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4 UNITED STATES DISTRICT COURT
5 DISTRICT OF NEVADA
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EFFECTIVE
January 1, 2021

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8 **IN RE: TRANSITION TO MORTGAGE**
9 **MODIFICATION PROGRAM**
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ADMINISTRATIVE ORDER 2020-17

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12 On October 15, 2020, new proposed “Mortgage Modification Program (MMP)
13 Procedures” (hereafter the “MMP”) were posted on the Court’s website for public comment.
14 Notice and opportunity for public comment on the MMP having been given, and those comments
15 having been received and afforded due consideration by all judges of the Court:

16 **IT IS ORDERED** that the MMP shall become effective on **January 1, 2021**.

17 **IT IS FURTHER ORDERED** that the MMP shall govern all requests for mortgage
18 modification mediation in all cases in which the debtor’s Chapter 13 bankruptcy petition was filed
19 with the Court **on or after October 1, 2020**.

20 **IT IS FURTHER ORDERED** that in order to facilitate the transition to the MMP, all
21 mediators appointed to serve prior to January 1, 2021, under the Court’s previous Mortgage
22 Modification Mediation (MMM) Program Procedures as revised effective May 1, 2017 (hereafter
23 the “MMM”), are authorized to continue to perform their duties as mediator under the MMM until
24 the earlier of:
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1 (a) The filing date of a Final Report of Mortgage Modification Mediation Program
2 Mediator under the MMM; or

3 (b) April 1, 2021.

4 **IT IS FURTHER ORDERED** that in any mediation commenced under the MMM, if no
5 Final Report of Mortgage Modification Mediation Program Mediator has been filed by the
6 appointed mediator on or before April 1, 2021:

7 (a) The mediator appointed under the MMM is released and discharged from any
8 further service, and shall take no further action in the case, effective April 1, 2021;
9 and
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11 (b) All mediation proceedings required in such a case after April 1, 2021 shall be
12 governed by the provisions of the MMP.

13 **IT IS SO ORDERED.**

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17 _____
18 August B. Landis, Chief Judge
19 United States Bankruptcy Court
20 District of Nevada
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Mortgage Modification Program (MMP) Procedures United States Bankruptcy Court, District of Nevada

Revised January 1, 2021

- I. Purpose** – These procedures and forms implement the Mortgage Modification Program (MMP) pursuant to Local Rule 3015.1. The MMP is designed to function as a forum for individual debtors to explore mortgage modification options with their Creditors for real property in which the debtor has an interest or is obligated on the promissory note or mortgage. The goal of the MMP is to facilitate communication and exchange of information in a confidential setting and encourage the parties to finalize a feasible and beneficial agreement under the supervision of the United States Bankruptcy Court for the District of Nevada.
- II. Definitions** – The following definitions are applicable to the MMP procedures.
- A. Completed Package – Debtor's Initial MMP Package along with any additional documents or information specified by Creditor on the Portal.
 - B. Creditor– The current beneficiary and payee of the promissory note secured by the deed of trust, and/or its mortgage servicing agent.
 - C. Debtor – Includes an individual debtor, or both debtors in a joint petition.
 - D. Initial MMP Package – Collectively the Standard MMP 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 MMP Package to the Program Manager.
 - E. Loss Mitigation - The full range of solutions that may prevent either the loss of a Debtor's 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 property in full satisfaction of obligations arising under the promissory note or mortgage.
 - F. MMP Period – The time during which the MMP is in effect prior to its expiration or termination by Court order.

- G. Required Parties – Include, when applicable, Debtor, Debtor’s attorney, Creditor, Creditor’s Nevada legal counsel, any co-obligor, co-borrower or third-party obligor (also referred to as “parties” in these procedures).
- H. Standard MMP Documents – The industry standard forms that are generally required by Creditors to initiate a review of a Debtor’s loss mitigation options:
1. Request for Mortgage Assistance
 2. Mortgage Assistance Application (Fannie / Freddie Form 710)
 3. IRS Form 4506-T
 4. Hardship Letter
 5. Dodd-Frank Certification

