

Loan Modification Management Program Procedures (LMM)
United States Bankruptcy Court Eastern District of North Carolina

1. **Purpose.** These procedures and forms implement the Loan Modification Management Pilot Program (“LMM” or “LMM Program”). The LMM is designed to function as a forum for debtors and creditors to reach a consensual resolution when a debtor’s property is at risk of foreclosure. The goal of the LMM is to facilitate communication and exchange of information in a confidential setting under the supervision of the United States Bankruptcy Court for the Eastern District of North Carolina.
2. **Definitions.** The following definitions shall be applicable to the LMM and the procedures described herein:
 - a. **Adequate Protection Payments:** An amount equal to eighty percent (80%) of the contractual principal and interest payment plus one-twelfth (1/12th) of the annual escrow amounts for property taxes and insurance (including mortgage insurance, if applicable) due on account of a claim of a Creditor for an Eligible Loan, to be disbursed by the Chapter 13 Trustee after confirmation of the Chapter 13 plan.
 - b. **Creditor:** means any holder, servicer or trustee of an Eligible Loan.
 - c. **Debtor:** means any individual debtor in a case filed under Chapter 13 of the Bankruptcy Code, including joint debtors. Where a debtor is represented by an attorney, the term “Debtor” may mean the debtor’s attorney on behalf of the Debtor individually unless the context requires otherwise.
 - d. **Document Preparation Software:** means a secure online program maintained and operated by the Portal Manager that facilitates the preparation of the Initial LMM Package by populating the Standard LMM Documents and generating a customized checklist of required additional forms and supporting documents that a Debtor needs to initiate a loss mitigation review with the Creditor. The use of the Document Preparation Software ensures that the initial submission to Creditor is complete and accurate and should expedite Creditor’s review. By requiring its use by the Debtor prior to the filing of the Motion for LMM, the Debtor will signify to the bankruptcy court and the Creditor that the Debtor is prepared to engage in the LMM in good faith and provide the necessary information to the Creditor.
 - e. **Document Preparation Software Fee:** means the non-refundable fee required by the Portal Manager for providing access to documents managed by the Portal Manager. The Document Preparation Software Fee shall be set by the Portal Manager and, as of March 8, 2021, is the amount of sixty dollars (\$60.00).
 - f. **Eligible Loan:** means any loan, lien or extension of money or credit secured by Eligible Property, regardless of whether the loan is considered to be subprime or non-traditional, was in foreclosure prior to the bankruptcy filing, is the first or

junior deed of trust or lien on the Eligible Property, and/or has been pooled, securitized or assigned to a creditor or trustee.

- g. Eligible Property: means the Debtor's principal residence as defined by 11 USC § 101(13A).
- h. Facilitator: means an independent, nonpartisan attorney, licensed to practice law in North Carolina and admitted to the applicable district, who has demonstrable skill and experience in consumer bankruptcy loss mitigation to assist the bankruptcy court with facilitating compliance by the parties with the LMM.
 - i. Without limiting the generality of the foregoing, a Facilitator should:
 - 1. Have experience in the practice of consumer bankruptcy in the applicable district, as an attorney representing consumer debtors, mortgage servicers, or as a trustee;
 - 2. Have knowledge of the forms and supporting documents required by Creditors to complete a loss mitigation analysis;
 - 3. Have understanding of the various loss mitigation programs offered by Creditors and the terms of their availability to Debtors;
 - 4. Have the ability to accept electronic payment for the Facilitator Fees;
 - 5. Have competence in computer technology and use of the Portal; and
 - 6. Have sufficient staff dedicated to the LMM to ensure oversight of submission of documents to the Portal by the Required Parties and compliances with these procedures.
 - ii. The Office of the United States Bankruptcy Administrator (the "BA") for the Eastern District of North Carolina shall maintain and publish a list of approved Facilitators, as well as an application to be approved to serve as a Facilitator. In conjunction with the Clerk of Court for the United States Bankruptcy Court for the Eastern District of North Carolina, the BA will supervise the assignment of an approved Facilitator to the Debtor(s) who indicate their participation in the LMM.
 - iii. The Facilitator shall have the right to retain outside parties to assist in his or her duties under the LMM, provided such parties have the necessary skill and experience in bankruptcy loss mitigation as determined by the Facilitator.

