

SECURED PROMISSORY NOTE

(Cash Flow Note)

_____, 2010

FOR VALUE RECEIVED, each of **JAMES C. GIANULIAS**, an individual ("Gianulias"), James C. Gianulias, as Trustee of **THE JAMES CHRIS GIANULIAS TRUST** (the "Trust"), and **CAMEO HOMES**, a California corporation ("Cameo") (Gianulias, the Trust and Cameo are sometimes individually referred to herein as a "Debtor" or "Maker", and collectively referred to herein as "Debtors" or "Makers"), located at _____, promises to pay, subject to the terms and conditions set forth herein, to the order of Tom Seaman, as Trustee of **THE CREDITORS TRUST** (the "Creditors' Trust") formed for the benefit of the holders of Allowed General Unsecured Claims against **JAMES C. GIANULIAS AND CAMEO HOMES** (the Creditors' Trust, together, with any and all successor and assigns thereof, the "Payee" or "Holder"), c/o _____, or at such other place as Holder may designate to Maker in writing from time to time, the principal sum of Forty-Two Million and 00/100 Dollars (\$42,000,000.00), subject to adjustment as set forth in Section 3 below (the "Principal Amount") with interest thereon as set forth in this Note.

1. Plan of Reorganization and Term Sheet Agreement.

(a) On June 6, 2008, three creditors of Gianulias commenced an involuntary case against him under Chapter 7 of Title 11 of the United States Code, as such may be amended from time to time (the "Bankruptcy Code"), thereby commencing case number 8:08-bk-13150-RK (the "JG Case"). Concurrently, the same three creditors commenced an involuntary Chapter 7 case against Cameo, thereby commencing case number 8:08-bk-13151-RK (together with the JG Case, the "Cases"). On July 2, 2008 (the "Petition Date"), the United States Bankruptcy Court for the Central District of California, Santa Ana Division (the "Bankruptcy Court") entered Orders for Relief and converted the Cases to Chapter 11 proceedings.

(b) Gianulias is both the trustor and trustee of the Trust, and the Trust is part of Gianulias' bankruptcy estate and subject to the Cases. Gianulias owns 100% of the ownership interests in and to Cameo. On December 11, 2008, the Bankruptcy Court entered an order substantively consolidating Cameo's Chapter 11 estate into Gianulias' estate, effective as of June 6, 2008. Since the commencement of the Cases, the Debtors have managed their affairs as debtors and debtors-in-possession pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

(c) On November 9, 2009, Debtors filed (1) the Debtors' First Amended Plan of Reorganization, which sets forth the manner in which claims against and interests in Debtors will be treated, and (2) the First Amended Disclosure Statement for Debtors' First Amended Plan of Reorganization (the "Disclosure Statement"), which describes certain aspects of the Plan, the Debtors' business and related matters.

(d) Makers and the Official Committee of Unsecured Creditors (the "Committee") negotiated and entered into a "Binding Term Sheet" agreement (the "Term Sheet Agreement") in connection with the Plan, which formed the basis for this Note and the other Security Documents.

(e) The Creditors' Trust is established pursuant to the terms and conditions of the Plan to provide for the orderly payment of amounts due to the holders of Allowed General Unsecured Claims in the Cases.

(f) Debtors, as set forth in the Plan, own and may continue to own and operate certain assets post-confirmation, including, without limitation, those certain entities as set forth in Exhibit B attached hereto (each, a "Portfolio Entity," and collectively, the "Portfolio Entities"), and those certain entities as set forth in Exhibit C which, in turn, own an interest in a Portfolio Entity, and/or any new or additional entities that directly or indirectly have or hold an Ownership Interest in and to a Portfolio Entity, and which are directly or indirectly owned from time to time by Debtors (each, an "Intermediate Entity," and collectively, the "Intermediate Entities").

(g) This Promissory Note (the "Note") is being delivered to the Creditors' Trust pursuant to the terms and conditions of the Plan and Term Sheet Agreement with respect to the payment of the obligations pursuant to the terms and conditions set forth herein.

2. **Definitions.** Unless otherwise defined herein, all capitalized terms shall have the meanings as set forth in that certain Security Agreement of even date herewith made by and between Makers, on the first part, and Payee, on the second part (the "Security Agreement"). In addition, the following terms shall have the meanings set forth below:

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

(b) **"Affiliate"** means, with respect to any Person, (a) any other Person which, directly or indirectly, controls or is controlled by or is under common control with such Person, (b) any Subsidiary of such Person, as applicable, and (c) any officer or director or such Person or Subsidiary. A Person shall be deemed to be "controlled by" any other Person if such Person possesses, directly or indirectly, power to vote 50% or more of the securities (on a fully diluted basis) having ordinary voting power for the election of directors or managers or power to direct or cause the direction of the management and policies of such Person whether by contract or otherwise; provided, however, that for the purposes hereof, "Affiliate" shall exclude the Portfolio Entities and the Intermediate Entities.

(c) **"Allowed Administrative Claims"** shall have the meaning as set forth in the Plan.

