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IN THE UNITED STATES BANKRUPTCY COURT
 IN AND FOR THE DISTRICT OF ARIZONA

In re)	In Proceeding Under
)	Chapter Eleven
MATRIX LUXURY HOMES, LLC,)	
)	Case No. 2-16-bk-09455 BKM
)	
)	FIRST AMENDED
)	DISCLOSURE STATEMENT
)	
Debtor)	
)	
)	

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A. Plan of Reorganization

I. INTRODUCTION

On August 16, 2016, Debtor, Matrix Luxury Homes, LLC, (hereinafter referred to as "Debtor"), filed a voluntary petition for Chapter 11 relief in the United States Bankruptcy Court for the District of Arizona.

This Amended Disclosure Statement (hereinafter "Disclosure Statement") is filed pursuant to 11 U.S.C. §1125 and is intended to provide the holders of claims and interest with adequate information about the Debtor and the Plan, so as, to enable the creditors to make an informed judgment as to their acceptance or rejection of the Plan.

II. DEFINITIONS

As utilized in this Disclosure Statement and in the Amended Plan of Reorganization (hereinafter "Plan of Reorganization") which accompanies this Disclosure Statement, the following definitions apply to the following terms:

1. "Adequate information" means information that would enable a hypothetical reasonable investor typical of holders of claims or interest of the Debtor's estate, to make an informed decision about the Debtor's Plan of Reorganization.

2. "Allowed and Approved Claim" shall mean all scheduled claims and to which no objection to the claim having been filed. If an objection to a claim is filed, said claim will be allowed to the extent ordered by the Court.

3. "Bankruptcy Code" shall mean the Bankruptcy Code as set forth in Title 11 of the United States Code.

4. "Bankruptcy Court" shall mean the United States Bankruptcy Court for the District of Arizona.

5. "Confirmation of the Plan" shall mean the entry of an order by the Bankruptcy Court confirming the Plan of Reorganization in accordance with §1129 of the Bankruptcy Code.

6. "Consummation of the Plan" means the accomplishment of all things required or provided for under the terms of the Plan.

7. "Court" shall mean the United States Bankruptcy Court for the District of Arizona.

8. "Creditors" shall mean all persons holding claims for secured and unsecured obligations, liabilities, demands or claims of any nature whatsoever against the Debtor arising at any time prior to confirmation of the Plan and administrative creditors.

9. "Debtor" shall mean the petitioner in the above-captioned Bankruptcy case. As to matters after the effective date "Debtor" shall also include Debtor's successor in interest who shall be the "Reorganized Debtor".

10. "Disclosure Statement" shall mean this Disclosure Statement (hereinafter "Disclosure Statement") filed in this case approved, after notice and a hearing by the Court as being in conformity with §1125 of the Bankruptcy Code.

11. "Effective date" shall be twenty-one (21) days after the entry of an Order Confirming the Chapter 11 Plan of Reorganization or the close of escrow, whichever occurs later.

12. "Petition" means the original Chapter 11 Petition filed by the Debtor.

13. "Plan" shall mean the Plan of Reorganization accompanying this Disclosure Statement as it may be amended, modified and/or supplemented pursuant to which the Debtor proposes payment in whole or in part of creditors' claims.

14. "Plan distribution date" shall be the "effective date" of confirmation. For distribution of the proceeds of the sale of the Residence the Plan distribution date shall be the date of closing of the Sale of the residence for secured creditor and five business days after such closing date for unsecured creditors or the later of any claim required to be approved by the Court.

15. All other terms not specifically defined by this Disclosure Statement shall have the meaning as designated in §101 of the Bankruptcy Code or, if not contained therein, their ordinary meaning.

III. DISCLAIMER

Any representations concerning the Debtor's Plan other than as set forth herein are unauthorized. This Disclosure Statement is designed to provide information the Debtor deems material, important and necessary for its creditors to arrive at an informed decision in exercising their right to accept or reject the Plan. YOU SHOULD THEREFORE NOT RELY ON ANY OTHER INFORMATION, REPRESENTATIONS OR INDUCEMENTS IN ASSESSING THE MERITS OF THE DEBTOR'S PLAN OTHER THAN THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT.

The Debtor expressly does not warrant nor represent that there are no inaccuracies in the following Disclosure Statement although the information provided is accurate to the best of its knowledge, information and belief. Creditors should also be aware that the Court has not undertaken any individual determination to verify the accuracy of the information contained in this Disclosure Statement. Finally, the attorney for the Debtor has not made any independent evaluation as to the accuracy of the information contained herein other than to ascertain that the information contained herein is generally consistent with information provided by the Debtor. Notwithstanding the foregoing, the Debtor believes that the information contained herein is correct and accurate and complies with the requirements of the Bankruptcy Code.

IV. DEBTOR'S BACKGROUND, EVENTS LEADING TO
CHAPTER 11 BANKRUPTCY FILING AND SIGNIFICANT POST FILING EVENTS

The Debtor is an Arizona limited liability company founded on September 14, 2014, and engaged in the business of acquiring and renovating a residence located at 10801 E. Happy Valley Road, # 88, Scottsdale 85255, in Maricopa County, Arizona (Lot 88 Glenn Moor (MCR) 278-05 Tax Parcel No. 217-02-120) (the "Residence"). The Debtor's manager is Troy (J.R) Hudspeth ("Hudspeth") who manages the day to day operations of the Debtor.

In February of 2014, Debtor obtained an acquisition and renovation loan from Maryland 32 Loan Company ("Maryland 32"). Debtor provided \$375,000.00 toward the acquisition of the Residence and the remainder was provided by Maryland 32. As a result of expanding the construction initially intended, construction delays, business reverses of Debtor's member affecting Debtor's ability to make loan payments and fund construction cost overruns, a number of loan forbearance extensions were obtained from Maryland 32. While in default on the Maryland 32 loan, Debtor received a notice of trustee's sale and complaint requesting the

appointment of a receiver, Debtor obtained a loan secured by a first deed of trust from Sir Mortgage and Finance of Arizona Inc (“Sir Mortgage”) that was assigned to La Familia Financial Limited Partnership (“La Familia”) in the amount of \$1,880,000.00.

Anticipated net loan proceeds from the La Familia loan was not sufficient to pay Maryland 32, Sir Mortgage, the loan originator and Blue Mortgage Company, Debtor’s broker. To accommodate the closing of La Familia Financing, Maryland accepted a reduced payoff amount, and partial payment by a note secured by a second position Deed of Trust in the amount \$101,725.00. The initial terms of the La Familia loan proposal were, interest only at the rate of 11.2% per annum, with the loan maturity of two years from closing. As a condition of Maryland 32 accepting a second position note, Maryland 32 required, in the Closing and Loan Agreement between Debtor and Maryland 32 that the “Lender, in its sole discretion, may make any payment required to keep Borrower’s obligation to the Refinance Lender and the Troon Village Association free of default and add the amount expended to the balance owed to the Lender”. Maryland 32’s reservation of the right to make payments was communicated to La Familia and Sir Mortgage. One day prior to the scheduled closing of the loan, the terms of the La Familia loan were changed which added monthly principal payments of \$25,000.00 and increased the interest rate from 11.2% per annum to 12.5% per annum. The changes resulted in an increased payment requirement from \$210,560.00 per annum to \$534,400.00 per annum. Debtor had no choice but to accept the changed loan terms because of the pending trustee’s sale; however, the changed terms of the loan were not disclosed to Maryland 32 who relied on the information provided as the initial payment requirement in accepting deferred payments. Debtor did tender the interest portion of the payment that was due May 1, 2016 but such payment was refused by La Familia because the payment did not include the \$25,000.00 principal reduction.

To accommodate the closing Sir Mortgage and Finance of Arizona (“Sir Mortgage”) and Blue Mortgage Company agreed to accept \$36,200.00 of their commission by a note to Sir Mortgage which was secured by a third position Deed of Trust.

On May 15, 2016, eleven days after the May 1, 2016 required payment became delinquent, La Familia’s notice of Trustee’s sale was filed. Debtor’s filing of this Chapter 11 bankruptcy was precipitated by the imminent pending trustees’ sales. The La Familia sale was scheduled the day after the filing.