- i. Facilitator Fee: means the non-refundable fee payable to the Facilitator for the fulfillment of the services provided herein, which shall be payable upon the terms set forth herein. The Facilitator Fee as of January 1, 2019 is set at the amount of five hundred dollars (\$500.00).
- j. Final Report: means the report to be filed at the conclusion of the LMM per Section 9(c)(ii).
- k. Initial LMM Package: means collectively the Standard LMM Documents and all of the forms and supporting documentation that the Creditor requires to initiate the assessment of a Debtor's loss mitigation options. Creditor shall be responsible for providing Creditor's Initial LMM Package to the Facilitator, as more particularly provided for in Section 8(b).
- l. LMM Period: means the time during which the LMM is in effect prior to its expiration or termination by bankruptcy court order.
- m. LMM Portal Submission Fee: means the non-refundable fee charged by the Portal Manager for the submission of an Initial LMM Package. The LMM Portal Submission Fee shall be set by the Portal Manager and, as of March 8, 2021, is set in the amount of sixty dollars (\$60.00).
- n. Loss Mitigation: means the full range of solutions that may prevent either the loss of a Debtor's Eligible Property to foreclosure, increased costs to the Creditor, or both, including but not limited to, loan modification, loan refinance, forbearance, short sale, or surrender of the Eligible Property in full satisfaction of obligations arising under an Eligible Loan.
- o. Portal: means a secure online service maintained and operated by the Portal Manager that allows LMM documents and communications to be submitted, retrieved and tracked between the Required Parties. The Portal must be readily accessible to the bankruptcy court, BA, trustees, and Facilitator. Submitting documents to the Portal provides transparency in the loan modification process by making information immediately available to all parties through a secure internet website. To ensure that all Required Parties may obtain access to the Portal in a timely manner, registration on the Portal by any Required Party (including, without limitation, registration by the Creditor as provided in Section 8(b)(i)) must be capable of being completed in three (3) business days.
- p. Portal Manager: means an independent, nonpartisan organization that has demonstrable skill and experience in consumer bankruptcy loss mitigation to assist the bankruptcy court with managing the LMM. Without limiting the generality of the foregoing, the Portal Manager should:

- i. Have extensive knowledge of the forms and supporting documents required by Creditors to complete a loss mitigation analysis;
 - ii. Have extensive understanding of the various loss mitigation programs offered by Creditors and the terms of their availability to Debtors;
 - iii. Own or be able to provide access to the Document Preparation System; and
 - iv. Own or be able to provide access to the Portal.
 - q. Required Parties: means (when applicable) Debtor, Debtor's attorney, Creditor, Creditor's North Carolina legal counsel, the Chapter 13 Trustee, the Facilitator, any co-obligor, co-borrower and third-party obligor.
 - r. Standard LMM Documents: collectively, the industry standard forms that are generally required by Creditors to initiate a review of a Debtor's loss mitigation options, which include, but are not limited to, the following:
 - i. HAMP Request for Mortgage Assistance
 - ii. Uniform Borrower Assistance Form (Form 710)
 - iii. IRS Form 4506-T
 - iv. Hardship Letter
 - v. Dodd-Frank Certification
 - s. Status Report: means the status report to be filed during the LMM Period pursuant to Section 9(c)(i).
3. **Eligibility**. Any Debtor who currently has a case pending under Chapter 13 where the on-going contractual mortgage payment is proposed to be paid through disbursements by the Chapter 13 Trustee is eligible to participate in the LMM Program with respect to any Eligible Property. Individuals who seek to modify a loan under the LMM must have paid their bankruptcy filing fee in full prior to filing a motion to participate in LMM. In addition, Debtors must have good funds available to pay their share of the costs for the Document Preparation Software Fee, the LMM Portal Submission Fee, and the LMM Facilitator Fee.
4. **Ineligibility**. The bankruptcy court may, after notice and hearing under the contested motion process, resolve any disputes regarding eligibility of the debtor to apply for loss mitigation, the application process, or any other matters related to the LMM Program.
5. **Additional Parties**.
- a. Co-debtors, Creditors, and Third Parties. Where the participation of a co-debtor, additional creditors or other third party may be necessary or desirable, any party may request, or the bankruptcy court may direct, that such party participate in loss mitigation, to the extent that the bankruptcy court has jurisdiction over the party.

