

1 William N. Lobel (State Bar No. 093202)
Mike D. Neue (State Bar No. 179303)
2 THE LOBEL FIRM, LLP
840 Newport Center Drive, Suite 750
3 Newport Beach, California 92660
Telephone: (949) 999-2860
4 Facsimile: (949) 999-2870

5 Attorneys for Debtors and
Debtors-in-Possession

6 Alan J. Friedman (State Bar No. 132580)
7 Kerri A. Lyman (State Bar No. 241615)
IRELL & MANELLA LLP
8 840 Newport Center Drive, Suite 400
Newport Beach, California 92660
9 Telephone: (949) 760-0991
Facsimile: (949) 760-5200

10 Attorneys for Debtors and
11 Debtors-in-Possession

12
13 **UNITED STATES BANKRUPTCY COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **SANTA ANA DIVISION**

16 In re
17 JAMES C. GIANULIAS, and CAMEO
18 HOMES, a California corporation,
19
20 Debtors and Debtors-in-Possession.

) Case No. SA 08-13150-RK
) [Substantively Consolidated With:
) Case No. 8:08-bk-13151-RK]

) Chapter 11

) **DEBTORS' THIRD AMENDED PLAN OF**
) **REORGANIZATION (DATED MAY 12,**
) **2010)**

) **Confirmation Hearing:**

) Date: _____, 2010

) Time: _____m.

) Place: Courtroom 5D

) 411 West Fourth Street
) Santa Ana, CA 92701

DEBTORS' THIRD AMENDED PLAN OF REORGANIZATION

Pursuant to section 1121(a) of the Bankruptcy Code, James C. Gianulias and Cameo Homes, the debtors and debtors-in-possession in these substantively-consolidated cases (the "Debtors"), hereby propose this Plan of Reorganization.

ARTICLE I

INTRODUCTION

The purpose of this Plan is to provide the details of the Debtors' proposed reorganization and proposed distributions of money or property to their respective creditors. The Plan incorporates the terms of an agreement reached between the Debtors and the Official Committee of Unsecured Creditors (the "Committee") following extensive negotiations among the parties and, as a result, the Plan is supported by the Committee. After the Plan has been confirmed, the Bankruptcy Court will retain jurisdiction to determine the allowance of all Claims and to effectuate and enforce the terms of this Plan. The definitions provided in Article II of the Plan apply throughout the Plan, including those capitalized terms used in the Plan.

ARTICLE II

DEFINITIONS AND RULES OF CONSTRUCTION

A. Specific Definitions

In addition to such other terms as are defined in other sections hereof, the following capitalized terms shall have the following meanings:

1. ***"Additional Collateral"*** means [to be determined].
2. ***"Adjusted Income Taxes"*** means an amount equal to income taxes liability of a Debtor, less the amount of any tax refunds which it is determined such Debtor would be entitled to based on the computation required under this definition, solely in connection with such Debtor's obligations under the Cash Flow Note and such Debtor's Ownership Interest, and shall be computed as if such Debtor's only income, gain, loss and deduction items were those items directly arising out of the obligations under the Cash Flow Note and such Debtor's direct and indirect ownership in the Portfolio Entities and the Intermediate Entities. Such income tax analysis computation (1) shall be made for each Debtor on an annual basis, (2) shall, to the fullest

1 extent permitted by law, (A) apply all applicable original issue discount deductions with respect to
2 the Cash Flow Note in determining applicable net operating losses and notional tax liability as
3 contemplated herein, and (B) all net operating losses available to such Debtor with respect to the
4 Portfolio Entities and/or the Intermediate Entities against all income and gain arising from each
5 Debtor's Ownership Interest, (3) shall be based on the application of normal tax accounting rules
6 and (4) may not reflect the actual tax liability and tax attributes of such Debtor in any given year;
7 provided, however, that, for purposes of this calculation, the application of any net operating
8 losses available to Debtors as contemplated herein plus the amount of tax refunds shall not result
9 in "double counting" associated with the same tax benefits, as applicable. Without limiting the
10 generality of the foregoing, all income taxes due in connection with any management fees
11 received by Mesa Management shall be excluded from the determination of Adjusted Income
12 Taxes hereunder.

13 3. **"Administrative Claim"** means any right to payment constituting a cost or expense
14 of administration of the Cases of a kind specified under section 503(b) of the Bankruptcy Code
15 and entitled to priority under section 507(a)(2), 507(b) or 1114(e)(2) of the Bankruptcy Code,
16 including, without limitation, any actual and necessary costs and expenses of preserving the
17 Debtors' estates, any actual and necessary costs and expenses of operating the Debtors' business,
18 any indebtedness or obligations incurred or assumed by the Debtors in connection with the
19 conduct of their business, including, without limitation, for the acquisition or lease of property or
20 an interest in property or the rendition of services, all compensation and reimbursement of
21 expenses to the extent awarded by the Court under sections 330, 331 or 503 of the Bankruptcy
22 Code, any fees or charges assessed against the Debtors' estates under section 1930 of chapter 123
23 of title 28 of the United States Code and any Claim for goods delivered to the Debtors within
24 twenty (20) days of the Petition Date and entitled to administrative priority pursuant to section
25 503(b)(9) of the Bankruptcy Code.

26 4. **"Affiliate"** means, with respect to any Person, (a) any other Person which, directly
27 or indirectly, controls or is controlled by or is under common control with such Person, (b) any
28 Subsidiary of such Person, as applicable, and (c) any officer or director or such Person or

1 Subsidiary. A Person shall be deemed to be "controlled by" any other Person if such Person
2 possesses, directly or indirectly, power to vote 50% or more of the securities (on a fully diluted
3 basis) having ordinary voting power for the election of directors or managers or power to direct or
4 cause the direction of the management and policies of such Person whether by contract or
5 otherwise; provided, however, that for purposes hereof, "Affiliate" shall exclude the Portfolio
6 Entities and the Intermediate Entities.

7 5. **"Allowed Administrative Claim"** means all or that portion of an Administrative
8 Claim which is an Allowed Claim.

9 6. **"Allowed Gap Claim"** means all or that portion of a Gap Claim which is an
10 Allowed Claim.

11 7. **"Allowed Priority Claim"** means all or that portion of a Priority Claim which is an
12 Allowed Claim.

13 8. **"Allowed Priority Tax Claim"** means all or that portion of a Priority Tax Claim
14 which is an Allowed Claim.

15 9. **"Allowed Secured Claim"** means all or that portion of a Secured Claim which is an
16 Allowed Claim.

17 10. **"Allowed General Unsecured Claim"** means all or that portion of a General
18 Unsecured Claim which is an Allowed Claim.

19 11. **"Allowed"** means, with reference to any Claim, (a) any Claim against any of the
20 Debtors that has been listed by the Debtors in the Schedules, as such Schedules may be amended
21 by the Debtors from time to time in accordance with Bankruptcy Rule 1009, as liquidated in
22 amount and not disputed or contingent, and with respect to which no contrary proof of claim has
23 been filed, (b) any Claim specifically allowed under the Plan, (c) any Claim that is not a Disputed
24 Claim by the Claims Objection Deadline or (d) any Claim, the amount or existence of which, if it
25 is a Disputed Claim, (i) has been determined by a Final Order of a court of competent jurisdiction
26 other than the Court, or (ii) has been allowed by Final Order of the Court; provided, however, that
27 any Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an
28 order of the Court shall not be considered "Allowed Claims" hereunder.

12. **"Available Cash Flow"** means, subject to the terms and conditions of the Cash Flow Note, the amount of Gross Available Cash Flow less the following items (collectively, "Priority Payments") in such order of priority as set forth in the Plan: (a) the following payments to Marilyn Gianulias Robbins, an individual ("Robbins"), on account of, and in full satisfaction of her secured claim with respect to Debtors: (1) \$1,000,000 in the first year following the Effective Date (83,333.33 per month), (2) \$1,200,000 in the second year following the Effective Date (\$100,000 per month), (3) \$1,200,000 in the third year following the Effective Date (\$100,000 per month), (4) \$1,200,000 in the fourth year following the Effective Date (\$100,000 per month), and (5) \$1,251,481 in the fifth year following the Effective Date, representing the remaining balance owing to Robbins in connection with her claim in the Cases (\$104,290.08 per month); (b) the payment of \$1,800,000 per year in each of the first and second year following the Effective Date to Debtors (\$150,000 per month); (c) payment of all Allowed Administrative Claims, Allowed Gap Claims, Allowed Priority Claims, and Allowed Priority Tax Claims incurred in the Cases; and (d) the payment of all Adjusted Income Taxes, subject to the terms and conditions as set forth in Section 5(b) of the Cash Flow Note.

