

MORTGAGE MODIFICATION PROGRAM

(Last modified: April 12, 2021)

1. **Overview.** The Mortgage Modification Program (“MMP”) is intended to provide a structure for a chapter 13 debtor (the “Debtor”) and a lienholder and/or its servicer (the “Mortgagee”) to expeditiously address a potential modification of a mortgage, deed of trust, or similar instrument (the “Mortgage”) that encumbers the primary residence of the Debtor (the “Real Property”). The following procedures implement the MMP.¹

2. **Eligibility.** To be eligible to participate in the MMP, a Debtor (a) must own all or a portion of the Real Property subject to the Mortgage, (b) shall have paid in full the filing fee for the chapter 13 case, (c) shall have assembled any documents, completed any forms, and provided any other information required by the Mortgagee (collectively, the “Initial MMP Package”) as set forth in certain document preparation software² provided by the administrator selected from Rider A (the “Portal Administrator”), (d) shall have registered with, and paid any applicable fees to, the Portal Administrator, (e) shall have attempted to obtain written consent to participate in the MMP from any non-debtor co-owner of the Real Property or non-debtor co-obligor on the loan related to the Real Property (the “Co-Obligor”), and (f) shall have used reasonable best efforts to cause any Co-Obligor to assemble any documents or other information required as part of the Initial MMP Package.³

3. **MMP Referral Motion.** To formally request referral to the MMP, the Debtor must file a motion in substantially the same form as is available [here](#) (“MMP Referral Motion”) and attach as exhibits to such motion (a) a certificate from the Portal Administrator confirming that the Debtor has completed the document preparation software with respect to the Real Property, (b) consent, to the extent obtained in advance, from the Mortgagee to participate in the MMP in substantially the same form as is available [here](#), and (c) consent from any Co-Obligor to participate in the MMP in substantially the same form as is available [here](#).⁴

4. **Notice and Service of MMP Referral Motion.** In the event that the Mortgagee has consented to participate in the MMP, the Debtor may upload a proposed order in substantially

¹ The MMP requires the use of certain prescribed forms identified herein and in the Appendix of Forms. The court strongly discourages modifications to the prescribed forms other than in those fields requiring additional information. Any modification shall be deemed ineffective unless that modification is highlighted. The court is likely to schedule a hearing to consider any modification.

² The “document preparation software” means the software that facilitates preparation of the Initial MMP Package.

³ These procedures do not account for an entity other than a Co-Obligor that is a necessary party to the modification of a Mortgage. The court will address such a situation on a case-by-case basis upon a request for a status conference filed by the Debtor.

⁴ Alternatively, the Debtor, the Mortgagee and any Co-Obligor may file a stipulation that contains substantially the same representations as the MMP Referral Motion.

the same form as is available [here](#) (“MMP Referral Order”) concurrently with the filing of the MMP Referral Motion. If, however, the Mortgagee has not provided advance written consent to participate in the MMP, the Debtor shall provide the Mortgagee with fourteen (14) days to respond to the MMP Referral Motion by (i) serving it in accordance with Fed. R. Bankr. P. 7004, and (ii) using the notice and opportunity to object procedures under LBR 9013(c). Absent a timely response to the MMP Referral Motion, the Debtor may file a certificate of no response and upload a proposed MMP Referral Order. If a response is timely filed, the court shall promptly schedule the MMP Referral Motion for hearing.

5. **Exchange of Information.** Unless otherwise authorized by the court, all communications among the parties must be sent through a secure online service (the “Portal”) maintained by the Portal Administrator.⁵ The Portal is used to facilitate and monitor the exchange of information and communications among the Debtor, the Mortgagee and any Co-Obligor. Through the Portal, the parties shall diligently monitor communications and promptly respond to all requests for documentation and other information.

6. **Transmittal of Initial MMP Package.** Within seven (7) days after the service of the MMP Referral Order or the Mortgagee’s registration on the Portal (whichever occurs later), the Debtor shall transmit through the Portal the Initial MMP Package and a copy of the MMP Referral Order.⁶ Within seven (7) days thereafter, the Mortgagee shall, via the Portal, (a) acknowledge receipt of the Initial MMP Package, (b) provide the name, street address, email address, and telephone number for a single point of contact who has authority to modify the Mortgage and otherwise resolve Mortgage issues, and (c) assign the attorney for the Mortgagee, if any.⁷

7. **Modification Review and Decision.** Upon receipt of the Initial MMP Package, the Mortgagee shall promptly review it and thereafter notify the Debtor through the Portal that either (a) the Initial MMP Package is complete, or (b) certain additional documentation/information is required. Within forty-two (42) days after the Mortgagee deems the Initial MMP Package complete, the Mortgagee shall notify the Debtor and any Co-Obligor via the Portal whether any Mortgage modification or other loss mitigation has been approved and the material terms thereof.