- b. Bankruptcy Administrator. The Bankruptcy Administrator may participate in the LMM to the extent such participation would be consistent with the Bankruptcy Administrator's duties under the Bankruptcy Code.
6. **Commencement of LMM**. The Debtor, Creditor or the Bankruptcy Court may seek referral to the LMM Program beginning as of the filing date of the Chapter 13 case and continuing for a period of up to twelve (12) months thereafter unless the Court orders otherwise. Cases that are pending at the time of the implementation of the LMM program in the District may seek referral to the Program for a period of up to twelve (12) months following the Program implementation date.

a. By Debtor.

- i. Confirm Eligibility. Prior to filing a Motion for LMM (substantially in the form of Form 1), Debtor shall perform reasonable due diligence to confirm that Debtor may be eligible for loss mitigation and confirm all information necessary to make the certifications required on the Certification of LMM Eligibility and Readiness (substantially in the form of Form 2).
- ii. Complete Document Preparation Software. Prior to filing a Motion for LMM, Debtor shall complete the Document Preparation Software and pay the Document Preparation Software Fee to the Portal Manager. Debtor's Initial LMM Package shall be completed and ready for signature and submission before filing a Motion for LMM unless the Creditor is not registered in the Portal or newly registered.
- iii. Contract for Representation in LMM. Prior to filing Motion for LMM, if represented by an attorney, Debtor shall execute a contract (substantially in the form of Form 3) with such attorney detailing the costs, fees, duties and limitations on representation.
- iv. Proposed Chapter 13 Plan. If the debtor elects to seek referral to the LMM Program prior to confirmation of the Plan, he or she shall include in his or her proposed Chapter 13 plan the following nonstandard provision:

The Debtor has or will, within the first twelve (12) months following the filing of this case, file a Motion for Loan Modification Management ("LMM") (LMM Form 01). Pursuant to the LMM Program, Creditors have fourteen (14) days from service of such Motion to object to participation. During the pendency of the LMM, the Creditor shall be entitled to Adequate Protection Payments paid or held in reserve on account of its claim in the amount equal to 80% of the principal and interest plus one-twelfth (1/12th) of the annual escrow amounts for property taxes and insurance (including mortgage insurance, if applicable), as indicated in the allowed Proof of Claim.

If the Chapter 13 plan, as proposed, provides for the mortgage to be paid directly, the Debtor must file an amended plan in which the on-going Adequate Protection Payments, subject to the current commissions of the Chapter 13 Trustee, are to be paid as conduit disbursements by the Chapter 13 Trustee to participate in LMM.

- v. Modification of Chapter 13 Plan. If Debtor's Chapter 13 plan has already been confirmed, Debtor shall additionally plead sufficient details in the Motion for LMM (substantially in the form of Form 1) to satisfy the requirements for modification of the confirmed plan pursuant to 11 U.S.C. § 1329.

If the Chapter 13 plan, as confirmed, provides for the mortgage to be paid directly, the Debtor must file a separate Motion to Modify the Plan to provide for the on-going Adequate Protection Payments, subject to the current commissions of the Chapter 13 Trustee, to be paid as conduit disbursements by the Chapter 13 Trustee to participate in LMM. The Motion to Modify the Plan may be filed contemporaneously with the Motion for Commencement of LMM.