13. **"Ballot"** means each of the ballot forms distributed with the Disclosure Statement to each holder of an impaired Claim (other than to holders not entitled to vote on the Plan) upon which is to be indicated, among other things, acceptance or rejection of the Plan.

14. **"Bankruptcy Code"** means title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, as in effect on the date hereof.

15. **"Bankruptcy Court"** means the United States Bankruptcy Court for the Central District of California, Santa Ana Division.

16. **"Bankruptcy Rules"** means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, and local rules of the Court, as the context may require.

17. **"Books"** means all of each Grantor's books and records (regardless of format) for the Portfolio Entities, the Intermediate Entities and books and records concerning the Ownership Interests and/or the Collateral, including, but not limited to the following: (a) minute books,

1 ledgers, records indicating, summarizing or evidencing each Portfolio Entity's and Intermediate
2 Entity's assets, liabilities, the Ownership Interests, the Collateral, the Obligations, and all
3 information relating thereto; (b) records indicating, summarizing or evidencing each Portfolio
4 Entity's and Intermediate Entity's business operations or financial condition and Ownership
5 Interests in connection therewith.

6 18. "**Business Day**" means any day other than a Saturday, a Sunday or a "legal
7 holiday" (as defined in Bankruptcy Rule 9006(a)), or other day on which banks in the State of
8 California are authorized or required to close.

9 19. "**Cameo**" means Cameo Homes, a California corporation, and includes any
10 successors and assigns thereof; provided, however, that, by way of clarification solely with respect
11 to any such successors and assigns, the following Persons are expressly excluded as successors
12 and assigns for purposes of this definition: any Person who (A) is an Other Owner or (B) acquires
13 any Ownership Interest and is not an Affiliate of any Debtor; provided, however, nothing herein
14 shall limit, affect or abridge the Holder's right to consent to the sale, transfer and/or assignment of
15 any Ownership Interest pursuant to the provisions of Section 6(a)(2) of the Security Agreement or
16 any remedies that Holder may have under the Security Agreement for any breach of the provisions
17 of Section 6(a)(2) of the Security Agreement.

18 20. "**Cases**" means the Debtors' pending cases under chapter 11 of the Bankruptcy
19 Code.

20 21. "**Cash**" means lawful currency of the United States and equivalents thereof,
21 including, but not limited to: bank deposits, wire transfers, checks, interests in marketable equity
22 and marketable debt securities, interests in money market funds and similar liquid investment, and
23 other similar items.

24 22. "**Cash Flow Note**" means the Secured Promissory Note in the original principal
25 amount of \$42 million, bearing interest at a rate of 3.75% per annum, and maturing on December
26 31, 2024, subject to the terms and conditions of the Plan Documents, such note to be issued by the
27 Reorganized Debtors as of the Effective Date and made payable to the Creditors' Trust solely for
28

1 the benefit of holders of Allowed General Unsecured Claims, a true and correct copy of which is
2 attached hereto as Exhibit "C."

3 23. **"Chase"** means secured creditor JP Morgan Chase.

4 24. **"Claim"** or **"Claims"** as defined in the Bankruptcy Code, section 101(5)(A) and
5 (B), means (a) any right to payment, whether or not such right is reduced to judgment, liquidated,
6 unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable,
7 secured or unsecured; or (b) any right to an equitable remedy for breach of performance if such
8 breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced
9 to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

10 25. **"Claim Bar Date"** means November 11, 2008 with respect to all Claims, except
11 for Claims of a Governmental Unit and Administrative Claims. With respect to Claims of a
12 Governmental Unit, Claim Bar Date shall mean December 29, 2008. With respect to
13 Administrative Claims, Claim Bar Date shall mean 30 days after the Effective Date.

14 26. **"Claim Objection Deadline"** means (a) 90 days after the Effective Date, unless
15 extended by an order of the Court, or (b) 30 days after the deadline for filing an Administrative
16 Claim, unless extended by an order of the Court.

17 27. **"Class"** means a group of Claims or Interests classified together in a class
18 designated in Article III of the Plan.

19 28. **"Collateral"** means the following, individually and collectively with respect to
20 Grantors: (a) all Proceeds, (b) any and all claims, deposits, prepayments, refunds, rebates, causes
21 of action, rights of recovery, rights of set-off and rights of recoupment relating to any of the
22 above-mentioned Proceeds (to the extent that such Proceeds constitute Gross Available Cash
23 Flow), but only as permitted by the Governing Documents and the Security Documents, and by
24 Applicable Law, (c) any and all substitutions, replacements, additions, accessions, products
25 derived or attributable with respect to any of the above-mentioned Collateral set forth herein, and
26 (d) "proceeds" (as defined in Section 9102(a)(62) of the UCC) from any and all of the foregoing;
27 provided, however, that any Cash distributed from the Control Account pursuant to and in
28 compliance with the terms and conditions of the Cash Flow Note and the other Security

1 Documents shall from and after the time of such release no longer constitute "Collateral" and shall
2 not be subject to the security interest granted herein.

3 29. "**Committee**" means the Official Committee of Unsecured Creditors appointed by
4 the Office of the United States Trustee in the Cases as it may be constituted from time to time.

5 30. "**Confirmation Date**" means the date of entry of the Confirmation Order.

6 31. "**Confirmation Hearing**" means the hearing to consider confirmation of the Plan
7 pursuant to section 1128 of the Bankruptcy Code, as it may be adjourned or continued from time
8 to time.

9 32. "**Confirmation Order**" means the order of the Court confirming the Plan pursuant
10 to section 1129 of the Bankruptcy Code.

11 33. "**Consolidation Order**" means the "Order Substantively Consolidating Chapter 11
12 Estate of Cameo Homes into Chapter 11 Estate of James C. Gianulias" entered by the Court on
13 December 11, 2008.

14 34. "**Countrywide**" means secured creditor Countrywide Home Loans, Inc.

15 35. "**Control Assets**" means the following assets, in which the Debtors' own a
16 controlling interest, and their respective successors or assigns: (a) Fountain Valley Senior
17 Housing, L.P.; (b) Placentia 422, LP; (c) River Knolls, LP; and (d) GVSC, LP.

18 36. "**Control Assets Budgets**" mean the annual budgets for operations of each of the
19 Control Assets to be established by agreement between the Debtors and the Committee as of the
20 Confirmation Date.

21 37. "**Control Account**" means a deposit account for deposit of Proceeds received by
22 the Debtors with a financial institution mutually acceptable to the Creditors' Trust, Robbins and
23 Debtors pursuant to which a Control Agreement and the Disbursing Agent Agreement, relating to
24 the ability of the Disbursing Agent and/or any other Person to make distributions of Proceeds from
25 such Control Account, shall govern.

26 38. "**Control Agreement**" means the deposit account control agreement mutually
27 acceptable to the Creditors' Trust, Robbins and Debtors concerning the Control Account.
28

1 39. **"Creditor"** means any holder of a Claim, as defined by the Bankruptcy Code,
2 section 101(10).

3 40. **"Creditors' Trust Agreement"** means that certain "Creditors' Trust Agreement," a
4 true and correct copy of which is attached hereto as Exhibit "A."

5 41. **"Creditors' Trust Trustee"** shall mean shall mean the Trustee of the Creditors'
6 Trust consisting of one (1) individual that is selected by the Committee.

7 42. **"Creditors' Trust"** means that trust established in accordance with section VII.F
8 hereof, and which, after the Effective Date, will hold and distribute certain assets and funds for the
9 benefit of holders of Allowed Claims in Class 3 in accordance with the terms of the Plan, and will
10 have such powers, duties and obligations as are set forth therein, in the Creditors' Trust
11 Agreement, in the Confirmation Order, in other Final Orders, and by applicable law.

12 43. **"Creditors' Trust Lien"** means the perfected security interest in the Collateral
13 granted to the Creditors' Trust to secure the Reorganized Debtors' obligations under the Cash
14 Flow Note, pursuant to the Plan Documents.

15 44. **"Debtors"** means, collectively, Gianulias and Cameo, whether as debtors or as
16 debtors-in-possession, and includes any successors and assigns thereof; provided, however, that,
17 by way of clarification solely with respect to any such successors and assigns, the following
18 Persons are expressly excluded as successors and assigns for purposes of this definition: any
19 Person who (A) is an Other Owner or (B) acquires any Ownership Interest and is not an Affiliate
20 of any Debtor; provided, however, nothing herein shall limit, affect or abridge the Holder's right
21 to consent to the sale, transfer and/or assignment of any Ownership Interest pursuant to the
22 provisions of Section 6(a)(2) of the Security Agreement or any remedies that Holder may have
23 under the Security Agreement for any breach of the provisions of Section 6(a)(2) of the Security
24 Agreement.