⁵ The Portal is not a substitute for the case docket. Any formal requests for relief from the court must be filed in the Debtor’s underlying bankruptcy case.

⁶ Within seven (7) days after the service of the MMP Referral Order, the Mortgagee and its counsel of record in the Debtor’s bankruptcy case shall register for the Portal (if not already registered). In the event that the Mortgagee has not previously posted on the Portal its requirements for the Initial MMP Package, it shall do so within seven (7) days after the service of the MMP Referral Order.

⁷ Upon written consent of the Mortgagee, the Debtor and any Co-Obligor (or the entry of an order from the court), the Trustee may register for the Portal to monitor the exchange of documentation and communications in a particular case.

8. **Mortgage Modification Approval.**

a. **Trial Modification.** If the Debtor, the Mortgagee and any Co-Obligor agree in principle to the terms of a trial Mortgage modification, the Mortgagee shall promptly transmit to the Debtor and any Co-Obligor via the Portal a copy of the trial Mortgage modification agreement or other document memorializing the offer (the “Trial Modification”). Within seven (7) days after the Trial Modification is posted on the Portal, the Debtor and any Co-Obligor shall either accept the Trial Modification via the Portal, or otherwise respond to the Mortgagee in writing via the Portal. Within seven (7) days after a Trial Modification is accepted, the Debtor shall file a motion to approve the Trial Modification (the “Trial Modification Motion”) and a proposed order in substantially the same forms as prescribed herein.

A form Trial Modification Motion is available [here](#).⁸ A form proposed order granting the Trial Modification Motion is available [here](#).

b. **Permanent Modification.** In the event that the Mortgagee, the Debtor and any Co-Obligor agree in principle to the terms of a permanent Mortgage modification, the Mortgagee shall promptly transmit to the Debtor and any Co-Obligor via the Portal a copy of a permanent Mortgage modification agreement (the “Final Modification”). Within seven (7) days after the Final Modification is transmitted via the Portal, the Debtor and any Co-Obligor shall either accept and transmit via the Portal an executed copy of the Final Modification, or otherwise respond to the Mortgagee in writing via the Portal. In the event that the Debtor and any Co-Obligor accept and transmit via the Portal an executed copy of the Final Modification, the Mortgagee shall, within fourteen (14) days thereafter, transmit via the Portal an executed copy of the Final Modification. Within seven (7) days after the Mortgagee transmits an executed copy of the Final Modification, the Debtor shall (a) file and serve a motion to approve the Final Modification (the “Final Modification Motion”) and proposed order in substantially the same forms as prescribed herein, and (b) to the extent the modification impacts provisions of a proposed or previously confirmed plan, file and serve a plan amendment and amended Schedules I and J.

A form Final Modification Motion is available [here](#). A form proposed order granting the Final Modification Motion is available [here](#). A form proposed plan amendment for a Final Modification is available [here](#).⁹

c. **Notice and Service of Modification Approval Motion.** The Debtor shall provide the Mortgagee, any Co-Obligor and the Trustee with twenty-one (21) days to respond to a Trial Modification Motion, a Final Modification Motion, or any plan amendment by (i) serving it in accordance with Fed. R. Bankr. P. 7004, and (ii) using the notice and opportunity to object procedures under LBR 9013(c).

⁸ The parties may file a stipulation with substantially the same terms in lieu of a Trial Modification Motion.

⁹ The parties may file a stipulation with substantially the same terms in lieu of a Final Modification Motion and/or plan amendment.

9. **Unsuccessful Mortgage Modification.** In the event that the Debtor, the Mortgagee and any Co-Obligor are in good faith unable at any time to agree to the terms of a Mortgage modification or otherwise resolve any dispute, either the Debtor or the Mortgagee may terminate the MMP.¹⁰ The terminating party shall file on the docket and transmit via the Portal a notice of termination in substantially the same form as is available here, at which point the MMP shall terminate without the need for further notice or a hearing; provided, however, that nothing shall preclude a non-terminating party from subsequently alleging that the terminating party lacked good faith. Within fourteen (14) days after the filing and posting of the notice of termination or as the court may otherwise direct, the Debtor shall file and serve (a) a plan amendment to address the Mortgage, to the extent necessary, (b) a plan amendment granting the Mortgagee relief from the automatic stay, or (c) a request to continue the MMP or for other relief.