Post-Petition Events

1. Debtor filed its schedules.
2. Debtor consulted a real estate sales professional and obtained advice as to what would be required to stage the Residence for a reasonably quick sale at a fair price. Debtor obtained a commitment from DeAnn Martin of Re Max Fine Properties, who sells luxury home, to market the property at a total commission of 3 ½ % of the sale price. A motion to engage the real estate broker was filed and approved by the Court and the Residence has been listed for sale and marketing activity has commenced.
3. Repairs and replacements and improvements to the Residence were commenced.
4. Debtor is attempting to resolve its disputes with lien and unsecured creditors.
5. The Court has granted Debtor’s motion for authorization to borrow up to \$15,000.00 secured by a deed of trust having priority to all creditors other than Maricopa County and La Familia to partially fund the payment of administrative expenses.

6. A bar date for filing claims, as to creditors having disputed claims, has been set for January 23, 2017.
7. Except for the retention of furniture, used for sale staging, the premises have been vacated.
8. A motion for relief from the automatic stay was filed by La Familia and an evidentiary hearing is pending.

V. VOTING

A. Ballots and Voting Deadline.

A ballot to be used for voting to accept or reject the Plan will be enclosed with the approved Disclosure Statement and mailed to creditors entitled to vote. A creditor must (1) carefully review the ballot and instructions thereon; (2) execute the ballot; and, return it to the address indicated thereon by the deadline in order to be considered for voting purposes. The Bankruptcy Court has directed that, in order to be counted for voting purposes, ballots for the acceptance or rejection of the Plan must be received no later than the date established by the Bankruptcy Court, with a copy being provided to the following address: Allan D. NewDelman, P.C., 80 East Columbus Avenue, Phoenix, Arizona 85012. The Ballot will state the Court's established deadline in which all ballots must be filed with the Court and copies provided to Debtor's counsel.

B. Creditors Entitled to Vote.

Any creditor of the Debtor, whose claim is impaired under the Debtor's Plan of Reorganization, is entitled to vote. Any claim as to which an objection has been filed (and such objection is still pending) is not entitled to vote, unless the Bankruptcy Court temporarily allows

the claim in an amount which it deems proper for the purpose of accepting or rejecting the Plan upon Motion by the creditor whose claim is subject to any objection. Such motion must be heard and determined by the Bankruptcy Court prior to the date established by the Court to confirm the Plan. In addition, a creditor's vote may be disregarded if the Bankruptcy Court determines that the creditor's acceptance or rejection was not solicited or procured in good faith or in accordance with the provisions of the Bankruptcy Code.

C. Definition of Impairment.

Under §1124 of the Bankruptcy Code, a class of claims or equity interests is impaired under a Plan of Reorganization unless, with respect to each claim or equity interest of such class, the Plan:

Except as provided in Section 1123(a) (4) of this title, a class of claims or interests is impaired under a plan unless, with respect to each claim or interest of such class, the plan –

(1) leaves unaltered the legal, equitable, and contractual rights to which such claim or interest entitles the holder of such claim or interest;

(2) notwithstanding any contractual provision or applicable law that entitles the holder of such claim or interest to demand or receive accelerated payment of such claim or interest after the occurrence of a default –

(A) cures any such default that occurred before or after the commencement of the case under this title, other than a default of a kind specified in Section 365(b)(2) of this title;

(B) reinstates the maturity of such claim or interest for any damages incurred as a result of any reasonable reliance by such holder on such contractual provision of such applicable law; and,

(C) compensates the holder of such claim or interest for any damages incurred as a result of any reasonable reliance by such holder or such contractual provision or such applicable law; and

(D) does not otherwise alter the legal, equitable, or contractual rights to which such claim or interest entitles the holder of such claim or interest.

D. Classes Impaired Under the Plan.

Creditors holding claims or interests in Classes 3 through 10 are impaired under the Plan and are eligible, subject to the limitations set forth above, to vote to accept or reject the Plan. Creditors holding claims in Classes 1, 2 and 11 are not impaired under the Plan and are not entitled to vote with respect to acceptance or rejection of the Plan.

E. Votes Required for Class Acceptance.

The Bankruptcy Code defines acceptance of a Plan by a class of creditors as acceptance by holders of two-thirds in dollar amount and by a majority in number of the claims of that class which actually cast ballots for acceptance or rejection of the Plan, i.e., acceptance takes place only if two-thirds in amount and a majority in numbers of the creditors actually voting cast their ballots in favor of acceptance.

SINCE MAIL DELAYS MAY OCCUR, IT IS IMPORTANT THE BALLOT OR BALLOTS BE MAILED OR DELIVERED WELL IN ADVANCE OF THE DATE SPECIFIED. ANY BALLOTS RECEIVED AFTER THIS DATE MAY NOT BE INCLUDED IN ANY CALCULATION TO DETERMINE WHETHER THE DEBTOR'S CREDITORS HAVE VOTED TO ACCEPT OR REJECT THE PLAN.

THIS IS A SOLICITATION BY THE PROPONENT ONLY AND IS NOT A SOLICITATION BY THE PROPONENT'S ATTORNEY, AND THE REPRESENTATIONS MADE HEREIN ARE THOSE OF THE PROPONENT AND NOT OF THE PROPONENT'S ATTORNEY, EXCEPT AS OTHERWISE INDICATED. THE RECORDS SUBSEQUENT TO THE FILING OF THE PETITION FOR REORGANIZATION HAVE BEEN KEPT BY THE DEBTOR-IN-POSSESSION AND MONTHLY FINANCIAL REPORTS HAVE BEEN SUBMITTED BY THE DEBTOR-IN-POSSESSION FROM TIME TO TIME SINCE THE FILING OF THE PETITION. WHILE EVERY REASONABLE EFFORT HAS BEEN MADE TO ENSURE THE ACCURACY OF THE MONTHLY REPORTS, THEIR ACCURACY CANNOT BE GUARANTEED.

VI. GENERAL INFORMATION AND DISCLOSURE

Utilizing the Standards of A.C. Williams

Sources of information.

Information relating to financial matters has been taken from the records of Debtor. Information of a legal nature has been provided by the counsel of record.

Current Condition and Anticipated Future of Debtor.

Debtor is in the process of selling the Residence, pay its creditors and discontinue operations.

The Accounting Process.

The Debtor's accounting is on a cash basis. Information is furnished by the Debtor.

Asset Description.

The primary asset of the Bankruptcy estate is the Residence. The Residence and its adjoining guest house have sixteen rooms including five bedrooms and six baths with 8,910 square feet of living area. The Residence also includes a 1,150 square foot unfinished basement, a seven car garage, a 45 foot wide RV garage and a negative edge pool. The Residence was completely renovated in 2014-2016 and is considered to be new. The Residence is located on a 1.51 acre lot within the Glenn Moor guard gated community adjacent to the tenth fairway of the Troon County Club golf course and has unobstructed views of Pinnacle Peak. Although the residence has an appraised value of \$3,800,000.00 Debtor anticipates that significantly less will be realized in a quick sale in a Bankruptcy setting.

The sum of \$13,147.92 is on deposit with Sir Mortgage for payment of construction completion costs and the sum of \$5,763.00 is on deposit with Stewart Title of Phoenix, a collection agent for payment of insurance and taxes.

Future Management.

The Reorganized Debtor will be a newly formed limited liability company. The Manager will be LeAnne Risenhoover CPA. LeAnne Risenhoover, who prepares Maryland 32's income tax returns, was suggested to serve as Manager of the successor entity by Maryland 32, to comply with §1129(a)(5). She has never met or communicated with Troy Hudspeth or any of Debtor's members and has no affiliation with the Debtor or any insider. Mrs. Risenhoover has practiced accounting for 25 years; acted as a controller for a general contractor and its subsidiary subcontracting companies; managed three industrial buildings having 96 units for eight years, owned, rented, maintained and sold residences for her own account for the last nine years; and

provides accounting, tax and financial consulting services to 300 clients, 100 of which are business related to the real estate, construction and real estate development industries. She is well qualified to understand the Plan, determine the amount that could realistically be obtained for the property, the needs of the Debtor and all creditors, as well as the adverse effect of accruing interest and other costs. She has the judgment and ability to gradually reduce the listed sales price of the Residence so that it is sold at a reasonable price within the sale period permitted by the Plan and to determine whether the Residence is being marketed effectively. She charges \$225.00 per hour for her time and from \$45.00 to \$125.00 per hour for members of her staff.

The Manager may not be removed by the members of the Debtor (Matrix Luxury Homes, LLC) unless for cause and with Court approval. The Manager and the Manager's staff will be paid on an hourly basis at its standard billing rates. Manager's fees shall be treated as a cost of maintaining the premises during the Residence's sale period and the Manager shall have first priority of payment from the proceeds of the Sale of the Residence for unpaid compensation.

