

Note: The following voluntary model agreement has been developed for use by community owners and lenders. It is recommended that community owners and lenders evaluate the applicability of any provision in the context of particular situations and applicable law. The provisions, percentages and figures contained in the model are subject to negotiation between the affected parties. If legal advice or other expert assistance is required, the services of a competent professional should be sought.



MODEL REPOSSESSED INVENTORY LOSS MITIGATION AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2004, by and between _____, a _____, whose address is _____ (hereinafter referred to as "Community Operator") and _____, a _____, whose address is _____ (hereinafter referred to as "Lender"). Community Operator and Lender are also hereinafter referred to individually as a "Party" and jointly as "Parties."

BACKGROUND

This Agreement is entered into based upon the following underlying facts and circumstances:

- A. Community Operator owns and manages manufactured home communities (individually a "Community"; collectively the "Communities").
- B. Lender is a commercial lender, providing financing to purchasers of manufactured homes.
- C. Community Operator is interested in maintaining community stability and retaining within the Community any Homes which Lender has repossessed by reason of a loan default (individually a "Home"; collectively, the "Homes").
- D. Lender is interested in assisting in permitting the Homes to remain in the Community.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and undertakings set forth herein, the Parties agree as follows:

1. ***Waiver of Obligation to Pay Rent.*** Following repossession of a Home by Lender in a Community at less than stable occupancy (annual resident turnover rate in excess of 8%, or occupancy less than 95%), such Home shall be entitled to remain in the Community without any obligation to pay monthly rent ("Rent Abatement") for a period of twelve (12) months, or until such time as the Home is sold and the purchaser thereof commences to pay rent to Community Operator for the site such Home occupies, whichever is the first to occur (the "Abatement Period"). The Abatement Period shall commence as of the date on which Community Operator notifies Lender said home is vacant or abandoned (the "Notification Date") and expire twelve (12) months thereafter. Following repossession of a Home by Lender in a Community with stable occupancy, Lender shall commence paying rent to Community Operator for the site such Home occupies from the date Community Operator notified Lender such home is vacant or abandoned. In no event shall Lender be liable to Community Operator for any rent or occupancy charges (other than charges which may be due to public taxing authorities or to public utility companies) that arose prior to the Notification Date.
2. ***Obligations of Lender.*** As a condition precedent to Lender's entitlement to the Rent Abatement, Lender agrees that if a Home is damaged, it will promptly arrange for repairs to be made to the exterior and interior of said Home in order to place the Home in "model" saleable condition. In no event, shall necessary repairs to

the Home take longer than sixty (60) days to complete, commencing with the date the Home was repossessed. Lender agrees to maintain the home in “model” saleable condition during the period of time the home remains unoccupied and unsold at Community Operator.