III. General Duties of Parties

- A. Conduit Payment Requirement – A Debtor participating in the MMP is required to pay all post-petition installment payments to Creditor through the Chapter 13 Trustee as conduit payments including, but not limited to, ongoing mortgage payments, trial loan modification payments, final loan modification payments, adequate protection payments, arrearages, and post-petition fees and costs (if any).
- B. Duration of MMP – The entire MMP proceedings in a case must be completed no later than one hundred and twenty (120) days after entry of the Order referring the case to the MMP, unless agreed to by the parties on the Portal or extended by an order of the Court. If the parties reach a trial loan modification agreement through the MMP, this deadline will be extended until 60 days after the expiration of the trial modification period for Debtor’s completion of trial period payments and the execution of a final loan modification.
- C. Good Faith – All Required Parties shall act in good faith throughout the entirety of the MMP Period including but not limited to, promptly responding to all inquiries through the Portal and providing all requested documentation and information. If any party fails to comply timely and in full with the deadlines and requirements of the MMP, then upon motion filed by a party or the Chapter 13 Trustee the Court may impose appropriate sanctions after notice and a hearing.
- D. Authorized Parties Requirement - 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 Court related to the MMP shall attend all MMP-related hearings and conferences.
- E. Compliance with Bankruptcy Code and Rules – Nothing in these procedures relieves Debtor, Creditor, Required Parties, the Program Manager, or any other party in interest from complying with orders of the Court, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, or any local rules or administrative rules.
- F. Noticing and Service of MMP Motions –

1. Motion for referral to MMP – The Motion for Referral to MMP must be filed and served in accordance with the negative notice procedure set forth in Local Rule 9014.1.
2. Ex parte motions - Motions and applications designated in these Procedures as “ex parte” are not required to be served pursuant to Local Rule 2002(a) and are not required to be set for hearing under Local Rule 9014.

IV. MMP Manager, Portal, Document Preparation Software, and MMP Forms – The Court has mandated the use of an independent organization that has demonstrable skill and experience in bankruptcy loss mitigation to assist the Court with managing the MMP (the “Program Manager”), a secure online portal (the “Portal”), an online program that facilitates the preparation of the Debtor’s loan modification package (the “Document Preparation Software”), and Local MMP Forms in an effort to expedite the exchange of information between Debtor and Creditor.

- A. Program Manager – The Program Manager approved by the Court is owned and maintained by Default Mitigation Management, LLC (DMM).
 1. The Program Manager is required to have extensive knowledge of the forms and supporting documents required by Creditors to complete a loss mitigation analysis; Have extensive understanding of the various loss mitigation programs offered by Creditors and the terms of their availability to Debtors; Own or be able to provide access to the Document Preparation System; and Own or be able to provide access to the Portal.
 2. Program Manager shall have the right to retain outside professionals, at no additional cost to the parties, to assist Program Manager in its duties under the MMP provided such parties have the necessary skill and experience in bankruptcy loss mitigation as determined by the Program Manager.
- B. Portal – The Portal vendor approved by the Court is owned and maintained by Default Mitigation Management, LLC. The Portal must be capable of providing access to the Court and trustees as well as the Program Manager. 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)(1)) must be capable of being completed in three (3) business days. Free training on the use of the Portal will be available to all Creditors and attorneys. The Portal can be accessed at www.dclmwp.com.
- C. Document Preparation Software - The court-approved Document Preparation Software is owned and maintained by Default Mitigation Management, LLC. This service helps facilitate the preparation of the Initial MMP Package by populating the Standard MMP Documents and generating a customized checklist of required additional forms and supporting documents that a Debtor will need to initiate a loss mitigation review with the Creditor. The Document Preparation Software can be accessed through the Portal.
- D. Required Use of Portal – During the MMP Period, unless otherwise permitted by the Court, all communication between the parties must be sent exclusively through the Portal.

- E. Exceptions to Portal Requirement – Any litigated matters incidental to the mediation will be considered separate from MMP and not subject to the Portal communication requirement. (For example, a motion to compel mediation or motions related to discovery must be filed in the main bankruptcy case and not through the Portal.)
- F. Required Use of MMP Forms – Unless otherwise permitted by the Court, the MMP Forms prescribed by these procedures shall be used without alteration. The Forms may not be modified to affect the wording, substance, or the order of information presented in the Forms.

