

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
7 Alan J. Friedman (State Bar No. 132580)
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)
18 JAMES C. GIANULIAS, and CAMEO)
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~~FOURTH AMENDED
PLAN OF REORGANIZATION (DATED
MAY 12, 27, 2010)**

Confirmation Hearing:

Date: _____, July 9, 2010

Time: _____ 11:45 a.m.

Place: Courtroom 5D
411 West Fourth Street
Santa Ana, CA 92701

DEBTORS' ~~THIRD~~FOURTH 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].~~

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

13 2. ~~3.~~ "**Administrative Claim**" means any right to payment constituting a cost or
14 expense of administration of the Cases of a kind specified under section 503(b) of the Bankruptcy
15 Code and entitled to priority under section 507(a)(2), 507(b) or 1114(e)(2) of the Bankruptcy
16 Code, 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 3. ~~4.~~ "**Affiliate**" means, with respect to any Person, (a) any other Person which,
27 directly or indirectly, controls or is controlled by or is under common control with such Person,
28 and (b) any Subsidiary of such Person, as applicable, ~~and (c) any officer or director or such~~

1 ~~Person or Subsidiary~~. A Person shall be deemed to be “controlled by” any other Person if such
2 Person possesses, directly or indirectly, power to vote 50% or more of the securities (on a fully
3 diluted basis) having ordinary voting power for the election of directors or managers or power to
4 direct or 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 4. ~~5.~~ “*Allowed Administrative Claim*” means all or that portion of an Administrative
8 Claim which is an Allowed Claim.

9 5. ~~6.~~ “*Allowed Gap Claim*” means all or that portion of a Gap Claim which is an
10 Allowed Claim.

11 6. ~~7.~~ “*Allowed Priority Claim*” means all or that portion of a Priority Claim which is
12 an Allowed Claim.

13 7. ~~8.~~ “*Allowed Priority Tax Claim*” means all or that portion of a Priority Tax Claim
14 which is an Allowed Claim.

15 8. ~~9.~~ “*Allowed Secured Claim*” means all or that portion of a Secured Claim which is
16 an Allowed Claim.

17 9. ~~10.~~ “*Allowed General Unsecured Claim*” means all or that portion of a General
18 Unsecured Claim which is an Allowed Claim.

19 10. ~~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.

1 11. ~~12.~~ **“Available Cash Flow”** means, subject to the terms and conditions of the Cash
2 Flow Note, the amount of Gross Available Cash Flow less the following items (collectively,
3 “Priority Payments”) in such order of priority as set forth in the Plan: (a) the following payments
4 to Marilyn Gianulias Robbins, an individual (“Robbins”), on account of, and in full satisfaction of
5 her secured claim with respect to Debtors: (1) \$1,000,000 in the first year following the Effective
6 Date (83,333.33 per month), (2) \$1,200,000 in the second year following the Effective Date
7 (\$100,000 per month), (3) \$1,200,000 in the third year following the Effective Date (\$100,000 per
8 month), (4) \$1,200,000 in the fourth year following the Effective Date (\$100,000 per month), and
9 (5) ~~\$1,251,481~~1,593,563 in the fifth year following the Effective Date, representing the remaining
10 balance owing to Robbins in connection with her claim in the Cases (~~\$104,290.08~~132,796.93 per
11 month); (b) the payment of \$1,800,000 per year in each of the first and second year following the
12 Effective Date to Debtors (\$150,000 per month); (c) payment of all Allowed Administrative
13 Claims, Allowed Gap Claims, Allowed Priority Claims, and Allowed Priority Tax Claims incurred
14 in the Cases; and (d) the payment of all Adjusted Income Taxes, subject to the terms and
15 conditions as set forth in Section 5(b) of the Cash Flow Note.

16 12. ~~13.~~ **“Ballot”** means each of the ballot forms distributed with the Disclosure
17 Statement to each holder of an impaired Claim (other than to holders not entitled to vote on the
18 Plan) upon which is to be indicated, among other things, acceptance or rejection of the Plan.

19 13. ~~14.~~ **“Bankruptcy Code”** means title 11 of the United States Code, 11 U.S.C. §§ 101
20 *et seq.*, as in effect on the date hereof.

21 14. ~~15.~~ **“Bankruptcy Court”** means the United States Bankruptcy Court for the Central
22 District of California, Santa Ana Division.

23 15. ~~16.~~ **“Bankruptcy Rules”** means the Federal Rules of Bankruptcy Procedure as
24 promulgated by the United States Supreme Court under section 2075 of title 28 of the United
25 States Code, and local rules of the Court, as the context may require.

26 16. ~~17.~~ **“Books”** means all of each Grantor’s books and records (regardless of format)
27 for the Portfolio Entities, the Intermediate Entities and books and records concerning the
28 Ownership Interests and/or the Collateral, including, but not limited to the following: (a) minute

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

6 17. ~~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 18. ~~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; provided, further, notwithstanding any provision
18 to the contrary in the Cash Flow Note, and subject to Applicable Law, any and all successors
19 and/or assigns who acquire or receive any Ownership Interest pursuant to any will, devise,
20 inheritance or by operation of law shall not become a Debtor or Maker under the Cash Flow
21 Note, but (i) any such successor or assign shall become a Grantor as defined under the
22 Security Documents with respect to such Ownership Interest, and (ii) any such Ownership
23 Interest received by any such successor or assign shall continue to be subject to the terms
24 and conditions of the Cash Flow Note and of the Security Documents.

25 19. ~~20.~~ "**Cases**" means the Debtors' pending cases under chapter 11 of the Bankruptcy
26 Code.

27 20. ~~21.~~ "**Cash**" means lawful currency of the United States and equivalents thereof,
28 including, but not limited to: bank deposits, wire transfers, checks, interests in marketable equity

1 and marketable debt securities, interests in money market funds and similar liquid investment, and
2 other similar items.

3 21. ~~22.~~ **“Cash Flow Note”** means the Secured Promissory Note in the original principal
4 amount of \$42 million, bearing interest at a rate of 3.75% per annum, and maturing on December
5 31, 2024, subject to the terms and conditions of the Plan Documents, such note to be issued by the
6 Reorganized Debtors as of the Effective Date and made payable to the Creditors’ Trust solely for
7 the benefit of holders of Allowed General Unsecured Claims, a true and correct copy of which is
8 attached hereto as Exhibit “C.”

9 22. ~~23.~~ **“Chase”** means secured creditor JP Morgan Chase.

10 23. ~~24.~~ **“Claim”** or **“Claims”** as defined in the Bankruptcy Code, section 101(5)(A) and
11 (B), means (a) any right to payment, whether or not such right is reduced to judgment, liquidated,
12 unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable,
13 secured or unsecured; or (b) any right to an equitable remedy for breach of performance if such
14 breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced
15 to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

16 24. ~~25.~~ **“Claim Bar Date”** means November 11, 2008 with respect to all Claims,
17 except for Claims of a Governmental Unit and Administrative Claims. With respect to Claims of
18 a Governmental Unit, Claim Bar Date shall mean December 29, 2008. With respect to
19 Administrative Claims, Claim Bar Date shall mean 30 days after the Effective Date.

20 25. ~~26.~~ **“Claim Objection Deadline”** means (a) 90 days after the Effective Date, unless
21 extended by an order of the Court, or (b) 30 days after the deadline for filing an Administrative
22 Claim, unless extended by an order of the Court.

23 26. ~~27.~~ **“Class”** means a group of Claims or Interests classified together in a class
24 designated in Article III of the Plan.