Incidents which led to the bankruptcy filing

See ARTICLE IV of this Disclosure Statement.

Disclaimer regarding the information given.

See ARTICLE III of this Disclosure Statement.

Amount and classification of claims. The following are the scheduled claims:

Class I. Administrative Claims. These claims consist of the expenses of administration of the estate including attorney fees for Debtor's counsel and any unpaid fees to the U.S. Trustee.

Administrative claims include amounts borrowed with court authorization for payment of administrative expenses.

Class II. Real Property Tax. Real property tax was assessed for the 2016 year in the amount of \$11,768.48. The sum of \$5,884.24 became due on October 1, 2016 and the remainder will be payable April 1, 2017.

Class III. Secured Claim of La Familia. The La Familia loan obligation in the original amount of \$1,880,000.00 is secured by a first position Deed of Trust. The contract rate of interest is 12.5% per annum and the default rate is 24% per annum. Additionally, the loan requires minimum guaranteed interest; the payment of attorney fees and costs; a late fee of \$750.00 per day for each payment that is late; a late fee of 3% of unpaid balance due at maturity; interest on all interest; default interest, late fees and other amounts that are not timely paid. As of November 30, 2016, La Familia claimed that the sum of \$2,505,390.12 was owed, consisting of \$1,880,000.00 principal, \$156,013.89 standard interest, \$145,935.01 default interest, \$182,250.00 late fees, \$149,347.22 guaranteed interest and \$844.00 servicing fees.

Class IV. Secured Administrative Loan of Maryland 32. The Court approved administrative loan in the amount of \$15,000.00, bearing interest at 18 per cent per annum, made by Maryland 32, secured by a Priority Deed of Trust, which is subject only to the liens of Class II and Class III creditors.

Class V. Secured Claim of Glenn Moor Association. Unpaid monthly homeowner association assessments in the estimated amount of \$3,600.00. The homeowners association has a statutory lien which is subordinate to the La Familia Deed of Trust but superior to all other liens.

Class VI. Secured Claim of Maryland 32. The original amount of the loan is \$101,725.00. Contract rate of interest is 18%. There is no default interest. Maryland 32 may recover costs of collection and a late fee of 4% of each late payment. The loan is secured by a second position Deed of Trust encumbering the Residence. As of January 2017, the approximate sum of \$133,300.00 is owed.

Class VII. Secured Claim of Sir Mortgage. The original amount of the loan is \$35,200.00. The loan bears no interest. However, the loan provides for default interest from the inception date of the note at 24% per annum in the event of default. A principal payment of \$20,000.00 was due July 21, 2016 and the remaining balance became due January 1, 2017. The loan is secured by a third position Deed of Trust encumbering the Residence.

Class VIII. Secured Claim of Metro Fire Equipment Inc. A lien in the amount of \$7,200.00 was recorded on March 21, 2016.

Class IX. Secured Claim of Dan Keen Services. A lien in the amount of \$3,141.74 was recorded on June 2, 2016.

Class X. Unsecured Claims. This Class includes claims of eight unsecured creditors as set forth in the schedules filed with the Court totaling \$70,646.77. This class includes liquidated claims; un-liquidated claims and disputed claims. Debtor anticipates that most of the disputed claims will be resolved prior to the Plan confirmation hearing.

Class XI. Insider Claims of Troy Hudspeth and Debtor's Equity. The amount of the claim is \$420,000.00 as lender and as a member of Matrix Luxury Homes, LLC, a sum of no less than \$600,000.00.

The estimated return to the creditors if liquidated.

See ARTICLE XII.

A copy of the proposed plan.

See Exhibit "A" attached hereto.

VII. FINANCIAL INFORMATION

See Articles VI, VIII, and XII.

VIII. SUMMARY OF THE PLAN OF REORGANIZATION

A. The Debtor will be replaced by a successor entity (the "Successor Entity"). The Successor Entity shall sell the Residence by assuming the listing agreement entered into by the Bankruptcy estate with ReMax Fine Properties for the remainder of the term of the listing. Thereafter the Successor Entity may extend the listing or select another aggressive real estate broker having experience, contacts, marketing sources and know how to obtain a reasonable price within a limited amount of time. Upon sale of the Residence, the net proceeds of the sale shall be distributed pursuant to the priorities set forth below. "Net proceeds" is hereby defined as the sales price reduced by selling and other costs customarily incurred to complete a sale of the Residence. Such costs shall include, but not be limited to, title costs and charges, real estate broker's commission, property tax prorations, sale related legal fees, Manager's fees and costs, homeowner's assessments, transfer fees, required repairs and property improvements, and allowances for repairs and improvements contractually required or required as a condition of closing.

The means of execution of this Plan of Reorganization will come through a transfer of all the assets and rights of the Debtor to the Successor Entity. The Successor Entity will, subject to the terms of the Plan, become the Reorganized Debtor. It is anticipated that net proceeds of

the sale of the Residence will be sufficient to pay all approved claims in full and to provide additional payments to the Debtor who will be the sole member of the Successor Entity. Troy Hudspeth, Debtor's principal member, has agreed to contribute funds to the Successor Entity to pay for the upkeep of the premises and for improvements to facilitate a sale, until the closing of the sale of the Residence. The reorganized Debtor shall be authorized to borrow additional amounts from Maryland 32 by increasing the amount of the indebtedness of the existing Court approved loan by up to an additional \$20,000.00 and by extending the maturity date of the loan to a date eight (8) months from the date of confirmation of the Plan. To the extent needed, sufficient funds shall be used to pay all unpaid administrative expenses, Manager fees, U.S. Trustee fees, legal costs and expenses, and for the upkeep of the premises until the closing of the sale of the Residence, to the extent not paid for by Troy Hudspeth. This will give the Successor Entity the funds necessary to pay all administrative claims, to pay for operating and other needs, and otherwise fund the Successor Entity pending the sale of the Residence. The extended loan, if necessary, will continue for eight (8) months after the Plan's confirmation date accumulating simply interest at 18 per cent per annum. However, the extended loan will be paid sooner from the net proceeds of the sale of the Residence.

The forced sale of the Residence in a Bankruptcy setting will provide less of a sale price than could be obtained under conditions that permit an extended marketing period. Moreover, the decision to accept an offer or to hold out for a higher price may be affected by accruing high interest. Nevertheless, it is anticipated that the Residence will sell within a relatively short period of time, at a price sufficient to pay all creditors in full and provide a distribution to the Debtor.

The Reorganized Debtor, shall have the authority, subject to Court approval, to sell the Residence free of all monetary liens and encumbrances pursuant to 11 U.S.C § 1123 (a) (5) (D) with substituted right to recover against the proceeds of sale for each creditor class to the extent provided for and pursuant to the priorities set forth below. Until the sale of the Residence, each secured creditor shall retain its lien rights.

If the Sale proceeds are insufficient to pay all creditors in full, the creditors will be paid according to payment priorities set forth herein.

If a sale of the Residence is not completed within eight (8) months of the effective date, the automatic stay is then terminated and each creditor may enforce its rights. The sale of the Residence completion period shall be extended for up to sixty (60) days to complete the closing pursuant to a sales agreement entered into and approved by the Court prior to the end of the eight (8) month period.

The Manager of the Reorganized Debtor shall be LeAnne Risenhoover, CPA who shall have the authority and responsibility to make marketing decisions and enter into contracts for the sale of the Residence to be submitted for Court approval.

The Manager shall have the authority, responsibility and immunity of a Court appointed receiver in Maricopa County, Arizona.

B. Approved claims shall be paid as follow:

Class I. Administrative Claims. Administrative claims will be paid on the “Plan Distribution Date”. Administrative claimants may agree to defer payment of part of any claim. The deferred part of any administrative claim and deferred legal costs incurred after confirmation shall have priority over all classes other than Class II and Class III. **This claim is not impaired.**

Class II. Real Property Tax. Real property tax was assessed for 2016 in the amount of \$11,768.48. The sum of \$5,884.24 that was due on October 1, 2016, shall be amortized with interest at 16% per annum with ten (10) semi-annual payments with the first payment commencing ninety (90) days after the effective date. Funds held in a collection escrow shall be paid directly to the County Treasurer to satisfy the first payments. The balance of the property tax which is payable April 1, 2017, shall be amortized within interest at 16% per annum with ten (10) semi-annual payments with the first payment commencing 180 days after the effective date. Notwithstanding the above payment schedule, this claim will be paid sooner from the first proceeds of the sale of the Residence and shall have priority to be paid. **This claim is not impaired.**

Class III. Secured Claim of La Familia. The La Familia loan obligation in the original amount of \$1,880,000.00 is secured by a first position Deed of Trust. The contract rate of interest is 12.5% per annum and the default rate is 24% per annum. It requires the payment of interest at the default rate on all unpaid interest, late fees and other charges. Additionally, it requires the payment of attorneys' fees and costs and a late fee of \$750.00 per day for each payment that is late "for the expense of handling the delinquency for any due amounts (including, without limitation, the late charge)", and a late fee of the 3% of the balance due. As of November 30, 2016, La Familia claimed that \$2,505,390.12 was owed. Claimed interest and late fees for eight (8) months from April 1, 2016, through November 30, 2016, total \$624,546.12. The effective interest rate is 50%.