25 45. **"Disclosure Statement"** means the "Third Amended Disclosure Statement for
26 Debtors' Third Amended Plan of Reorganization (Dated May 12, 2010)" (and all exhibits and
27 attachments thereto or referenced therein) that relates to the Plan and is approved pursuant to
28

1 section 1125 of the Bankruptcy Code in an order entered by the Court, as such Disclosure
2 Statement may be amended, modified or supplemented.

3 46. **"Disbursing Agent"** means mean the Grantor Disbursing Agent or an authorized
4 successor not controlled by Grantors and appointed as provided in the Disbursing Agent
5 Agreement.

6 47. **"Disbursing Agent Agreement"** means that certain Disbursing Agent Agreement, a
7 true and correct copy of which is attached hereto as Exhibit "F."

8 48. **"Dispute Resolution Procedure"** means the procedures set forth in the Plan
9 Documents to address all determinations and conflicts and otherwise resolve any disputes arising
10 between the Debtors and the Committee or the Reorganized Debtors and the Creditors' Trust in
11 connection with the Plan Documents and/or the terms or interpretation of the Plan Documents,
12 including, without limitation, the determination of a default under the Plan Documents, and the
13 resolution of any dispute concerning the Control Assets Budgets, established in accordance with
14 the terms set forth in section VII.J of the Plan and/or the Plan Documents, but excluding any
15 dispute regarding whether the Creditors' Trust has been overpaid by the Disbursing Agent.

16 49. **"Disputed Claim"** means, with reference to any Claim, (a) any Claim, (i) proof of
17 which was not timely or properly filed by the Claim Bar Date and that has been or hereafter is
18 listed on the Schedules as unliquidated, disputed or contingent, or (ii) that is not listed in the
19 Schedules; or (b) any Claim as to which the Debtors or any other party in interest has filed an
20 objection or request for estimation on or before such limitation period fixed by the Plan, the
21 Bankruptcy Code, the Bankruptcy Rules or the Court, except to the extent that such objection or
22 request for estimation is withdrawn or determined by a Final Order in favor of the holder of such
23 Claim.

24 50. **"Disputed Claims Reserve"** has the meaning set forth in section VII.F.11 hereof.

25 51. **"Distribution Fund"** means the proceeds to be collected by the Creditors' Trust
26 Trustee for distribution to Creditors in Class 3 pursuant to the Plan, including the proceeds of the
27 Cash Flow Note and the Secondary Note.
28

1 52. ***“Effective Date”*** means the first Business Day following the date the Confirmation
2 Order becomes a Final Order.

3 53. ***“Entity”*** means an individual, a corporation, a general partnership, a limited
4 partnership, a limited liability company, a limited liability partnership, an association, a joint stock
5 company, a joint venture, an estate, a trust, an unincorporated organization, a government or any
6 subdivision thereof.

7 54. ***“Estate”*** means, with respect to any Debtor, the estate created by section 541(a) of
8 the Bankruptcy Code upon the Petition Date.

9 55. ***“Equity Interest”*** means any (1) partnership interest, (2) membership interest, (3)
10 shareholder interest or other ownership or equity interest, and/or (4) economic or other interest
11 owned or held by Debtors in any Portfolio Entity or Intermediate Entity.

12 56. ***“Final Claim Order”*** means a Final Order regarding an objection to and/or
13 allowance of a Claim.

14 57. ***“Final Order”*** means an order or judgment of the Court the operation or effect of
15 which has not been stayed, and as to which the time to appeal or to seek reargument or rehearing
16 has passed, and as to which no appeal, reargument, or petition for rehearing or certiorari has been
17 taken or is pending.

18 58. ***“Gap Claims”*** means Claims arising between the Petition Date and the Order for
19 Relief Date which are accorded priority in right of payment under section 507(a)(3) of the
20 Bankruptcy Code.

21 59. ***“General Unsecured Claims”*** means those Claims included in Class 3 herein.

22 60. ***“Gianulias”*** means James C. Gianulias, an individual, and includes any heirs,
23 successors and assigns thereof; provided, however, that, by way of clarification solely with respect
24 to any such successors and assigns, the following Persons are expressly excluded as successors
25 and assigns for purposes of this definition: any Person who (A) is an Other Owner or (B) acquires
26 any Ownership Interest and is not an Affiliate of any Debtor; provided, however, nothing herein
27 shall limit, affect or abridge the Holder’s right to consent to the sale, transfer and/or assignment of
28 any Ownership Interest pursuant to the provisions of Section 6(a)(2) of the Security Agreement or

1 any remedies that Holder may have under the Security Agreement for any breach of the provisions
2 of Section 6(a)(2) of the Security Agreement.

3 61. ***"Gianulias Trust"*** means The James Chris Gianulias Trust executed December 22,
4 1998, and amended in its entirety October 14, 2003, and shall include all successors and assigns
5 thereof; provided, however, that, by way of clarification solely with respect to any such successors
6 and assigns, the following Persons are expressly excluded as successors and assigns for purposes
7 of this definition: any Person who (A) is an Other Owner or (B) acquires any Ownership Interest
8 and is not an Affiliate of any Debtor; provided, however, nothing herein shall limit, affect or
9 abridge the Holder's right to consent to the sale, transfer and/or assignment of any Ownership
10 Interest pursuant to the provisions of Section 6(a)(2) of the Security Agreement or any remedies
11 that Holder may have under the Security Agreement for any breach of the provisions of Section
12 6(a)(2) of the Security Agreement.

13 62. ***"Governmental Unit"*** has the meaning ascribed to such term in section 101(27) of
14 the Bankruptcy Code.

15 63. ***"Governing Documents"*** means the certificate or articles of incorporation, by-
16 laws, operating agreement, partnership agreement or other organizational or governing documents
17 of any Portfolio Entity and/or Intermediate Entity.

18 64. ***"Grantor"*** means Gianulias, the Gianulias Trust, Cameo, and any Parent,
19 Subsidiary, Affiliate, heir, successor and/or assign of any of the foregoing; providing, however,
20 that, for purposes hereof, the term "Grantors" shall (a) only include any Affiliate, successor or
21 assign that holds, directly or indirectly, from time to time, an Ownership Interest in and to the
22 Portfolio Interest and to the Portfolio Entities and/or Intermediate Entities, and (b) expressly
23 exclude the Portfolio Entities and the Intermediate Entities, and those successors and assigns
24 expressly excluded from the definition of Debtor pursuant to Section 2(w) of the Cash Flow Note.

25 65. ***"Gross Available Cash Flow"*** means Cash received by Debtors from or in
26 connection with any Ownership Interest (including any adjustments set forth in Section 4(b) of the
27 Cash Flow Note), including, without limitation, any Cash resulting from the ownership,
28 hypothecation, sale, financing or other transfer, whether in whole or in part and regardless of form,

1 with respect to any and all rights in and to the Ownership Interests and/or Collateral; provided,
2 however, that, with respect to a sale, financing or other transfer as contemplated above, Gross
3 Available Cash Flow shall be net of all reasonable fees, costs and expenses which are (1) directly
4 related to such sale, financing or transfer transaction, and (2) paid to Persons other than Debtors or
5 their Affiliates, or, upon the Holder's prior written consent, paid to Debtors or their Affiliates. By
6 way of illustration and not of limitation, Gross Available Cash Flow shall include Cash received
7 by or on behalf of Debtors from any Portfolio Entity, any Intermediate Entity in connection with
8 any Ownership Interest, and/or from any Person that (i) acquires any or all of the Ownership
9 Interests or Collateral or otherwise acquires any rights in and thereto, and/or (ii) provides any
10 financing (regardless of form, and including, without limitation, any loans or other consideration)
11 to or for the benefit of Debtors in connection with the Ownership Interests and/or the Collateral.

12 66. **"Gus Gianulias"** means secured creditor Gus Gianulias, as an individual and as a
13 trustee of the Gus C. and Julie M. Gianulias Family Revocable Trust established January 20, 1983
14 and all amendments thereto.

15 67. **"Holder"** means the Creditors' Trust Trustee, on behalf of the Creditors' Trust, or
16 any successor or assign thereof.