25 27. ~~28.~~ **“Collateral”** means the following, individually and collectively with respect to
26 Grantors: (a) all Proceeds, (b) any and all claims, deposits, prepayments, refunds, rebates, causes
27 of action, rights of recovery, rights of set-off and rights of recoupment relating to any of the
28 above-mentioned Proceeds (to the extent that such Proceeds constitute Gross Available Cash

1 Flow), but only as permitted by the Governing Documents and the Security Documents, and by
2 Applicable Law, (c) any and all substitutions, replacements, additions, accessions, products
3 derived or attributable with respect to any of the above-mentioned Collateral set forth herein, and
4 (d) “proceeds” (as defined in Section 9102(a)(~~6264~~) of the UCC) from any and all of the
5 foregoing; provided, however, that any Cash distributed from the Control Account pursuant to and
6 in compliance with the terms and conditions of the Cash Flow Note and the other Security
7 Documents shall from and after the time of such release no longer constitute “Collateral” and shall
8 not be subject to the security interest granted herein.

9 ~~28.~~ ~~29.~~ “*Committee*” means the Official Committee of Unsecured Creditors appointed
10 by the Office of the United States Trustee in the Cases as it may be constituted from time to time.

11 ~~29.~~ ~~30.~~ “*Confirmation Date*” means the date of entry of the Confirmation Order.

12 ~~30.~~ ~~31.~~ “*Confirmation Hearing*” means the hearing to consider confirmation of the
13 Plan pursuant to section 1128 of the Bankruptcy Code, as it may be adjourned or continued from
14 time to time.

15 ~~31.~~ ~~32.~~ “*Confirmation Order*” means the order of the Court confirming the Plan
16 pursuant to section 1129 of the Bankruptcy Code.

17 ~~32.~~ ~~33.~~ “*Consolidation Order*” means the “Order Substantively Consolidating Chapter
18 11 Estate of Cameo Homes into Chapter 11 Estate of James C. Gianulias” entered by the Court on
19 December 11, 2008.

20 ~~33.~~ ~~34.~~ “*Countrywide*” means secured creditor Countrywide Home Loans, Inc.

21 ~~34.~~ ~~35.~~ “*Control Assets*” “*Controlled Entities*” means the following assets, in which the
22 Debtors² own a controlling interest, and their respective successors or assigns: (a) Fountain Valley
23 Senior Housing, L.P.; (b) Placentia 422, LP; (c) River Knolls, LP; and (d) GVSC, LP.

24 ~~35.~~ ~~36.~~ “*Control Assets*” “*Controlled Entities Budgets*” mean the annual budgets for
25 operations of each of the ~~Control Assets~~ “*Controlled Entities*” to be established by agreement
26 between the Debtors and the Committee as of the Confirmation Date.

27 ~~36.~~ ~~37.~~ “*Control Account*” means a deposit account for deposit of Proceeds received
28 by ~~the Debtors~~ Grantors with a financial institution mutually acceptable to the Creditors’ Trust,

1 Robbins and Debtors pursuant to which a Control Agreement and the Disbursing Agent
2 Agreement, as applicable, relating to the ability of the Disbursing Agent and/or any other Person
3 to make distributions of Proceeds from such Control Account, shall govern.

4 37. ~~38.~~ ***“Control Agreement”*** means the deposit account control agreement mutually
5 acceptable to the Creditors’ Trust, Robbins and Debtors concerning the Control Account.

6 38. ~~39.~~ ***“Creditor”*** means any holder of a Claim, as defined by the Bankruptcy Code,
7 section 101(10).

8 39. ~~40.~~ ***“Creditors’ Trust Agreement”*** means that certain “Creditors’ Trust
9 Agreement,” a true and correct copy of which is attached hereto as Exhibit “A.”

10 40. ~~41.~~ ***“Creditors’ Trust Trustee”*** shall mean shall mean the Trustee of the Creditors’
11 Trust consisting of one (1) individual that is selected by the Committee.

12 41. ~~42.~~ ***“Creditors’ Trust”*** means that trust established in accordance with section
13 VII.F hereof, and which, after the Effective Date, will hold and distribute certain assets and funds
14 for the benefit of holders of Allowed Claims in Class 3 in accordance with the terms of the Plan,
15 and will have such powers, duties and obligations as are set forth therein, in the Creditors’ Trust
16 Agreement, in the Confirmation Order, in other Final Orders, and by applicable law.

17 42. ~~43.~~ ***“Creditors’ Trust Lien”*** means the perfected security interest in the Collateral
18 granted to the Creditors’ Trust to secure the Reorganized Debtors’ obligations under the Cash
19 Flow Note, pursuant to the Plan Documents.

20 43. ~~44.~~ ***“Debtors”*** means, collectively, Gianulias and Cameo, whether as debtors or as
21 debtors-in-possession, ~~and includes any successors and assigns thereof; provided, however,~~
22 ~~that, by way of clarification solely with respect to any such successors and assigns, the~~
23 ~~following Persons are expressly excluded as successors and assigns for purposes of this~~
24 ~~definition: any Person who (A) is an Other Owner or (B) acquires any Ownership Interest~~
25 ~~and is not an Affiliate of any Debtor; provided, however, nothing herein shall limit, affect or~~
26 ~~abridge the Holder’s right to consent to the sale, transfer and/or assignment of any~~
27 ~~Ownership Interest pursuant to the provisions of Section 6(a)(2) of the Security Agreement~~
28

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

3 44. ~~45.~~ *"Disclosure Statement"* means the "~~Third~~Fourth Amended Disclosure
4 Statement for Debtors' ~~Third~~Fourth Amended Plan of Reorganization (Dated May ~~12, 27,~~ 2010)"
5 (and all exhibits and attachments thereto or referenced therein) that relates to the Plan and is
6 approved pursuant to section 1125 of the Bankruptcy Code in an order entered by the Court, as
7 such Disclosure Statement may be amended, modified or supplemented.

8 45. ~~46.~~ *"Disbursing Agent"* means mean the Grantor Disbursing Agent or an
9 authorized successor not controlled by Grantors and appointed as provided in the Disbursing
10 Agent Agreement.

11 46. ~~47.~~ *"Disbursing Agent Agreement"* means that certain Disbursing Agent
12 Agreement, a true and correct copy of which is attached hereto as Exhibit "F."

13 47. ~~48.~~ *"Dispute Resolution Procedure"* means the procedures set forth in the Plan
14 Documents to address all determinations and conflicts and otherwise resolve any disputes arising
15 between the Debtors and the Committee or the Reorganized Debtors and the Creditors' Trust in
16 connection with the Plan Documents and/or the terms or interpretation of the Plan Documents,
17 including, without limitation, the determination of a default under the Plan Documents, and the
18 resolution of any dispute concerning the ~~Control Assets~~Controlled Entities Budgets, established
19 in accordance with the terms set forth in section VII.J of the Plan and/or the Plan Documents, but
20 excluding any dispute regarding whether the Creditors' Trust has been overpaid by the Disbursing
21 Agent.

22 48. ~~49.~~ *"Disputed Claim"* means, with reference to any Claim, (a) any Claim, (i) proof
23 of which was not timely or properly filed by the Claim Bar Date and that has been or hereafter is
24 listed on the Schedules as unliquidated, disputed or contingent, or (ii) that is not listed in the
25 Schedules; or (b) any Claim as to which the Debtors or any other party in interest has filed an
26 objection or request for estimation on or before such limitation period fixed by the Plan, the
27 Bankruptcy Code, the Bankruptcy Rules or the Court, except to the extent that such objection or
28

1 request for estimation is withdrawn or determined by a Final Order in favor of the holder of such
2 Claim.