- vi. Pro Se Debtor Obligations: All Pro Se Debtors shall have the same duties under the LMM Program as Debtors which are represented by counsel. Nothing in these rules shall be construed to require the Portal Manager, Facilitator or any other party to provide advice or assistance to a Debtor who participates in the LMM Program Pro Se.
- vii. LMM Motion. Upon completion of the Debtor's Initial LMM Package, Debtor may request the commencement of the LMM by filing a Motion for LMM. The Motion for LMM shall be served pursuant to Federal Bankruptcy Rules 7004 and 9014 on the Chapter 13 Trustee, the Bankruptcy Administrator, Facilitator, Creditor and all other creditors whose claims are secured by liens against the Eligible Property. A Certification of LMM Eligibility and Readiness (substantially in the form of Form 2), a fully executed Contract for LMM Representation (substantially in the form of Form 3), and a proposed LMM Order (substantially in the form of Form 5) shall be attached to any Motion for LMM.
- b. By Creditor. Any creditor seeking to commence the LMM must file with the bankruptcy court and serve pursuant to Federal Bankruptcy Rules 7004 and 9014 on the Debtor (and Debtor's counsel, if any), the Chapter 13 Trustee and the Bankruptcy Administrator a Motion for LMM (substantially in the form of Form 1) together with a proposed Order (substantially in the form of Form 5).
- c. By the Bankruptcy Court. The bankruptcy court may order the assignment of a loss mitigation matter to the LMM upon the Court's own motion.

7. **Opportunity to Object**. The deadline for filing an objection to a Motion for LMM is fourteen (14) days from the service of the Motion for LMM. Objections shall identify with specificity the grounds for the objection, which may include unavailability of loss mitigation options; ineligibility of the Debtor; or creditor's declining to participate in the LMM Program. If no objection is filed, the bankruptcy court may enter a LMM Order without further notice or hearing.

8. **LMM Participation and Duties**.
 - a. **General**. Upon entry of the LMM Order, the moving party shall serve a copy of the LMM Order on the Required Parties, including via email to the Facilitator, and file a certificate of service indicating the required and additional parties that were served with the LMM Order. Upon the entry of the LMM Order, the following shall apply:
 - i. **Good Faith Requirement**. The Required Parties shall act in good faith throughout the entirety of the LMM Period, including but not limited to promptly responding to all inquiries through the Portal and providing all requested documentation and information. A party failing to participate in good faith may be subject to sanctions and/or dismissal of the LMM after notice and a hearing.
 - ii. **Deadlines**. The Required Parties shall comply with all deadlines set forth in the LMM Order; provided that any deadlines may be extended by bankruptcy court order or by stipulation of the parties.
 - iii. **Communication through Portal**. During the LMM Period, unless otherwise permitted by the bankruptcy court, all material communications between the Required Parties shall be conducted exclusively through the Portal; provided, however, that any litigated matters incidental to the LMM process shall be considered as separate matters not subject to the Portal requirement. (For example, a motion to compel mediation or motions related to discovery must be filed in the main bankruptcy case, not through the Portal.)
 - iv. **Notice**. Counsel for Debtor and counsel for Creditor are required to serve the Facilitator via email with all motions, responses, and orders with the same also being uploaded to the Portal.
 - v. **Authorized Parties**. On behalf of each participating party, a person with complete knowledge of the file so as to be reasonably capable of answering questions posed by the bankruptcy court related to the LMM shall attend all LMM-related hearings and conferences before the bankruptcy court.
 - vi. **Automatic Stay**. Any Creditor seeking relief from the automatic stay with respect to real property subject to the LMM Program prior to the conclusion of the LMM Program shall, in the motion, set forth the reasons why relief is appropriate prior to the conclusion of the LMM Program. If a relief from

stay motion pursuant to section 362(d) is pending when an LMM Order is entered, or if such a motion is filed during the LMM Period, the bankruptcy court may condition the stay upon fulfillment of the Debtor's obligations under the LMM Order. If the Debtor fails to comply with the Debtor's LMM duties or the LMM Order, the Creditor may file a motion to terminate the LMM Program.