- (d) **"Allowed Gap Claims"** shall have the meaning as set forth in the Plan.
- (e) **"Allowed Priority Claims"** shall have the meaning as set forth in the Plan.
- (f) **"Allowed Priority Tax Claims"** shall have the meaning as set forth in the Plan.
- (g) **"Applicable Income Tax Laws"** shall mean applicable Federal income tax laws, rules and regulations, as such may be amended from time to time.
- (h) **"Available Cash Flow"** shall have the meaning as set forth in Section 4(a) below.
- (i) **"Bankruptcy Code"** shall have the meaning as set forth in Section 1(a) above.
- (j) **"Bankruptcy Court"** shall have the meaning as set forth in Section 1(a) above.
- (k) **"Business Day"** means any day other than a Saturday, a Sunday or a "legal holiday" (as defined in Bankruptcy Rule 9006(a)).
- (l) **"Cameo"** shall have the meaning as set forth in the initial paragraph of this Note, and includes any successors and assigns thereof; provided, however, that, by way of clarification solely with respect to any such successors and assigns, the following Persons are expressly excluded as successors and assigns for purposes of this definition: any Person who (A) is an Other Owner or (B) acquires any Ownership Interest and is not an Affiliate of any Debtor; provided, however, nothing in this Note shall limit, affect or abridge the Holder's right to consent to the sale, transfer and/or assignment of any Ownership Interest pursuant to the provisions of Section 6(a)(2) of the Security Agreement or any remedies that Holder may have under the Security Agreement for any breach of the provisions of Section 6(a)(2) of the Security Agreement.
- (m) **"Capital Call Transaction"** shall mean a transaction or series of transactions pursuant to which a Portfolio Entity and/or Intermediate Entity makes a capital call of whatsoever kind and nature, including, without limitation, any request (whether written, oral, electronic or otherwise) by any such entity to any holder or owner of a Venture Interest in such entity as of the date of such notice, for additional investment of whatsoever kind and nature (including, without limitation, via loan or capital contribution) pursuant to the Governing Documents.
- (n) **"Cases"** shall have the meaning as set forth in Section 1(a) above.
- (o) **"Cash"** means lawful currency of the United States and equivalents thereof, including, but not limited, to bank deposits, wire transfers, checks, interests in marketable equity and marketable debt securities, interests in money market funds and similar liquid investment, and other similar items.
- (p) **"Collateral"** shall have the meaning as set forth in the Security Agreement.
- (q) **"Committee"** shall have the meaning as set forth in the initial paragraph of this Note.

(r) **"Confirmation Order"** shall have the meaning as set forth in the Security Agreement.

(s) **"Control Account"** means a deposit account for deposit of Proceeds (as such term is defined in the Security Agreement) received by Debtors with a financial institution mutually acceptable to Holder and Debtors, pursuant to which a Control Agreement and the Disbursing Agent Agreement, as applicable, relating to the ability of the Disbursing Agent and/or any other Person to make distributions of Proceeds from the Control Account to Debtors, shall govern.

(t) **"Control Agreement"** means the deposit account control agreement mutually acceptable to Holder and Debtors concerning the Control Account.

(u) **"Controlled Entities"** shall mean the following four (4) Portfolio Entities, and their respective successors or assigns: (i) Fountain Valley Senior Housing, L.P., (ii) Placentia 422, LP, (iii) River Knolls, LP, and (iv) GVSC, LP.

(v) **"Creditors' Trust"** shall have the meaning as set forth in the initial paragraph of this Note.

(w) **"Debtor"** or **"Maker"** shall have the meaning as set forth in the initial paragraph of this Note, and includes any successors and assigns thereof; provided, however, that, by way of clarification solely with respect to any such successors and assigns, the following Persons are expressly excluded as successors and assigns for purposes of this definition: any Person who (A) is an Other Owner or (B) acquires any Ownership Interest and is not an Affiliate of any Debtor; provided, however, nothing in this Note shall limit, affect or abridge the Holder's right to consent to the sale, transfer and/or assignment of any Ownership Interest pursuant to the provisions of Section 6(a)(2) of the Security Agreement or any remedies that Holder may have under the Security Agreement for any breach of the provisions of Section 6(a)(2) of the Security Agreement.

(x) **"Disbursing Agent Agreement"** means that certain Disbursing Agent Agreement among Mesa Management, Debtors and the Holder.

(y) **"Disclosure Statement"** shall have the meaning as set forth in Section 1(c) above.

(z) **"Effective Date"** shall mean the first Business Day following the date the Confirmation Order becomes a Final Order.

(aa) **"Equity Interest"** shall mean any (1) partnership interest, (2) membership interest, (3) shareholder interest or other ownership or equity interest, and/or (4) economic or other interest owned or held by Debtors in any Portfolio Entity or Intermediate Entity.

(bb) **"Final Order"** shall mean an order or judgment of the Bankruptcy Court, the operation or effect of which has not been stayed, and as to which the time to appeal or to seek re-argument or rehearing has passed, and as to which no appeal, re-argument or petition for rehearing or certiorari has been taken or is pending.

(cc) **"Gianulias"** shall have the meaning as set forth in the initial paragraph of this

Note, and includes any heirs, successors and assigns thereof; provided, however, that, by way of clarification solely with respect to any such successors and assigns, the following Persons are expressly excluded as successors and assigns for purposes of this definition: any Person who (A) is an Other Owner or (B) acquires any Ownership Interest and is not an Affiliate of any Debtor; provided, however, nothing in this Note shall limit, affect or abridge the Holder's right to consent to the sale, transfer and/or assignment of any Ownership Interest pursuant to the provisions of Section 6(a)(2) of the Security Agreement or any remedies that Holder may have under the Security Agreement for any breach of the provisions of Section 6(a)(2) of the Security Agreement.

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

(ee) **"Governmental Authority"** shall mean any Federal, state, local or other governmental department, commission, board, bureau, agency, central bank, court, tribunal or other instrumentality or authority or subdivision thereof, domestic or foreign, exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

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

(gg) **"Interest"** shall have the meaning as set forth in Section 3 below.

(hh) **"Intermediate Entities"** shall have the meaning as set forth in Section 1(f) above, and shall include all successors and assigns thereof.

(ii) **"Maturity Date"** shall have the meaning as set forth in Section 5(f) below.

(jj) **"Mesa Management"** shall mean Mesa Management, Inc., and shall include (1) its successors and assigns with respect to ownership and/or control, (2) any Affiliate of any Debtor who succeeds Mesa Management as the entity that provides management services or functions to any of the Portfolio Entities and/or the Intermediate Entities, and (c) any Person appointed as successor manager by Debtors.