3 49. ~~50.~~ ***“Disputed Claims Reserve”*** has the meaning set forth in section VII.F.11
4 hereof.

5 50. ~~51.~~ ***“Distribution Fund”*** means the proceeds to be collected by the Creditors’ Trust
6 Trustee for distribution to Creditors in Class 3 pursuant to the Plan, including the proceeds of the
7 Cash Flow Note and the Secondary Note.

8 51. ~~52.~~ ***“Effective Date”*** means the first Business Day following the date the
9 Confirmation Order becomes a Final Order.

10 52. ~~53.~~ ***“Entity”*** means an individual, a corporation, a general partnership, a limited
11 partnership, a limited liability company, a limited liability partnership, an association, a joint stock
12 company, a joint venture, an estate, a trust, an unincorporated organization, a government or any
13 subdivision thereof.

14 53. ~~54.~~ ***“Estate”*** means, with respect to any Debtor, the estate created by section 541(a)
15 of the Bankruptcy Code upon the Petition Date.

16 54. ~~55.~~ ***“Equity Interest”*** means any (1) partnership interest, (2) membership interest,
17 (3) shareholder interest or other ownership or equity interest, and/or (4) economic or other interest
18 owned or held by Debtors in any Portfolio Entity or Intermediate Entity.

19 55. ~~56.~~ ***“Final Claim Order”*** means a Final Order regarding an objection to and/or
20 allowance of a Claim.

21 56. ~~57.~~ ***“Final Order”*** means an order or judgment of the Court the operation or effect
22 of which has not been stayed, and as to which the time to appeal or to seek reargument or
23 rehearing has passed, and as to which no appeal, reargument, or petition for rehearing or certiorari
24 has been taken or is pending.

25 57. ~~58.~~ ***“Gap Claims”*** means Claims arising between the Petition Date and the Order
26 for Relief Date which are accorded priority in right of payment under section 507(a)(3) of the
27 Bankruptcy Code.

28 58. ~~59.~~ ***“General Unsecured Claims”*** means those Claims included in Class 3 herein.

1 **59.** ~~60.~~ “*Gianulias*” means James C. Gianulias, an individual, and includes any heirs,
2 successors and assigns thereof and the estate of Gianulias upon his death; provided, however,
3 that, by way of clarification solely with respect to any such successors and assigns, the following
4 Persons are expressly excluded as successors and assigns for purposes of this definition: any
5 Person who (A) is an Other Owner or (B) acquires any Ownership Interest and is not an Affiliate
6 of any Debtor; provided, however, nothing herein shall limit, affect or abridge the Holder’s right
7 to consent to the sale, transfer and/or assignment of any Ownership Interest pursuant to the
8 provisions of Section 6(a)(2) of the Security Agreement or any remedies that Holder may have
9 under the Security Agreement for any breach of the provisions of Section 6(a)(2) of the Security
10 Agreement; provided, further, notwithstanding any provision to the contrary in the Cash
11 Flow Note, and subject to Applicable Law, any and all successors and/or assigns who acquire
12 or receive any Ownership Interest pursuant to any will, devise, inheritance or by operation
13 of law shall not become a Debtor or Maker under the Cash Flow Note, but (i) any such
14 successor or assign shall become a Grantor as defined under the Security Documents with
15 respect to such Ownership Interest, and (ii) any such Ownership Interest received by any
16 such successor or assign shall continue to be subject to the terms and conditions of the Cash
17 Flow Note and of the Security Documents.

18 **60.** ~~61.~~ “*Gianulias Trust*” means The James Chris Gianulias Trust executed December
19 22, 1998, and amended in its entirety October 14, 2003, and shall include all successors and
20 assigns thereof, including, without limitation, any and all successor trusts created under the
21 James Chris Gianulias Trust; provided, however, that, by way of clarification solely with
22 respect to any such successors and assigns, the following Persons are expressly excluded as
23 successors and assigns for purposes of this definition: any Person who (A) is an Other Owner or
24 (B) acquires any Ownership Interest and is not an Affiliate of any Debtor; provided, however,
25 nothing herein shall limit, affect or abridge the Holder’s right to consent to the sale, transfer and/or
26 assignment of any Ownership Interest pursuant to the provisions of Section 6(a)(2) of the Security
27 Agreement or any remedies that Holder may have under the Security Agreement for any breach of
28 the provisions of Section 6(a)(2) of the Security Agreement; provided, further, notwithstanding

1 any provision to the contrary in the Cash Flow Note, and subject to Applicable Law, any and
2 all successors and/or assigns who acquire or receive any Ownership Interest pursuant to any
3 will, devise, inheritance or by operation of law shall not become a Debtor or Maker
4 hereunder, but (i) any such successor or assign shall become a Grantor as defined under the
5 Security Documents with respect to such Ownership Interest, and (ii) any such Ownership
6 Interest received by any such successor or assign shall continue to be subject to the terms
7 and conditions of the Cash Flow Note and of the Security Documents (provided, however,
8 that such exclusion shall not apply to any successor trust or trusts created under the James
9 Chris Gianulias Trust, which shall be a Debtor or Maker under the Cash Flow Note).

10 61. ~~62.~~ *“Governmental Unit”* has the meaning ascribed to such term in section 101(27)
11 of the Bankruptcy Code.

12 62. ~~63.~~ *“Governing Documents”* means the certificate or articles of incorporation, by-
13 laws, operating agreement, partnership agreement or other organizational or governing documents
14 of any Portfolio Entity and/or Intermediate Entity.

15 63. ~~64.~~ *“Grantor”* means Gianulias, the Gianulias Trust, Cameo, and any
16 ~~Parentparent~~, Subsidiary, Affiliate, heir, successor and/or assign of any of the foregoing;
17 ~~providingprovided~~, however, that, for purposes hereof, the term *“Grantors”* shall (a) only
18 include any Affiliate, heir, successor or assign that holds, directly or indirectly, from time to time,
19 an Ownership Interest in and to the Portfolio ~~Interest and to the Portfolio~~ Entities and/or
20 Intermediate Entities, and (b) expressly exclude the Portfolio Entities and the Intermediate
21 Entities, and those successors and assigns expressly excluded from the definition of Debtor
22 pursuant to ~~Section 2(w)~~ clauses (A) and (B) of Sections 2(l), 2(cc) and 2(vy) of the Cash Flow
23 Note.

24 64. ~~65.~~ *“Gross Available Cash Flow”* means Cash received by ~~Debtors~~ Grantors from
25 or in connection with any Ownership Interest (including any adjustments set forth in Section 4(b)
26 of the Cash Flow Note), including, without limitation, any Cash resulting from the ownership,
27 hypothecation, sale, financing or other transfer, whether in whole or in part and regardless of form,
28 with respect to any and all rights in and to the Ownership Interests and/or Collateral; provided,

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

11 65. ~~66.~~ "**Gus Gianulias**" means secured creditor Gus Gianulias, as an individual and as
12 a trustee of the Gus C. and Julie M. Gianulias Family Revocable Trust established January 20,
13 1983 and all amendments thereto.

14 66. ~~67.~~ "**Holder**" means the Creditors' Trust Trustee, on behalf of the Creditors' Trust,
15 or any successor or assign thereof.

16 67. ~~68.~~ "**Initial Distribution Date**" means the first Business Day on which a
17 distribution is made under the Plan to holders of Allowed Claims in Class 3.