V. Debtors Eligible to Participate

- A. To be eligible to participate in the MMP, Debtor must:
 - 1. Be an individual;
 - 2. Have a case currently pending under Title 11, Chapter 13, of the United States Code in the District of Nevada;
 - 3. Use the form Chapter 13 Plan prescribed by the Chapter 13 Trustee pursuant to Local Rule 3015;
 - 4. Have the ability to immediately pay the applicable Document Preparation Software fee (\$40.00), the applicable Portal submission fee (\$40.00), and \$300.00 (one half of the \$600.00 Program Manager's fee); and
 - 5. Have sufficient monthly disposable income to make a Chapter 13 Plan payment of at least thirty one percent (31%) of Debtor's gross monthly income or such other amount sufficient to pursue mortgage modification for the real property subject to the MMP.
- B. A Debtor who seeks to modify a mortgage must pay their bankruptcy filing fee in full prior to filing a motion to participate in the MMP.
- C. If a Debtor's Chapter 13 case is dismissed, converted, or otherwise removed from the District of Nevada prior to Debtor's completion of the MMP, the MMP proceedings in the case will immediately terminate and the parties will be relieved of the requirements of these procedures.

VI. Request for Referral to MMP – The Debtor, Creditor or the Court may seek referral to the MMP at any time after the commencement of the bankruptcy case.

A. By Debtor

- 1. Complete Initial MMP Package – An eligible Debtor seeking referral to the MMP must first complete the Initial MMP Package using the Document Preparation Software and pay the \$40.00 non-refundable fee directly to the approved vendor.
- 2. The Motion for Referral – After completing Initial MMP Package, an eligible Debtor may seek referral to the MMP by completing and filing a Motion for Referral to MMP (NVB 105-2) with the Court. The Motion for Referral must be

- filed and served in accordance with Fed F. Bankr. P. 9014(a) Local Rule 9014.1.
3. Timing for filing the Motion for Referral - The Motion for Referral shall be filed within ninety (90) days of the petition date. A motion for referral filed later than ninety (90) days after the petition date, or after confirmation of a Chapter 13 Plan, shall include a proper evidentiary statement of good cause explaining why the MMP process was not commenced sooner.
 4. Objections to the Motion for Referral – Objections to a Motion for Referral must be filed with the court and served on the applicable parties and the Chapter 13 Trustee within fourteen (14) days from the service of the Motion for Referral. The objecting party must obtain a hearing date from the Clerk and provide notice of the hearing to the Parties and the Chapter 13 Trustee. The hearing on the objection shall be set not less than seven (7) days and not more than twenty-eight (28) days from the date the objection is filed. The objecting party shall provide not less than five (5) business days notice of the hearing date. If a hearing on the objection is not timely set and noticed, the objection will be deemed withdrawn, unless otherwise ordered by the Court.
 5. Orders on Motion for Referral – If no objection is filed, the Debtor must submit the proposed order no later than seven (7) days after the expiration of the objection period. The Debtor must also certify that they complied with the requirements of Local Rule. 9014.1(e)(1) and (2). If an objection is filed, the prevailing party must submit an order in accordance with Local Rule 9021.
- B. By Creditor – If Creditor desires to commence MMP proceedings in a case, it must follow the same steps required of Debtor under Sections VI(A)(2)-(5) of these procedures and use the same applicable forms.
- C. By the Bankruptcy Court – The Court may order the assignment of a loss mitigation matter to the MMP upon the Court's own motion.
- VII. Additional Parties** – Any co-obligor, co-borrower, or other third party obligated on the note or mortgage (“Additional Party”) may participate in the MMP.
- A. If the participation of an Additional Party is necessary, Debtor must file with the Motion for Referral a Third-Party Consent to Attend and Participate in Mortgage Modification Program (NVB 105-6) for each co-obligor, co-borrower, or other third party participating in the MMP.
 - B. Debtor or Creditor may request by appropriate motion a determination from the Court whether the MMP can proceed in a case without the involvement of the Additional Party. Such Motion should be set for hearing pursuant to Local Rule 9014.
 - C. The Trustee may participate in the MMP to the extent such participation would be consistent with the Trustee’s duties under the Bankruptcy Code.
- VIII. Requirements of Debtor, Creditor and Program Manager in the MMP** – The parties are required to comply with all deadlines set forth in the Order of referral. Any deadlines

imposed by the Order may be extended by further Order of the Court or by written agreement of the parties on the Portal.