(kk) **"Other Owner"** shall mean any Person that holds or owns a Venture Interest and is not an Affiliate of Debtors.

(ll) **"Ownership Interest"** shall mean, subject to the terms and conditions (including any adjustments) of Section 4(b) below: (1) any Equity Interest as of the date hereof, (2) any and all replacement, exchange or substitution with respect thereto, and/or (3) any and all distributions of any Equity Interest (of whatsoever kind and nature) issued and/or distributed on account of any Ownership Interests; provided, however, that (i) the term "Ownership Interest" shall not include an Equity Interest (of whatsoever kind and nature) sold, transferred or assigned (but not encumbered) by Debtors to any Person, including, without limitation, in connection with the dilution of any Debtor's Equity Interest. Notwithstanding the foregoing, if (A) an Ownership Interest in a Portfolio Entity or Intermediate Entity is reduced by means of dilution resulting from a Capital Call Transaction, subject to the terms and conditions under any Governing Document, and (B) Debtors subsequently acquire a Venture Interest pursuant to Section 4(b)(3) of this Note by means of Debtors' making a loan to, or otherwise acquiring a Venture Interest in and to, such Portfolio Entity or Intermediate Entity, the term "Ownership Interest" in such Portfolio Entity or Intermediate Entity shall include the Venture Interest so reacquired in an amount not to exceed the Equity Interest lost to dilution. Anything to the contrary contained herein notwithstanding, the parties acknowledge and agree that Debtors may not use Collateral to purchase or acquire any Ownership Interests, including, without limitation, any rights in and to Ownership Interests or Venture Interests of whatsoever kind and nature, without the prior written consent of Holder in its sole and absolute discretion.

(mm) **"Payee" or "Holder"** shall have the meaning as set forth in the initial paragraph of this Note, and include, without limitation, any successors and assigns thereof.

(nn) **"Person(s)"** shall mean any individual, corporation, limited liability company, joint venture, association, organization, estate, trust or other entity or any Governmental Authority.

(oo) **"Petition Date"** shall have the meaning as set forth in Section 1(a) above.

(pp) **"Plan"** means Debtors' First Amended Plan of Reorganization dated November 9, 2009, as such may be amended, and as confirmed by the Bankruptcy Court in a final, non-appealable confirming order entered by the Bankruptcy Court, a copy of which is attached hereto as Exhibit A.

(qq) **"Term Sheet Agreement"** shall have the meaning as set forth in Section 1(d) above.

(rr) **"Portfolio Entities"** shall have the meaning as set forth in Section 1(f) above, and shall include all successors and assigns thereof.

(ss) **"Prepayment Amount"** shall have the meaning as set forth in Section 8 below.

(tt) **"Principal Amount"** shall mean the principal sum of **FORTY-TWO MILLION AND 00/100 U.S. DOLLARS (\$42,000,000.00)**, as increased pursuant to Section 3 below.

(uu) **"Priority Payments"** shall have the meaning as expressly set forth in Section 4(a) below.

(vv) **"Robbins"** shall have the meaning as set forth in Section 4(a)(1) below.

(ww) "Security Agreement" has the meaning as set forth above.

(xx) "Security Documents" shall mean the Security Agreement, this Note and any and all documents, instruments, certificates and written agreements entered into in connection therewith.

(yy) "Trust" shall have the meaning as set forth in the initial paragraph of this Note, and shall include all successors and assigns thereof; provided, however, that, by way of clarification solely with respect to any such successors and assigns, the following Persons are expressly excluded as successors and assigns for purposes of this definition: any Person who (A) is an Other Owner or (B) acquires any Ownership Interest and is not an Affiliate of any Debtor; provided, however, nothing in this Note shall limit, affect or abridge the Holder's right to consent to the sale, transfer and/or assignment of any Ownership Interest pursuant to the provisions of Section 6(a)(2) of the Security Agreement or any remedies that Holder may have under the Security Agreement for any breach of the provisions of Section 6(a)(2) of the Security Agreement.

(zz) "Venture Interest" shall mean any partnership interest, membership interest, shareholder interest or other ownership or equity interest and/or economic or other interest in a Portfolio Entity and/or Intermediate Entity.

3. **Interest.** This Note shall accrue interest on the Principal Amount outstanding from time to time hereunder ("Interest") at an interest rate of **THREE AND 75/100 PERCENT (3.75%)** per annum (computed on the basis of a 360-day year and the actual number of days elapsed in any year) on the unpaid principal amount of this Note outstanding from time to time from and after the Effective Date, or (if less) at the highest rate then permitted under applicable law; provided however, that Interest accruing and unpaid for the first two years following the Effective Date shall be capitalized, added to, and included in, the recalculated Principal Amount as of the second anniversary of the Effective Date.

4. **Determination of Available Cash Flow.**

(a) **Priority Payments.** Subject to the terms and conditions hereof, "Available Cash Flow" shall equal 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:

(1) 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).

(2) 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);

(3) Payment of all Allowed Administrative Claims, Allowed Gap Claims, Allowed Priority Claims, and Allowed Priority Tax Claims incurred in the Cases;

(4) The payment of all Adjusted Income Taxes, subject to the terms and conditions as set forth in Section 5(b) below.