17 68. **"Initial Distribution Date"** means the first Business Day on which a distribution is
18 made under the Plan to holders of Allowed Claims in Class 3.

19 69. **"Insider"** as defined in section 101(31) of the Bankruptcy Code, means (a) a
20 director of a Debtor; (b) an officer of a Debtor; (c) a person in control of a Debtor; (d) a
21 partnership in which a Debtor is a general partner; (e) a general partner of a Debtor; (f) a relative
22 of a general partner in, general partner of, or person in control of a Debtor; (g) an affiliate (as
23 defined in section 101(2) of the Bankruptcy Code) of a Debtor, or an Insider of an affiliate as if
24 such affiliate were a Debtor; and (h) a managing agent of a Debtor.

25 70. **"Inter-Debtor Claim"** means any Claim held by one of the Debtors against the
26 other Debtor, including, without limitation, (a) any account reflecting intercompany book entries
27 by such Debtor with respect to the other Debtor, (b) any Claim not reflected in book entries that is
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1 held by a Debtor against the other Debtor, and (c) any derivative Claim asserted or assertable by or
2 on behalf of such Debtor against the other Debtor.

3 71. **"Interest"** means (a) the membership interests or any ownership rights in Cameo,
4 and (b) any right or option, however arising, to acquire membership interests or any other equity
5 interest, or any rights therein, of Cameo.

6 72. **"Interest in the Creditors' Trust"** means the beneficial interests in the Creditors'
7 Trust on or after the Effective Date in accordance with section VII.F of the Plan.

8 73. **"Interest Holder"** means the holder of an Interest on or before the date of the
9 Confirmation Hearing.

10 74. **"Intermediate Entities"** means the (a) the following entities: Fountain Valley
11 Senior Housing II, LLC, Parkewood Village, LLC, Park Glen, LLC, Park Mesa, LLC, Picadilly
12 Square, LLC, River Knolls, LLC, Villa Buena, LLC, Emerald Isle (Placentia), LP, Emerald Isle
13 (Placentia), LLC, Placentia 422, LLC, Grass Valley Shopping Center, LLC, and Dana Centre,
14 LLC; and (b) and/or any new or additional entities that directly or indirectly have or hold an
15 Ownership Interest in and to a Portfolio Entity, and which are directly or indirectly owned from
16 time to time by Debtors, and any successors, transferees or assigns in connection therewith.

17 75. **"Mediator"** means the Honorable Mitchel Goldberg (Ret.). If, for any reason,
18 Judge Goldberg is unable to serve as the Mediator, the Mediator shall be an individual mutually
19 agreed upon by the parties involved in the dispute using the following procedure: (i) each party
20 may propose the names of five neutral, qualified individuals to serve as Mediator; (ii) each party
21 may strike three names from the opposing party's list peremptorily; and (iii) the parties shall then
22 mutually select one of the remaining four individuals to serve as Mediator. To the extent that the
23 parties are unable to mutually agree on a Mediator, the parties shall request that the Court appoint
24 a Mediator from the list of the remaining four individuals.

25 76. **"Mesa Management"** means Mesa Management, Inc., and shall include(1) its
26 successors and assigns, with respect to ownership and/or control, (2) any Affiliate of any Debtor
27 who succeeds Mesa Management as the entity that provides management services or functions to
28

1 any of the Portfolio Entities and/or the Intermediate Entities, and (3) any Person appointed as
2 successor manager by Debtors.

3 77. **"National Bank"** means secured creditor National Bank of Arizona.

4 78. **"Negative Pledge"** means that certain Negative Pledge, a true and correct copy of
5 which is attached hereto as Exhibit "G."

6 79. **"Order for Relief Date"** means July 2, 2008, the date on which the Court entered
7 its "Order on Debtor's Election to Convert Chapter 7 Case to a Case Under Chapter 11 of the
8 Bankruptcy Code" for each Debtor.

9 80. **"Other Owner"** means any Person that holds or owns a Venture Interest and is not
10 an Affiliate of Debtors.

11 81. **"Ownership Interest"** means, subject to the terms and conditions (including any
12 adjustments) of Section 4(b) of the Cash Flow Note: (1) any Equity Interest as of the date of
13 execution of the Cash Flow Note, (2) any and all replacement, exchange or substitution with
14 respect thereto, and/or (3) any and all distributions of any Equity Interest (of whatsoever kind and
15 nature) issued and/or distributed on account of any Ownership Interests; provided, however, that
16 (i) the term "Ownership Interest" shall not include an Equity Interest (of whatsoever kind and
17 nature) sold, transferred or assigned (but not encumbered) by Debtors to any Person, including,
18 without limitation, in connection with the dilution of any Debtor's Equity Interest.

19 Notwithstanding the foregoing, if (A) an Ownership Interest in a Portfolio Entity or Intermediate
20 Entity is reduced by means of dilution resulting from a Capital Call Transaction (as defined in the
21 Security Agreement), subject to the terms and conditions under any Governing Document, and (B)
22 Debtors subsequently acquire a Venture Interest pursuant to Section 4(b)(3) of the Cash Flow
23 Note by means of Debtors' making a loan to, or otherwise acquiring a Venture Interest in and to,
24 such Portfolio Entity or Intermediate Entity, the term "Ownership Interest" in such Portfolio
25 Entity or Intermediate Entity shall include the Venture Interest so reacquired in an amount not to
26 exceed the Equity Interest lost to dilution. Anything to the contrary contained herein
27 notwithstanding, the parties acknowledge and agree that Debtors may not use Collateral to
28 purchase or acquire any Ownership Interests, including, without limitation, any rights in and to

1 Ownership Interests or Venture Interests of whatsoever kind and nature, without the prior written
2 consent of Holder in its sole and absolute discretion.

3 82. ***"Pacific Mercantile"*** means secured creditor Pacific Mercantile Bank.

4 83. ***"Pacific Mercantile Note"*** means that certain promissory note dated as of October
5 26, 2005, in the original principal sum of \$2 million (as subsequently modified to \$3 million),
6 executed by Gianulias.

7 84. ***"Person"*** means any individual, corporation, partnership, limited liability
8 company, association, indenture trustee, organization, joint stock company, joint venture, estate,
9 trust, governmental unit or any political subdivision thereof, or any other entity.

10 85. ***"Petition Date"*** means June 6, 2008.

11 86. ***"Plan"*** means this "Debtors' Third Amended Plan of Reorganization (Dated May
12 12, 2010)" (including all exhibits and attachments, each of which is hereby incorporated and made
13 part of the Plan), as modified or amended from time to time in accordance with section 1127 of the
14 Bankruptcy Code.

15 87. ***"Plan Documents"*** means, collectively, the Creditors' Trust Agreement, the Cash
16 Flow Note, the Secondary Note, the Security Agreement, the Disbursing Agent Agreement, the
17 Control Agreement, the Negative Pledge and the Written Instructions.

18 88. ***"Portfolio Entities"*** means the following Entities: (a) East Coast Properties –
19 Country Gardens, a New York General Partnership; (b) East Coast Properties – Grenadier Village,
20 a New York General Partnership; (c) East Coast Properties – Country Estates, a New York
21 General Partnership; (d) East Coast Properties – Woodwind Gardens, a New York General
22 Partnership; (e) Fountain Valley Senior Housing, LP, a California limited partnership; (f) LG
23 Parkewood Village, LP, a California limited partnership; (g) Park Glen, LP, a California limited
24 partnership; (h) Park Mesa, LP, a California limited partnership; (i) Piccadilly Square, LP, a
25 California limited partnership; (j) Placentia 422, LP, a California limited partnership; (k) River
26 Knolls, LP, a California limited partnership; (l) Villa Buena, LP, a California limited partnership;
27 (m) Coast Business Center (Coast Business Center, LP, a California limited partnership); (n)
28 Crown Building (Crown Building, LLC, a California limited liability company); (o) Dana Centre,

1 a California general partnership; (p) Dana Center, LP, a California limited partnership; (q)
2 Greenhaven Plaza, a California general partnership; (r) GVSC, LP, a California limited
3 partnership; (s) Lahaina Cannery Mall, LLC, a Hawaii limited liability company; (t) Lucas-
4 Gianulias, a California limited partnership; and (u) Sunrise Village, LP, a California limited
5 partnership, and any successors, transferees and assigns of any of the foregoing.