3. ***Maintenance Obligations of Community Operator.*** Community Operator agrees that during the Abatement Period, it will perform periodic grounds maintenance on the sites on which the Homes are situated, and bill Lender for the reasonable and necessary cost of such routine maintenance. In addition, Community Operator will assist Lender in finding contractors at reasonable prices and will assist Lender by inspecting work completed by contractors. Community Operator will instruct contractors to send Lender a detailed invoice and taxpayer W-9 form.
4. ***Competitive Financing.*** Lender agrees to offer financing to purchasers of its repossessed Homes at rates competitive with rates offered to purchasers of new homes.
5. ***Brokerage Services.*** If Community Operator (or an affiliate of same) is licensed to perform resale operations within the Community, Community Operator (or its affiliate) will offer to assist in the brokerage of a Home, provided Lender executes the appropriate listing agreements and agrees to the payment of a sales commission in accordance with Lender’s existing practice.
6. ***Inspection of Homes.*** Community Operator will instruct its Community Management to periodically inspect all repossessed units and advise Lender if any additional maintenance is needed to make the home ready for sale.
7. ***Commencement of Rent Obligation.*** Should any Home not sell within the Abatement Period, Lender agrees to commence paying rent for the site occupied by said Home at the undiscounted monthly rate currently being paid by existing residents for similarly situated sites. Monthly rent will continue to be due and payable to Community Operator by Lender until the Home is sold to a purchaser and said purchaser commences his or her tenancy in the Community, or until the Home is removed from the Community.
8. ***Approval of Purchasers for Tenancy.*** Community Operator shall have final written approval of all purchasers of Homes for tenancy in the Community. In order to be approved for tenancy, all prospective purchasers of Homes shall satisfy Community Operator’s resident requirements for the Community. Included in said requirements, all prospective purchasers of Homes will be required to complete an Application for Residency, which permits Community Operator to obtain and evaluate criminal and credit reports for said applicants, as well as perform landlord (and other) reference verifications.
9. ***Taxes, Insurance and Utilities.*** For the term of this Agreement, Lender shall pay all taxes, insurance and utility costs associated with the Homes during the period of time the Home(s) remain in the Community, or until they are sold. Additionally, Lender agrees to hold Community Operator harmless as to each Home for bodily injury and property damage arising from acts of its employees or agents.
10. ***Wholesale by Lender.*** In the event Lender, in its sole discretion, determines a home should be sold for cash in an expedient manner, Lender shall notify Community Operator of Lender’s desire to sell the home, and for the next thirty (30) days, Lender shall negotiate exclusively with Community Operator for the sale of the home. If after said thirty (30) day period, Lender and Community Operator have not agreed on the price of sale, Lender shall be free to obtain bids from other potential purchasers and shall be free to sell the home to another purchaser, provided the bid from the third party is more than Community Operator’s final offer, or Lender may continue to offer home for sale in Community, or Lender may relocate home outside Community.
11. ***Term of Agreement.*** The term of this Agreement is one (1) year from the day and year first above written. Thereafter, the Agreement will continue to be in effect on a month to month basis until either Community Operator or Lender provides the other, as the case may be, with a thirty (30) day written notice to terminate the Agreement. The terms of this Agreement will continue to apply to homes owned by Lender or homes financed for homebuyers by Lender on and from the date of execution of this Agreement through the effective date of the cancellation of the Agreement.

12. **Notices.** Unless otherwise provided herein, all notices or other communications required or permitted by this Agreement shall be in writing and shall be deemed to have been duly given on the date of delivery if delivered personally to the Party to whom notice is given, on the next business day if sent by confirmed facsimile transmission or on the date of actual delivery if sent by overnight commercial courier or by first-class mail, registered or certified, with postage prepaid and properly addressed to the Party at its address set forth below, or at any other address that any Party may from time to time designate by written notice to the others:

If to Community Operator:

If to Lender:

13. **Arbitration.** Any controversy or claim arising out of or relating to this Agreement, including any alleged breach, shall be resolved by binding arbitration before the American Arbitration Association and judgment on the award may be entered in any court having jurisdiction thereof. The cost of arbitration shall be allocated by the arbitrator as part of the arbitration decision.
14. **Course of Dealing.** No course of dealing between Community Operator and Lender, nor any failure to exercise, nor any delay in exercising, any right, power or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.
15. **Relationship.** Community Operator and Lender shall act as principals in all respects hereunder, and nothing herein shall be construed to constitute either as the agent, partner, or joint venturer of the other. Neither party shall have responsibility for any of the other Party's debts, liabilities or other obligations, or for the intentional, reckless or negligent acts or omissions of the other Party or its employees or agents and each Party shall indemnify and hold the other Party absolutely harmless from and against any and all such liabilities and losses, including reasonable attorneys' fees.
16. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.
17. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of _____.
18. **Survival of Indemnification Obligations.** Each and every indemnification obligation of any one or more of the Parties shall expressly survive the termination of this Agreement.
19. **Entire Agreement.** This Agreement constitutes the complete and exclusive statement of the agreement among the Parties. This Agreement supersedes all prior negotiations, understandings and agreements of the parties, written or oral.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the day and year first above written.

Witnesses:

By: _____

Date: _____

By: _____

Date: _____