- vii. No Delay. The referral of a case to the LMM Program does not relieve the parties from complying with any other court orders or applicable provisions of the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, General Orders or the Local Bankruptcy Rules. Notwithstanding a matter being referred to the LMM Program, the bankruptcy case shall not be stayed or delayed without further order of the bankruptcy court.
- viii. Confidential Communications. All communications and information exchanged during the LMM Program shall be privileged and confidential and shall be inadmissible in any subsequent proceeding as provided for by Federal Rule of Evidence 408.

b. Creditor Duties upon Commencement of LMM.

- i. Registration on Portal. Within ten (10) days after entry of the LMM Order, Creditor and Creditor's North Carolina counsel (if any) shall register on the Portal (if not already registered) and provide Creditor's most current Initial LMM Package to the Portal Manager, who will promptly upload and post the same on the Portal. A newly registered Creditor shall provide any LMM Package or its own loss mitigation documents and requirements directly to the Debtor and Debtor's Attorney. Registration on the Portal is a one-time event, and once Creditor and Creditor's North Carolina counsel (if any) are registered on the Portal, they will not have to re-register for each subsequent matter; however, Creditor is responsible for providing any updates or changes to Creditor's Initial LMM Package if and as necessary.
- ii. Acknowledge Receipt of Initial LMM Package. Within seven (7) days after Debtor submits Debtor's completed Initial LMM Package to Creditor on the Portal, Creditor shall on the Portal: (i) acknowledge receipt of Debtor's completed Initial LMM Package; and (ii) designate its single point of contact and outside legal counsel (if any). The designated single point of contact and outside legal counsel (if any) shall have all requisite authority (within the investor's guidelines) to settle any and all issues that may arise during the LMM Period.
- iii. Payment of LMM Facilitator Fee. Within seven (7) days after Debtor submits Debtor's completed Initial LMM Package, Creditor shall also pay one-half (1/2) of the applicable Facilitator Fee directly to the Facilitator.
- iv. Process Debtor's Application. Upon receipt of Debtor's Initial LMM Package, Creditor shall promptly review Debtor's Initial LMM Package to

determine Debtor's eligibility for any loss mitigation options which may be available to Debtor. In the event that Creditor requires additional (or corrected) documentation, Creditor shall promptly notify Debtor through the Portal of such requirements and promptly respond to Debtor's submissions thereof as well as any inquiries made by the Debtor.

- v. Servicer Transfer. In the event that Creditor transfers a loan subject to the LMM Program, Creditor shall promptly provide a copy of the LMM Order to the new holder of the loan (the "Successor Creditor"), and the Successor Creditor shall promptly comply with the provisions of Rule 3001(e)(2). Without limiting the generality of the foregoing, Successor Creditor shall accept all documentation and information previously accepted by the original Creditor. Further, Creditor shall serve notice to the parties and file an Order Substituting LMM Creditor (substantially in the form of Form 6) and transfer the submission on the Portal to the Successor Creditor.
- vi. Payment Changes. During the LMM Period, the Creditor shall comply with the requirements of Rule 3002.1(b) regarding Notices of Mortgage Payment Changes. Upon compliance by the Creditor, the Trustee shall adjust the Adequate Protection Payment as follows:
 - (I) For payment changes due to adjustments needed in the escrow account, the Adequate Protection Payment shall remain at eighty percent of the contractual payment (principal and interest only) plus any change, whether increase or decrease needed, in the monthly escrow payment.
 - (II) For payment changes due to adjustments needed for interest rate changes, the Adequate Protection Payment shall be recalculated to reflect eighty percent of the newly adjusted principal and interest payment, plus any escrow payment as applicable.

c. Debtor Duties upon Commencement of LMM.