18 68. ~~69.~~ "**Insider**" as defined in section 101(31) of the Bankruptcy Code, means (a) a
19 director of a Debtor; (b) an officer of a Debtor; (c) a person in control of a Debtor; (d) a
20 partnership in which a Debtor is a general partner; (e) a general partner of a Debtor; (f) a relative
21 of a general partner in, general partner of, or person in control of a Debtor; (g) an affiliate (as
22 defined in section 101(2) of the Bankruptcy Code) of a Debtor, or an Insider of an affiliate as if
23 such affiliate were a Debtor; and (h) a managing agent of a Debtor.

24 69. ~~70.~~ "**Inter-Debtor Claim**" means any Claim held by one of the Debtors against the
25 other Debtor, including, without limitation, (a) any account reflecting intercompany book entries
26 by such Debtor with respect to the other Debtor, (b) any Claim not reflected in book entries that is
27 held by a Debtor against the other Debtor, and (c) any derivative Claim asserted or assertable by or
28 on behalf of such Debtor against the other Debtor.

1 70. ~~71.~~ “*Interest*” means (a) the membership interests or any ownership rights in
2 Cameo, and (b) any right or option, however arising, to acquire membership interests or any other
3 equity interest, or any rights therein, of Cameo.

4 71. ~~72.~~ “*Interest in the Creditors’ Trust*” means the beneficial interests in the
5 Creditors’ Trust on or after the Effective Date in accordance with section VII.F of the Plan.

6 72. ~~73.~~ “*Interest Holder*” means the holder of an Interest on or before the date of the
7 Confirmation Hearing.

8 73. ~~74.~~ “*Intermediate Entities*” means the (a) the following entities: Fountain Valley
9 Senior Housing II, LLC, Parkewood Village, LLC, Park Glen, LLC, Park Mesa, LLC, Picadilly
10 Square, LLC, River Knolls, LLC, Villa Buena, LLC, Emerald Isle (Placentia), LP, Emerald Isle
11 (Placentia), LLC, Placentia 422, LLC, Grass Valley Shopping Center, LLC, and Dana Centre,
12 LLC; and (b) and/or any new or additional entities that directly or indirectly have or hold an
13 Ownership Interest in and to a Portfolio Entity, and which are directly or indirectly owned from
14 time to time by Debtors, and any successors, transferees or assigns in connection therewith.

15 74. ~~75.~~ “*Mediator*” means the Honorable Mitchel Goldberg (Ret.). If, for any reason,
16 Judge Goldberg is unable to serve as the Mediator, the Mediator shall be an individual mutually
17 agreed upon by the parties involved in the dispute using the following procedure: (i) each party
18 may propose the names of five neutral, qualified individuals to serve as Mediator; (ii) each party
19 may strike three names from the opposing party’s list peremptorily; and (iii) the parties shall then
20 mutually select one of the remaining four individuals to serve as Mediator. To the extent that the
21 parties are unable to mutually agree on a Mediator, the parties shall request that the Court appoint
22 a Mediator from the list of the remaining four individuals.

23 75. ~~76.~~ “*Mesa Management*” means Mesa Management, Inc., and shall include (1) its
24 successors and assigns, with respect to ownership and/or control, (2) any Affiliate of any Debtor
25 who succeeds Mesa Management as the entity that provides management services or functions to
26 any of the Portfolio Entities and/or the Intermediate Entities, and (3) any Person appointed as
27 successor manager by Debtors.

28 76. ~~77.~~ “*National Bank*” means secured creditor National Bank of Arizona.

1 77. ~~78.~~ **“Negative Pledge”** means that certain Negative Pledge, a true and correct copy
2 of which is attached hereto as Exhibit “G.”

3 78. ~~79.~~ **“Order for Relief Date”** means July 2, 2008, the date on which the Court
4 entered its “Order on Debtor’s Election to Convert Chapter 7 Case to a Case Under Chapter 11 of
5 the Bankruptcy Code” for each Debtor.

6 79. ~~80.~~ **“Other Owner”** means any Person that holds or owns a Venture Interest and is
7 not an Affiliate of Debtors.

8 80. ~~81.~~ **“Ownership Interest”** ~~means~~shall mean, subject to the terms and conditions
9 (including any adjustments) of Section 4(b) of the Cash Flow Note: (1) any Equity Interest as of
10 the date of execution of the Cash Flow Note, (2) any and all replacement, exchange or substitution
11 with respect thereto, and/or (3) any and all distributions of any Equity Interest (of whatsoever kind
12 and nature) issued and/or distributed on account of any Ownership Interests; provided, however,
13 that ~~(i)~~ the term **“Ownership Interest”** shall not include an Equity Interest (of whatsoever kind
14 and nature) sold, transferred or assigned (but not encumbered) by ~~Debtors~~Grantors to any
15 Person, including, without limitation, in connection with the dilution of any ~~Debtor’s~~ Equity
16 Interest owned or held by a Grantor. Notwithstanding the foregoing, if (A) an Ownership
17 Interest in a Portfolio Entity or Intermediate Entity is reduced by means of dilution resulting from
18 a Capital Call Transaction (as defined in the Security Agreement), subject to the terms and
19 conditions under any Governing Document, and (B) Debtors subsequently acquire a Venture
20 Interest pursuant to Section 4(b)(3) of the Cash Flow Note by means of Debtors’ making a loan
21 to, or otherwise acquiring a Venture Interest in and to, such Portfolio Entity or Intermediate
22 Entity, the term **“Ownership Interest”** in such Portfolio Entity or Intermediate Entity shall
23 include the Venture Interest so reacquired in an amount not to exceed the Equity Interest lost to
24 dilution. Anything to the contrary contained herein notwithstanding, the parties acknowledge and
25 agree that ~~Debtors~~Grantors may not use Collateral to purchase or acquire any Ownership
26 Interests, including, without limitation, any rights in and to Ownership Interests or Venture
27 Interests of whatsoever kind and nature, without the prior written consent of Holder in its sole and
28 absolute discretion.

1 81. ~~82.~~ "*Pacific Mercantile*" means secured creditor Pacific Mercantile Bank.

2 82. ~~83.~~ "*Pacific Mercantile Note*" means that certain promissory note dated as of
3 October 26, 2005, in the original principal sum of \$2 million (as subsequently modified to \$3
4 million), executed by Gianulias.

5 83. ~~84.~~ "*Person*" means any individual, corporation, partnership, limited liability
6 company, association, indenture trustee, organization, joint stock company, joint venture, estate,
7 trust, governmental unit or any political subdivision thereof, or any other entity.

8 84. ~~85.~~ "*Petition Date*" means June 6, 2008.

9 85. ~~86.~~ "*Plan*" means this "Debtors' ~~Third~~Fourth Amended Plan of Reorganization
10 (Dated May ~~12,27,~~ 2010)" (including all exhibits and attachments, each of which is hereby
11 incorporated and made part of the Plan), as modified or amended from time to time in accordance
12 with section 1127 of the Bankruptcy Code.

13 86. ~~87.~~ "*Plan Documents*" means, collectively, the Creditors' Trust Agreement, the
14 Cash Flow Note, the Secondary Note, the Security Agreement, the Disbursing Agent Agreement,
15 the Control Agreement, the Negative Pledge and the Written Instructions.