(b) Adjustments to Gross Available Cash Flow. For purposes hereof:

(1) Debtors acknowledge and agree that Gross Available Cash Flow is meant to reflect the Cash received by Debtors from (a) the Portfolio Entities, (b) the Intermediate Entities, (c) any Person who purchases any or all of the Ownership Interests or otherwise acquires any rights in and thereto, and/or (d) any financing by Debtors with respect to the Ownership Interests and/or Gross Available Cash Flow, and shall be determined without diminution for payments and other consideration and benefits made for the purposes of evading the obligations of Debtors under this Note, including, without limitation, payments to Debtors, Affiliates and third party payees for the benefit of Debtors in lieu of payments to be made directly to Debtors which would otherwise comprise Gross Available Cash Flow hereunder. Without limiting the generality of the foregoing, in the event that Debtors receive compensation and other consideration from the Portfolio Entities and Intermediate Entities which payments and consideration are claimed by Debtors as separate and apart from Debtors' Ownership Interests in the Portfolio Entities and Intermediate Entities, such compensation and other consideration shall not be included in Gross Available Cash Flow if and only if (i) such compensation or other consideration is reasonable and appropriate (including, without limitation, as to amount and terms), (ii) is based on a legitimate and beneficial business purpose, and not for the purpose of evading the obligations of Debtors under this Note; provided, however, that the Holder may dispute (A) the reasonableness and legitimacy of any fees, costs, expenses, compensation or consideration paid to Debtors and/or Debtors' Affiliates from (x) the Portfolio Entities, (y) the Intermediate Entities and/or any (z) Person with respect to the Portfolio Entities, the Intermediate Entities, the Ownership Interests or (B) the rights of Debtors with respect to any of the foregoing, before Judge Goldberg, his duly appointed replacement or the Bankruptcy Court as applicable, pursuant to the provisions of Section 9 hereof.

(2) To the extent that Debtors (individually or collectively) (A) direct (whether directly or indirectly or through a third party, including, without limitation, any Affiliate and/or Lucas (as defined in the Plan) and/or his Affiliates) a Portfolio Entity, Intermediate Entity and/or other Person, or otherwise elect, to defer, delay or evade any payment of Gross Available Cash Flow, or otherwise accept in lieu of Gross Available Cash Flow other consideration of whatsoever kind and nature, and/or (B) take any action (whether directly or indirectly) of whatsoever kind and nature, or refrain from taking any action of whatsoever kind or nature, including, without limitation, refraining from exercising Debtors' rights under the Governing Documents, for the purposes of deferring, delaying or evading Debtors' payment obligations under this Note, then Gross Available Cash Flow shall be increased to include the fair market value of any such Gross Available Cash Flow so deferred, delayed and/or evaded, and the fair market value of such other non-Cash consideration received.

(3) The parties expressly acknowledge and agree as follows:

A. Acquisition of An Other Owner's Venture Interest. Subject to

the provisions of Section 2(11)(ii) above, in the event that Debtors purchase a Venture Interest in a Portfolio Entity or Intermediate Entity from an Other Owner, Debtors shall provide written notice of such investment and/or acquisition as provided in the Security Agreement, and all Cash thereafter received by Debtors from such purchased Venture Interest shall inure solely to the benefit of Debtors, and such additional Venture Interest shall not be deemed Ownership Interests for purposes of this Note;

B. Portfolio Loan; Capital Contribution. In the event a Debtor loans money to either or both of (i) an Other Owner, or (ii) a Portfolio Entity and/or Intermediate Entity (a "Portfolio Loan"), or otherwise contributes capital or other consideration:

(1) Written Notice. Debtors shall provide or cause such Portfolio Entity and/or Intermediate Entity to provide the Holder with written notice of such Capital Call Transaction and/or loan as provided in the Security Agreement.

(2) Portfolio Loans and Capital Calls.

a. If a Debtor contributes additional capital to a Portfolio Entity or Intermediate Entity, and such capital contribution does not result in such Debtor holding a greater percentage of the Venture Interests in such Portfolio Entity or Intermediate Entity, then all Cash received by Debtors from or in connection with its Ownership Interest in such Portfolio Entity or Intermediate Entity shall be deemed Gross Available Cash Flow under this Note.

b. If a Debtor contributes additional capital to a Portfolio Entity or Intermediate Entity, and such capital contribution results in such Debtor holding a greater percentage of the Venture Interests in such Portfolio Entity or Intermediate Entity, then any additional Venture Interests that such Debtor receives as a result of such capital contribution shall not constitute an "Ownership Interest" under this Note, except as otherwise provided in Section 2(11)(ii) above.

c. If a Debtor contributes additional capital, or makes a Portfolio Loan, to a Portfolio Entity or Intermediate Entity, and the applicable Governing Document provides that distributions associated with such capital contribution and/or Portfolio Loan has a priority over distributions that would otherwise have been made in respect of an Ownership Interest immediately prior to such contribution or Portfolio Loan, or otherwise might result in subordination of the payments otherwise due to Holder under this Note (absent any such capital contribution or Portfolio Loan), then Cash received by such Debtor from such Portfolio Entity or Intermediate Entity shall constitute Gross Available Cash Flow in an amount to be calculated as if such capital contribution or Portfolio Loan had not been made. Examples of the operation of this provision are attached hereto as Exhibit D.

(3) Loan to Debtors. If a Debtor wants to fund a capital call by a Portfolio Entity or Intermediate Entity or make a Portfolio Loan, but does not have sufficient cash to fund such capital call or Portfolio Loan, then, such Debtor and Holder

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shall negotiate in good faith as to the terms and conditions by which Holder may, in its sole and absolute discretion, loan funds to Debtor, and by which such Debtor may, in its sole and absolute discretion, borrow funds from Holder, to fund such capital call or Portfolio Loan (a "Creditor Advance"); provided, however, that, anything to the contrary contained herein notwithstanding, if a Creditor Advance is made, all Cash received in connection with Ownership Interests in such Portfolio Entity and/or Intermediate Entity, including, without limitation, any additional Ownership Interest so acquired or loan made by means of such Creditor Advance, be applied in the following order and priority: (i) first, to the Holder in an amount equal to the principal and interest owing from time to time pursuant to such Creditor Advance, and (ii) the balance to be deemed Gross Available Cash Flow with any such additional Ownership Interest so acquired by means of such Creditor Advance shall be deemed an Ownership Interests hereunder.