- i. Submit Initial LMM Package. Within seven (7) days after entry of a LMM Order or Creditor's registration on the LMM Portal, whichever occurs later, Debtor shall upload to the Portal: (i) Debtor's Initial LMM Package and (ii) a copy of the LMM Order.
- ii. Payment of Portal and LMM Program Fee. Within seven (7) days after entry of a LMM Order or Creditor's registration on the LMM Portal, whichever occurs later, Debtor shall pay the Portal Submission Fee directly to the Portal Manager; and one-half (1/2) of the applicable LMM Facilitator Fee directly to the Facilitator.

- iii. Document Submissions. Upon the request of Creditor through the Portal, Debtor shall promptly provide any additional documents requested by Creditor, Facilitator or Portal Manager and/or answer any questions.
 - iv. LMM Reports. Debtor shall complete the Status Report and Final Report as more particularly provided in Section 9(c).
- d. Trustee Duties.
- i. Adequate Protection Payments. Upon the entry of the LMM Order and the filing of a valid Proof of Claim, without regard to whether a Chapter 13 plan has been confirmed, the Chapter 13 Trustee shall begin reserving Adequate Protection Payments on the Claim. The amount shall be set forth in the Motion for Loan Modification (Form 1) filed by the Debtor and in the Order for Loan Modification (Form 5).
- e. Facilitator Duties.
- i. Loan Modification Monitoring. The Facilitator shall monitor all Portal communications between Debtor and Creditor to ensure that each party is performing its obligations and duties as required by the LMM Program, including without limitation:
 - (I) Confirming that the Debtor has provided the correct Initial Package;
 - (II) Facilitating the communication and document exchanges between Creditor and Debtor to ensure that the loss mitigation review is proceeding in accordance with the terms and deadlines of the LMM Program;
 - (III) Tracking and monitoring the deadlines for each party; and
 - (IV) Preparing for, scheduling, and conducting LMM Conferences.
 - ii. Reporting Non-Compliance. Upon the material non-compliance with the terms of the LMM Program by any of the Required Parties, the Facilitator shall demand cure of the non-compliance by the Required Party within seven (7) days. Upon the failure of a Required Party to cure the non-compliance within the allotted time, the Facilitator shall file a Certificate of Non-Compliance with the bankruptcy court (in form substantially similar to Form 7) providing details of the Required Party's material non-compliance together with supporting evidence documenting the non-compliance.

9. LMM Process.

a. Duration.

- i. Initial Duration. The LMM Period initially shall be two hundred seventy (270) days from the date of the LMM Order unless otherwise specified in the LMM Order.
- ii. Extension. A request to extend the LMM Period shall be made by filing a Motion to Extend the LMM Period (substantially in the form of Form 8). A proposed order (substantially in the form of Form 9) and a complete and current printout of the account history from the Portal shall be attached to the Motion. However, a Motion to Approve Final Mortgage Modification (substantially in the form of Form 14) can be filed after expiration of the LMM Period without further extension being granted.
- iii. Early Termination. A request to terminate the LMM Period prior to its expiration may be made by the Debtor, Creditor, or the Facilitator by filing a Motion to Terminate the LMM (substantially in the form of Form 10). A proposed order (substantially in the form of Form 11) and a complete and current printout of the account history from the Portal shall be attached to the Motion. A request to terminate the LMM shall be served on all Required Parties. A request to terminate the LMM is not required upon dismissal or conversion of the case.

b. LMM Conferences.