16 87. ~~88.~~ "*Portfolio Entities*" means the following Entities: (a) East Coast Properties –
17 Country Gardens, a New York General Partnership; (b) East Coast Properties – Grenadier Village,
18 a New York General Partnership; (c) East Coast Properties – Country Estates, a New York
19 General Partnership; (d) East Coast Properties – Woodwind Gardens, a New York General
20 Partnership; (e) Fountain Valley Senior Housing, LP, a California limited partnership; (f) LG
21 Parkewood Village, LP, a California limited partnership; (g) Park Glen, LP, a California limited
22 partnership; (h) Park Mesa, LP, a California limited partnership; (i) Piccadilly Square, LP, a
23 California limited partnership; (j) Placentia 422, LP, a California limited partnership; (k) River
24 Knolls, LP, a California limited partnership; (l) Villa Buena, LP, a California limited partnership;
25 (m) Coast Business Center (Coast Business Center, LP, a California limited partnership); (n)
26 Crown Building (Crown Building, LLC, a California limited liability company); (o) Dana Centre,
27 a California general partnership; (p) Dana Center, LP, a California limited partnership; (q)
28 Greenhaven Plaza, a California general partnership; (r) GVSC, LP, a California limited

1 partnership; (s) Lahaina Cannery Mall, LLC, a Hawaii limited liability company; (t) Lucas-
2 Gianulias, a California limited partnership; and (u) Sunrise Village, LP, a California limited
3 partnership, and any successors, transferees and assigns of any of the foregoing.

4 88. ~~89.~~ ***“Priority Payments”*** means the following items, in such order of priority as set
5 forth in the Plan: (a) the following payments to Robbins on account of, and in full satisfaction of
6 her secured claim with respect to Debtors: (1) \$1,000,000 in the first year following the Effective
7 Date (83,333.33 per month), (2) \$1,200,000 in the second year following the Effective Date
8 (\$100,000 per month), (3) \$1,200,000 in the third year following the Effective Date (\$100,000 per
9 month), (4) \$1,200,000 in the fourth year following the Effective Date (\$100,000 per month), and
10 (5) \$1,251,481,593,563 in the fifth year following the Effective Date, representing the remaining
11 balance owing to Robbins in connection with her claim in the Cases (~~\$104,290.08~~132,796.93 per
12 month); (b) the payment of \$1,800,000 per year in each of the first and second year following the
13 Effective Date to Debtors (\$150,000 per month); (c) payment of all Allowed Administrative
14 Claims, Allowed Gap Claims, Allowed Priority Claims, and Allowed Priority Tax Claims incurred
15 in the Cases; and (d) the payment of all Adjusted Income Taxes, subject to the terms and
16 conditions as set forth in Section 5(b) of the Cash Flow Note.

17 89. ~~90.~~ ***“Proceeds”*** means Gross Available Cash Flow and any other Cash received by
18 Grantors from time to time from any Collateral identified in subsections (b), (c) and (d) of the
19 definition of Collateral set forth above.

20 90. ~~91.~~ ***“Projection”*** means the projection prepared by the Debtors estimating cash
21 flow generated by the Portfolio Entities and the payments on account of the Cash Flow Note,
22 which is intended as a guide only and is not a guarantee of any specific payment stream, and
23 attached to the Disclosure Statement as Exhibit 2.

24 91. ~~92.~~ ***“Priority Claim”*** means a Claim other than an Administrative Claim or a Tax
25 Claim which, if allowed, would be entitled to priority under section 507(a) of the Bankruptcy
26 Code.

27 92. ~~93.~~ ***“Priority Tax Claim”*** means a Claim entitled to priority under section 507(a)(8)
28 of the Bankruptcy Code.

1 93. 94. “*Pro Rata*” means proportionately. Distributions to holders of Allowed
2 Claims in a Class are Pro Rata when the ratio of (a)(i) the amount of Cash distributed on account
3 of each such Allowed Claim to (ii) the amount of such Claim, is the same as the ratio of (b)(i) the
4 amount of Cash distributed on account of all Allowed Claims of the Class in which such Claim is
5 included to (ii) the amount of all Allowed Claims in that Class. Allocations to holders of Allowed
6 and Disputed Claims in a Class are Pro Rata when (a)(i) the amount of property allocated to each
7 such Claim to (ii) the amount of such Claim, is the same as the ratio of (b)(i) the amount of
8 property allocated to all Allowed and Disputed Claims of the Class to (ii) the total amount of all
9 Claims (including Disputed Claims) in that Class.

10 94. 95. “*Professionals*” means those Entities (a) employed in the Cases under sections
11 327 or 1103 of the Bankruptcy Code, and (b) entitled, under sections 328, 330, 331, 503(b),
12 506(b), 507(a)(2) of the Bankruptcy Code, to seek compensation for legal, accounting or other
13 professional services and the costs and expenses related to such services from the Debtors or the
14 Estates.

15 95. 96. “*Recovery Rights*” means any and all manner of causes of action, claims,
16 obligations, suits, debts, judgments and demands whatsoever, whether in law or in equity,
17 including, but not limited to, actions to subordinate Claims under Section 510 of the Bankruptcy
18 Code and avoidance power actions set forth in Sections 544 through 550, inclusive, of the
19 Bankruptcy Code.

20 96. 97. “*Rejection Damages Deadline*” means the later of the Claim Bar Date, or
21 thirty (30) days after the entry of an order approving the rejection of an executory contract or
22 unexpired lease.

23 97. 98. “*Reorganized Debtors*” means the Debtors, or any successors, ~~heirs~~ or assigns
24 with respect thereto, including, without limitation, any successors by merger, consolidation,
25 intestacy or otherwise, on and after the Effective Date; provided, however, that, by way of
26 clarification solely with respect to any such successors and assigns, the following Persons are
27 expressly excluded as successors and assigns for purposes of this definition: any Person who (A)
28 is an Other Owner or (B) acquires any Ownership Interest and is not an Affiliate of any Debtor;

1 provided, however, nothing herein shall limit, affect or abridge the Holder's right to consent to the
2 sale, transfer and/or assignment of any Ownership Interest pursuant to the provisions of Section
3 6(a)(2) of the Security Agreement or any remedies that Holder may have under the Security
4 Agreement for any breach of the provisions of Section 6(a)(2) of the Security Agreement;
5 provided, further, notwithstanding any provision to the contrary in the Cash Flow Note, any
6 and all successors and/or assigns who acquire or receive any Ownership Interest pursuant to
7 any will, devise, inheritance or by operation of law shall not become a Debtor hereunder, but
8 the Ownership Interests received by any such successor or assign shall continue to be subject
9 to the terms and conditions of the Cash Flow Note and of the Security Documents.

10 98. ~~99.~~ "*Robbins*" means secured creditor Marilyn Gianulias Robbins, an individual.

11 99. ~~100.~~ "*Schedules*" means the schedules of assets and liabilities, statements of
12 financial affairs, and lists of holders of Claims and Equity Interests filed with the Court by each of
13 the Debtors, including any amendments or supplements thereto.

14 100. ~~101.~~ "*Secondary Note*" means the promissory note in the original principal amount
15 of \$5 million, which shall not bear interest, and maturing on December 31, 2025, to be issued by
16 the Reorganized Debtors as of the Effective Date and made payable to the Creditors' Trust solely
17 for the benefit of holders of Allowed General Unsecured Claims, a true and correct copy of which
18 is attached hereto as Exhibit "D."

19 101. ~~102.~~ "*Secured Claim*" means a Claim secured by a lien on any property of any of
20 the Estates, but only to the extent of the value of the interest of the holder of such Allowed Claim
21 in the interest of the Estate in such property, the calculation of which shall not include any demand
22 for default interest, penalty interest or other similar demands.

23 102. ~~103.~~ "*Security Agreement*" means that certain Security Agreement, a true and
24 correct copy of which is attached hereto as Exhibit "E."

25 103. "*Security Documents*" means the Security Agreement, the Cash Flow Note and
26 any and all documents, instruments, certificates and written agreements entered into in
27 connection therewith.

28

1 104. “*Subordinated Claims*” means: (a) any Claim, or a portion of a Claim, that is
2 subject to subordination under section 510 of the Bankruptcy Code, and (b) any Claim, or portion
3 of a Claim, for fines, penalties, forfeitures, or for multiple, exemplary, or punitive damages, or
4 other non-pecuniary, direct or non-proximate damages.

