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8 Attorneys for Debtors

9 **UNITED STATES BANKRUPTCY COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**

12 In re:	) Chapter 11
)
13	) Cases Jointly Administered
)
14 COMMUNITY TOWERS I, LLC,	) Case No. 11-58944-SLJ-11
A Delaware Limited Liability Company,)
15 Employer Tax I.D. No. 75-2456729,)
)
16 COMMUNITY TOWERS II, LLC,	) Case No. 11-58945-SLJ-11
A Delaware Limited Liability Company,)
17 Employer Tax I.D. No. 75-2560662,)
)
18 COMMUNITY TOWERS III, LLC,	) Case No. 11-58948-SLJ-11
A Delaware Limited Liability Company,)
19 Employer Tax I.D. No. 32-0065635,)
)
20 COMMUNITY TOWERS IV, LLC,	) Case No. 11-58949-SLJ-11
A Delaware Limited Liability Company,)
21 Employer Tax I.D. No. 77-0379075,)
)
22 Debtor(s).	) <u>Hearing on Plan Confirmation</u>
)
23 111 W. Saint John Street, Suite 705	) Date: October 15-16, 2012
San Jose, California 95113	) Time: 9:30 a.m.
	) Place: United States Bankruptcy Court
24	) 280 S. First St., Room 3099
	) San Jose, CA 95113
25	) Judge: Honorable Stephen L. Johnson
26)

27 **FIRST MODIFICATION TO DEBTORS' JOINT PLAN OF REORGANIZATION**
28 **(DATED MARCH 27, 2012)**

JWM:cc
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DS\Plan\March\FirstModificationToPlanv3.docx

1 FIRST MODIFICATION TO DEBTORS' JOINT PLAN OF REORGANIZATION
(DATED MARCH 27, 2012)

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RECITALS

A. On August 28, 2012 at 1:30 p.m., the Court conducted a telephonic hearing (the “Hearing”) to give the Debtors and CIBC, Inc. (“CIBC”) an opportunity to discuss the Debtors’ proposed modifications to its DEBTORS’ JOINT PLAN OF REORGANIZATION (DATED MARCH 27, 2012) (the “Plan”).

B. At the Hearing, the Court recognized the Debtors’ right to modify the Plan pursuant to Bankruptcy Code Section 1127 (a) and Federal Rule of Bankruptcy Procedure 3019 (a), and dispensed with the requirements of Rule 3019(a) that the Court conduct a hearing on notice relative to the Debtors’ proposed modifications of the Plan. CIBC stated it had no objection in this regard.

MODIFICATIONS TO PLAN

NOW, THEREFORE, COME NOW the Debtors in these cases who hereby amend their Plan as follows:

1. Section 5.1 of the Plan is amended in its entirety to read as follows:

“5.1 Class 2 (Allowed CIBC Claim).

Class 2 consists of the Allowed Secured Claim of CIBC.

Pursuant to section 1129(b)(2)(A)(i), CIBC shall retain all liens, security interests and other encumbrances affecting property of the Debtors and the Reorganized Debtors granted in favor of CIBC prior to the Effective Date to the extent of the Allowed Secured Claim of CIBC.

Commencing on the first day of the first calendar month following the Effective Date and continuing for five (5) years following the Effective Date, CIBC will receive monthly payments of interest only on its Allowed Secured Claim at the fixed rate of six percent (6%) per annum. CIBC will be paid the principal of its Allowed Secured Claim no later than five (5) years following the Effective Date.

CIBC’s Allowed Secured Claim may be paid in full at any time without penalty, and will be paid in all events no later than five (5) years following the Effective Date. The Subject Property may be transferred subject to the Allowed Secured Claim of CIBC. The foregoing is in full and final

1 satisfaction of all Class 2 Claims.

2 The holder of the Class 2 Claim is impaired. All Claims are subject to verification and are
3 likely to be reduced following resolution of Disputed Claims, including mitigation and offset as
4 applicable.”

5 2. Section 5.4 of the Plan is amended in its entirety to read as follows:

6 **5.4 Class 7 (General Unsecured Claims of John and Rosalie Feece).**

7 “Class 7 consists of the Allowed General Unsecured Claims of John and Rosalie Feece.

8 Commencing on the first day of the first calendar month following the Effective Date and
9 continuing for five (5) years following the Effective Date, John and Rosalie Feece will receive
10 monthly payments of interest only on their Allowed General Unsecured Claims at the fixed rate of
11 six percent (6%) per annum. John and Rosalie Feece will be paid the principal of their Allowed
12 General Unsecured Claims no later than five (5) years following the Effective Date.

13 If the Debtors experience a cash shortfall in any given month that prevents them from
14 making all payments pursuant to the Plan, the payment due to the Class 7 Creditors shall be reduced
15 by the amount of the shortfall and deferred, and paid only at such time as the Debtors have sufficient
16 cash to make up the shortfall deferral.

17 The foregoing is in full and final satisfaction of all Class 7 Claims.

18 Class 7 is impaired. All Claims are subject to verification and are likely to be reduced
19 following resolution of Disputed Claims, including mitigation and offset as applicable.”

20
21 Dated: September 12, 2012

COMMUNITY TOWERS I, LLC
A DELAWARE LIMITED LIABILITY COMPANY

22
23 By: /s/ John L. Feece

24 John L. Feece
25 Responsible Individual
26
27
28

1 Dated: September 12, 2012

COMMUNITY TOWERS II, LLC
A DELAWARE LIMITED LIABILITY COMPANY

3 By: /s/ John L. Feece

4 John L. Feece
5 Responsible Individual

6 Dated: September 12, 2012

COMMUNITY TOWERS III, LLC
A DELAWARE LIMITED LIABILITY COMPANY

8 By: /s/ John L. Feece

9 John L. Feece
10 Responsible Individual

11 Dated: September 12, 2012

COMMUNITY TOWERS IV, LLC
A DELAWARE LIMITED LIABILITY COMPANY

13 By: /s/ John L. Feece

14 John L. Feece
15 Responsible Individual

16 MURRAY & MURRAY,
17 A PROFESSIONAL CORPORATION

18 By: /s/ John Walshe Murray

19 John Walshe Murray
20 Attorneys for Debtors