- i. Scheduling. If Debtor and Creditor are not able to reach mutually agreeable terms, then upon consultation with the parties and their attorneys (if any), the Facilitator shall fix a reasonable date and time for the LMM Conference and shall give the parties at least seven (7) days advance written notice of the date and time of the LMM Conference. The Facilitator shall report the scheduling of the LMM Conference on the Portal. The Facilitator may (in his or her sole discretion) schedule multiple LMM Conferences.
- ii. Appearances. Attendance at the LMM Conference by the Debtor and Creditor is mandatory. All Required Parties may appear at the LMM Conference remotely unless otherwise agreed to by the parties or directed by the Facilitator.
 - (I) Debtor Represented by Attorney. If Debtor is represented by an attorney, then Debtor, Debtor's attorney, and any co-obligor, co-borrower, or other third party obligated on the note or deed of trust may participate in the LMM Conference by telephone, provided that they are physically present with Debtor's attorney and present identification to Debtor's attorney during all LMM Conferences.

(II) Translator. Unless the Americans with Disabilities Act requires otherwise, Debtor shall provide any needed translator at Debtor's own expense.

(III) Creditor. Creditor shall appoint a designated representative to appear on behalf of the Creditor.

(IV) Settlement Authority. All parties attending the LMM Conference shall be ready, willing and able to sign a binding settlement agreement at the LMM Conference and have the ability to scan, send and receive documents by facsimile, email or other electronic means at the time of the LMM Conference.

iii. Failure to Appear. If a Required Party fails to appear at a scheduled LMM Conference, the Facilitator may file a Certificate of Non-Compliance with the bankruptcy court (in form substantially similar to Form 7.) The bankruptcy court reserves the right to treat non-compliance as a failure to act in good faith, as applicable, under the LMM, 11 U.S.C. 1325(a)(3), (5)(A) and/or (7), 12 C.F.R. § 1024.41, N.C.G.S. 45-105, and the North Carolina Commissioner of Banks Rules 702 and 703.

f. LMM Reports.

i. Status Report. Within sixty (60) days after Debtor submitted the Initial LMM Package to Creditor on the Portal, the Debtor, on notice to the Creditor, shall file and serve an LMM Status Report with an attached printout of the current and complete account history from the Portal. The LMM Status Report shall be completed on the Portal in accordance with the instructions provided thereon.

ii. Final Report. Within seven (7) days after the conclusion of the LMM Period, the Debtor, on notice to the Creditor, shall file and serve an LMM Final Report with an attached printout of the current and complete account history from the Portal. The LMM Final Report shall be completed in accordance with the instructions provided in the Portal.

g. Debtor Payments. In Chapter 13 cases, any Debtor participating in the LMM Program shall be required to make any payments due to Creditor through the Chapter 13 Trustee including, but not limited to, Adequate Protection Payments, trial modification payments, and final modification payments.

10. LMM Resolution.

a. Trial Loan Modification Agreement. If the parties reach a trial loan modification agreement, but not a final loan modification agreement, then within fourteen (14) days after the parties reach such agreement, Debtor shall file a Motion to Approve

Trial Loan Modification Agreement (substantially in the form of Form 12) and a proposed Order Granting Motion to Approve Trial Loan Modification Agreement (substantially in the form of Form 13). The Motion to Approve Trial Loan Modification Agreement shall be served upon all interested parties with fourteen (14) days' notice of opportunity for hearing pursuant to the rules of the District. Once entered by the bankruptcy court, Debtor shall serve a copy of the Order Granting Motion to Approve Trial Loan Modification on the Required Parties and the Chapter 13 Trustee and shall file a certificate of service indicating that the Chapter 13 Trustee, the Required Parties and any additional parties of interest were served with a copy of the order.