5 105. “*Subsidiary*” means any corporation, limited liability company, partnership, trust
6 or other entity (whether now existing or hereafter organized or acquired) of which any Debtor or
7 one or more Subsidiaries of any Debtor at the time owns or controls directly or indirectly more
8 than fifty percent (50%) of the shares of stock or partnership or other ownership interest having
9 general voting power under ordinary circumstances to elect a majority of the board of directors,
10 managers or trustees or otherwise exercising control of such corporation, limited liability
11 company, partnership, trust or other entity (irrespective of whether at the time stock or any other
12 form of ownership of any class or classes shall have or might have voting power by reason of the
13 happening of any contingency.

14 106. “*Tax Code*” means title 26 of the United States Code, as amended from time to
15 time.

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

19 108. “*Treasury Regulations*” means final and temporary regulations promulgated by the
20 U.S. Treasury Department in respect of the Tax Code.

21 109. “*UCC*” means the Uniform Commercial Code as adopted and in effect in the State
22 of California from time to time.

23 110. “*Unclaimed Property*” means any funds or other Property to be distributed to
24 Creditors pursuant to the Plan, which, after an attempted distribution, has not been received by the
25 rightful Creditor. Unclaimed property shall include checks and any other property that have been
26 returned as undeliverable without a proper forwarding address, or which were not mailed or
27 delivered because of the absence of a proper address to which to mail or deliver such property.
28 Such Unclaimed Property that remains unclaimed at the end of one (1) year following the date of

1 an attempted distribution shall be reallocated and paid to other holders of Allowed Claims in
2 accordance with the Plan. After the expiration of one (1) year following the date of an attempted
3 distribution, each Claim with respect to Unclaimed Property shall be treated as if it had been
4 disallowed in its entirety.

5 111. “*United States Trustee*” means the United States Trustee for the District of
6 California.

7 112. “*Venture Interest*” means any partnership interest, membership interest,
8 shareholder interest or other ownership or equity interest and/or economic or other interest in a
9 Portfolio Entity and/or Intermediate Entity.

10 113. “*Voting Deadline*” means _____, July 2, 2010, or such other deadline
11 established by the Bankruptcy Court for parties in interest entitled to vote to submit their ballots
12 accepting or rejecting the Plan.

13 114. “*Wells Fargo*” means secured creditor Wells Fargo Bank.

14 115. “*Written Instructions*” means that certain Form of Written Direction, a true and
15 correct copy of which is attached hereto as Exhibit “H.”

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

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

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

24 3. The words “herein,” “hereof,” “hereto,” “hereunder” and others of similar import
25 refer to the Plan as a whole and not to any particular article, section, subsection or clause
26 contained in the Plan.

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

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

4 6. Any reference in the Plan to an existing document means such document, as it may
5 have been amended, modified or supplemented from time to time as of the Effective Date.

6 7. Whenever from the context it is appropriate, each term stated in either the singular
7 or the plural shall include both the singular and the plural.

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

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

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

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

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

19 **ARTICLE III**

20 **PAYMENT OF ADMINISTRATIVE EXPENSES**

21 **AND TREATMENT OF CERTAIN UNCLASSIFIED CLAIMS**

22 **A. Summary**

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

1 **B. Administrative Claims**

2 Subject to section 330(a) and 331 of the Bankruptcy Code and the bar date provisions of
3 paragraph C of this Article III, on the later of the Effective Date, or as soon thereafter as practical,
4 or the date on which the Administrative Claim is allowed, the Debtors will pay to each Creditor
5 holding an Allowed Administrative Claim, unless that Creditor agrees to different treatment, Cash
6 equal to the unpaid portion of such Allowed Administrative Claim; *provided, however*, that
7 Allowed Administrative Claims representing obligations incurred in the ordinary course of
8 business or otherwise assumed by the Debtors pursuant to this Plan and unpaid as of the Effective
9 Date, shall be assumed on the Effective Date and paid or performed by the Debtors when due in
10 accordance with the terms and conditions of the particular agreements governing such obligations.

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

12 All applications for final compensation of Professionals for services rendered and for
13 reimbursement of expenses incurred on or before the Effective Date, and any other request for
14 compensation by any Entity for making a substantial contribution in the Cases, and all other
15 requests for payment of an Administrative Claim incurred before the Effective Date under sections
16 507(a)(2) or 503(b) of the Bankruptcy Code (except only for Claims under 28 U.S.C. § 1930) shall
17 be filed no later than thirty (30) days after the Effective Date.

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

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

24 The Allowed Administrative Claims of Professionals shall not be paid in full on the
25 Effective Date. Instead, Allowed Administrative Claims of Professionals shall be paid, Pro Rata,
26 from the cash generated by the Portfolio Entities and Intermediate Entities and received by the
27 Reorganized Debtors, subject to the payment of \$1.8 million annually to the Reorganized Debtors
28

1 in the first and second year following the Effective Date and the payments to be made to Robbins
2 on account of her Secured Claim as set forth herein. All Professionals have agreed to this deferral.

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

4 Each holder of an Allowed Priority Tax Claim against the Debtors shall receive, on the
5 Effective Date, in full satisfaction, release, and discharge of such Allowed Priority Tax Claim, at
6 the election of the Debtors, either: (i) Cash payment in the amount of the holder's Allowed
7 Priority Tax Claim; (ii) deferred Cash payments over a period not to exceed five (5) years, from
8 the Petition Date, equal to the Allowed amount of such claim; (iii) in a manner not less favorable
9 than the most favored nonpriority unsecured claim provided for by the Plan; or (iv) such other
10 terms as may be agreed upon by such holder and the Debtors. The rate of interest to be paid on
11 Priority Tax Claims paid out over a period not to exceed five (5) years from the Petition Date shall
12 be equal to the underpayment rate specified in 26 U.S.C. § 6621 (determined without regard to 26
13 U.S.C. § 6621(c)) as of the Effective Date or such higher rate as required by 11 U.S.C. § 511(a).

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

21 **F. Payment of Gap Claims**

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ARTICLE IV

CLASSIFICATION OF CLAIMS AND INTERESTS

A. Manner of Classification of Claims and Interests

Except for Claims of a kind specified in sections 507(a)(2) or 507(a)(8) of the Bankruptcy Code, all Claims against, and Interests in the Debtors and with respect to all property of the Debtors and the Estates, are defined and hereinafter designated in respective Classes. The Plan is intended to deal with all Claims against and Interests in the Debtors, of whatever character, whether known or unknown, whether or not with recourse, whether or not contingent or unliquidated, and whether or not previously allowed by the Court pursuant to section 502 of the Bankruptcy Code. Only holders of Allowed Claims, however, will receive any distribution under the Plan. For purposes of determining Pro Rata distributions to holders of Allowed Claims under the Plan, Disputed Claims shall be included in the Class in which such Claims would be included if they were Allowed Claims.

B. Classification

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

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
28

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.

28

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~~ 5,075,000.

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:

| <u>Year</u> | <u>Annual Payment Amount</u> |
|-------------|---|
| Year 1 | \$1,000,000 |
| Year 2 | \$1,200,000 |
| Year 3 | \$1,200,000 |
| Year 4 | \$1,200,000 |
| Year 5 | Approximately <u>\$1,251,481,593,563</u> (remaining balance of the Robbins Secured 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~~ For the 13th
14 month and through the 48th month, a monthly payment of \$100,000.00 will be due on the
15 fifteenth (15th) day of each successive month. ~~Thereafter, until month 60, when maturity,~~
16 Robbins shall receive ~~a final payment of \$151,481.04.~~ monthly payments of \$132,796.93
17 representing the remaining amounts owing to Robbins in connection with her claim. In the
18 event that payments for a particular month are insufficient to pay the accrued interest for the
19 current month, the excess accrued interest shall be added to the principal amount owed to Robbins.