A. Debtor Requirements Upon Commencement of the MMP.

1. Submit Initial MMP Package - Within seven (7) days after entry of a MMP Order or Creditor's registration on the MMP Portal, whichever occurs later, Debtor shall upload to the Portal: (i) Debtor's Initial MMP Package and (ii) a copy of the MMP Order.
2. Payment of Portal and MMP Fee - Within seven (7) days after entry of a MMP Order or Creditor's registration on the MMP Portal, whichever occurs later, Debtor shall pay the following non-refundable fees: (i) the Portal submission fee (\$40.00) directly to the Portal vendor; and (ii) one-half (1/2) of the applicable MMP fee (\$300.00) directly to the Program Manager. Said fees shall be paid online at the conclusion of the online submission process of the Initial MMP Package as described in Section VIII(A)(1).
3. Document Submissions - Upon the request of Creditor through the Portal, Debtor shall promptly provide any additional documents requested by Creditor or Program Manager and/or answer any questions.

B. Creditor Requirements Upon Commencement of the MMP.

1. Registration on Portal - Within ten (10) days after entry of the Order referring the case to the MMP, Creditor and Creditor's Nevada counsel (if any) must register on the Portal (if not already registered).
 - a. As part of the registration process for the Portal, Creditor must provide to the Program Manager Creditor's most current Initial MMP Package. The Program Manager will promptly post the same on the Portal.
 - b. Registration on the Portal is a one-time event, and once Creditor and Creditor's Nevada counsel are registered on the Portal, they will not have to re-register for each subsequent matter, however, Creditor is responsible for providing any updates to Creditor's Initial MMP Package if and as necessary.
2. Payment of MMP Fee - Within seven (7) days after Debtor submits Debtor's completed Initial MMP Package, Creditor shall also pay one-half (1/2) of the applicable non-refundable MMP fee (\$300.00) directly to the Program Manager through the Portal.
3. Acknowledge Receipt of Initial MMP Package - Within seven (7) days after Debtor submits the completed Initial MMP Package to Creditor on the Portal, Creditor shall on the Portal:
 - a. Acknowledge receipt of the Completed Package; and
 - b. Designate its single point of contact and Nevada legal counsel (if any).
4. Maintain a Single Point of Contact - Creditor's designated single point of contact and Nevada legal counsel must have all requisite authority (within the investor's guidelines) to settle any and all issues that may arise during the MMP period.
5. Process Debtor's Application - Upon receipt of Debtor's Initial MMP Package, Creditor shall promptly review Debtor's Initial MMP Package to determine Debtor's

eligibility for any loss mitigation options which may be available to Debtor. In the event that Creditor shall require 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.

6. Communicate Final Decision - Creditor must timely review and underwrite the loan modification request, and indicate on the Portal that it has completed a review of Debtor's Completed Package. Creditor must indicate its final decision on the Portal.
7. Service Transfer - If at any time Creditor transfers a loan subject to the MMP, Creditor shall promptly provide a copy of the MMP Order to the new holder of the loan (the "Successor Creditor") and file a Certificate of Service with the Court evidencing the same. Creditor shall transfer the submission on the Portal to the Successor Creditor; provided, however, nothing herein shall prevent the Debtor from doing so in lieu of Creditor. The Successor Creditor shall be obligated to comply with all terms of the MMP Order and these MMP procedures. The Successor Creditor shall:
 - a. Be obligated to comply with all terms of the MMP Order and these MMP procedures, as well as the requirements of Local Rule 3001(b);
 - b. Within seven (7) days of the transfer, acknowledge that it is the new holder of the loan on the Portal; and
 - c. Accept all documentation and information previously accepted by the original Creditor and timely communicate to Debtor on the Portal whether any additional documents or information are necessary to perfect Debtor's Initial MMP Package.

C. Program Manager Requirements and Duties

1. Standards of Professional Conduct - The Program Manager will be subject to the Model Standards of Conduct for Mediators as revised and adopted in 2005 by the American Arbitration Association, American Bar Association, and Association of Conflict resolution.
2. Portal and Document Preparation System - Program Manager shall be responsible for providing and maintaining the Portal and the Document Preparation System.
3. MMP and System Education - Program Manager shall be familiar with the rules and procedures of this MMP and be able to advise Debtors and Creditors about the basic procedures for participation therein including their respective responsibilities thereunder. Without limiting the generality of the foregoing, Program Manager shall be able to direct users to the relevant provisions of the MMP as well as where Debtors and Creditor can access the required forms and documents. Program Manager shall also provide free training on the use of the Document Preparation System as well as the Portal.
4. Loan Modification Monitoring - Program Manager shall monitor all Portal communications between Debtor and Creditor to ensure that each party is performing its obligations and duties as required by the MMP including without limitation:
 - a. Confirming that the Debtor has provided the correct Initial MMP Package;
 - b. 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 MMP;