6 89. **"Priority Payments"** means the following items, in such order of priority as set
7 forth in the Plan: (a) the following payments to Robbins on account of, and in full satisfaction of
8 her secured claim with respect to Debtors: (1) \$1,000,000 in the first year following the Effective
9 Date (83,333.33 per month), (2) \$1,200,000 in the second year following the Effective Date
10 (\$100,000 per month), (3) \$1,200,000 in the third year following the Effective Date (\$100,000 per
11 month), (4) \$1,200,000 in the fourth year following the Effective Date (\$100,000 per month), and
12 (5) \$1,251,481 in the fifth year following the Effective Date, representing the remaining balance
13 owing to Robbins in connection with her claim in the Cases (\$104,290.08 per month); (b) the
14 payment of \$1,800,000 per year in each of the first and second year following the Effective Date
15 to Debtors (\$150,000 per month); (c) payment of all Allowed Administrative Claims, Allowed
16 Gap Claims, Allowed Priority Claims, and Allowed Priority Tax Claims incurred in the Cases; and
17 (d) the payment of all Adjusted Income Taxes, subject to the terms and conditions as set forth in
18 Section 5(b) of the Cash Flow Note.

19 90. **"Proceeds"** means Gross Available Cash Flow and any other Cash received by
20 Grantors from time to time from any Collateral identified in subsections (b), (c) and (d) of the
21 definition of Collateral set forth above.

22 91. **"Projection"** means the projection prepared by the Debtors estimating cash flow
23 generated by the Portfolio Entities and the payments on account of the Cash Flow Note, which is
24 intended as a guide only and is not a guarantee of any specific payment stream, and attached to the
25 Disclosure Statement as Exhibit 2.

26 92. **"Priority Claim"** means a Claim other than an Administrative Claim or a Tax
27 Claim which, if allowed, would be entitled to priority under section 507(a) of the Bankruptcy
28 Code.

1 93. **"Priority Tax Claim"** means a Claim entitled to priority under section 507(a)(8) of
2 the Bankruptcy Code.

3 94. **"Pro Rata"** means proportionately. Distributions to holders of Allowed Claims in
4 a Class are Pro Rata when the ratio of (a)(i) the amount of Cash distributed on account of each
5 such Allowed Claim to (ii) the amount of such Claim, is the same as the ratio of (b)(i) the amount
6 of Cash distributed on account of all Allowed Claims of the Class in which such Claim is included
7 to (ii) the amount of all Allowed Claims in that Class. Allocations to holders of Allowed and
8 Disputed Claims in a Class are Pro Rata when (a)(i) the amount of property allocated to each such
9 Claim to (ii) the amount of such Claim, is the same as the ratio of (b)(i) the amount of property
10 allocated to all Allowed and Disputed Claims of the Class to (ii) the total amount of all Claims
11 (including Disputed Claims) in that Class.

12 95. **"Professionals"** means those Entities (a) employed in the Cases under sections 327
13 or 1103 of the Bankruptcy Code, and (b) entitled, under sections 328, 330, 331, 503(b), 506(b),
14 507(a)(2) of the Bankruptcy Code, to seek compensation for legal, accounting or other
15 professional services and the costs and expenses related to such services from the Debtors or the
16 Estates.

17 96. **"Recovery Rights"** means any and all manner of causes of action, claims,
18 obligations, suits, debts, judgments and demands whatsoever, whether in law or in equity,
19 including, but not limited to, actions to subordinate Claims under Section 510 of the Bankruptcy
20 Code and avoidance power actions set forth in Sections 544 through 550, inclusive, of the
21 Bankruptcy Code.

22 97. **"Rejection Damages Deadline"** means the later of the Claim Bar Date, or thirty
23 (30) days after the entry of an order approving the rejection of an executory contract or unexpired
24 lease.

25 98. **"Reorganized Debtors"** means the Debtors, or any successors, heirs or assigns with
26 respect thereto, including, without limitation, any successors by merger, consolidation, intestacy
27 or otherwise, on and after the Effective Date; provided, however, that, by way of clarification
28 solely with respect to any such successors and assigns, the following Persons are expressly

1 excluded as successors and assigns for purposes of this definition: any Person who (A) is an Other
2 Owner or (B) acquires any Ownership Interest and is not an Affiliate of any Debtor; provided,
3 however, nothing herein shall limit, affect or abridge the Holder's right to consent to the sale,
4 transfer and/or assignment of any Ownership Interest pursuant to the provisions of Section 6(a)(2)
5 of the Security Agreement or any remedies that Holder may have under the Security Agreement
6 for any breach of the provisions of Section 6(a)(2) of the Security Agreement.

7 99. **"Robbins"** means secured creditor Marilyn Gianulias Robbins, an individual.

8 100. **"Schedules"** means the schedules of assets and liabilities, statements of financial
9 affairs, and lists of holders of Claims and Equity Interests filed with the Court by each of the
10 Debtors, including any amendments or supplements thereto.

11 101. **"Secondary Note"** means the promissory note in the original principal amount of
12 \$5 million, which shall not bear interest, and maturing on December 31, 2025, to be issued by the
13 Reorganized Debtors as of the Effective Date and made payable to the Creditors' Trust solely for
14 the benefit of holders of Allowed General Unsecured Claims, a true and correct copy of which is
15 attached hereto as Exhibit "D."

16 102. **"Secured Claim"** means a Claim secured by a lien on any property of any of the
17 Estates, but only to the extent of the value of the interest of the holder of such Allowed Claim in
18 the interest of the Estate in such property, the calculation of which shall not include any demand
19 for default interest, penalty interest or other similar demands.

20 103. **"Security Agreement"** means that certain Security Agreement, a true and correct
21 copy of which is attached hereto as Exhibit "E."

22 104. **"Subordinated Claims"** means: (a) any Claim, or a portion of a Claim, that is
23 subject to subordination under section 510 of the Bankruptcy Code, and (b) any Claim, or portion
24 of a Claim, for fines, penalties, forfeitures, or for multiple, exemplary, or punitive damages, or
25 other non-pecuniary, direct or non-proximate damages.

26 105. **"Subsidiary"** means any corporation, limited liability company, partnership, trust
27 or other entity (whether now existing or hereafter organized or acquired) of which any Debtor or
28 one or more Subsidiaries of any Debtor at the time owns or controls directly or indirectly more

1 than fifty percent (50%) of the shares of stock or partnership or other ownership interest having
2 general voting power under ordinary circumstances to elect a majority of the board of directors,
3 managers or trustees or otherwise exercising control of such corporation, limited liability
4 company, partnership, trust or other entity (irrespective of whether at the time stock or any other
5 form of ownership of any class or classes shall have or might have voting power by reason of the
6 happening of any contingency.

7 106. **"Tax Code"** means title 26 of the United States Code, as amended from time to
8 time.

9 107. **"Term Sheet"** means the Binding Term Sheet entered into by Gianulias, Cameo
10 and the Committee in October 2009, which formed the basis for further negotiations to agree to a
11 series of documents which implement the Plan terms agreed to by the Debtors and the Committee.

12 108. **"Treasury Regulations"** means final and temporary regulations promulgated by the
13 U.S. Treasury Department in respect of the Tax Code.

14 109. **"UCC"** means the Uniform Commercial Code as adopted and in effect in the State
15 of California from time to time.

16 110. **"Unclaimed Property"** means any funds or other Property to be distributed to
17 Creditors pursuant to the Plan, which, after an attempted distribution, has not been received by the
18 rightful Creditor. Unclaimed property shall include checks and any other property that have been
19 returned as undeliverable without a proper forwarding address, or which were not mailed or
20 delivered because of the absence of a proper address to which to mail or deliver such property.
21 Such Unclaimed Property that remains unclaimed at the end of one (1) year following the date of
22 an attempted distribution shall be reallocated and paid to other holders of Allowed Claims in
23 accordance with the Plan. After the expiration of one (1) year following the date of an attempted
24 distribution, each Claim with respect to Unclaimed Property shall be treated as if it had been
25 disallowed in its entirety.

26 111. **"United States Trustee"** means the United States Trustee for the District of
27 California.
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1 112. *"Venture Interest"* means any partnership interest, membership interest,
2 shareholder interest or other ownership or equity interest and/or economic or other interest in a
3 Portfolio Entity and/or Intermediate Entity.

4 113. *"Voting Deadline"* means _____, 2010, or such other deadline established by
5 the Bankruptcy Court for parties in interest entitled to vote to submit their ballots accepting or
6 rejecting the Plan.

7 114. *"Wells Fargo"* means secured creditor Wells Fargo Bank.

8 115. *"Written Instructions"* means that certain Form of Written Direction, a true and
9 correct copy of which is attached hereto as Exhibit "H."