- b. Final Loan Modification Agreement. If parties agree to a final or long-term loan modification, the Debtor shall file a Motion to Authorize the Loan Modification (substantially in the form of Form 14), which shall be served immediately on the Chapter 13 Trustee and all creditors whose claims are secured by liens against the Eligible Property. The motion shall contain a detailed analysis of the proposed loan modification and shall include a Loan Modification Summary (substantially in the form of Form 15). A copy of the loan modification agreement shall accompany the motion. In a Chapter 13 case, the proposed Loan Modification Order (substantially in the form of Form 16) shall include the following provisions, where applicable:
 - i. If the loan modification approved by the bankruptcy court impacts the provisions of the Debtor's Chapter 13 plan, a motion to modify plan shall be filed within fourteen (14) days of the entry of the order approving the loan modification.
 - ii. If the loan modification approved by the bankruptcy court results in a material change in the Debtor's expenses, the Debtor shall file an amendment to the impacted schedules reflecting income and expenses (Schedules I and J) within fourteen (14) days of the entry of the order approving the loan modification.
- c. Additional Terms.
 - i. No Dismissal. Dismissal of the bankruptcy case shall not be made a requirement of an agreement reached through the LMM.
 - ii. Consent. Consent to the resolution shall be acknowledged in writing by an authorized representative of the Creditor, the Debtor, and the Debtor's attorney, if applicable.
 - iii. Bankruptcy Court Review and Approval. LMM participants shall seek authorization from the bankruptcy court to enter into any agreement reached during the LMM process, including, but not limited to, a stipulation, sale, plan of reorganization, amended plan of reorganization, or loan modification, by filing a motion with the court. Where a Debtor is represented by counsel, a resolution may be authorized by the bankruptcy court without further notice, or upon such notice as the bankruptcy court

directs. Where a Debtor is not represented by counsel, prior to authorizing a resolution the bankruptcy court may conduct a hearing at which the Debtor shall appear in person. To be authorized by the bankruptcy court, a proposed resolution must be in the best interests of the Debtor and the bankruptcy estate.

11. LMM Fees.

a. Compensation for Debtor's Counsel.

- i. *Presumptive Flat Fee.* Debtor's Counsel may accept a "no look" fee in a reasonable amount not to exceed \$2,000.00 to be paid as an administrative expense in cases resulting in a successful (as determined by the bankruptcy court) loan modification. Debtor's Counsel must indicate a selection of the presumptive flat fee in the Motion for LMM. These fees are in addition to those fees and costs incurred in the representation of Debtor in the bankruptcy case. These fees shall, absent a contrary determination by the bankruptcy court, be awarded as follows:

\$750.00 upon entry of the LMM Order;
\$750.00 upon entry of an Order approving a trial loan modification;
\$500.00 or the remainder of the total fee upon entry of a permanent loan modification.

These fees are compensation for providing the following services:

- Filing of the Motion and Order;
 - Preparation of the Initial LMM Package
 - Preparation of any additional forms that may be required throughout the LMM
 - Submission of all documentation through the Portal
 - Filing of other required pleadings and preparation of proposed orders and settlement papers, including as applicable, Motions to Approve Loan Modification or Motion to Modify Plan, with no duplicative compensation for such pleadings from the "no-look" fee schedule;
 - Communicating with Creditor, Facilitator and Portal Manager, including communications through the Portal;
 - Attendance at LMM Conferences and bankruptcy court hearings;
 - Review of all modified loan documents; and
 - Review and modification, if necessary, of the Chapter 13 plan following resolution of the LMM
- ii. *Hourly Fee Application.* Alternatively, under extenuating circumstances, Debtors' Counsel may seek approval for reasonable compensation on an hourly basis for necessary and proper work performed in connection with the LMM process by filing an application for allowance of attorney fees and costs with the bankruptcy court.

- b. Facilitator Fees. The Facilitator shall be entitled to an initial fee in the amount of five hundred dollars (\$500.00) due and payable as set forth herein.
- c. Creditor Fees. If a proposed LMM resolution provides for a Creditor to receive payment or reimbursement from the Debtor(s) of any fee, cost or charge that arose from the LMM process, all such fees, costs and charges shall be disclosed to the Debtor prior to approval of the resolution. Creditor's Counsel may be entitled to receive a reasonable fee for all work involved with the LMM and shall clearly delineate such fee in the LMM resolution or by Notice of Post-Petition Fees pursuant to Bankruptcy Rule 3002.1(c).