- c. Tracking and monitoring the deadlines for each party;
- d. Preparing for, scheduling and conducting MMP Conferences; and
- e. Reporting to the Court any non-compliance with the terms of the MMP by any of the Required Parties. In the event of any non-compliance, Program Manager shall file a Certificate of Non-Compliance with the Court. Said Certificate of Non-Compliance shall provide details of the Required Party's non-compliance together with sufficient supporting evidence documenting such non-compliance for the Court's review. Upon the filing of the Certificate of Non-Compliance, the Court, at its discretion, may schedule a hearing on notice to the Debtor and the Creditor to resolve the issues identified by the Program Manager.
5. Outside Program Managers and Foreclosure Experts - The Program Manager may retain skilled mediators and loss mitigation experts to assist in its duties hereunder at no additional charge to the Debtor or Creditor.
6. Failure to Prosecute - The Program Manager shall take appropriate steps to ensure the entire MMP proceedings are completed during the MMP Period.

D. Confidential Communications

1. All communications and information exchanged during the MMP are privileged, confidential, and inadmissible in any subsequent proceeding as provided for by Rule 408 of the Federal Rules of Evidence except in such circumstances when a party fails to participate in good faith in the MMP.
2. The Chapter 13 Trustee will have complete access to the Portal, but must not be able to view the contents of any documentation or other confidential information exchanged by the parties.

IX. MMP Conferences

- A. Scheduling - In the event that Debtor and Creditor are not able to reach mutually agreeable terms, then upon consultation with the parties and their attorneys (if any), the Program Manager shall fix a reasonable date and time for the MMP Conference and shall give the parties at least seven (7) days advance written notice of the date and time of the MMP Conference. The Program Manager shall report the scheduling of the MMP Conference on the Portal. Program Manager may (in its sole discretion) schedule multiple MMP Conferences.
- B. Appearances - Attendance at the MMP Conference is mandatory. All Required Parties shall appear at the MMP Conference telephonically unless otherwise agreed to by the parties or directed by the Program Manager.
 1. *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 MMP Conference by telephone provided that they are physically present with Debtor's attorney and present identification to Debtor's attorney during all MMP Conferences.
 2. *Translator.* Debtor shall provide a foreign language interpreter (if necessary) at Debtor's own expense.

3. *Creditor*. Creditor shall appoint a designated representative to appear on behalf of the Creditor.
- C. Authority and Ability to Finalize Agreement – Each party and their representatives shall appear with the full authority to negotiate the amount and issues in dispute without further consultation. All parties attending the MMP conferences must be ready, willing, and able to sign a binding settlement agreement. At all MMP conferences the parties must have the ability to scan, send and receive documents by email, facsimile, or other electronic means, as necessary to enter into a binding settlement agreement.
- D. Failure to Appear - In the event that a Required Party fails to appear at a scheduled MMP Conference, Program Manager may file a Certificate of Non-Compliance with the Court. The Court reserves the right to treat such non-compliance as a failure to act in good faith under the MMP.

X. MMP Resolution

- A. Interim Report of the Program Manager – Within seven (7) days after the Debtor and Creditor reach an agreement the Program Manager must upload to the Portal and file with the Court an Interim Report of Program Manager (NVB 105-7).
- B. Trial Loan Modification Agreement – If the parties reach a trial loan modification agreement then:
 1. Debtor's requirements:
 - a. Within fourteen (14) days after the parties reach such an agreement Debtor must file an Ex Parte Motion to Approve Trial Loan Modification Agreement (NVB 105-9).
 - b. Debtor must lodge with the Court an Order Approving Trial Loan Modification Agreement (NVB 105-10). The Court may grant such relief on an *ex parte* basis.
 - c. Once entered by the Court, Debtor must serve a copy of the Order on all Required Parties and the Chapter 13 Trustee, and file a certificate of service evidencing these parties were properly served.
 2. Monitor Progress - The Program Manager and all Required Parties must monitor the trial loan modification and manage the MMP until a final loan modification has been executed or Creditor has denied a final loan modification. Access to the Portal must remain open during the pendency of a trial loan modification.
 3. In the event a Debtor satisfies all payment obligations and any other material obligations under a trial/interim loan modification order, the Creditor shall extend an offer to enter into a final loan modification agreement within fourteen (14) days of receipt of the last interim payment.
- C. Final Loan Modification Agreement – If the parties reach a final loan modification agreement:
 1. Within seven (7) days after the parties reach such an agreement the Program Manager must upload to the Portal and file with the Court a Final Report of Program Manager (NVB 105-8).