It is Debtor's position that La Familia's claim in the amount of \$140,347.22 for guaranteed minimum interest is incorrect. The amount of interest guaranteed pursuant to the loan documents

is \$175,250.00. La Familia's claim includes unpaid standard interest of \$156,013.69. La Familia received standard interest from January 21, 2016, through March 31, 2016, at \$19,958.33 per month. The total exceeds \$175,250.00.

It is Debtor's position that whether late fees are treated as liquidated damages or an unenforceable penalty are governed by the principals of the Restatement (Second) of Contracts § 356(1) 1981 (§ 356(1) of the Restatement"), which provides "Damages for breach by either party may be liquidated in the agreement but only at the amount that is reasonable in the light of the anticipated or actual loss caused by the breach and the difficulties of proof of loss. A term fixing unreasonably large liquidated damages is unenforceable on grounds of public policy as a penalty". The Restatement has been adopted by the Arizona courts. See In re Dobson Bay v. La Sonrisa, 239 Ariz. 132, 366 P.3d 1022 (January 2016). Moreover, La Familia as the party seeking damages has the burden of persuasion to show that the clause is for liquidated damages and not a penalty. Mech. Air Eng'g Co. v. Totem Const. Co., 166 Ariz. 191, 194, 801 P.2d 426, 429 (App. 1989). (Cited in John Brown v. Stephen Singer and Lisa Singer, No. 1-CV 12-0233 (2013 WL 3179387). La Familia cannot meet its burden of proof regarding its late fee charge of \$750.00 per day totaling \$182,250.00. Such fees are not reasonable in the light of the anticipated or actual loss and damages which are easily ascertainable. Late fees are excluded under this Plan in Debtor's payment to La Familia.

For the same reasons, it is Debtor's position that default interest in the amount of \$145,935.01 claimed by La Familia is an unenforceable penalty. Section 6(b) of the La Familia Secured Promissory Note provides in part "If payment of interest and/or principal is not received by the holder hereof when such payment is due...the amount due and unpaid (including without

limitation, the late charge) shall bear interest at the Interest Rate, computed from the date the amount was due and payable until paid.” The Note provides for compensation for amounts not received. La Familia cannot meet the liquidated damage test provided in §356(1) of the Restatement with respect to default interest. Compensation for the loss of use of money has been provided for in the Secured Promissory Note. The additional increase in the interest, as a result of default, has no compensation element but instead is for punishment of the Debtor. The tests required by §356(1) of the Restatement cannot be met and the default interest requirement is an unenforceable penalty.

Considering the totality of the exactions from the Debtor pursuant to the terms of the La Familia Secured Promissory Note, including, (1) standard interest at 12.5%, (2) guaranteed minimum interest of \$176,500.00 which is collectable on acceleration in an early default, (3) late fees of \$22,500.00 per month, (4) default interest increase by 11.5%, (5) interest on unpaid interest, late fees and charges, (6) 3% late fee if balance is not paid at maturity and (7) reimbursement for all legal fees and costs of collection. It is Debtor’s position that the terms of the Note are unconscionable. As of August 17, 2016, the Trustee’s sale date interest at the default rate, late fees, interest on unpaid interest and late fees and minimum guaranteed interest totaled \$444,921.00 for an effective rate of 67%. Debtor requests that the Court use its discretion to deny default interest based on equitable principals.

La Familia shall receive all funds on deposit with Sir Mortgage and such funds shall be applied against principal and/or interest owed as directed by the Court. La Familia shall be paid principal, the contract rate of interest at 12.5%, approved reasonable legal and other costs incurred, and such other amounts determined by the Court to be owed as of the effective date. La Familia

shall receive such amount and interest of 12.5% from the effective date, at the closing of the sale of the Residence.

Should the objection of La Familia's Proof of Claim not be fully resolved prior to the close of escrow of the Residence, the undisputed principal and such other undisputed obligations shall be paid. The remaining sale proceeds shall be retained in an interest-bearing account until otherwise agreed by the Reorganized Debtor and La Familia or as so ordered by the Court. This claim has a second priority to be paid. **This claim is impaired.**

Class IV. Secured Administrative Loan of Maryland 32. The amount of the indebtedness of this Class IV claim shall be increased to provide sufficient funds necessary to pay all unpaid administrative expenses, Manager fees, U.S. Trustee fees, legal costs and expenses, and for the upkeep of the premises until the closing of a sale of the Residence to the extent not paid for by Troy Hudspeth. The maturity date of the loan shall be extended to a date which is eight (8) months from the date of confirmation of the Plan or sooner from the net proceeds of the sale of the Residence. The loan documents shall be amended to reflect the increased amount of the loan and the extended maturity date. This Class shall retain its lien and distribution priority. The Class IV claimant shall have priority of all claimants other than Class II and Class III claimants and has third priority to be paid. **This claim is impaired.**

Class V. Secured Claim of Glenn Moor Association. This Class V claim shall be paid with interest at the rate of 4% per annum from the effective date, from the net proceeds of the sale of the Residence. This claim has fourth priority to be paid. **This claim is impaired.**

Class VI. Secured Claim of Maryland 32. The principal amount of this Class VI claim, interest at the contract rate and legal and other costs of collection shall be paid from the net proceeds of the sale of the Residence. This claim has fifth priority to be paid. **This claim is**

impaired.

Class VII. Secured Claim of Sir Mortgage. This Class VII claim is \$35,200.00. The loan bears no interest. However, the loan provides for default interest from the inception date of the Note at 24% per annum in the event of default. It is Debtor's position that the default interest provided for is an unenforceable penalty under principals set forth in §356 (1) of the Restatement. The default interest charge on a non-interest bearing loan and relating the charge back to the inception of the loan clearly establishes the punitive nature of the charge. Charging for a period prior to default clearly establishes that there is no relationship between the charge and anticipated or actual damages sustained. Additionally, holding a third position Deed of Trust, it is unlikely that Sir Mortgage would engage in any collection efforts. Moreover, Sir Mortgage was the architect of the unconscionable provisions of the La Familia loan and it would not be equitable to award it default interest. The principal amount of this Class VII claim, plus any interest, awarded by the Court, till the effective date, together with interest at the contract rate after the effective date and legal and other costs of collection awarded shall be paid from the net proceeds of the sale of the Residence. This claim has sixth priority to be paid. **This claim is impaired.**

Class VIII. Secured Claim of Metro Fire Equipment Inc. This Class VIII claim shall be paid, with interest at the rate of 4% per annum from the effective date, from the net proceeds of the sale of the Residence. This claim shares the priority with Class IX proportionately. **This claim is impaired.**

Class IX. Secured Claim of Dan Keen Services. This Class IX claim shall be paid with interest at the rate of 4% per annum from the net proceeds of the sale of the Residence. This claim shares the priority with Class VIII proportionately. **This claim is impaired.**

Class X. Unsecured Claims. The holders Class X claims shall be paid the amount of their approved claims, with interest at the rate of 4% from the effective date, from the net proceeds of the sale of the Residence. The claims within this class share the last priority to be paid proportionately to the amount of their approved claims. **This claim is impaired.**

Class XI. Insider Claim of Troy Hudspeth and Debtor's Equity. Debtor shall be the sole member of the Reorganized Debtor. The holder of this claim shall retain his claim against the Debtor but not the successor Reorganized Debtor. This class shall be paid the balance of all funds available after payment of all allowed and approved higher priority claims.

IX. DISPUTED CLAIMS

The Debtor reserves the right to verify and object to any proof of claim. Payment of disputed claims shall be made only after agreement has been reached between the Debtor and the Creditor or upon the order of the Court. Any and all objections to proofs of claim will be filed within sixty (60) days of the Debtor's receipt of such claim or will be waived.