(4) By way of illustration and not of limitation, the parties hereto may seek to have any determination or issue arising out of the interpretation and/or enforcement of this Note (including, without limitation, what constitutes or may constitute Ownership Interests and/or Gross Available Cash Flow hereunder) and the other Security Documents determined in accordance with Section 9 hereof by Judge Goldberg, his duly appointed replacement or the Bankruptcy Court as applicable. By way of illustration and not of limitation, in the event that, pursuant to Section 9 hereof, Judge Goldberg, his duly appointed replacement or the Bankruptcy Court, as applicable, makes a determination or interpretation which affects Gross Available Cash Flow, Gross Available Cash Flow shall be adjusted accordingly, including, without limitation, a determination made in the event that the expenses of a Controlled Entity in a given budget year are in excess of 110% of the budgeted expenses for the previous budgeted year period, and as a result thereof, Judge Goldberg, his duly appointed replacement or the Bankruptcy Court, as applicable, determines that certain of the total expenses in such budget are not appropriate for purposes of determining whether Gross Available Cash Flow should be appropriately increased.

5. Payments.

(a) Receipt of Gross Available Cash Flow. The Disbursing Agent shall promptly deposit all Cash representing Gross Available Cash Flow directly into the Control Account. In the event that Makers receive any Gross Available Cash Flow, Makers shall promptly, but in no event later than three (3) Business Days following receipt thereof, deposit or cause to be deposited all such Gross Available Cash Flow into the Control Account.

(b) Estimated Adjusted Income Taxes; Reserve for Adjusted Income Taxes on A Monthly Basis; Reconciliation and Payment of Excess Adjusted Income Taxes.

(1) Estimated Adjusted Income Taxes. Debtors will prepare or cause to be prepared and will provide to the Holder each calendar month the Estimated Adjusted Income Taxes Report pursuant to and in compliance with the terms and conditions of Section 6(g)(6) of the Security Agreement. For each such calendar month, the amount of such Adjusted Income Taxes ("Estimated Adjusted Income Taxes") shall be prepared by applying the highest marginal tax rate applicable to the determination of Adjusted Income Taxes for the cumulative period during the applicable tax year, and as if such amounts of income, gain, loss and deduction items and other considerations applicable with respect to the determination of Adjusted Income Taxes during such cumulative period during the applicable tax year were annualized.

(2) Reserves from Gross Available Cash Flow. In connection with, and consistent with such analysis, Debtors shall reserve an amount of Gross Available Cash Flow equal to the difference between (a) Estimated Adjusted Income Taxes for the applicable tax year, less (b) any and all prior payments made to or for the benefit of Debtors for Adjusted Income Taxes for such tax year (the "Reserve Amount"), which Reserve Amount shall remain in the Control Account until (i) the dates which are three (3) Business Days prior to the dates on which each Debtor is required to pay estimated income taxes for such tax year, (B) the date which is three (3) Business Days prior to the date on which any Debtor files any extension to extend the applicable filing date of any income tax return for such Debtor and for such tax year, and/or (ii) the date which is three (3) Business Days prior to the date on which each Debtor files an income tax return for such tax year, all as required or permitted pursuant to Applicable Tax Laws; provided, however that (A) payments with respect to Adjusted Income Taxes for a tax year shall not at any time exceed the amount of Estimated Adjusted Income Taxes for such Debtor for such tax year, and (B) to the extent that the Reserve Amount is a negative amount, then the amount of Gross Available Cash Flow determined as of the conclusion of such calendar month shall be increased by an amount equal to such negative amount expressed as a positive integer, and the Reserve Amount shall be adjusted to \$0.

(3) True-Up of Estimated Adjusted Income Taxes. Anything to the contrary contained herein notwithstanding, Debtors will prepare or cause to be prepared and will provide to the Holder the Adjusted Income Taxes Report pursuant to and in compliance with the terms and conditions of Section 6(g)(6) of the Security Agreement for each Debtor. The Adjusted Income Taxes Report shall reconcile for each Debtor (a) the amount of Adjusted Income Taxes, which shall be increased or reduced, as the case may be, by the amount of any understatement or overstatement of Adjusted Income Taxes for any prior tax years that arises during such tax year, and (b) the cumulative Estimated Adjusted Income Taxes for such tax year for such Debtor; provided, however, that for the purposes of this calculation, the application of any tax refunds and overstatements of Adjusted Income Taxes shall not result in "double counting" of such tax attributes. In the event that the amount of Estimated Income Taxes for a Debtor for a taxable year exceeds the amount of Adjusted Income Taxes for such Debtor for such taxable year (the "Overestimate Amount"), then the Reserve Amount for the then current tax year shall be reduced by the Overestimate Amount, and if the Reserve Amount is reduced to zero, any excess amount of Overestimate Amount after reduction of such Reserve Amount shall then increase the amount of Gross Available Cash Flow as of such date. In the event that the amount of Adjusted Income Taxes for a Debtor for a taxable year exceeds the amount of Estimated Income Taxes for such Debtor for such taxable year, the amount of Priority Payments for Adjusted Income Taxes shall be increased by such excess.

(c) Payments Generally. Subject to the terms and conditions contained herein, if and when Available Cash Flow is available, on or before the fifth (5th) Business Day of each calendar month, Makers shall pay or cause to be paid to the Holder monthly payments in an amount equal to sixty percent (60%) of Available Cash Flow received during the immediately preceding calendar month.

(d) Application of Payments to Holder. Prior to payment in full of all amounts owed by Makers under this Note, all payments received by Holder hereunder shall be applied in the following order: (1) first, to the payment of all accrued and unpaid Interest due hereunder from time to time, and (2) second, to the payment of Principal Amount due hereunder.