2. Within fourteen (14) days after the Debtor and Lender reach an agreement, the Debtor must file a Motion to Approve Final Loan Modification Agreement (NVB 105-11).
 - a. Debtor must file a Motion to Approve Final Loan Modification Agreement (NVB 105-11).
 - i. If Debtor is represented by an attorney, this Motion may be filed *ex parte*. Debtor must concurrently lodge with the Court an Order Approving Final Loan Modification Agreement (NVB 105-13), which the Court may grant on an *ex parte* basis.
 - ii. If Debtor is not represented by an attorney, this Motion must be noticed, served, and set for a hearing pursuant to Local Rule 9014 using a Notice of Hearing on Pro Se Debtor's Motion to Approve Final Loan Modification Agreement (NVB 105-12).
 - b. Once an Order Approving Final Loan Modification Agreement (NVB 105-13) is entered by the Court, either *ex parte* or after notice and hearing, Debtor must serve a copy of the Order on all Required Parties and the Chapter 13 Trustee, and file a certificate of service demonstrating these parties were appropriately served.
3. Within twenty-eight (28) days after a final loan modification is approved by the Court, Debtor must file, serve, and notice for confirmation an Amended Chapter 13 Plan or Modified Chapter 13 Plan providing for conduit loan modification payments pursuant to Section III(A) of these procedures, if the Chapter 13 Plan does not already contain such provisions.

D. No Agreement – If the parties fail to reach an agreement:

1. Within seven (7) days after the conclusion of the MMP Period, the Program Manager must upload to the Portal and file with the Court a Final Report of Program Manager (NVB 105-8).
2. Within twenty-eight (28) days after the Program Manager files the Final Report with the Court, Debtor must file, serve, and notice for confirmation an Amended Chapter 13 Plan or Modified Chapter 13 Plan providing for appropriate treatment of Creditor's claim (i.e. curing pre-petition and post-petition arrears while maintaining conduit payments, or surrendering the property).

E. Additional Terms -

1. No Dismissal - Dismissal of the bankruptcy case shall not be made a requirement of an agreement reached through the MMP.
2. 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.

XI. Chapter 13 Procedures

- A. Chapter 13 Plan Requirements Prior to Confirmation – If Debtor seeks referral to the MMP prior to confirmation, Debtor shall file an initial Chapter 13 Plan or an Amended

Chapter 13 Plan in conjunction with the Motion for Referral to Mortgage Modification Program (NVB 105-2). The Chapter 13 Plan must:

1. Provide for a plan payment of no less than 31% of Debtor's gross income;
2. Identify the Creditor participating in the MMP in Section 2.12.1 of the Chapter 13 Plan and omit any specific payment amount to the Creditor;
3. Indicate in Part VI – "Additional Provisions" of the Chapter 13 Plan that Debtor intends to participate in the MMP; and
4. Propose treatment of other creditor claims consistent with the Bankruptcy Code.

B. Chapter 13 Plan Requirements After Confirmation – If Debtor seeks referral to the MMP after confirmation, Debtor shall file a Modified Chapter 13 Plan in conjunction with the Motion for Referral to Mortgage Modification Program (NVB 105-2). The Modified Chapter 13 Plan must:

1. Provide for a plan payment of no less than 31% of Debtor's gross income;
2. Identify the Creditor participating in the MMP in Section 2.12.1 of the Chapter 13 Plan and omit any specific payment amount to the Creditor;
3. Indicate in Part VI – "Additional Provisions" of the Chapter 13 Plan that:
 - a. Debtor intends to participate in the MMP;
 - b. Trustee will reserve all disbursements, including arrearage payments, to the participating Creditor and to any creditors secured by the same real property during the pendency of the MMP, unless the Modified Plan or separate Court order provides otherwise; and
 - c. Trustee will continue to make all other disbursements pursuant to other orders of the Court, including the previously confirmed plan.