X. EXECUTORY CONTRACTS

Debtor knows of no executory contracts.

XI. MEANS OF EXECUTION/PROJECTION

See Section VIII.

XII. CHAPTER 7 LIQUIDATION ANALYSIS

Pursuant to the provisions of the Bankruptcy Code providing for Court approval of a Plan of Reorganization, the Debtor is required to pay creditors at least as much as creditors would

receive in a Chapter 7 liquidation case, after costs of administration and the liquidation of the Debtor's assets.

This reorganization plan is a liquidation plan. The advantages over a Chapter 7 case are the following: (1) Saving of Trustee's fees, (2) Saving on Trustee's attorney's fees, (3) Debtor will provide funds for improvements and maintenance during the sale period of the Residence, (4) Engaging a competent real estate professional at a reduced commission 3 ½ % which is 2 ½ % below the norm and (5) the increased chance of better economic results through participating in the administration by persons having an economic interest in sale of the Residence.

XIII. CRAM-DOWN

If all impaired classes do not accept the Plan, the Debtor and Debtor-in-Possession may attempt to use the "cram-down" provisions of the Bankruptcy Code. The Debtor and Debtor-in-Possession have not yet decided whether it wishes to use cram-down, and will make such a determination following the voting on confirmation of the Plan. Cram-down is a colloquial term for confirmation of a Plan over a dissent of a class of holders of claims of interests. A proponent must request a cram-down, as the Court cannot consider this alternative on its own motion. This Plan contemplates utilizing the cram down provisions provided in §1129 (a) (10) of the Code.

XIV. TAX CONSEQUENCES

Debtor is taxed as a partnership and believes that there will be no tax consequence to either itself or to the estate. While it recognizes that interest income received on loans made are taxable income, Debtor has no know ledge of creditors' affairs and is unable express an opinion concerning tax consequences to the creditors. Each creditor in this case, when analyzing the Plan,

should consult with its own professional advisors to determine whether or not acceptance of the Plan by the creditor will result in any adverse tax consequences to the creditor.

XV. IMPLEMENTATION AND CONSUMMATION OF PLAN

The terms of the Plan subsequent to confirmation shall bind the Debtor, the Successor Entity who becomes the Reorganized Debtor any entity acquiring property under the Plan, and creditor or claimant, whether or not such creditor or claimant has accepted the Plan. All property of the estate shall vest in the Reorganized Debtor and shall be free from attachment, levy, garnishment or execution by creditors bound by the Plan. It shall be the obligation of each creditor participating under the Plan to keep the Reorganized Debtor advised of its current mailing address. In the event any payments tendered to creditors are mailed, postage prepaid, addressed (1) to the address specified in the Debtor's schedules and statement, (2) to the address specified in any proof of claim filed by a creditor or claimant herein or (3) to the address provided by any such creditor or claimant for purposes of distribution, and if subsequently the Post Office returns such distribution due to a lack or insufficiency of address or forwarding address, the Debtor shall retain such distribution for a period of six months. Thereafter, the distribution shall revert to the Debtor without further Order of the Court and free and clear of any claim of the named distributee. The Debtor shall thereafter not be required to mail subsequent distributions to any creditor for whom a distribution has been returned by the Post Office. The Reorganized Debtor reserves the right to modify the Plan in accordance with §1127 of the Bankruptcy Code. The Plan may be modified prior to confirmation provided that the Plan still complies with §1122 and §1123 of the Bankruptcy Code. The Plan may be modified subsequent to confirmation and

before substantial consummation of the Plan under such circumstances as may warrant such under §1123 of the Bankruptcy Code. Any holder of a claim or interest that has been previously accepted or rejected a confirmed Plan, shall be deemed to have accepted or rejected any subsequently modified Plan unless the holder of such claim or interest changes its acceptance or rejection of the Plan within the time fixed by the Court.

XVI. CLOSING OF CASE

The Reorganized Debtor may seek a final decree and an Order closing this case upon the conclusion of all administrative matters and provided that the Debtor has completed the sale of the Residence and payments required to be made pursuant to the Plan of Reorganization.

ALL CREDITORS SHALL REMAIN BOUND BY TERMS AND CONDITIONS SET FORTH IN THE DEBTOR'S PLAN OF REORGANIZATION. NO CREDITOR SHALL BE ALLOWED TO TAKE ANY COLLECTION ACTION AGAINST THE DEBTOR AS LONG AS THE DEBTOR REMAINS IN COMPLIANCE WITH ITS PLAN OF REORGANIZATION.

XVII. DEFAULT

The Debtors' failure to make any payment due under the Plan, herein, within sixty (60) days after demand for payment after its due date shall constitute a default unless the Debtors and the affected creditor agrees to delayed payment. Any event of default occurring with respect to one (1) claim shall not be an event of default with respect to any other claim. If any default is cured within the sixty (60) day cure period, then the Creditor shall not be entitled to enforce any remedies which would be otherwise available on account of the default.

The Notice of Default shall be effective when served simultaneously upon the Reorganized Debtor and Debtor's counsel. Any Notice of Default must be sent in writing to both the Reorganized Debtor and the Debtor's counsel at the addresses listed below:

LeAnne Risenhoover
7171 San Xavier, Suite 120
Glendale, AZ 85038

Allan D. NewDelman
Allan D. NewDelman, P.C.
80 East Columbus Avenue
Phoenix, AZ 85012

If the default is not timely cured, creditor(s) may pursue any remedy provided by the state or federal law, including foreclosing any security interest, suing on any promissory note issued or continued in effect under the Plan.

XVIII. QUARTERLY FEES AND REPORTS

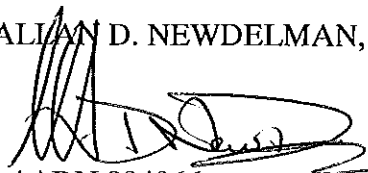
Debtor shall continue to pay quarterly fees to the U.S. Trustee System until such time as a Final Decree has been entered in this matter by the Court, closing this Chapter 11 proceeding. Debtor shall continue to file monthly operating reports until such time as the Court enters an Order confirming this Chapter 11 Plan of Reorganization. At such time, Debtor shall cease filing monthly operating reports and shall begin filing 90 day reports. These 90 day reports shall be filed until such time as a Final Decree has been entered in this matter by the Court, closing this Chapter 11 proceeding.

XXI. CONCLUSION

It is respectfully submitted that Debtor has given every thought to the complex problems confronting it, and, with the assistance of counsel, has devised and formulated this Plan with the hope that the equitableness of the Plan will be considered by the creditors. It is sincerely hoped that all creditors will join in and consent to the Plan so that they, as well as the Debtor, will receive the maximum results.

DATED this 24th day of January, 2017.

ALLAN D. NEWDELMAN, P.C.



/s/ ADN 004066

Allan D. NewDelman, Esq.
Attorney for Debtor

Disclosure Statement above, consisting
of 31 pages plus exhibits is approved as to
form and content:

Matrix Luxury Homes L.L.C

By 
Troy Hudspeth, Manager

EXHIBIT “A”

1 Allan D. NewDelman, Esq. (004066)
2 ALLAN D. NEWDELMAN, P.C.
3 80 East Columbus Avenue
4 Phoenix, Arizona 85012
5 (602) 264-4550
6 anewdelman@adnlaw.net
7 Attorney for Debtor

8
9
10 IN THE UNITED STATES BANKRUPTCY COURT
11
12 IN AND FOR THE DISTRICT OF ARIZONA

13	In re)	In Proceeding Under
14)	Chapter Eleven
15	MATRIX LUXURY HOMES, LLC,)	
16)	Case No. 2:16-BK-09455 BKM
17)	
18)	FIRST AMENDED
19)	PLAN OF REORGANIZATION
20	Debtor.)	DATED: January 24, 2017
21)	

22 Debtor, Matrix Luxury Homes, LLC, hereby submits its Plan of Reorganization in
23 accordance with 11 U.S.C. §1121(a).

24
25 **I. DEFINITIONS**

26 As utilized in this Disclosure Statement, the following definitions apply to the following
27 terms:

28 1. "Adequate information" means information that would enable a hypothetical reasonable
investor typical of holders of claims or interest of the Debtor's estate, to make an informed judgment
about the Debtor's Plan of Reorganization.

2. "Allowed and Approved Claim" shall mean all scheduled claims and to which no
objection to the claim having been filed. If an objection to a claim is filed, said claim will be
allowed to the extent ordered by the Court.

