

Mortgage Modification Mediation Program and Procedures United States Bankruptcy Court, Southern District of Ohio

I. General. Mortgage modification mediation (“MMM”) 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 or other adverse action. The goal of MMM 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. The following procedures (“MMM Procedures”) and related forms implement the MMM program (“MMM Program”) for the United States Bankruptcy Court of the Southern District of Ohio. The MMM Program is an optional program. Debtors may continue to apply for loan modifications under other loss mitigation programs.

II. Definitions. The following definitions shall be applicable to the MMM Procedures:

Creditor: means any holder, servicer or trustee of an Eligible Mortgage.

Debtor: means any individual debtor in a case filed under Chapter 7, 11, 12 or 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. An unrepresented debtor shall perform the duties specified for the Debtor and for the Debtor’s attorney.

Document Preparation Software: means a secure online program that facilitates the preparation of the Initial MMM Package by populating the Standard MMM Documents and generating a customized checklist of required additional forms and supporting documents that the Debtor needs to initiate a Loss Mitigation review with the Creditor. A list of approved Document Preparation Software providers is available on the Court’s website. The use of the Document Preparation Software ensures that the initial submission to the Creditor is complete and accurate and should expedite the Creditor’s review.

Eligible Mortgage: means any mortgage, lien or extension of money or credit secured by Eligible Property, regardless of whether the mortgage 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.

Eligible Property: means any real property in which the Debtor holds an interest.

Facilitator: means an independent third party appointed to oversee the MMM process and ensure that all parties are complying with the requirements set forth in this document as well as the deadlines required in the *Order Directing Mortgage Modification Mediation*. A list of approved Facilitators is available on the Court’s website.

Facilitator Fee: means the fee payable to a Facilitator for services provided in connection with the MMM Program. The amount of the Facilitator fee is available on the Court's website.

Final Report: means the report to be filed at the conclusion of the MMM.

Initial MMM Package: means collectively the Standard MMM Documents and all of the forms and supporting documentation that the Creditor requires to initiate the assessment of the Debtor's Loss Mitigation options.

Loss Mitigation: means the full range of solutions that may prevent either the loss of the Debtor's Eligible Property to foreclosure, increased costs to the Creditor, or both, including but not limited to, mortgage modification, mortgage refinance, forbearance, short sale, cash-for-keys, deed-in-lieu, or surrender of the Eligible Property arising under an Eligible Mortgage.

MMM Period: means the time during which the MMM is in effect prior to its expiration or termination by Court order.

Portal: means a secure online service that allows MMM documents and communications to be submitted, retrieved and tracked between the Required Parties. The Portal must be capable of providing access to the Court, a trustee and the Facilitator, as applicable. Submitting documents to the Portal provides transparency in the mortgage 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 for below) must be capable of being completed within the time frames provided for in the *Order Directing Mortgage Modification Mediation*. An MMM Timeline is available on the Court's website for quick reference to deadlines required under the MMM Program.

Required Parties: means (when applicable) the Debtor, the Debtor's attorney, the Creditor, the Creditor's attorney, any co-obligor, co-borrower and third party obligor.

Standard MMM Documents: means collectively, the industry standard forms that are generally required by the Creditor to initiate a review of the Debtor's Loss Mitigation options.

Successor Creditor: means the new holder of the mortgage or servicer of the mortgage in the event that the Creditor transfers a mortgage during the course of the MMM process.

III. Mandatory Forms. The following mandatory forms are available on the Court's website:

Certification of Mortgage Modification Mediation ("MMM") Eligibility and Readiness;
Motion for Referral to Mortgage Modification Mediation ("MMM") and Order Directing Mortgage Modification Mediation ("MMM");

Third Party Consent to Participate in Mortgage Modification Mediation;

Election to Appoint a Facilitator;

Clerk's Notice of Selection;

Joint Stipulation Extending the Mortgage Modification Mediation Period;

Motion to Approve Mortgage Modification Trial Period Payments and Order Granting Motion to Approve Mortgage Modification Trial Period Payments;

Motion to Approve Mortgage Modification and Order Approving Mortgage Modification;

Motion to Terminate Mortgage Modification Mediation and Order Terminating Mortgage Modification Mediation;

Notice of Administrative Adjustment of Dividend to Nonpriority Unsecured Creditors due to Mortgage Modification Mediation; and

Application to Become a Facilitator.