C. Trial Loan Modification – If the MMP resulted in a trial loan modification, Trustee will commence and maintain trial loan modification payments to Creditor pursuant to the trial loan modification agreement until:

1. Further Order of the Court; or
2. A permanent loan modification is finalized, in which case Trustee will commence and maintain payments according to the final loan modification; or
3. A final loan modification is denied by Creditor.

D. Disbursements by Trustee

1. Unless otherwise ordered by the Court, the Chapter 13 Trustee will retain the monthly plan payments made pursuant to Sections XII(A) and (B) of these procedures until:
 - a. An Order Approving Attorney's Fees for representation of the Debtor in the MMP is entered by the Court; or
 - b. Debtor has filed with the Court a Chapter 13 Plan, Amended Chapter 13 Plan, or Modified Chapter 13 Plan proposing payments to Creditor as set forth in the loan modification agreement; and

- i. The Court has entered an Order Approving Trial Loan Modification Agreement (NVB 105-10); or
 - ii. Debtor has filed a Motion to Approve Final Loan Modification Agreement (NVB 105-11).
 - 2. Monthly plan payments received timely by the Trustee pursuant to these procedures will be deemed payments made timely pursuant to any trial loan modification agreement or final loan modification agreement under the MMP.
 - 3. Entry of an Order confirming the Chapter 13 Plan after the conclusion of the MMP will suspend and revoke any remaining obligations of Trustee to make disbursements pursuant to an Order Approving Trial Loan Modification Agreement (NVB 105-10) or Order Approving Final Loan Modification Agreement (NVB 105-13).
- E. Plan Confirmation – The Court will not confirm a proposed Chapter 13 Plan, Amended Chapter 13 Plan, or Modified Chapter 13 Plan for which the Debtor has been referred to the MMP until after:
- 1. The Court has entered an Order Approving Final Loan Modification Agreement (NVB 105-13); and
 - 2. The proposed Chapter 13 Plan, Amended Chapter 13 Plan, or Modified Chapter 13 Plan accurately reflects the terms of the final loan modification agreement or otherwise satisfies the requirements 11 U.S.C. § 1325(a)(5) with respect to Creditor’s claim.
- F. Chapter 13 Trustee MMP Guidelines – Each Chapter 13 Standing Trustee may issue guidelines for the administration of cases involved in the MMP. Unless otherwise ordered, the guidelines issued by the Chapter 13 Trustee appointed to the case must be observed. The Chapter 13 Trustees may revise the guidelines and reissue any revised guidelines with a notation of the effective date of the revision.

XII. Effect of MMP Participation

A. Automatic Stay

- 1. Upon entry of the Order referring the case to the MMP, the automatic stay as provided for under 11 U.S.C. § 362(a) is modified to the extent necessary to facilitate the MMP, unless otherwise ordered by the Court.
- 2. After entry of the Order referring the case to the MMP, unless the Court orders otherwise, all pending motions for relief from the automatic stay with respect to real property subject to the MMP will be continued until after such time that the MMP is completed. Unless otherwise ordered by the Court, the pendency of the MMP will constitute good cause and compelling circumstances under 11 U.S.C. § 362(e) to delay the entry of any final decision on a pending motion for relief from stay with respect to real property subject to the MMP.
- 3. During the pendency of the MMP, no motion for relief from stay may be filed on an *ex parte* basis with respect to real property subject to the MMP. Any Creditor seeking

relief from the automatic stay prior to the conclusion of the MMP must, in a motion filed, served, and noticed for hearing pursuant to Local Rule 9014, set forth the reasons why relief is appropriate prior to the conclusion of the MMP.

4. If a relief from stay motion pursuant to section 362(d) is pending when a MMP Order is entered, or if such a motion is filed during the MMP Period, the Court may condition the stay upon fulfillment of the Debtor's obligations under the MMP Order. If the Debtor fails to comply with the Debtor's MMP duties or the MMP Order, the Creditor may file a Request for Mortgage Modification Status Conference (NVB 105-20) with the bankruptcy court. Additionally, unless the Creditor specifically objects in writing, it is deemed to consent to a waiver of the deadlines set forth in section 362(e) of the Bankruptcy Code until thirty (30) days after the conclusion of the MMP.
- B. No Delay – Referral of a case to the MMP 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 Bankruptcy Local Rules. Notwithstanding a matter being referred to the MMP, proceedings in the bankruptcy case must not be stayed or delayed without further order of the Court.
- C. Closing – If Debtor's bankruptcy case is otherwise in a posture for administrative closing, the case will remain open during the pendency of the MMP, unless otherwise ordered by the Court.

