **General Reimbursement of Managing Member.** The Managing Member shall be entitled to be reimbursed by the Company for any and all Project Costs which it incurs to the extent the same are contemplated by the Business Plan (or are otherwise permitted pursuant to the operation of Section 4.01(a)).

ARTICLE VI **DEFAULTS AND REMEDIES**

6.01 **Event of Default.** For purposes of this Agreement, "**Event of Default**" means the occurrence of any of the following:

(a) The inaccuracy of any material representation or warranty made by any Member in this Agreement or by such Member or any of its Affiliates under any other agreement with the Company or the other Member.

(b) The breach or default by any Member or its Affiliate of any of its respective covenants, agreements or obligations in this Agreement, in any other agreement with the other Member which relates to the Company, this Agreement and/or the Property, or in any other agreement with the Company, provided such Member shall have received written notice of such breach or default and (i) in the case of a monetary breach or default, shall not have cured such monetary breach or default within ten (10) days following receipt of such notice, and (ii) in the case of a non-monetary breach or default which is reasonably susceptible of cure, shall not have commenced to cure or remedy such breach or default within ten (10) days following receipt of such notice and cured or remedied such breach or default within thirty (30) days following the date of such notice; provided, however, if the nature of such breach or default is not reasonably susceptible of cure within such thirty (30) day period and the curing Member has, in the reasonable opinion of the other Member, been diligently proceeding with such cure or remedy, an additional period of time reasonably required to effect such cure shall be granted not to exceed a period of ninety (90) days. This Section 6.01(b) shall not apply to any breach or default by Cameo or Guarantor under the Contribution Agreement and/or the Guaranty.

(c) As to Cameo, if any default by Cameo occurs under the Contribution Agreement which is not cured within any applicable notice and cure period provided for therein.

(d) As to Cameo, if any default by Guarantor occurs under the terms of the Guaranty which is not cured within any applicable notice and cure period provided for therein.

(e) The occurrence of an Event of Bankruptcy with respect to a Member. For purposes of this Agreement, an "**Event of Bankruptcy**" means:

(i) The entry of a decree or order by a court of competent jurisdiction (A) adjudging a Guarantor or a Member, as the case may be, a bankrupt or insolvent, or

(B) approving as properly filed a petition seeking reorganization, readjustment, arrangement, composition or similar relief for a Guarantor or such Member, as the case may be, under the federal bankruptcy laws or any other similar applicable law or practice, and if such decree or order referred to in this Section 6.01(e)(i) shall have continued undischarged and unstayed for a period of sixty (60) days.

(ii) The entry of a decree or order by a court of competent jurisdiction (A) for the appointment of a receiver, liquidator, trustee or assignee in bankruptcy or insolvency of a Guarantor or a Member, as the case may be, or for the winding up or liquidation of its affairs, and such decree or order shall have remained in force undischarged and unstayed for a period of sixty (60) days, or (B) for the sequestration or attachment of any property of a Guarantor or such Member, as the case may be, without its return to the possession of a Guarantor or such Member, as the case may be, or its release from such sequestration or attachment within sixty (60) days thereafter.

(iii) If a Guarantor or a Member, as the case may be, (A) institutes proceedings to be adjudicated a voluntary bankrupt or an insolvent; (B) consents to the filing of a bankruptcy proceeding against it; (C) files a petition or answer or consent seeking reorganization, readjustment, arrangement, composition or similar relief for itself under the federal bankruptcy laws or any other similar applicable law or practice; (D) consents to the filing of any such petition, or to the appointment of a receiver or liquidator or trustee or assignee in bankruptcy or insolvency for itself or a substantial part of its property; (E) makes an assignment for the benefit of its creditors; (F) is unable to or admits in writing its inability to pay its debts generally as they become due; or (G) takes any action in furtherance of any of the aforesaid purposes.

For the purposes of this Agreement, an Event of Bankruptcy with respect to Guarantor shall be treated as an Event of Bankruptcy by Cameco.