1 3. "Bankruptcy Code" shall mean the Bankruptcy Code as set forth in Title 11 of the United
2 States Code.

3 4. "Bankruptcy Court" shall mean the United States Bankruptcy Court for the District of
4 Arizona.
5

6 5. "Confirmation of the Plan" shall mean the entry of an order by the Bankruptcy Court
7 confirming the Plan of Reorganization in accordance with §1129 of the Bankruptcy Code.
8

9 6. "Consummation of the Plan" means the accomplishment of all things required or provided
10 for under the terms of the Plan.

11 7. "Court" shall mean the United States Bankruptcy Court for the District of Arizona.

12 8. "Creditors" shall mean all persons holding claims for secured and unsecured obligations,
13 liabilities, demands or claims of any nature whatsoever against the Debtor arising at any time prior
14 to confirmation of the Plan and administrative creditors.
15

16 9. "Debtor" shall mean the petitioner in the above-captioned Bankruptcy case. As to matter
17 after the effective date "Debtor" shall also include Debtor's successor in interest who shall be the
18 "Reorganized Debtor."
19

20 10. "Disclosure Statement" shall mean the Disclosure Statement (hereinafter "Disclosure
21 Statement") filed in this case approved, after notice and a hearing by the Court as being in
22 conformity with §1125 of the Bankruptcy Code or conditional approval as a small business case.
23

24 11. "Effective date" shall be twenty one (21) days after the entry of an Order Confirming the
25 Chapter 11 Plan of Reorganization or the close of escrow, whichever occurs later.
26
27
28

1 12. "Petition" means the original Chapter 11 Petition filed by the Debtor.

2 13. "Plan" shall mean this Plan of Reorganization which was attached as an exhibit to the
3 approved Disclosure Statement as it may be amended, modified and/or supplemented pursuant to
4 which the Debtor proposes payment in whole or in part of creditors' claims.
5

6 14. "Plan distribution date" shall be the "effective date" of confirmation. For distribution
7 of the proceeds of the sale of the Residence, the Plan distribution date shall be the date of closing
8 of the sale of the residence for secured creditor and five business days after such closing date for
9 unsecured creditors or the later of any claim required to be approved by the Court.
10

11 15. All other terms not specifically defined above shall have the meaning as designated in
12 §101 of the Bankruptcy Code or, if not contained therein, their ordinary meaning.
13

14 **II. TREATMENT OF CLAIMS NOT IMPAIRED UNDER THE PLAN**

15 **Classes I, and II and XI** are not impaired under the Plan in that the Plan does not alter the
16 legal or contractual rights to which the holders of such claims are entitled and/or the Bankruptcy
17 Code permits payment over an extended period of time and/or the holder of the claim has agreed to
18 a different treatment.
19

20 **III. TREATMENT OF IMPAIRED CLAIMS UNDER THE PLAN**

21 **Classes III, IV, V, VI, VII, VIII, IX, and X** are impaired Classes under the Plan. All
22 allowed and approved claims or judicially determined claims will receive those amounts as reflected
23 in the payment schedule under the Plan (Article IV of the Plan).
24

25 ///

1 **IV. PLAN OF REORGANIZATION**

2 A. The Debtor will be replaced by a successor entity (the "Successor Entity"). The
3 Successor Entity shall sell the Residence by assuming the listing agreement entered into by the
4 Bankruptcy estate with ReMax Fine Properties for the remainder of the term of the listing. Thereafter
5 the Successor Entity may extend the listing or select another aggressive real estate broker having
6 experience, contacts, marketing sources and know how to obtain a reasonable price within a limited
7 amount of time. Upon sale of the Residence, the net proceeds of the sale shall be distributed
8 pursuant to the priorities set forth below. "Net proceeds" is hereby defined as the sales price reduced
9 by selling and other costs customarily incurred to complete a sale of the Residence. Such costs shall
10 include, but not be limited to, title costs and charges, real estate broker's commission, property tax
11 prorations, sale related legal fees, Manager's fees and costs, homeowner's assessments, transfer fees,
12 required repairs and property improvements, and allowances for repairs and improvements
13 contractually required or required as a condition of closing.
14

15
16 The Means of Execution of this Plan of Reorganization will come through a transfer of all
17 the assets and rights of the Debtor to the Successor Entity. The Successor Entity will, subject to the
18 terms of the Plan, become the Reorganized Debtor. It is anticipated that net proceeds of the sale of
19 the Residence will be sufficient to pay all approved claims in full and to provide additional payments
20 to the Debtor who will be the sole member of the Successor Entity. Troy Hudspeth, Debtor's
21 principal member, has agreed to contribute funds to the Successor Entity to pay for the upkeep of
22 the premises and for improvements to facilitate a sale, until the closing of the sale of the Residence.
23 The reorganized Debtor shall be authorized to borrow additional amounts from Maryland 32 by
24 increasing the amount of the indebtedness of the existing Court approved loan by up to an additional
25
26
27
28

1 \$20,000.00 and by extending the maturity date of the loan to a date eight (8) months from the date
2 of confirmation of the Plan. To the extent needed, sufficient funds shall be used to pay all unpaid
3 administrative expenses, Manager fees, U.S. Trustee fees, legal costs and expenses, and for the
4 upkeep of the premises until the closing of the sale of the Residence, to the extent not paid for by
5 Troy Hudspeth. This will give the Successor Entity the funds necessary to pay all administrative
6 claims, to pay for operating and other needs, and otherwise fund the Successor Entity pending the
7 sale of the Residence. The extended loan, if necessary, will continue for eight (8) months after the
8 Plan's confirmation date accumulating simply interest at 18 per cent per annum. However, the
9 extended loan will be paid sooner from the net proceeds of the sale of the Residence.
10
11

12 The forced sale of the Residence in a Bankruptcy setting will provide less of a sale price than
13 could be obtained under conditions that permit an extended marketing period. Moreover, the
14 decision to accept an offer or to hold out for a higher price may be affected by accruing high interest.
15 Nevertheless, it is anticipated that the Residence will sell within a relatively short period of time, at
16 a price sufficient to pay all creditors in full and provide a distribution to the Debtor.
17
18

19 The Reorganized Debtor, shall have the authority, subject to Court approval, to sell the
20 Residence free of all monetary liens and encumbrances pursuant to 11 U.S.C § 1123 (a) (5) (D) with
21 substituted right to recover against the proceeds of sale for each creditor class to the extent provided
22 for and pursuant to the priorities set forth below. Until the sale of the Residence, each secured
23 creditor shall retain its lien rights.
24

25 If the Sale proceeds are insufficient to pay all creditors in full, the creditors will be paid
26 according to payment priorities set forth herein.
27
28

1 If a sale of the Residence is not completed within eight (8) months of the effective date, the
2 automatic stay is then terminated and each creditor may enforce its rights. The sale of the Residence
3 completion period shall be extended for up to sixty (60) days to complete the closing pursuant to a
4 sales agreement entered into and approved by the Court prior to the end of the eight (8) month
5 period.
6

7 The Manager of the Reorganized Debtor shall be LeAnne Risenhoover, CPA who shall have
8 the authority and responsibility to make marketing decisions and enter into contracts for the sale of
9 the Residence to be submitted for Court approval.
10

11 The Manager shall have the authority, responsibility and immunity of a Court appointed
12 receiver in Maricopa County, Arizona.
13

14 **B. Approved claims shall be paid as follow:**

15 **Class I. Administrative Claims.** Administrative claims will be paid on the "Plan
16 Distribution Date". Administrative claimants may agree to defer payment of part of any claim. The
17 deferred part of any administrative claim and deferred legal costs incurred after confirmation shall
18 have priority over all classes other than Class II and Class III.
19

20 **Class II. Real Property Tax.** Real property tax was assessed for 2016 in the amount of
21 \$11,768.48. The sum of \$5,884.24 that was due on October 1, 2016, shall be amortized with interest
22 at 16% per annum with ten (10) semi-annual payments with the first payment commencing ninety
23 (90) days after the effective date. Funds held in a collection escrow shall be paid directly to the
24 County Treasurer to satisfy the first payments. The balance of the property tax which is payable
25 April 1, 2017, shall be amortized within interest at 16% per annum with ten (10) semi-annual
26 payments with the first payment commencing 180 days after the effective date. Notwithstanding the
27
28

1 above payment schedule, this claim will be paid sooner from the first proceeds of the sale of the
2 Residence and shall have priority to be paid.