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

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

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

27 6. Retention of Collateral. Robbins' current lien shall be released as of the
28 Effective Date. As of the Effective Date, Robbins shall be granted a)—A first priority security

1 interest in the Collateral. Robbins shall retain this first priority security interest in the Collateral
2 until such time as the Allowed Class 1D Claim has been paid in full. Robbins' security interest in
3 the Collateral shall, at all times until paid in full, be senior to the Creditors' Trust Lien.

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

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

10 **Class 1D is impaired under the Plan.**

11 **E. Class 1E – Secured Claims of Gus Gianulias**

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

13 Except to the extent that the holder of an Allowed Secured Claim in Class 1E agrees to a
14 different treatment, the holder of the Allowed Secured Claim in Class 1E 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 1E does not hold an Allowed Secured Claim, such
21 Claim, if it becomes an Allowed Claim, shall be included in Class 3.

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

23 **F. Class 1F ~ Secured Claims of Countrywide**

24 Class 1F consists of all Secured Claims of Countrywide.

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

27 1. Principal Amount. The modified Countrywide Note shall have a principal amount
28 equal to the outstanding balance of the note as of the Effective Date (estimated at \$509,372.60 as

1 of Oct. 26, 2009, plus interest thereon through the Effective Date at the rate of 5.625% per
2 annum).

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

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

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

16 5. Pre-Payment. At any time after the Effective Date, without penalty or premium,
17 the Countrywide 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 with any other term of the
21 Plan or with the law, the validity and priority of the deed of trust securing the Countrywide Note
22 shall remain in full force and effect following the Effective Date.

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

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

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

27 Class 1G consists of all Secured Claims of Chase.
28

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

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

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

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

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

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

24 To the extent that the County of Riverside has a Secured Claim for real property taxes
25 under 11 U.S.C. § 506(b), any payment made to the County of Riverside upon the sale or transfer
26 of such real property will include all applicable state law interest under 11 U.S.C. § 511. The
27 County of Riverside will retain any applicable lien until such Secured Claim is paid in full. A
28 failure by the Debtors to make a payment based on a Secured Claim to the County of Riverside

1 pursuant to the terms of the Plan shall be an Event of Default. If the Debtors fail to cure any such
2 Event of Default within ten (10) days after service of written notice of default from the County of
3 Riverside, then the County of Riverside may enforce the entire amount of its Secured Claim,
4 including all penalties and interest accrued under state law, against the applicable Debtor in
5 accordance with applicable state law remedies.

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

8 **Class 1H is unimpaired under the Plan.**

9 **I. Class 2 ~ Priority Claims**

10 Class 2 consists of all Allowed Priority Claims against the Debtors. Class 2 does not
11 include any Priority Tax Claims, all of which shall be treated in accordance with section III.E of
12 the Plan.

13 Except to the extent that the holder of such Claim agrees to a different treatment, the
14 Debtors shall pay Cash on the Effective Date to each holder of an Allowed Claim in Class 2 the
15 amount of such Allowed Claim.

16 **Class 2 is unimpaired under the Plan.**

17 **J. Class 3 ~ General Unsecured Claims**

18 Class 3 consists of all Allowed Claims against the Debtors (including Claims arising from
19 the rejection of executory contracts and/or unexpired leases) other than: (a) Administrative
20 Claims; (b) Priority Tax Claims; and (c) Claims included within any other Class designated in the
21 Plan. Class 3 shall be deemed to include those Creditor(s) holding an alleged Secured Claim
22 against the Debtors for which: (i) no collateral exists to secure the alleged Secured Claim; and/or
23 (ii) liens, security interests, or other encumbrances that are senior in priority to the alleged Secured
24 Claim exceed the fair market value of the collateral securing such alleged Secured Claim as of the
25 Petition Date.

26 Due to the substantive consolidation of the Estates resulting from the Consolidation Order,
27 the Creditors' Trust shall, subject to the terms and conditions of the Creditors' Trust Agreement,
28 including, without limitation, after consideration of applicable reserves established by the

1 Creditors' Trust Trustee pursuant to the terms and conditions thereof, make periodic Pro Rata
2 distributions of Cash to Creditors holding Allowed Claims in Class 3 against the Debtors, except
3 that Cash previously allocated to the Disputed Claims Reserve shall be distributed net of the
4 income taxes owed with respect to the earnings of assets allocated to the Disputed Claims
5 Reserve. See Section VII.F.9 hereof. In no event, however, will a Creditor receive an amount in
6 excess of such Creditor's Allowed Claim in Class 3.

7 The proceeds from the Recovery Rights and the payments to be made by or on behalf of
8 the Reorganized Debtors to the Creditors' Trust pursuant to the Cash Flow Note and the
9 Secondary Note shall be the sole sources of distributions to holders of Allowed Claims in Class 3.
10 Except to the extent that Cash previously allocated to the Disputed Claims Reserve is used to pay
11 taxes owed with respect to the Disputed Claims Reserve, each Creditor holding an Allowed Claim
12 in Class 3 is entitled to a Pro Rata share of available Cash received by the Creditors' Trust. The
13 amount to be paid to a Creditor holding an Allowed Claim in Class 3 may depend upon which of
14 the following categories of Claims applies to a particular Creditor's Claim: (1) the Creditor's
15 Allowed Claim is asserted solely against the estate of Gianulias; (2) the Creditor's Allowed Claim
16 is asserted solely against the estate of Cameo; or (3) the Creditor has valid, non-duplicative
17 Allowed Claims against both the Gianulias and Cameo estates (for example, a Creditor with
18 enforceable guarantees issued by both Debtors).¹ The Creditors' Trust Trustee will determine the
19 appropriate distributions for Creditors holding Allowed Claims in each of the foregoing three
20 categories of claims, and shall ensure that each distribution is not less than the amount such a
21 Creditor would have received absent the substantive consolidation of the Debtors' estates. When
22 determining the amount to distribute to Allowed Claims (and after consideration of applicable
23 reserves, if any, as permitted pursuant to the Creditors' Trust Agreement), the Creditors' Trust

24
25 ¹ For avoidance of doubt, the following hypothetical illustrates how distributions to
26 creditors with dual claims will be made under the Plan: Assume that a creditor has a claim against
27 each of the Debtors for \$10 million [for example, based on each Debtor having guaranteed the
28 single loan of \$10 million], and further assume that the aggregate claims pool against both Debtors
is \$200 million. Said creditor has claims of \$20 million as against a claims pool of \$200 million,
or ten percent (10%) of the claims pool. Consequently, said creditor will receive ten percent
(10%) of each distribution made by the Creditors' Trust Trustee. Further, under the Plan, no Class
3 Claim will be disallowed on the ground it is duplicative if the claim would not have been
disallowed as duplicative if the Debtors' two cases had not been substantively consolidated.

1 Trustee shall first allocate a Pro Rata amount of available Cash to the Allowed Claims and the
2 Disputed Claims, and then place amounts allocated to Disputed Claims in the Disputed Claims
3 Reserve on behalf of such Disputed Claims, so that holders of Disputed Claims may receive their
4 Pro Rata allocations, net of their share of the income taxes owed with respect to assets allocated to
5 the Disputed Claims Reserve, if, to the extent and when their Claims are Allowed.