(e) Maturity Date. Anything to the contrary contained in this Note and the other

Security Documents notwithstanding, unless sooner due upon the occurrence of an Acceleration Event as provided in the Security Agreement, Makers shall pay or cause to be paid to Holder the outstanding Principal Amount and all accrued and unpaid interest thereon on December 31, 2024, regardless of whether such payment is from Available Cash Flow or otherwise.

6. **Lawful Money.** All payments to be made hereunder shall be made in the lawful money of the United States of America in immediately available funds and shall be delivered to Holder at such address as provided above, or to such other address and/or to the attention of such person, as specified from time to time by prior written notice to Makers from Holder.

7. **Security.** The obligations hereunder by Makers with respect to payment of the Principal Amount and interest thereon and all other amounts owing by Makers under this Note pursuant to the terms and conditions hereof, and the performance of Makers duties and obligations hereunder, are secured by that certain Security Agreement and other Security Documents entered into in connection with this Note and/or the Security Agreement.

8. **Prepayment.** At any time from and after the Effective Date, Makers may prepay or cause to be prepaid all amounts owing under this Note without penalty or premium; provided, however, in the event that the aggregate amounts of principal and interest paid to Holder under this Note after giving effect to any amounts paid in connection with such prepayment is less than \$52,000,000, Makers shall be required to increase the amount paid in connection with such prepayment so that the aggregate amount paid to the Holder under this Note is equal to the greater of (a) the outstanding Principal Amount, with interest thereon as set forth in Section 3 above, plus all accrued and unpaid Interest due hereunder as of such prepayment date, or (b) \$52,000,000.

9. **Dispute Resolution Procedures; Prevailing Party Recovery.** Makes and Holder agree that, in the event that the Makers and Holder cannot reach an agreement concerning any determination or other issue with respect to this Note (including, without limitation, what constitutes or may constitute Ownership Interests and/or Gross Available Cash Flow hereunder), the Disbursing Agent Agreement and/or the Security Documents, and/or there is any dispute, conflict or challenge with respect to the terms and conditions hereof or thereof, including, without limitation, a conflict concerning the interpretation and enforcement of this Note, the Disbursing Agent Agreement, the Security Documents, all such disputes, determinations, conflicts or challenges, shall be governed by the dispute resolution provisions of the Security Agreement, including, without limitation, the right of Makers or Holder to recover losses, damages, costs and expenses (including, without limitation, reasonably attorneys' fees and expenses) against Makers, Disbursing Agent or Holder pursuant to the terms and conditions of the dispute resolution provisions of the Security Agreement.

10. **Events of Default; Remedies.**

(a) **Event of Default; Remedies Generally.** For purposes hereof, an "Event of Default" shall have the meaning as set forth in the Security Agreement. Upon the occurrence of an Event of Default, Holder shall have such rights and remedies as set forth in the Security Documents.

(b) **Acceleration Event.** Without limiting the generality of the foregoing, Holder may accelerate this Note and declare all amounts owed by Makers under this Note immediately due and owing from and after the occurrence of an Acceleration Default pursuant to Section 8(a) of the Security Agreement.

11. **Amendment; Waiver.** This Note may not be modified, amended, waived, extended, changed, discharged or terminated orally or by any act or failure to act on the part of Makers or Holder, but only by an agreement in writing signed by the party against whom enforcement of any modification, amendment, waiver, extension, change, discharge or termination is sought. Whenever used, the singular number shall include the plural, the plural the singular, and the words "**Holder**" and "**Maker**" shall include their respective successors, assigns (except as expressly limited by this Note), heirs, executors and administrators. By way of illustration and not of limitation, no failure or delay by Holder in exercising any right and/or remedy under this Note and/or the Security Documents shall impair that right and/or remedy or be considered a waiver or acquiescence in any default by Makers or any of them.

12. **No Demand or Presentment.** Makers and/or all others who may become liable for the payment of all or any part of the Principal Amount and any other amounts owed hereunder by Makers, do hereby severally waive presentment and demand for payment, notice of dishonor, protest, notice of protest, notice of nonpayment, notice of intent to accelerate the maturity hereof and of acceleration.

13. **Replacement.** Upon receipt of (a) a written certificate by Holder claiming the mutilation, destruction, loss or theft of this Note (a "Lost Note"), along with an indemnification agreement in form and substance reasonable and appropriate in favor of Makers with respect to such Lost Note, and (b) evidence reasonably satisfactory to Makers as to the mutilation, destruction, loss or theft of this Note and the ownership thereof, and, in the case of any such mutilation, upon surrender and cancellation of this Note, Makers shall, upon the written request of the Holder, deliver in replacement thereof a new Note in the same form, and with the same terms and conditions hereof, and dated the same date as the Note so mutilated, destroyed, lost or stolen, and such Note so mutilated, destroyed, lost or stolen shall then be deemed no longer outstanding hereunder.

14. **Governing Law; Exclusive Jurisdiction.** This Note shall be governed by and construed in accordance with the laws of the State of California and the applicable laws of the United States of America. Subject to the provisions of Section 9 above, Makers and Holder acknowledge and agree that the Bankruptcy Court shall retain exclusive jurisdiction in connection with the interpretation and enforcement of this Note, the Plan and the Security Documents; provided, however, that in the event that the Bankruptcy Court declines to adjudicate any matter in connection with this Note, the Plan and the Security Documents, then the parties expressly acknowledge and agree that any legal action in connection with the interpretation and enforcement of this Note, the Plan and the Security Documents, subject to the provisions of Section 9 above, shall be brought solely in a federal or state court located in Orange County, California.

15. **Notices.** All notices and communications shall be made pursuant to the terms and conditions of the Security Agreement.