10 **B. Rules of Interpretation, Construction, and Computation of Time**

11 1. Any term used in the Plan that is not defined herein, whether in this Article or
12 elsewhere, or other exhibits hereto, but that is used in the Bankruptcy Code or the Bankruptcy
13 Rules has the meaning ascribed to that term in (and shall be construed in accordance with the rules
14 of construction under) the Bankruptcy Code or the Bankruptcy Rules.

15 2. Any capitalized term used in the Plan that is not defined herein, or other exhibits
16 hereto, but that is defined and used in the Disclosure Statement has the meaning ascribed to that
17 term in the Disclosure Statement.

18 3. The words "herein," "hereof," "hereto," "hereunder" and others of similar import
19 refer to the Plan as a whole and not to any particular article, section, subsection or clause
20 contained in the Plan.

21 4. Unless specified otherwise in a particular reference, a reference to an article or a
22 section is a reference to that article or section of the Plan.

23 5. Any reference in the Plan to a document being in a particular form or on particular
24 terms and conditions means that the document shall be substantially in such form or substantially
25 on such terms and conditions.

26 6. Any reference in the Plan to an existing document means such document, as it may
27 have been amended, modified or supplemented from time to time as of the Effective Date.
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7. Whenever from the context it is appropriate, each term stated in either the singular or the plural shall include both the singular and the plural.

8. The rules of construction set forth in section 102 of the Bankruptcy Code shall apply to the Plan.

9. In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

10. All exhibits to the Plan are incorporated into the Plan, and shall be deemed to be part of the Plan.

11. The provisions of the Plan shall control over the contents of the Disclosure Statement. The provisions of the Confirmation Order shall control over the contents of the Plan.

12. Unless otherwise specified in the Plan, whenever a distribution of property must be made, or an act required on a particular date, the distribution or act shall occur on such date, or as soon as practicable thereafter.

ARTICLE III

PAYMENT OF ADMINISTRATIVE EXPENSES

AND TREATMENT OF CERTAIN UNCLASSIFIED CLAIMS

A. Summary

Pursuant to section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Claims for Professional Fees and Priority Tax claims against the Debtors are not classified for purposes of voting on, or receiving distributions under, the Plan. Holders of such Claims are not entitled to vote on the Plan. All such Claims are instead treated separately in accordance with this Article III and in accordance with the requirements set forth in section 1129(a)(9)(A) of the Bankruptcy Code.

B. Administrative Claims

Subject to section 330(a) and 331 of the Bankruptcy Code and the bar date provisions of paragraph C of this Article III, on the later of the Effective Date, or as soon thereafter as practical, or the date on which the Administrative Claim is allowed, the Debtors will pay to each Creditor holding an Allowed Administrative Claim, unless that Creditor agrees to different treatment, Cash

1 equal to the unpaid portion of such Allowed Administrative Claim; *provided, however*, that
2 Allowed Administrative Claims representing obligations incurred in the ordinary course of
3 business or otherwise assumed by the Debtors pursuant to this Plan and unpaid as of the Effective
4 Date, shall be assumed on the Effective Date and paid or performed by the Debtors when due in
5 accordance with the terms and conditions of the particular agreements governing such obligations.

6 **C. Bar Date For Administrative Claims**

7 All applications for final compensation of Professionals for services rendered and for
8 reimbursement of expenses incurred on or before the Effective Date, and any other request for
9 compensation by any Entity for making a substantial contribution in the Cases, and all other
10 requests for payment of an Administrative Claim incurred before the Effective Date under sections
11 507(a)(2) or 503(b) of the Bankruptcy Code (except only for Claims under 28 U.S.C. § 1930) shall
12 be filed no later than thirty (30) days after the Effective Date.

13 Any Administrative Claim required to be filed within the foregoing deadlines that is not
14 filed within such deadlines shall be forever barred and the Debtors shall be discharged of any
15 obligation on such Claim. Any Creditor required to file a request for payment of such Claim and
16 who does not file such request by the applicable bar date shall be forever barred from asserting
17 such Claim against the Estates or the Debtors, or any of their respective properties.

18 **D. Payment of Allowed Administrative Claims of Professionals**

19 The Allowed Administrative Claims of Professionals shall not be paid in full on the
20 Effective Date. Instead, Allowed Administrative Claims of Professionals shall be paid, Pro Rata,
21 from the cash generated by the Portfolio Entities and Intermediate Entities and received by the
22 Reorganized Debtors, subject to the payment of \$1.8 million annually to the Reorganized Debtors
23 in the first and second year following the Effective Date and the payments to be made to Robbins
24 on account of her Secured Claim as set forth herein. All Professionals have agreed to this deferral.

25 **E. Payment of Priority Tax Claims**

26 Each holder of an Allowed Priority Tax Claim against the Debtors shall receive, on the
27 Effective Date, in full satisfaction, release, and discharge of such Allowed Priority Tax Claim, at
28 the election of the Debtors, either: (i) Cash payment in the amount of the holder's Allowed

1 Priority Tax Claim; (ii) deferred Cash payments over a period not to exceed five (5) years, from
2 the Petition Date, equal to the Allowed amount of such claim; (iii) in a manner not less favorable
3 than the most favored nonpriority unsecured claim provided for by the Plan; or (iv) such other
4 terms as may be agreed upon by such holder and the Debtors. The rate of interest to be paid on
5 Priority Tax Claims paid out over a period not to exceed five (5) years from the Petition Date shall
6 be equal to the underpayment rate specified in 26 U.S.C. § 6621 (determined without regard to 26
7 U.S.C. § 6621(c)) as of the Effective Date or such higher rate as required by 11 U.S.C. § 511(a).

8 Holders of Allowed Priority Tax Claims shall not be entitled to receive any payment on
9 account of post-Petition Date interest on, or penalties with respect to or arising in connection with,
10 such Priority Tax Claims, except as allowed by the Court, and all Claims or demands by holders of
11 Priority Tax Claims for post-Petition Date interest or penalties thereon, except as may be allowed
12 by the Court, shall be disallowed by the Plan and the Confirmation Order, and the holders of
13 Priority Tax Claims shall not assess or attempt to collect interest or penalties from the Estates or
14 their properties.

15 **F. Payment of Gap Claims**

16 Each holder of an Allowed Gap Claim shall receive in full satisfaction of such holder's
17 Allowed Claim (a) the amount of such holder's Allowed Claim in one cash payment on the
18 Effective Date, or as soon thereafter as practical, or (b) such other treatment as may be agreed
19 upon in writing by such holder.

20 **ARTICLE IV**

21 **CLASSIFICATION OF CLAIMS AND INTERESTS**

22 **A. Manner of Classification of Claims and Interests**

23 Except for Claims of a kind specified in sections 507(a)(2) or 507(a)(8) of the Bankruptcy
24 Code, all Claims against, and Interests in the Debtors and with respect to all property of the
25 Debtors and the Estates, are defined and hereinafter designated in respective Classes. The Plan is
26 intended to deal with all Claims against and Interests in the Debtors, of whatever character,
27 whether known or unknown, whether or not with recourse, whether or not contingent or
28 unliquidated, and whether or not previously allowed by the Court pursuant to section 502 of the

1 Bankruptcy Code. Only holders of Allowed Claims, however, will receive any distribution under
2 the Plan. For purposes of determining Pro Rata distributions to holders of Allowed Claims under
3 the Plan, Disputed Claims shall be included in the Class in which such Claims would be included
4 if they were Allowed Claims.

5 **B. Classification**

6 Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of the
7 classes of Claims and Interests in the Debtors. A Claim or Interest is placed in a particular Class
8 only to the extent such Claim or Interest is an Allowed Claim or Interest in that Class and such
9 Claim or Interest has not been paid, released, or otherwise settled or paid prior to the Effective
10 Date. Any Claims not described in Article IV of this Plan are unclassified, and therefore, are not
11 included in the Classes below. The Allowed Claims and Interests, except for Claims described
12 above and which are not required to be classified pursuant to section 1123(a)(1) of the Bankruptcy
13 Code, are divided into the following Classes.