- IV. Eligibility.** Any Debtor is eligible to participate in the MMM Program with respect to any Eligible Property. Individuals who seek to modify a mortgage under the MMM Program must have paid their bankruptcy filing fee in full, or had the filing fee waived by the Court, prior to filing a motion to participate in MMM. In addition, the Debtor must set aside the applicable fees for the Document Preparation Software, Portal and Facilitator, as applicable. In Chapter 11, 12 and 13 cases, the Debtor may provide for payment of the Facilitator's fee as an administrative expense in the plan.

V. 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 Court may direct, that such party participate in Loss Mitigation, to the extent that the Court has jurisdiction over the party. Any such consenting party shall sign a *Third Party Consent to Participate in Mortgage Modification Mediation*.

B. Trustee. A trustee may participate in the MMM process to the extent such participation would be consistent with the trustee's duties under the Bankruptcy Code.

- VI. Commencement of MMM.** The Debtor may seek referral to the MMM Program at any time after the commencement of the bankruptcy case.

A. Non-Standard Provision Language in Chapter 13 cases. If at the time of the petition filing, the Debtor intends to seek a modification through the MMM process, the Debtor shall include the mandatory Chapter 13 Non-Standard Provision Language in the Non-Standard provision section of the Chapter 13 plan.

B. Confirm Eligibility. Prior to filing a *Motion for Referral to Mortgage Modification*

Mediation, the Debtor shall perform reasonable due diligence to confirm that the Debtor may be eligible for Loss Mitigation and confirm all information necessary to make the certifications required on the *Certification of Mortgage Modification Mediation Eligibility and Readiness*.

- C. Complete Document Preparation Software Requirements.** Prior to filing a *Motion for Referral to Mortgage Modification Mediation*, the Debtor shall complete the Document Preparation Software requirements and pay the applicable fee directly to the Document Preparation Software provider. The Debtor's Initial MMM Package shall be completed and ready for signature and submission before filing a *Motion for Referral to Mortgage Modification Mediation*. The Debtor must obtain a *Certificate of Document Preparation* from the Document Preparation Software provider upon completion of the Debtor's Initial MMM Package.
- D. Motion for Referral to MMM.** Upon completion of the Debtor's Initial MMM Package, the Debtor shall request the commencement of MMM by filing a *Motion for Referral to Mortgage Modification Mediation*. Both the *Certificate of Document Preparation* from the Document Preparation Software provider and the *Certification of Mortgage Modification Mediation Eligibility and Readiness* shall be attached to the motion. The motion, together with a twenty-one (21) day notice, see LBR 9013-1(a)(2), shall be served on the Creditor and all other creditors whose claims are secured by liens against the Eligible Property. Any motion for expedited hearing or disposition must comply with LBR 9073-1. If no responses are filed within the requisite time period, the Debtor shall upload an *Order Directing Mortgage Modification Mediation* to the Court for approval.

VII. Facilitator

- A. Appointment.** The parties may choose to appoint a Facilitator to assist in the MMM process, however a Facilitator is not required to proceed with the MMM process. If the parties elect to appoint a Facilitator, they must do so within fourteen (14) days of the entry date of the *Order Directing Mortgage Modification Mediation* by filing an *Election to Appoint a Facilitator*. The parties shall jointly select a Facilitator from the list of approved Facilitators available on the Court's website. If the parties cannot agree on a Facilitator, the Debtor shall select the Facilitator. If the Creditor objects to the Debtor's selection, the Clerk of Court shall choose the Facilitator based on a random draw from the approved list of Facilitators and file a Clerk's Notice of Selection. If the parties choose not to appoint a Facilitator, the parties must still comply with the deadlines set forth in these MMM Procedures and in the *Order Directing Mortgage Modification Mediation*.
- B. Qualifications.** Any Ohio licensed attorney who has been admitted to practice before this Court for a minimum of five (5) years, and who has completed portal training and a minimum of eight (8) hours of specific MMM training, may apply to become a Facilitator. The *Application to Become a Facilitator* must be submitted to the Clerk of Court. Upon approval of the application, the Clerk shall add the attorney to the approved Facilitator list maintained on the Court's website.