6.02 Effect of Event of Default. In addition to the remedies set forth herein for a Member's failure to timely fund any required capital contribution or payment, upon the occurrence of an Event of Default by any Member, the non-defaulting Member shall have the right, but not the obligation, upon giving the defaulting Member ten (10) calendar days written notice of such election (and provided such Event of Default is continuing through the end of such 10-day period), to take any of the following actions:

- (a) Dissolve the Company;
- (b) [Intentionally deleted]; or
- (c) Pursue any other right or remedy available in this Agreement, at law or in equity.

The election to pursue any of the foregoing remedies shall not preclude or prohibit the non-defaulting Member from concurrently and/or subsequently pursuing any other remedy.

ARTICLE VII
PROJECT TERMINATION ELECTION

7.01 Project Termination Election. In the event that L/S Partners shall at any time determine, in its sole and absolute discretion, that any or all of the entitlements and approvals to be obtained with respect to any or all of the Property cannot be timely obtained as contemplated in the Business Plan or that its projected return on its investment in the Company has declined to a level which it deems to be unsatisfactory, L/S Partners shall have the right (but not the obligation) to elect, by written notice to Cameo, to terminate the Project (a "Project Termination Election").

(a) **Conditional Indemnity.** Notwithstanding anything contained in this Agreement to the contrary, in the event that L/S Partners makes a Project Termination Election at any time prior to the Property Contribution Closing, then, except to the extent arising from the negligence or willful misconduct of Cameo and/or any of its Affiliates, L/S Partners shall indemnify and hold harmless the Company from any actual damages, liabilities, losses, costs or expenses (including, without limitation, reasonable attorneys' fees) which it incurs pursuant to the indemnity contained in the last sentence of Section 7(c) of the Contribution Agreement, but only to the extent that the underlying claim first arose prior to the Project Termination Election.

(b) **Effect of Project Termination Election.** Notwithstanding anything contained in this Agreement to the contrary, in the event that L/S Partners makes a Project Termination Election, then, from and after the date of such election, (i) L/S Partners shall have no further obligation to make any capital contributions to the Company pursuant to the terms of Section 2.02(a) of this Agreement or otherwise, (ii) L/S Partners shall cease to accrue any additional Preferred Return, (iii) L/S Partners shall not be entitled to receive any additional payments of L/S Partners Overhead Fee, (iv) L/S Partners shall be deemed to have been removed as Managing Member and Cameo shall be deemed to have been appointed the substitute Managing Member as provided in Section 4.02, (v) a memorandum of this Agreement, in the form of Exhibit "F" attached hereto shall be executed by all of the Members and recorded in the Official Records of the County of Riverside within seven (7) days following the making of such Project Termination Election, (vi) no physical improvements shall be constructed on the Property prior to the distribution to L/S Partners of all of its accrued and unpaid Preferred Return and the entire balance of its Unrecovered Capital Account (or, if such Project Termination Election is made prior to the Property Contribution Closing, the entire balance of its Unrecovered Capital Account with the sole exception of the last \$200,000 thereof), (vii) L/S Partners shall promptly deliver to Cameo, without any representation or warranty and subject to the rights of all third parties, copies of all reports, studies and other materials prepared for L/S Partners or the Company by any unaffiliated third parties in connection with the Property and/or its development, but only to the extent the same have been delivered to L/S Partners or the Company, (viii) if and when L/S Partners shall have been distributed all of its accrued and unpaid Preferred Return and the balance of its Unrecovered Capital Account shall have been reduced to zero (or, if such Project Termination Election is made prior to the Property Contribution Closing, the balance of its Unrecovered Capital Account shall have been reduced to \$200,000), then (A) the entire Membership Interest of L/S Partners in the Company shall be deemed to have been liquidated by the Company, (B) except as otherwise expressly provided in this Subsection (viii), L/S Partners shall thereupon cease to have any right, title or interest in and