3
4 **Class III. Secured Claim of La Familia.** The La Familia loan obligation in the original
5 amount of \$1,880,000.00 is secured by a first position Deed of Trust. The contract rate of interest
6 is 12.5% per annum and the default rate is 24% per annum. It requires the payment of interest at the
7 default rate on all unpaid interest, late fees and other charges. Additionally, it requires the payment
8 of attorneys' fees and costs and a late fee of \$750.00 per day for each payment that is late "for the
9 expense of handling the delinquency for any due amounts (including, without limitation, the late
10 charge)", and a late fee of the 3% of the balance due. As of November 30, 2016, La Familia claimed
11 that \$2,505,390.12 was owed. Claimed interest and late fees for eight (8) months from April 1,
12 2016, through November 30, 2016, total \$624,546.12. The effective interest rate is 50%.

13
14
15 It is Debtor's position that La Familia's claim in the amount of \$140,347.22 for guaranteed
16 minimum interest is incorrect. The amount of interest guaranteed pursuant to the loan documents
17 is \$175,250.00. La Familia's claim includes unpaid standard interest of \$156,013.69. La Familia
18 received standard interest from January 21, 2016, through March 31, 2016, at \$19,958.33 per month.
19 The total exceeds \$175,250.00.

20
21 It is Debtor's position that whether late fees are treated as liquidated damages or an
22 unenforceable penalty are governed by the principals of the Restatement (Second) of Contracts §
23 356(1) 1981 (§ 356(1) of the Restatement"); which provides "Damages for breach by either party
24 may be liquidated in the agreement but only at the amount that is reasonable in the light of the
25 anticipated or actual loss caused by the breach and the difficulties of proof of loss. A term fixing
26 unreasonably large liquidated damages is unenforceable on grounds of public policy as a penalty".
27
28

1 The Restatement has been adopted by the Arizona courts. See *In re Dobson Bay v. La Sonrisa*, 239
2 Ariz. 132, 366 P.3d 1022 (January 2016). Moreover, La Familia as the party seeking damages has
3 the burden of persuasion to show that the clause is for liquidated damages and not a penalty. Mech.
4 Air Eng'g Co. v. Totem Const. Co., 166 Ariz. 191, 194, 801 P.2d 426, 429 (App. 1989). (Cited in
5 John Brown v. Stephen Singer and Lisa Singer, No. 1-CV 12-0233 (2013 WL 3179387). La Familia
6 cannot meet its burden of proof regarding its late fee charge of \$750.00 per day totaling \$182,250.00.
7 Such fees are not reasonable in the light of the anticipated or actual loss and damages which are
8 easily ascertainable. Late fees are excluded under this Plan in Debtor's payment to La Familia.
9

10
11 For the same reasons, it is Debtor's position that default interest in the amount of \$145,935.01
12 claimed by La Familia is an unenforceable penalty. Section 6(b) of the La Familia Secured
13 Promissory Note provides in part "If payment of interest and/or principal is not received by the
14 holder hereof when such payment is due...the amount due and unpaid (including without limitation,
15 the late charge) shall bear interest at the Interest Rate, computed from the date the amount was due
16 and payable until paid." The Note provides for compensation for amounts not received. La Familia
17 cannot meet the liquidated damage test provided in §356(1) of the Restatement with respect to
18 default interest. Compensation for the loss of use of money has been provided for in the Secured
19 Promissory Note. The additional increase in the interest, as a result of default, has no compensation
20 element but instead is for punishment of the Debtor. The tests required by §356(1) of the
21 Restatement cannot be met and the default interest requirement is an unenforceable penalty.
22
23

24
25 Considering the totality of the exactions from the Debtor pursuant to the terms of the La
26 Familia Secured Promissory Note, including, (1) standard interest at 12.5%, (2) guaranteed minimum
27 interest of \$176,500.00 which is collectable on acceleration in an early default, (3) late fees of
28

1 \$22,500.00 per month, (4) default interest increase by 11.5%, (5) interest on unpaid interest, late fees
2 and charges, (6) 3% late fee if balance is not paid at maturity and (7) reimbursement for all legal fees
3 and costs of collection. It is Debtor's position that the terms of the Note are unconscionable. As of
4 August 17, 2016, the Trustee's sale date interest at the default rate, late fees, interest on unpaid
5 interest and late fees and minimum guaranteed interest totaled \$444,921.00 for an effective rate of
6 67%. Debtor requests that the Court use its discretion to deny default interest based on equitable
7 principals.
8
9

10 La Familia shall receive all funds on deposit with Sir Mortgage and such funds shall be
11 applied against principal and/or interest owed as directed by the Court. La Familia shall be paid
12 principal, the contract rate of interest at 12.5%, approved reasonable legal and other costs incurred,
13 and such other amounts determined by the Court to be owed as of the effective date. La Familia
14 shall receive such amount and interest of 12.5% from the effective date, at the closing of the sale of
15 the Residence.
16

17 Should the objection of La Familia's Proof of Claim not be fully resolved prior to the close
18 of escrow of the Residence, the undisputed principal and such other undisputed obligations shall be
19 paid. The remaining sale proceeds shall be retained in an interest-bearing account until otherwise
20 agreed by the Reorganized Debtor and La Familia or as so ordered by the Court. This claim has a
21 second priority to be paid.
22
23

24 **Class IV. Secured Administrative Loan of Maryland 32.** The amount of the indebtedness
25 of this Class IV claim shall be increased to provide sufficient funds necessary to pay all unpaid
26 administrative expenses, Manager fees, U.S. Trustee fees, legal costs and expenses, and for the
27 upkeep of the premises until the closing of a sale of the Residence to the extent not paid for by Troy
28

1 Hudspeth. The maturity date of the loan shall be extended to a date which is eight (8) months from
2 the date of confirmation of the Plan or sooner from the net proceeds of the sale of the Residence. The
3 loan documents shall be amended to reflect the increased amount of the loan and the extended
4 maturity date. This Class shall retain its lien and distribution priority. The Class IV claimant shall
5 have priority of all claimants other than Class II and Class III claimants and has third priority to be
6 paid.
7

8
9 **Class V. Secured Claim of Glenn Moor Association.** This Class V claim shall be paid with
10 interest at the rate of 4% per annum from the effective date, from the net proceeds of the sale of the
11 Residence. This claim has fourth priority to be paid.

12
13 **Class VI. Secured Claim of Maryland 32.** The principal amount of this Class VI claim,
14 interest at the contract rate and legal and other costs of collection shall be paid from the net proceeds
15 of the sale of the Residence. This claim has fifth priority to be paid.

16
17 **Class VII. Secured Claim of Sir Mortgage.** This Class VII claim is \$35,200.00. The loan
18 bears no interest. However, the loan provides for default interest from the inception date of the Note
19 at 24% per annum in the event of default. It is Debtor's position that the default interest provided
20 for is an unenforceable penalty under principals set forth in §356 (1) of the Restatement. The default
21 interest charge on a non-interest bearing loan and relating the charge back to the inception of the loan
22 clearly establishes the punitive nature of the charge. Charging for a period prior to default clearly
23 establishes that there is no relationship between the charge and anticipated or actual damages
24 sustained. Additionally, holding a third position Deed of Trust, it is unlikely that Sir Mortgage would
25 engage in any collection efforts. Moreover, Sir Mortgage was the architect of the unconscionable
26 provisions of the La Familia loan and it would not be equitable to award it default interest. The
27
28

1 principal amount of this Class VII claim, plus any interest, awarded by the Court, till the effective
2 date, together with interest at the contract rate after the effective date and legal and other costs of
3 collection awarded shall be paid from the net proceeds of the sale of the Residence. This claim has
4 sixth priority to be paid.
5

6 **Class VIII. Secured Claim of Metro Fire Equipment Inc.** This Class VIII claim shall be
7 paid, with interest at the rate of 4% per annum from the effective date, from the net proceeds of the
8 sale of the Residence. This claim shares the priority with Class IX proportionately.
9

10 **Class IX. Secured Claim of Dan Keen Services.** This Class IX claim shall be paid with
11 interest at the rate of 4% per annum from the net proceeds of the sale of the Residence. This claim
12 shares the priority with Class VIII proportionately.
13

14 **Class X. Unsecured Claims.** The holders Class X claims shall be paid the amount of their
15 approved claims, with interest at the rate of 4% from the effective date, from the net proceeds of the
16 sale of the Residence. The claims within this class share the last priority to be paid proportionately
17 to the amount of their approved claims.
18

19 **Class XI. Insider Claim of Troy Hudspeth and Debtor's Equity.** Debtor shall be the sole
20 member of the Reorganized Debtor. The holder of this claim shall retain his claim against the Debtor
21 but not the successor Reorganized Debtor. This class shall be paid the balance of all funds available
22 after payment of all allowed and approved higher priority claims.
23

24 **V. DISPUTED CLAIMS**

25 The Debtor reserves the right to verify and object to any proof of claim. Payment of disputed
26 claims shall be made only after agreement has been reached between the Debtor and the Creditor or
27 upon the order of the Court. Any and all objections to proofs of claim will be filed within sixty (60)
28

1 days of the Order entered confirming the Plan of Reorganization.