VIII. MMM Participation and Duties

A. **General.** Upon the entry of the *Order Directing Mortgage Modification Mediation*, the following shall apply:

1. **Good Faith Requirement.** The Required Parties shall act in good faith throughout the entirety of the MMM 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 goodfaith may be subject to sanctions and/or dismissal of the MMM process after notice and a hearing.
2. **Deadlines.** The Required Parties shall comply with all deadlines set forth in the *Order Directing Mortgage Modification Mediation*; provided any deadlines may be extended by Court order or by stipulation of the parties.
3. **Communication Through the Portal.** During the MMM Period, unless otherwise permitted by the Court, all material communications between the Required Parties shall be conducted exclusively through the Portal; provided, however, any litigated matters incidental to the MMM shall be considered as separate matters not subject to the Portal requirement. For example, a motion to compel or motion related to lien stripping must be filed in the main bankruptcy case, not through the Portal.
4. **Authorized Parties.** On behalf of each participating party, a person with complete knowledge of the file who is reasonably capable of answering questions posed by the Court related to the MMM shall attend all MMM related conferences and hearings before the Court.
5. **Automatic Stay.** The automatic stay as provided for under 11 U.S.C. § 362(a) shall be deemed modified to the extent necessary to facilitate the MMM Program. Any and all communication and requests for documents necessary to effectuate the MMM process shall be deemed to not violate the automatic stay. After entry of the *Order Directing Mortgage Modification Mediation*, any pending motions for relief from the automatic stay with respect to the real property subject to MMM shall be held in abeyance until after the conclusion of MMMPeriod.
6. **No Delay.** The referral of a case to the MMM 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.
7. **Closing.** If the Debtor's bankruptcy case is otherwise in a posture for administrative closing, the case shall remain open during the pendency of the MMM Program, unless otherwise ordered by the Court.

B. Debtor's Duties

- 1. Submit Initial MMM Package.** The Debtor shall upload to the Portal the Debtor's Initial MMM Package and a copy of the *Order Directing Mortgage Modification Mediation* within the later of seven (7) days after entry of the *Order Directing Mortgage Modification Mediation* or seven (7) days after the Creditor registers on the MMM Portal (for new Creditor registration only).
- 2. Payment of Portal Fee.** The Debtor shall pay a non-refundable Portal submission fee directly to the Portal vendor within the later of seven (7) days after entry of the *Order Directing Mortgage Modification Mediation* or seven (7) days after the Creditor registers on the MMM Portal (for new Creditor registration only).
- 3. Payment of Facilitator Fee.** In the event the Required Parties elect to use a Facilitator, the Debtor shall pay one-half (1/2) of the non-refundable Facilitator fee directly to the Facilitator within seven (7) days of the Facilitator being appointed. If the Debtor has filed a Chapter 13 plan providing for payment of the Facilitator Fee through the Chapter 13 plan, the Trustee will make the payment as soon as the funds are available to pay the Facilitator without further order from the Court.
- 4. Adequate Protection Payments.** Upon the entry of the *Order Directing Mortgage Modification Mediation*, the Debtor shall provide for monthly adequate protection payments to the Creditor. For homestead properties, the Debtor shall pay the lesser of 31% of the Debtor's and the Debtor's non-filing spouse, if any, gross monthly income, after deducting homeowner association fees, or the normal monthly contractual payment. For non-homestead income producing property, the Debtor shall pay 75% of the gross rental income generated by the property. If the property does not fall into either of the foregoing categories, the Debtor and the Creditor may stipulate to the amount of adequate protection payments or, if unable to agree, either the Debtor or the Creditor may file a motion to establish the amount of adequate protection payments. In Chapter 7 cases, the Debtor shall make the payments directly to the Creditor. In Chapter 13 cases, the Debtor shall provide for adequate protection payments to the Creditor to be paid through the Chapter 13 Trustee's office. The Chapter 13 Trustee shall hold these adequate protection payments pending further order of the Court or joint stipulation of the parties for disbursement. See Section X.C.3.
- 5. Document Submissions.** Upon the request of the Creditor through the Portal, the Debtor shall promptly provide any additional documents requested by the Creditor and/or answer any questions.
- 6. MMM Conferences/Reports.** In the event the Required Parties do not use a Facilitator, the Debtor's attorney shall be responsible for scheduling the

MMM Conferences as well as preparing and filing the MMM Reports within the required time frames.

C. Debtor's Attorney's Duties. Representation of the Debtor during the MMM process shall include, but is not limited to the following:

1. Filing of the *Motion for Referral to Mortgage Modification Mediation and Order*;
2. Collection of documents and preparation of the Initial MMM Package;
3. Preparation of any additional forms that may be required throughout the MMM process;
4. Submission of all documentation through the Portal;
5. Preparation and filing of all motions, pleadings, orders and reports associated with the MMM process;
6. Communicating with the Creditor and the Facilitator through the Portal;
7. Attending MMM Conferences and related Court hearings;
8. Review of all modified mortgage documents; and
9. Preparation and filing of any amended schedules or plan to complete the MMM process.