16. **Successors and Assigns.** All of the rights, privileges, remedies and options given to the parties hereto shall inure to the benefit of, and shall be binding upon, the parties hereto, and each of their respective representatives, successors and assigns. Makers shall not assign their rights hereunder, or delegate their duties hereunder, without the prior written consent of Holder in its sole and absolute discretion.

17. **Counterparts.** This Note may be executed in one or more counterparts, all of which together shall constitute a single agreement and each of which shall be an original for all purposes, and all of which shall represent one and the same document.

18. **Valid Instrument; Authority for Execution.** Upon the execution and delivery hereof, this Note shall represent a valid and binding obligation of each Maker in accordance with the terms and conditions set forth herein, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights and/or by the application of general principles of equity. By the signatures below, each of the undersigned individuals represents and warrants that he has executed this Note with the power and express authority of such Maker, on whose behalf he has signed.

19. **Joint and Several Liability.** Each of Makers shall be jointly and severally liable for the payment of all amounts owed by Makers hereunder.

20. **Inconsistencies.** This Note is entered into pursuant to the terms and conditions of the Plan and Term Sheet Agreement. In the event of any inconsistency between the terms and conditions of this Note and the Plan and/or Term Sheet Agreement with respect to the transactions contemplated in this Note, the Disbursing Agent Agreement and/or the Security Documents, the terms of this Note and the Security Documents shall control; with respect to any other matter, the terms of the Plan shall control.

[SIGNATURE PAGE IMMEDIATELY FOLLOWING]

IN WITNESS WHEREOF, the parties have executed this Note as of the date set forth above.

MAKERS:

JAMES C. GIANULIAS, an individual

James C. Gianulias, as Trustee of the **JAMES CHRIS
GIANULIAS TRUST**

CAMEO HOMES, a California corporation

By: _____
Print Name: _____
Title: _____

EXHIBIT A
Copy of Plan

(see attached)

EXHIBIT B
List of Portfolio Entities

The following, along with any successor and/or assign thereof, shall be deemed a Portfolio Entity:

1. East Coast Properties—Woodwind Gardens, a New York General Partnership
2. East Coast Properties—Country Estates, a New York General Partnership
3. East Coast Properties—Country Gardens, a New York General Partnership
4. East Coast Properties—Grenadier Village, a New York General Partnership
5. Fountain Valley Senior Housing, LP, a California limited partnership
6. LG Parkewood Village, LP, a California limited partnership
7. Park Glen, LP, a California limited partnership
8. Park Mesa, LP, a California limited partnership
9. Picadilly Square, LP, a California limited partnership
10. Placentia 422, LP, a California limited partnership
11. River Knolls, LP, a California limited partnership
12. Villa Buena, LP, a California limited partnership
13. Coast Business Center (Coast Business Center, LP, a California limited partnership)
14. Crown Building (Crown Building, LLC, a California limited liability company)
15. Dana Center, a California general partnership
16. Dana Centre, LP, a California limited partnership
17. Greenhaven Plaza, a California General Partnership
18. GVSC, LP, a California limited partnership
19. Lahaina Cannery Mall, LLC, a Hawaii limited liability company
20. Lucas-Gianulias, a California general partnership
21. Sunrise Village Retail Center, LP, a California limited partnership

EXHIBIT C
List of Intermediate Entities

The following, along with any new or additional entities that have a direct or indirect Ownership Interest in a Portfolio Entity (and which are owned, directly or indirectly, by Debtors), and any assigns and/or successors thereof, shall be deemed an Intermediate Entity:

1. Fountain Valley Senior Housing II, LLC
2. Parkewood Village, LLC
3. Park Glen, LLC
4. Park Mesa, LLC
5. Picadilly Square, LLC
6. River Knolls, LLC
7. Villa Buena, LLC
8. Emerald Isle (Placentia), LP
9. Emerald Isle (Placentia), LLC
10. Placentia 422, LLC
11. Grass Valley Shopping Center, LLC
12. Dana Centre, LLC

EXHIBIT D
Examples

Example 1

1. Debtor is a 33.33% partner in Partnership One with Partner A who owns a 33.33% partnership interest and Partner B who owns a 33.33% partnership interest in the Partnership One. Each partner has contributed \$100 to Partnership One.

2. Under the Governing Document for Partnership One, if a partner defaults on its obligation to contribute additional capital, the other partners may fund such defaulting partner's additional capital contribution. If the other partners elect to fund the defaulting partner's additional capital contribution, the amounts funded by each contributing partner shall be deemed a loan to the partnership, which shall be repaid before any further distributions are made to the partners in respect of their partnership interests.

3. Partnership One makes an additional capital call of \$100 to each partner. Debtor and Partner A each contribute an additional \$100 to Partnership One and Partner B refuses to contribute any additional capital. Debtor and Partner A each fund an additional \$50 to fund Partner B's capital contribution.

4. Additionally, the capital contributions made by Debtor and Partner A shall dilute the partnership interest of Partner B so that after the additional \$100 capital contributions are made, the capital structure of Partnership One is as follows:

Total Capital Contributions to Partnership One = \$500

Total Loans to Partnership One = \$100

Debtor - \$200 capital contributed = 40% partnership interest plus \$50 loan to Partnership One

Partner A - \$200 capital contributed = 40% partnership interest plus \$50 loan to Partnership One

Partner B - \$100 capital contributed = 20% partnership interest

5. One year after the additional capital contributions are made, Partnership One pays \$100 to its partners. Since Debtor and Partner A loaned \$100 to the partnership, the entire \$100 is paid to Debtor and Partner A, \$50 to Debtor and \$50 to Partner A.