XIII. Responsibilities and Compensation for Debtor's Counsel

- A. MMP Responsibilities – Debtor's attorney will be responsible for performing the following services with respect to the MMP:
 1. Determine Debtor's eligibility to participate in the MMP;
 2. Use the Document Preparation System to complete Initial MMP Package;
 3. Prepare all forms required for submission on the Portal;
 4. Submit all required documents and communications through the Portal;
 5. Prepare, file, and serve the Motion for Referral to MMP (NVB 105-2);
 6. Prepare and file a Third-Party Consent to Attend and Participate in MMP (NVB 105-6) with the Motion for referral, if applicable;
 7. Prepare and upload an Order Granting Motion for Referral to MMP (NVB 105-3);
 8. Serve the Order of referral on all Required Parties, including the Program Manager and the Chapter 13 Trustee, and satisfy the additional requirements of Section VI(A)(5)(b) of these procedures if applicable;
 9. File a Certificate of Service with the Court evidencing the parties were properly served with the Order of referral, along with the documents required under Section VI(A)(5)(b) if applicable;
 10. Ensure all fees are timely paid to the Program Manager;
 11. Communicate with Creditor and the Program Manager in an attempt to promptly settle or otherwise resolve all matters;
 12. Attend all MMP conferences;

13. Prepare, file, and serve a Motion to Approve Trial Loan Modification Agreement (NVB 105-9) and upload an Order Approving Trial Loan Modification Agreement (NVB 105-10) (if a trial loan modification agreement is reached);
14. Prepare, file, and serve a Motion to Approve Final Loan Modification Agreement (NVB 105-11) and upload an Order Approving Final Loan Modification Agreement (NVB 105-13) (if a final loan modification agreement is reached);
15. Review all modified loan documents;
16. Prepare and file all other pleadings required to promptly settle the matter, if necessary; and
17. Prepare any Motion and Notice of Hearing to be served upon all parties, and Order if approved by the Court, if necessary.

B. MMP Attorney Compensation

1. Attorney for Debtor will be permitted to charge no more than \$2,500.00 in attorney's fees and \$120.00 in expenses for participation in the MMP. In the event the attorney pays the MMP expenses required to be paid by Debtor (including, without limitation, the Program Manager Fee, the Document Preparation Software fee, and the Portal Fee), the attorney is permitted to seek reimbursement of those expenses in addition to the \$120.00 in expenses listed above. Total expenses shall not exceed \$500.00.
2. Attorneys for the Debtor may file an Ex-Parte Application for Compensation and Reimbursement of Mortgage Modification Mediation Expenses (NVB 105-22) with the Court to be paid MMP fees and expenses through the Chapter 13 Trustee upon completion of the requirements set forth in subsection (A) above.
3. The attorney's Ex Parte Application for Compensation and Reimbursement of MMP Expenses (NVB 105-22) must be properly supported by a Declaration certifying that the applicable requirements of Section XVI(A) have been satisfied.
4. Concurrently with the filing of the Application, the attorney must lodge with the Court an Order Approving Ex Parte Application for Compensation and Reimbursement of MMP Expenses (NVB 105-23). The Court may enter the Order an *ex parte* basis.
5. Approved attorney fees will be paid, as funds are available, after payment of any applicable trial or final loan modification payments.

- C. Creditor Fees. If a proposed MMP resolution provides for a Creditor to receive payment or reimbursement of any fee, cost or charge that arose from the MMP process, all such fees, costs and charges shall be disclosed to the Debtor prior to approval of the resolution. Counsel for the Creditor may be entitled to receive a reasonable fee for all work involved with the MMP and shall clearly delineate such fee in the MMP resolution and file a Notice of Fees, Expenses, and Charges under FRBP 3002.1.

XIV. Monitoring and Status Conferences

- A. Request for Status Conference. Debtor, Creditor, or Program Manager may request a hearing to resolve any dispute that may have arisen in connection with the MMP by filing a Request for Mortgage Modification Status Conference (NVB 105-20) and

Notice of Hearing (NVB 102-21). Such request and notice must be served on all Required Parties pursuant to the Court's Local Bankruptcy Rules.

- B. The Court may set status conferences in the exercise of its discretion in order to monitor compliance with the requirements of these procedures.