D. Creditor's Duties

1. **Registration on Portal.** Within ten (10) days after entry of the *Order Directing Mortgage Modification Mediation*, the Creditor and the Creditor's attorney, if any, shall register on the Portal. Registration on the Portal is a one-time event. Once the Creditor and the Creditor's attorney are registered on the Portal, they do not have to re-register for any subsequent mediations. However, the Creditor is required to keep its Standard MMM Documents on the Portal updated.
2. **Initial MMM Package.** If the Creditor's Initial MMM Package is not already available in the Portal, the Creditor shall provide its Initial MMM Package to the Portal provider within ten (10) days after entry of the *Order Directing Mortgage Modification Mediation*. The Portal provider will promptly post the Creditor's Initial MMM Package and any updates on the Portal.
3. **Acknowledge Receipt of Initial MMM Package.** Within seven (7) days after the Debtor submits the Debtor's completed Initial MMM Package to the Creditor on the Portal, the Creditor shall acknowledge receipt of the Debtor's completed Initial MMM Package and designate its single point of contact and outside legal counsel, if any. The designated single point of contact and outside legal counsel shall have all requisite authority within the Creditor's guidelines to settle any and all issues that may arise during the MMM Period.
4. **Payment of Facilitator's Fee.** In the event the Required Parties elect to use a Facilitator, the Creditor shall pay one-half (1/2) of the non-refundable Facilitator

Fee directly to the Facilitator within seven (7) days of the Facilitator being appointed.

- 5. Process the Debtor's Application.** Upon receipt of the Debtor's Initial MMM Package, the Creditor shall promptly review the Debtor's Initial MMM Package to determine the Debtor's eligibility for any Loss Mitigation options that may be available to the Debtor. In the event that the Creditor requires additional or corrected documentation, the Creditor shall promptly notify the Debtor through the Portal of such requirement and promptly respond to the Debtor's submissions as well as any inquiries made by the Debtor.
- 6. Transfer of Mortgage/Transfer of Servicer.** Within seven (7) days of a transfer of a mortgage or transfer of servicer of a mortgage subject to the MMM Program, the Creditor shall (1) file a *Notice of Transfer of Claim* or a *Notice of Transfer of Servicer* with the Court and (2) serve a copy of the *Order Directing Mortgage Modification Mediation* on the Successor Creditor and file a certificate of service with the Court reflecting compliance with the foregoing requirement. Within seven (7) days of the Creditor's service of the *Order Directing Mortgage Modification Mediation* on the Successor Creditor, the Successor Creditor shall acknowledge that it is the new holder/servicer of the mortgage on the Portal. The Successor Creditor shall be obligated to comply with all terms of the *Order Directing Mortgage Modification Mediation* and these MMM Procedures. Without limiting the generality of the foregoing, the Successor Creditor shall accept all documentation and information previously accepted by the original Creditor.

E. Facilitator's Duties

- 1. Mortgage Modification Monitoring.** The Facilitator shall monitor all Portal communications between the Debtor and the Creditor to ensure that each party is performing its obligations and duties as required by the MMM Program.
- 2. Additional Duties**
 - a. Promptly acknowledge assignment as the Facilitator in the Portal and provide contact information;
 - b. Confirm that the Debtor has provided the correct Initial MMM Package;
 - c. Facilitate communications and document exchanges between the Creditor and the Debtor to ensure that the Loss Mitigation review is proceeding in accordance with the terms and deadlines of the MMM Program;
 - d. Track and monitor the deadlines for each Required Party;
 - e. Prepare for, schedule, and conduct MMM Conferences;
 - f. Complete and file all MMM Reports;

- g. Report to the Court any non-compliance with the terms of the MMM Program by any of the Required Parties; and,
- h. Manage the MMM until a final loan modification has been executed or until the Creditor has denied a final loan modification.