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SUMMARY OF CLASSIFICATION

<u>Class</u>	<u>Status</u>	<u>Voting Rights</u>
Class 1A: Secured Claims of Pacific Mercantile	Impaired	Entitled to Vote
Class 1B-1: Secured Claim of Wells Fargo on Account of the Colorado Note	Impaired	Entitled to Vote
Class 1B-2: Secured Claim of Wells Fargo on Account of the Hawaii Note	Impaired	Entitled to Vote
Class 1C: Secured Claims of National Bank	Unimpaired	Deemed Accepted; Not Entitled to Vote
Class 1D: Secured Claims of Robbins	Impaired	Entitled to Vote
Class 1E: Secured Claims of Gus Gianulias	Unimpaired	Deemed Accepted; Not Entitled to Vote
Class 1F: Secured Claims of Countrywide	Impaired	Entitled to Vote
Class 1G: Secured Claims of Chase	Unimpaired	Deemed Accepted; Not Entitled to Vote
Class 1H: Other Secured Claims	Unimpaired	Deemed Accepted; Not Entitled to Vote
Class 2: Priority Claims	Unimpaired	Deemed Accepted; Not Entitled to Vote
Class 3: General Unsecured Claims	Impaired	Entitled to Vote
Class 4: Inter-Debtor Claims	Impaired	Entitled to Vote
Class 5: Subordinated Claims	Unimpaired	Deemed Accepted; Not Entitled to Vote
Class 6: Interests in Cameo	Unimpaired	Deemed Accepted; Not Entitled to Vote

ARTICLE V

TREATMENT OF CLAIMS AND INTERESTS

A. Class 1A ~ Secured Claims of Pacific Mercantile

Class 1A consists of all Secured Claims of Pacific Mercantile.

Except to the extent that Pacific Mercantile agrees to a different treatment, Pacific

Mercantile's Note shall be modified as follows:

- 1 1. Principal Amount. The Pacific Mercantile Note shall have a principal amount
2 equal to the principal balance as of the Petition Date, plus all amounts that have accrued on the
3 Pacific Mercantile Note through and including the Effective Date.
- 4 2. Interest. Simple interest shall accrue on the unpaid principal balance of the Pacific
5 Mercantile Note at the rate of 5.5% per annum.
- 6 3. Payments. The first monthly payment under the Pacific Mercantile Note will be
7 due on the fifteenth (15th) day of the first calendar month following the Effective Date and will be
8 in an amount equal to the interest accrued on the Pacific Mercantile Note from the Effective Date
9 through the end of the calendar month in which the Effective Date occurs. Thereafter, until
10 maturity, a monthly payment will be due on the fifteenth (15th) day of each successive month in
11 an amount equal to the interest accrued on the unpaid principal balance of the Pacific Mercantile
12 Note during the previous month.
- 13 4. Maturity. The maturity date of the Pacific Mercantile Note shall be extended, and
14 the Pacific Mercantile Note will be due and payable in full on the last Business Day of the 84th
15 calendar month after the Effective Date.
- 16 5. Pre-Payment. At any time after the Effective Date, without penalty or premium,
17 the Pacific Mercantile Note may be prepaid, in whole or in part, in the sole discretion of the
18 Reorganized Debtors provided, however, that pre-payment cannot act to impact payments due to
19 the Creditors' Trust.
- 20 6. Retention of Collateral. Except to the extent inconsistent herewith or with the law,
21 the validity and priority of the security interest securing the Pacific Mercantile Note shall remain
22 in full force and effect following the Effective Date.

23 To the extent that a Creditor in Class 1A does not hold an Allowed Secured Claim, such
24 Claim, if it becomes an Allowed Claim, shall be included in Class 3.

25 **Class 1A is impaired under the Plan.**

26 **B. Class 1B ~ Secured Claims of Wells Fargo**

27 Class 1B consists of all Secured Claims of Wells Fargo. Wells Fargo's Secured Claims
28 arise from two promissory notes, secured by two properties: (1) a property located at 747 S.

1 Galena, Aspen, Colorado (the "Colorado Property"); and (2) a property located at 13 Coconut
2 Grove Lane, Lahaina, Hawaii (the "Hawaii Property"). The note secured by the Colorado
3 Property shall be referred to below as the Colorado Note, the note secured by the Hawaii Property
4 shall be referred to below as the Hawaii Note and collectively the modified Hawaii Note and the
5 Colorado Note shall be referred to as the Wells Fargo Notes.

6 (a) Class 1B-1: the Colorado Note

7 Class 1B-1 consists of the Secured Claims of Wells Fargo arising from the Colorado Note.
8 Except to the extent that Wells Fargo agrees to a different treatment, the Colorado Note shall be
9 modified as follows:

10 1. Principal Amount. The Colorado Note shall have a principal amount equal to the
11 principal balance as of the Petition Date, plus all amounts that have accrued on the Colorado Note
12 through and including the Effective Date.

13 2. Interest. Simple interest shall accrue on the unpaid principal balance of the
14 Colorado Note at the rate of a 5.75% per annum.

15 3. Payments. The first monthly payment under the Colorado Note will be due on the
16 fifteenth (15th) day of the first calendar month following the Effective Date and will be in an
17 amount equal to (a) the interest accrued on the Colorado Note from the Effective Date through the
18 end of the calendar month in which the Effective Date occurs plus (b) principal calculated on the
19 basis of a 30-year amortization schedule. Thereafter, until maturity, a monthly payment will be
20 due on the fifteenth (15th) day of each successive month in an amount equal to (a) the interest
21 accrued on the unpaid principal balance of the Colorado Note during the previous month plus (b)
22 an installment of principal calculated on the basis of a 30-year amortization schedule.

23 4. Maturity. The maturity date of the Colorado Note shall be extended, and the
24 Colorado Note will be due and payable in full on the last Business Day of the 180th calendar
25 month after the Effective Date.

26 5. Pre-Payment. At any time after the Effective Date, without penalty or premium,
27 the Colorado Note may be prepaid, in whole or in part, in the sole discretion of the Reorganized
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1 Debtors provided, however, that pre-payment cannot act to impact payments due to the Creditors'
2 Trust.

3 6. Retention of Collateral. Except to the extent inconsistent herewith or with the law,
4 the validity and priority of the security interest securing the Colorado Note shall remain in full
5 force and effect following the Effective Date.

6 To the extent that a Creditor in Class 1B-1 does not hold an Allowed Secured Claim, such
7 Claim, if it becomes an Allowed Claim, shall be included in Class 3.

8 **Class 1B-1 is impaired under the Plan.**

9 (b) Class 1B-2: the Hawaii Note

10 Class 1B-2 consists of the Secured Claims of Wells Fargo arising from the Hawaii Note.
11 Except to the extent that Wells Fargo agrees to a different treatment, the Hawaii Note shall be
12 modified as follows:

13 1. Principal Amount. The Hawaii Note shall have a principal amount equal to \$3.7
14 million.

15 2. Interest. Simple interest shall accrue on the unpaid principal balance of the Hawaii
16 Note at the rate of a 6.25% per annum.

17 3. Payments. The first monthly payments under the Hawaii Note will be due on the
18 fifteenth (15th) day of the first calendar month following the Effective Date and will be in an
19 amount equal to (a) the interest accrued on the Hawaii Note from the Effective Date through the
20 end of the calendar month in which the Effective Date occurs plus (b) principal calculated on the
21 basis of a 30-year amortization schedule. Thereafter, until maturity, a monthly payment will be
22 due on the fifteenth (15th) day of each successive month in an amount equal to (a) the interest
23 accrued on the unpaid principal balance of the Hawaii Note during the previous month plus (b) an
24 installment of principal calculated on the basis of a 30-year amortization schedule.

25 4. Maturity. The maturity date of the Hawaii Note shall be extended, and the Hawaii
26 Note will be due and payable in full on the last Business Day of the 240th calendar month after the
27 Effective Date.

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1 5. Pre-Payment. At any time after the Effective Date, without penalty or premium,
2 the Hawaii Note may be prepaid, in whole or in part, in the sole discretion of the Reorganized
3 Debtors provided, however, that pre-payment cannot act to impact payments due to the Creditors'
4 Trust.

5 6. Retention of Collateral. Except to the extent inconsistent herewith or with the law,
6 the validity and priority of the security interest securing the Hawaii Note shall remain in full force
7 and effect following the Effective Date.

8 To the extent that a Creditor in Class 1B-2 does not hold an Allowed Secured Claim, such
9 Claim, if it becomes an Allowed Claim, shall be included in Class 3.

10 **Class 1B-2 is impaired under the Plan.**

11 **C. Class 1C ~ Secured Claims of National Bank**

12 Class 1C consists of all Secured Claims of National Bank.

13 Except to the extent that the holder of an Allowed Secured Claim in Class 1C agrees to a
14 different treatment, the holder of the Allowed Secured Claim in Class 1C shall, at the sole election
15 of the Debtors (made prior to the Effective Date), receive one of the following treatments: (i) the
16 legal, equitable and contractual rights to which the holder of such Allowed Secured Claim is
17 entitled shall remain unaltered; or (ii) the Debtors shall surrender to the holder of the Allowed
18 Secured Claim such property of the applicable Estate as may be security and collateral for its
19 Claim.