6. The agreement between Debtor and the Creditors Committee is that if a loan is made by a Debtor to a Portfolio Entity, such loan will not result in the subordination of the cash flow that is used to make payments under the Cash Flow Note. Also, any additional equity interests that a Debtor may acquire shall not constitute an Ownership Interest.

7. Debtor acquired an additional 6.67% partnership interest that will not constitute an Ownership Interest under the Cash Flow Note. The payment from Partnership One will be treated as if Debtor had not made a loan and such payment is made in respect of Debtor's 40% partnership interest in Partnership One. Accordingly, the amount to be paid to the Creditors Committee under the Cash Flow Note is calculated as follows: Partnership One paid \$100 to the partners, of which \$40 is deemed to have been paid to Debtor under the 40/40/20 waterfall. Since the Ownership Interest is limited to Debtor's original 33% partnership interest, the Creditors Committee is entitled to 60% of \$33.33 or \$20. The remaining \$30 would be retained by Debtor (\$13.33 (40% of the \$33.33) plus \$6.67 (from the additional 6.67%

partnership interest) plus \$10, which is the amount that Debtor receives in excess of its 40% partnership interest).

8. Thus, of the \$50 paid to Debtor, the Creditors Committee would receive \$20, and the Debtor receives \$30. Note that the Creditors Committee receives the same amount that it would have received had no loan been made and the \$100 had been paid through the 40/40/20 waterfall.

Example 2

1. Same facts as in Nos. 1 and 2 of Example 1 above.
2. Partnership One makes an additional capital call of \$100 to each partner. Debtor and Partner A each contribute an additional \$100 to Partnership One and Partner B refuses to contribute any additional capital. Debtor only loans 25% of the defaulting partner's additional capital contribution and Partner A loans 75% of the defaulting partner's additional capital contribution. The capital structure of Partnership One is as follows:

Total Capital Contributions to Partnership One = \$500

Total Loans to Partnership One = \$100

Debtor - \$200 capital contributed = 40% partnership interest plus \$25 loan to Partnership One

Partner A - \$200 capital contributed = 40% partnership interest plus \$75 loan to Partnership One

Partner B - \$100 capital contributed = 20% partnership interest

3. One year after the additional capital contributions are made, Partnership One pays \$100 to Debtor and Partner A in repayment of the loan, with Debtor receiving \$25 and Partner A receiving \$75.

4. In this situation, the Creditors Committee would be entitled to receive 60% of \$25 or \$15. Debtor only has to make payments from cash received from the Portfolio Entities and Intermediate Entities. If, for any reason, the cash received from the Debtor is less than what the Debtor is entitled to receive with respect to its applicable Ownership Interest, the Creditors Committee will receive 60% of the cash received by the Debtor, and not 60% of what the Debtor would have received had Partnership One distributed the \$100 based on the 40/40/20 waterfall.

Example 3

1. Same facts as in Nos. 1 and 2 of Example 1 above.
2. Partnership One makes an additional capital call of \$100 to each partner. Partners A and B each contribute an additional \$100 to Partnership One and Debtor refuses to contribute any additional capital. Partners A and B each fund \$50 of the Debtor's additional capital contribution. The capital structure of Partnership One is follows:

Total Capital Contributions to Partnership One = \$500

Total Loans to Partnership One = \$100

Debtor - \$100 capital contributed = 20% partnership interest

Partner A - \$200 capital contributed = 40% partnership interest plus \$50 loan to Partnership One

Partner B - \$200 capital contributed = 40% partnership interest plus \$50 loan to Partnership One

3. One year after the additional capital contributions are made, Partnership One pays \$100 to Partner A and Partner B in repayment of the loan, with Partner A receiving \$50 and Partner B receiving \$50.

4. Debtor would not receive any distributions until the loan to Partnership One has been repaid. Since Debtor has not received any cash from Partnership One, no payments under the Cash Flow Note are required until the loan is repaid. Once the loan has been repaid, the Creditors Committee is entitled to receive 60% of the cash received by Debtor from its 20% partnership interest in Partnership One.

Example 4

1. Same facts as No. 1 of Example 1 above.

2. Under the Governing Document for Partnership One, if a partner defaults on its obligation to contribute additional capital, the other partners may fund such defaulting partner's additional capital contribution. If the other partners elect to fund the defaulting partner's additional capital contribution, the amounts funded by each contributing partner shall dilute the partnership interest of the defaulting partner.

3. Partnership One makes an additional capital call of \$100 to each partner. Debtor and Partner A each contribute an additional \$100 to Partnership One and Partner B refuses to contribute any additional capital. Debtor and Partner A each fund an additional \$50 to fund Partner B's capital contribution.

4. After the additional \$150 capital contributions are made by Debtor and Partner A, the capital structure of Partnership One is as follows:

Total Capital Contributions to Partnership One = \$600

Debtor - \$250 capital contributed = 41.67% partnership interest

Partner A - \$250 capital contributed = 41.67% partnership interest

Partner B - \$100 capital contributed = 16.66% partnership interest

3. One year after the additional capital contributions are made, Partnership One pays \$100 to the partners in accordance with their respective partnership interests. Debtor and Partner A each receive \$41.67 and Partner B receives \$16.66.

4. Debtor acquired an additional 8.34% partnership interest that will not constitute an Ownership Interest under the Cash Flow Note. Accordingly, the amount to be paid to the Creditors Committee under the Cash Flow Note is calculated as follows: Partnership One paid \$100 to the partners, of which \$41.67 is deemed to have been paid to Debtor under the 41.67/41.67/16.66 waterfall. Since the Ownership Interest is limited to Debtor's original 33% partnership interest, the Creditors Committee is entitled to 60% of \$33.33 or \$20. The remaining \$8.34 would be retained by Debtor.

5. If Debtor was the defaulting partner, the Creditors Committee would receive 60% of cash received by Debtor from its 16.66% partnership interest in Partnership One, or \$10.00.