F. Disqualification/Removal of a Facilitator

- 1. Disqualification of a Facilitator in a Particular Case.** Any person selected as a Facilitator may be disqualified for bias or prejudice as provided in 28 U.S.C. § 144 and shall be disqualified in any case in which the Facilitator would be required to do so if the Facilitator was a judicial officer governed by 28 U.S.C. § 455.
- 2. Removal by Order of the Court.** The Court *sua sponte* or upon motion by a Required Party or trustee may remove a Facilitator for cause. Disqualification or removal of a Facilitator may involve the disgorgement of all or a part of the Facilitator's fees.
- 3. Removal upon Facilitator Request.** Upon request of the Facilitator, the Clerk shall remove an approved Facilitator from the approved list. The Facilitator thereafter may request to be reappointed as an approved Facilitator without the necessity of submitting a new application. Upon receipt of such request, the Clerk shall reassign such qualified Facilitator to the approved list.
- 4. Successor Facilitator.** In the event of the removal of a Facilitator, the parties may follow the procedures in Section VII.A. above to appoint a successor Facilitator.

IX. MMM Process

A. Duration

- 1. Initial Duration.** The MMM Period initially shall be one hundred fifty (150) days from the entry date of the *Order Directing Mortgage Modification Mediation* unless otherwise specified in the *Order Directing Mortgage Modification Mediation*.
- 2. Extension.** The Required Parties and the Chapter 13 Trustee may mutually agree to extend the MMM Period up to an additional sixty (60) days by filing a *Joint Stipulation Extending the Mortgage Modification Mediation Period* with the Court. Any further request to extend the MMM Period shall be made by motion in compliance with LBR 9013-1.
- 3. Early Termination.** A request to terminate the MMM Period prior to its expiration shall be made by filing a *Motion to Terminate Mortgage Modification Mediation* with the Court.

B. MMM Conferences.

- 1. Scheduling.** The Facilitator, in consultation with the parties and their

attorneys, shall schedule the initial MMM Conference within thirty (30) days of entry of the *Order Directing Mortgage Modification Mediation*. In the event the parties require a second MMM Conference, the Facilitator shall schedule the second MMM Conference within thirty (30) days of the initial MMM Conference. The Facilitator may schedule additional MMM Conferences as needed. The Facilitator shall report the scheduling or cancellation of any MMM Conferences on the Portal.

2. **Cost.** The Facilitator's Fee includes a maximum of two (2) one-hour MMM Conferences. The cost of any additional MMM Conferences will be shared equally by the Debtor and the Creditor.
3. **Appearances.** Attendance at the MMM Conference is mandatory. All Required Parties shall appear at the MMM Conference telephonically unless otherwise agreed to by the parties or directed by the Facilitator.
 - a. **Third Party Attendance.** Any co-obligor, co-borrower, or other third party obligated on the note, mortgage, or deed may participate in the MMM Conference by telephone provided that such third party participant is physically present with the Debtor's attorney and presents identification to the Debtor's attorney.
 - b. **Creditor.** The Creditor shall appoint a designated representative to appear on behalf of the Creditor. The Creditor may also designate an attorney to appear on its behalf, so long as the Creditor's attorney is familiar with the Creditor's modification process and is knowledgeable as to the current status of the Creditor's review of the Debtor's application.
 - c. **Settlement Authority.** All parties attending the MMM Conference shall be ready, willing and able to sign a binding settlement agreement at the MMM Conference and have the ability to scan, send and receive documents by facsimile, email or other electronic means at the time of the MMM Conference.

C. MMM Reports

1. **Status Report.** Within seven (7) days after each MMM Conference, the Facilitator shall prepare and file with the Court a Status Report indicating the current status of the MMM. The Status Report shall be completed in accordance with the instructions provided in the Portal. In the event that the parties determine that an MMM Conference is not necessary, the Facilitator shall prepare and file a Status Report no later than sixty (60) days after entry of the *Order Directing Mortgage Modification Mediation* to advise the Court of the current status of the MMM.
2. **Final Report.** Within seven (7) days after the conclusion of the MMM Period, the Facilitator shall prepare and file with the Court a Final Report indicating the outcome of the MMM. The MMM Final Report shall be completed in

accordance with the instructions provided in the Portal.

D. Non-Compliance by a Required Party. In the event that any Required Party fails to comply with the terms of the MMM Program or the *Order Directing Mortgage Modification Mediation*, including failure to appear at a scheduled MMM Conference, the Facilitator shall prepare and file with the Court a motion for finding of non-compliance that provides details of the Required Party's non-compliance together with sufficient supporting evidence documenting such non-compliance.

X. MMM Resolution

A. Trial Period Payments. If trial period payments are required as part of the modification approval process, the Debtor shall file a *Motion to Approve Trial Period Payments* with the Court. If all parties are in agreement, the parties may simultaneously submit a proposed *Agreed Order Granting Motion to Approve Trial Period Payments* without the need for a twenty-one (21) day notice period. In Chapter 13 cases, the agreed order must be approved by the Chapter 13 Trustee.