6 The Reorganized Debtors shall make payments to the Creditors' Trust Trustee from
7 Available Cash Flow for the benefit of holders of Allowed Claims in Class 3 under and pursuant
8 to the terms of the following notes:

- 9 • The Cash Flow Note, in the principal amount of \$42 million, subject to
10 adjustment as set forth therein, bearing interest at a rate of 3.75% per
11 annum, and with a maturity date of December 31, 2024, subject to the terms
12 and conditions of the Plan Documents.
- 13 • The Secondary Note, in the principal amount of \$5 million, which shall not
14 bear interest, and with a maturity date of December 31, 2025, subject to the
15 terms and conditions of the Plan Documents.

16 The payments to be made to the Creditors' Trust by the Reorganized Debtors pursuant to
17 the Cash Flow Note and the Secondary Note, and the proceeds of any recovery with respect to the
18 Recovery Rights, shall be the sole sources of distributions to holders of Allowed Claims in Class
19 3.

20 **Class 3 is impaired under the Plan.**

21 **K. Class 4 ~ Inter-Debtor Claims**

22 Class 4 consists of all Allowed Claims of any Debtor against the other Debtor.

23 Inter-Debtor Claims of Class 4 will continue to exist and will not be eliminated under the
24 Plan. However, Allowed Inter-Debtor Claims shall be subordinated to all Allowed General
25 Unsecured Claims and shall not receive any distribution under the Plan.

26 **Class 4 is impaired under the Plan.**

27 **L. Class 5 ~ Subordinated Claims**

28 Class 5 consists of all Allowed Subordinated Claims.

1 Holders of Allowed Subordinated Claims of Class 5 shall retain, unaltered, all legal,
2 equitable and contractual rights to which the holder of such Claim is entitled.

3 **Class 5 is unimpaired under the Plan.**

4 **M. Class 6 ~ Interests**

5 Class 6 consists of all Interests.

6 Holders of Class 6 Interests in Cameo shall retain, unaltered, all legal, equitable and
7 contractual rights to which the holder of such Interest is entitled. In addition, because Gianulias is
8 an individual, he is the Interest Holder with respect to his Estate. As set forth in section VII.B of
9 the Plan, title to all assets, properties, and business operations of Gianulias and his Estate,
10 including his Interests in Cameo, shall revert in Gianulias as Reorganized Debtor.

11 **Class 6 is unimpaired under the Plan.**

12 **ARTICLE VI**

13 **ACCEPTANCE OR REJECTION OF THE PLAN**

14 Each holder of an Allowed Claim in an impaired Class of Claims that is entitled to vote on
15 the Plan shall be entitled to vote separately to accept or reject the Plan as provided in such order as
16 is entered by the Bankruptcy Court establishing procedures with respect to the solicitation and
17 tabulation of votes to accept or reject the Plan, or any other order or orders of the Bankruptcy
18 Court. In the event no holder of an Allowed Claim in an impaired Class of Claims submits a
19 Ballot accepting or rejecting the Plan, such Class of Claims shall be deemed to have voted to reject
20 the Plan.

21 **A. Classes Entitled to Vote**

22 Classes 1C, 1E, 1G, 1H, 2, 5, and 6 are unimpaired Classes under the Plan and are
23 conclusively presumed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy
24 Code.

25 Classes 1A, 1B-1, 1B-2, 1D, 1F, 3 and 4 are impaired Classes under this Plan and are
26 entitled to vote to accept or reject this Plan.

27

28

1 **B. Non-Consensual Confirmation**

2 If a Class fails to accept this Plan by the statutory majorities provided in section 1126(c) of
3 the Bankruptcy Code, the Debtors reserve the right to request the Bankruptcy Court to confirm
4 this Plan as to such rejecting Class.

5 **C. Elimination of Vacant Classes**

6 Any Class of Claims that does not have a holder of an Allowed Claim or a Claim
7 temporarily allowed under Bankruptcy Rule 3018 as of the date of commencement of the
8 Confirmation Hearing shall be deemed eliminated from the Plan for purposes of voting to accept
9 or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such
10 Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

11 **ARTICLE VII**

12 **IMPLEMENTATION OF THE PLAN AND EXECUTION OF ITS TERMS**

13 **A. Implementation of Plan**

14 The Debtors propose to implement and consummate the Plan through the means
15 contemplated by sections 1123(a)(5)(A), (B), (D), (E) and (G), 1123(a)(8), 1123(b)(1), (b)(2),
16 (b)(3)(A) and (B), (b)(4) and (b)(5), and 1145(a) of the Bankruptcy Code.

17 **B. The Reorganized Debtors and Revesting of Assets**

18 Except as otherwise set forth herein, or as modified by appropriate corporate action after
19 the Effective Date, the corporate structure and equity ownership of Cameo by Gianulias shall be
20 unchanged.

21 On the Effective Date, title to all assets, claims, causes of action, properties, and business
22 operations of the Debtors and of the Estates shall revest in each respective Reorganized Debtor,
23 and thereafter, the Reorganized Debtors shall own and retain such assets free and clear of all liens
24 and Claims, except as expressly provided in the Plan. From and after the Effective Date, except as
25 otherwise described in this Plan, the Reorganized Debtors shall own and operate such assets
26 without further supervision by or jurisdiction of this Court, except as otherwise provided herein;
27 provided, however, that the same shall be in accordance with the applicable loan documents for
28 the Portfolio Entities and Intermediate Entities and the Governing Documents. From and after the

1 Effective Date, in accordance with the terms of this Plan and the Confirmation Order, the
2 Reorganized Debtors shall perform all obligations under all executory contracts and unexpired
3 leases assumed in accordance with Article IX of the Plan.

4 **C. The Disbursing Agent**

5 Mesa Management shall serve as Disbursing Agent, without bond, for purposes of making
6 transfers and payments under this Plan, except with respect to distributions to be made by the
7 Creditors' Trust, for which the Creditors' Trust Trustee shall serve as the disbursing agent,
8 without bond. Mesa Management, as a disbursing agent in connection with the Plan Documents,
9 shall act subject to and in accordance with the terms and conditions of the Plan Documents, as
10 applicable. Mesa Management can be replaced or removed as Disbursing Agent (but not as
11 manager of the Portfolio Entities or Intermediate Entities, except in accordance with the applicable
12 loan documents and Governing Documents) in accordance with the terms of the Plan Documents,
13 and shall only be entitled to compensation or consideration from the Portfolio Entities or
14 Intermediate Entities as specifically contemplated in the Plan and the Plan Documents.

15 **D. Management of the Reorganized Debtors**

16 Following the Effective Date, Reorganized Debtor Gianulias will operate and manage his
17 interest in Reorganized Debtor Cameo, and the business operations of Reorganized Debtor Cameo
18 and its subsidiaries.

19 1. **Funding of the Reorganized Debtors.** Subject to the terms and conditions of the
20 Plan Documents, during the first two years following the Effective Date, the Reorganized Debtors
21 shall receive \$1.8 million annually from the Cash distributed as Gross Available Cash Flow, from
22 which they will fund post-Effective Date expenses and operations. The remaining funds
23 representing Gross Available Cash Flows will be used first to pay other Priority Payments. The
24 Priority Payments will be made in the following order of priority: (1) the following payments to
25 Robbins on account of, and in full satisfaction of her secured claim with respect to Debtors – (i)
26 \$1,000,000 in the first year following the Effective Date (\$83,333.33 per month), (ii) \$1,200,000
27 in the second year following the Effective Date (\$100,000 per month), (iii) \$1,200,000 in the third
28 year following the Effective Date (\$100,000 per month), (iv) \$1,200,000 in the fourth year