2 **VI. EXECUTORY CONTRACTS**

3 Debtor knows of no executory contracts.

4 **VII. CHAPTER 7 LIQUIDATION ANALYSIS**

5 Pursuant to the provisions of the Bankruptcy Code providing for Court approval of a Plan
6 of Reorganization, the Debtor is required to pay creditors at least as much as creditors would receive
7 in a Chapter 7 liquidation case, after costs of administration and the liquidation of the Debtor's
8 assets.
9

10 This reorganization plan is a liquidation plan. The advantages over a Chapter 7 case are the
11 following: (1) Saving of Trustee's fees, (2) Saving on Trustee's attorney's fees, (3) Debtor will
12 provide funds for improvements and maintenance during the sale period of the Residence, (4)
13 Engaging a competent real estate professional at a reduced commission 3 ½ % which is 2 ½ % below
14 the norm and (5) the increased chance of better economic results through participating in the
15 administration by persons having an economic interest in sale of the Residence.
16
17

18 **VIII. QUARTERLY FEES AND REPORTS**

19 Debtor shall continue to pay quarterly fees to the U.S. Trustee System until such time as a
20 Final Decree has been entered in this matter by the Court, closing this Chapter 11 proceeding.
21 Debtor shall continue to file monthly operating reports until such time as the Court enters an Order
22 confirming this Chapter 11 Plan of Reorganization. At such time, Debtor shall cease filing monthly
23 operating reports and shall begin filing 90 day reports. These 90 day reports shall be filed until such
24 time as a Final Decree has been entered in this matter by the Court, closing this Chapter 11
25 proceeding.
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1 **IX. IMPLEMENTATION AND CONSUMMATION OF PLAN**

2 The terms of the Plan subsequent to confirmation shall bind the Debtor, the Successor Entity
3 who becomes the Reorganized Debtor any entity acquiring property under the Plan, and creditor or
4 claimant, whether or not such creditor or claimant has accepted the Plan. All property of the estate
5 shall vest in the Reorganized Debtor and shall be free from attachment, levy, garnishment or
6 execution by creditors bound by the Plan. It shall be the obligation of each creditor participating
7 under the Plan to keep the Reorganized Debtor advised of its current mailing address. In the event
8 any payments tendered to creditors are mailed, postage prepaid, addressed (1) to the address specified
9 in the Debtor's schedules and statement, (2) to the address specified in any proof of claim filed by a
10 creditor or claimant herein or (3) to the address provided by any such creditor or claimant for
11 purposes of distribution, and if subsequently the Post Office returns such distribution due to a lack
12 or insufficiency of address or forwarding address, the Debtor shall retain such distribution for a period
13 of six months. Thereafter, the distribution shall revert to the Debtor without further Order of the
14 Court and free and clear of any claim of the named distributee. The Debtor shall thereafter not be
15 required to mail subsequent distributions to any creditor for whom a distribution has been returned
16 by the Post Office. The Reorganized Debtor reserves the right to modify the Plan in accordance with
17 §1127 of the Bankruptcy Code. The Plan may be modified prior to confirmation provided that the
18 Plan still complies with §1122 and §1123 of the Bankruptcy Code. The Plan may be modified
19 subsequent to confirmation and before substantial consummation of the Plan under such
20 circumstances as may warrant such under §1123 of the Bankruptcy Code. Any holder of a claim or
21 interest that has been previously accepted or rejected a confirmed Plan, shall be deemed to have
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1 accepted or rejected any subsequently modified Plan unless the holder of such claim or interest
2 changes its acceptance or rejection of the Plan within the time fixed by the Court.

3
4 **X. DEFAULT**

5 The Debtor's failure to make any payment due under the Plan, herein, within sixty (60) days
6 after demand for payment after its due date shall constitute a default unless the Debtor and the
7 affected creditor agree to delayed payment. Any event of default occurring with respect to one (1)
8 claim shall not be an event of default with respect to any other claim. If any default is cured within
9 the sixty (60) day cure period, then the Creditor shall not be entitled to enforce any remedies which
10 would be otherwise available on account of the default.
11

12 The Notice of Default shall be effective when served simultaneously upon the Reorganized
13 Debtor and Debtor's counsel. Any Notice of Default must be sent in writing to both the Reorganized
14 Debtor and the Debtor's counsel at the addresses listed below:
15

16 LeAnne Risenhoover
17 7171 San Xavier, Suite 120
18 Glendale, AZ 85038

19 Allan D. NewDelman
20 Allan D. NewDelman, P.C.
21 80 East Columbus Avenue
22 Phoenix, AZ 85012

23 / / /
24
25
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27
28

1 If the default is not timely cured, creditor(s) may pursue any remedy provided by the state or
2 federal law, including foreclosing any security interest, suing on any promissory note issued or
3 continued in effect under the Plan.
4

5 XI. CLOSING OF CASE

6 The Reorganized Debtor may seek a final decree and an Order closing this case upon the
7 conclusion of all administrative matters and provided that the Debtor has completed the sale of the
8 Residence and payments required to be made pursuant to the Plan of Reorganization.
9

10 ALL CREDITORS SHALL REMAIN BOUND BY TERMS AND CONDITIONS SET
11 FORTH IN THE DEBTOR'S PLAN OF REORGANIZATION. NO CREDITOR SHALL BE
12 ALLOWED TO TAKE ANY COLLECTION ACTION AGAINST THE DEBTOR AS LONG
13 AS THE DEBTOR REMAINS IN COMPLIANCE WITH ITS PLAN OF
14 REORGANIZATION.
15

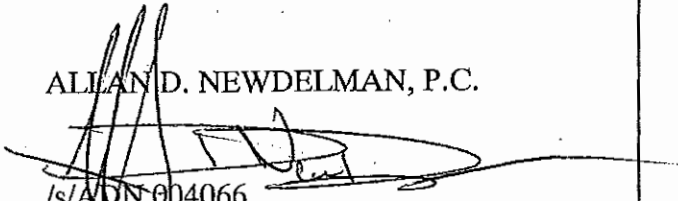
16 XII. RETENTION OF JURISDICTION

17 The Bankruptcy Court will retain jurisdiction over this case for purposes of determining the
18 allowance of claims or objections to claims. The Court will also retain jurisdiction for purposes of
19 fixing allowances for compensation and/or for purposes of determining the allowability of any other
20 claimed administrative expenses. The Court will also retain jurisdiction for the purpose of
21 establishing bar dates, making a determination with respect to all disputed claims, priorities among
22 the classes and other issues. The court shall retain jurisdiction for the purpose of approving a sale
23 of the Residence free and clear of all liens and to authorize additional borrowing pursuant to the
24 Plan. Finally, the Court shall retain jurisdiction for purposes of determining any dispute arising from
25 the interpretation, implementation or consummation of the Plan and to implement and enforce the
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1 provisions of the Plan. Notwithstanding anything to the contrary contained herein, the Debtor shall
2 not be bound by estoppel, the principles of res judicata or collateral estoppel with respect to any term
3 or provision contained herein in the event the Plan is not confirmed.
4

5 DATED this 1/24/17 day of .

6 ALLAN D. NEWDELMAN, P.C.

7 
8 /s/ADN 004066

9 Allan D. NewDelman, Esq.
Attorney for Debtor

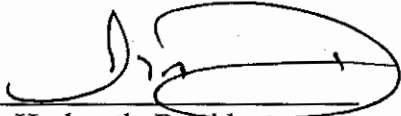
10 A copy of the foregoing mailed
11 this 24 day of January, 2017, to:

12 Office of U.S. Trustee
13 230 North First Avenue
14 Suite 204
Phoenix, Arizona 85003

15 
16 By

1 The above Chapter 11 Plan
2 of Reorganization plus exhibits are
3 approved as to form and content:

4 Matrix Luxury Homes, LLC

5 By 
6 Troy Hudspeth, President
7 Debtor