B. Final Mortgage Modification Agreement. If the parties agree to a final or long-term mortgage modification, the Debtor or the Creditor shall file a *Motion to Approve the Mortgage Modification* within fourteen (14) days of the Final Report being filed with the Court. A copy of the mortgage modification agreement signed by the Debtor shall accompany the motion.

C. Additional Requirements in a Chapter 13 Case

- 1. Chapter 13 Plan Impacted.** If the mortgage modification approved by the Court impacts the provisions of the Debtor's Chapter 13 plan, a motion to modify the plan and amended Schedules I and J shall be filed by the Debtor within fourteen (14) days of the entry of the *Order Approving the Mortgage Modification*. The motion to modify the plan shall indicate how pre-petition arrearages, if any, are to be treated post-modification.
- 2. Unsuccessful Mortgage Modification.** If the mortgage modification is not successful, the Debtor shall file a motion to modify the plan to either (1) provide for the curing of any pre-petition arrearages and maintenance of on-going monthly payments to the Creditor, or (2) provide for surrender of the real property. The modified plan shall be filed no later than fourteen (14) days after the filing of the Final Report.
- 3. Disbursement of Adequate Protection Payments.** The Chapter 13 Trustee is authorized to disburse any adequate protection payments being held by the Trustee at the conclusion of the MMM process as follows:
 - a. Down Payment Required.** If the MMM results in a final or long-term modification that requires a down payment, the Chapter 13 Trustee shall disburse funds to the Creditor in the amount of the down payment upon entry of the *Order Approving the Mortgage Modification*.

- b. Down Payment Not Required.** If the MMM results in a final or long-term modification that does not require a down payment, the funds will be used to increase the percent to unsecured creditors under the confirmed plan. The Chapter 13 Trustee shall be authorized to administratively adjust the proposed dividend to unsecured creditors by filing a *Notice of Administrative Adjustment of Dividend to Nonpriority Unsecured Creditors due to Mortgage Modification Mediation* with the Court.
- c. No Mortgage Modification.** If the MMM does not result in a modification, the Chapter 13 Trustee shall disburse the funds to the Creditor to be applied pursuant to the terms of the original loan documents and non-bankruptcy law.
- d. Conversion.** If the bankruptcy case is converted to a Chapter 7 case prior to completion of the MMM, the Chapter 13 Trustee shall refund any undisbursed funds to the Debtor in compliance with *Harris v. Viegelahn*, 135 S. Ct. 1829 (2015).

D. Miscellaneous

- 1. No Dismissal.** Dismissal of the bankruptcy case shall not be made a requirement of an agreement reached through the MMM Program.
- 2. Court Approval.** MMM participants shall seek the Court's authorization to enter into any agreement reached during the MMM process, including, but not limited to, any stipulation, sale, plan of reorganization, amended plan of reorganization, or mortgage modification.
- 3. Permanent Modification.** In the event the Debtor satisfies all payment obligations under a trial/interim mortgage modification order, the Creditor shall extend an **offer** to enter into a final mortgage modification agreement within fourteen (14) days of receipt of the last interim payment.
- 4. Dismissal of Case Prior to Completion of MMM.** If the Debtor's case is dismissed prior to the completion of the MMM process, the MMM proceedings in the case will immediately terminate and the parties will be relieved of the requirements of these MMM Procedures.

XI. MMM Fees

- A. Compensation for Debtor's Attorney.** The Debtor's attorney is entitled to receive reasonable compensation for work involved in connection with the MMM process. The Debtor's attorney shall file an itemized application for allowance of attorney fees and costs with the Court. These fees and costs are in addition to those fees and costs incurred in the representation of the Debtor in the bankruptcy case.
- B. Creditor's Fees.** If a proposed MMM resolution provides for the Creditor to receive payment or reimbursement of any fee, cost or charge that arose from the MMM process, all such fees, costs and charges shall be disclosed to the Debtor prior to approval of the resolution. The Creditor's attorney may be entitled to receive a reasonable fee for work

involved with the MMM process and shall clearly delineate such fee in the MMM resolution. In Chapter 13 cases, the Creditor must comply with Rule 3002.1 of the Federal Rules of Bankruptcy Procedure in order to be compensated for any fees, expenses or charges associated with the MMM process.