20 To the extent that a Creditor in Class 1C does not hold an Allowed Secured Claim, such
21 Claim, if it becomes an Allowed Claim, shall be included in Class 3.

22 **Class 1C is unimpaired under the Plan.**

23 **D. Class 1D ~ Secured Claims of Robbins**

24 Class 1D consists of all Secured Claims of Robbins.

25 Robbins shall receive the following treatment on account of her Allowed Secured Claims:

26 1. Principal Amount. The principal amount to be paid to Robbins under the Plan shall
27 be \$4,830,000.

28

1 2. Interest. Simple interest shall accrue on the unpaid principal balance owed to
2 Robbins at the rate of 7.5% per annum.

3 3. Payments. Payments to Robbins shall be made on a monthly basis commencing on
4 the Effective Date, based on the following schedule:

5 <u>Year</u>	<u>Annual Payment Amount</u>
6 Year 1	\$1,000,000
7 Year 2	\$1,200,000
8 Year 3	\$1,200,000
9 Year 4	\$1,200,000
10 Year 5	Approximately \$1,251,481 (remaining balance of the Robbins Secured 11 Claim)

12 Robbins shall receive monthly payments of \$83,333.33 per month for the first through
13 twelfth calendar months following the Effective Date. Thereafter, until maturity, a monthly
14 payment of \$100,000.00 will be due on the fifteenth (15th) day of each successive month until
15 month 60, when Robbins shall receive a final payment of \$151,481.04. In the event that payments
16 for a particular month are insufficient to pay the accrued interest for the current month, the excess
17 accrued interest shall be added to the principal amount owed to Robbins.

18 4. Maturity. The maturity date of the Robbins obligation shall be the last Business
19 Day of the 60th calendar month after the Effective Date.

20 5. Pre-Payment. At any time after the Effective Date, without penalty or premium,
21 the Robbins Allowed Secured Claim may be prepaid, in whole or in part, in the sole discretion of
22 the Reorganized Debtors.

23 6. Retention of Collateral. Robbins' current lien shall be released as of the Effective
24 Date. As of the Effective Date, Robbins shall be granted the following:

25 a) A first priority security interest in the Collateral. Robbins shall retain this
26 first priority security interest in the Collateral until such time as the
27 Allowed Class 1D Claim has been paid in full. Robbins' security interest
28

in the Collateral shall, at all times until paid in full, be senior to the
Creditors' Trust Lien.

b) A first priority security interest in the Additional Collateral. Robbins shall
retain the first priority security interest in the Additional Collateral until
such time as the Allowed Class 1D Claim has been paid in full.

To the extent that a Creditor in Class 1D does not hold an Allowed Secured Claim, such
Claim, if it becomes an Allowed Claim, shall be included in Class 3.

Class 1D is impaired under the Plan.

E. Class 1E – Secured Claims of Gus Gianulias

Class 1E consists of all Secured Claims of Gus Gianulias.

Except to the extent that the holder of an Allowed Secured Claim in Class 1E agrees to a
different treatment, the holder of the Allowed Secured Claim in Class 1E shall, at the sole election
of the Debtors (made prior to the Effective Date), receive one of the following treatments: (i) the
legal, equitable and contractual rights to which the holder of such Allowed Secured Claim is
entitled shall remain unaltered; or (ii) the Debtors shall surrender to the holder of the Allowed
Secured Claim such property of the applicable Estate as may be security and collateral for its
Claim.

To the extent that a Creditor in Class 1E does not hold an Allowed Secured Claim, such
Claim, if it becomes an Allowed Claim, shall be included in Class 3.

Class 1E is unimpaired under the Plan.

F. Class 1F ~ Secured Claims of Countrywide

Class 1F consists of all Secured Claims of Countrywide.

Except to the extent that Countrywide agrees to a different treatment, Countrywide's Note
shall be modified as follows:

1. Principal Amount. The modified Countrywide Note shall have a principal amount
equal to the outstanding balance of the note as of the Effective Date (estimated at \$509,372.60 as
of Oct. 26, 2009, plus interest thereon through the Effective Date at the rate of 5.625% per
annum).

1 2. Interest. Interest shall accrue on the unpaid principal balance of the Countrywide
2 Note at the fixed rate of 5.75% per annum.

3 3. Payments. The first monthly payment under the Countrywide Note will be due on
4 the fifteenth (15th) day of the first calendar month following the Effective Date and will be in an
5 amount equal to (a) the interest accrued on the Countrywide Note from the Effective Date through
6 the end of the calendar month in which the Effective Date occurs plus (b) principal calculated on
7 the basis of a 30-year amortization schedule. Thereafter, until maturity, a monthly payment will
8 be due on the fifteenth (15th) day of each successive month in an amount equal to (a) the interest
9 accrued on the unpaid principal balance of the Countrywide Note during the previous month plus
10 (b) an installment of principal calculated on the basis of a 30-year amortization schedule.

11 4. Maturity. The maturity date of the Countrywide Note shall be extended, and the
12 Countrywide Note will be due and payable in full on the last Business Day of the 360th calendar
13 month after the Effective Date.

14 5. Pre-Payment. At any time after the Effective Date, without penalty or premium,
15 the Countrywide Note may be prepaid, in whole or in part, in the sole discretion of the
16 Reorganized Debtors provided, however, that pre-payment cannot act to impact payments due to
17 the Creditors' Trust.

18 6. Retention of Collateral. Except to the extent inconsistent with any other term of the
19 Plan or with the law, the validity and priority of the deed of trust securing the Countrywide Note
20 shall remain in full force and effect following the Effective Date.

21 To the extent that a Creditor in Class 1F does not hold an Allowed Secured Claim, such
22 Claim, if it becomes an Allowed Claim, shall be included in Class 3.

23 **Class 1F is impaired under the Plan.**

24 **G. Class 1G ~ Secured Claims of Chase**

25 Class 1G consists of all Secured Claims of Chase.

26 To the extent that the Debtors continue to hold such property, the Debtors shall surrender
27 to the holder of the Allowed Secured Claim such property of the applicable Estate as may be
28 security and collateral for its Claim.

1 To the extent that a Creditor in Class 1G does not hold an Allowed Secured Claim, such
2 Claim, if it becomes an Allowed Claim, shall be included in Class 3.

3 **Class 1G is unimpaired under the Plan.**

4 **H. Class 1H~ Other Secured Claims**

5 Class 1H consists of all Secured Claims not included in the Classes described above. Each
6 holder of an Allowed Secured Claim in Class 1H shall be deemed to be a separate subclass of
7 Class 1H.

8 Except to the extent that the holder of an Allowed Secured Claim in Class 1H agrees to a
9 different treatment, the holder of the Allowed Secured Claim in Class 1H shall, at the sole election
10 of the Debtors (made prior to the Effective Date), receive one of the following treatments: (i) the
11 Allowed Secured Claim shall be cured and reinstated pursuant to section 1124(2) of the
12 Bankruptcy Code, and the Debtors shall fund all amounts and take all actions otherwise necessary
13 to reinstate such Allowed Secured Claim, on or prior to the tenth (10th) Business Day following
14 the Effective Date; or (ii) the legal, equitable and contractual rights to which the holder of such
15 Allowed Secured Claim is entitled shall remain unaltered. Notwithstanding the foregoing,
16 alternatively, the Debtors may elect to satisfy an Allowed Secured Claim in Class 1H by one of
17 the following treatments: (x) the surrender to the holder of the Allowed Secured Claim of such
18 property of the applicable Estate as may be security and collateral for its Claim, or (y) the payment
19 in Cash of the amount of such Allowed Secured Claim, as set forth in the Confirmation Order or
20 other Final Order.

21 To the extent that the County of Riverside has a Secured Claim for real property taxes
22 under 11 U.S.C. § 506(b), any payment made to the County of Riverside upon the sale or transfer
23 of such real property will include all applicable state law interest under 11 U.S.C. § 511. The
24 County of Riverside will retain any applicable lien until such Secured Claim is paid in full. A
25 failure by the Debtors to make a payment based on a Secured Claim to the County of Riverside
26 pursuant to the terms of the Plan shall be an Event of Default. If the Debtors fail to cure any such
27 Event of Default within ten (10) days after service of written notice of default from the County of
28 Riverside, then the County of Riverside may enforce the entire amount of its Secured Claim,