10. **Request for Mediation.** In the event that the Debtor and/or the Mortgagee wish to engage in facilitative mediation in order to address issues related to a Mortgage, a motion requesting mediation in substantially the same form as is available here (the “Request for Mediation”)¹¹ may be filed at any time prior to termination of the MMP and served, as applicable, on the Debtor, the Mortgagee, any Co-Obligor, and the Trustee.¹² Within fourteen (14) days from the filing and service of a Request for Mediation, any non-requesting party may file a response, including identification of a preferred mediator or consent to the proposed mediator. The court shall thereafter either (a) promptly schedule a hearing, or (b) grant or deny the relief requested without the need for a hearing. The court shall consider a Request for Mediation and any response thereto based on the facts and circumstances of each case, including the timing of such request and whether the Mortgagee has previously declined to modify the Mortgage.¹³ In the event that a Request for Mediation is granted, the court will enter an order establishing procedures for mediation, including identification of the mediator (the “Mediator”), in substantially the same form as is available here (the “Mediation Procedures Order”).¹⁴

11. **Mediation Procedures.** Any mediation shall occur within twenty-one (21) days after the entry of the Mediation Procedures Order unless the parties and the Mediator otherwise agree pursuant to a stipulation and a proposed order filed on the court’s docket. The Debtor, the Mortgagee, and any Co-Obligor shall have a representative with authority to agree to the terms of

¹⁰ Nothing contained herein shall preclude the Trustee or any other party in interest from requesting termination of the MMP by filing a request for the same.

¹¹ Alternatively, the Debtor and the Mortgagee may file a stipulation requesting mediation that contains substantially the same provisions as the form Request for Mediation.

¹² Mediation is not a requisite component of the MMP but is nevertheless strongly encouraged.

¹³ Any consensual Request for Mediation should identify a mediator acceptable to both parties from the pre-approved list of mediators set forth on Rider B attached hereto. If the parties are unable to agree on mediator, the court will select one from that list.

¹⁴ Unless otherwise set forth herein or a separate order of the court, the provisions of the Bankruptcy Alternative Dispute Resolution Program remain in full force and effect. *See* LBR 9019-1 *et seq.*

a Modification present throughout the mediation. The Mediator may conduct the mediation in person or via videoconference/telephone; provided, however, that the representative of the Mortgagee with authority to agree to the terms of a Modification may participate remotely unless the court expressly orders otherwise. Mediation sessions shall not exceed one and a half hours in length, absent consent of the Mediator and all parties to the mediation.

12. **Mediator Compensation.** The Mediator shall be paid the aggregate amount of \$500.00 (or such other amount as may be agreed to in writing by parties and the Mediator) in exchange for preparing for and conducting a mediation session of no more than one and a half hours.¹⁵ Unless the Mediator agrees to different terms, all compensation shall be paid to the Mediator by no later than fourteen (14) days after the entry of the Mediation Procedures Order. In the event that the Debtor and the Mortgagee request that the Mediator extend a mediation session or schedule a subsequent mediation session, the Mediator may seek additional reasonable compensation of no more than \$500.00 per additional period or session from the Debtor and/or the Mortgagee. Subject to the agreement of the Mediator, all or a portion of any additional compensation may be paid as an administrative expense under 11 U.S.C. § 503(b).

13. **Attorney Compensation.** An attorney for the Debtor may seek compensation pursuant to 11 U.S.C. §§ 330 and 503(b) for services related to the MMP. Subject to *In re Boddy*, 950 F.2d 334 (6th Cir. 1991), the presumptively reasonable compensation for representation of the Debtor in connection with the MMP shall be \$1,200.00; provided, however, that if the Debtor and the Mortgagee engage in mediation, the presumptively reasonable compensation shall be increased to \$1,700.00.¹⁶ Unless otherwise agreed among the parties, the Mortgagee may seek from the Debtor and any Co-Obligor reimbursement of attorneys' fees and expenses, including any compensation paid to the Mediator, to the extent permitted by the Mortgage and related loan documents.¹⁷

14. **Transfer of Mortgage.** If the Mortgagee assigns the Mortgage and/or the servicing of the Mortgage to a third party (the "Successor Servicer") at any time during the MMP, the Mortgagee shall promptly transfer the Debtor's file maintained on the Portal to the Successor Servicer, which shall acknowledge receipt of the file via the Portal within seven (7) days. The Successor Servicer shall accept all documentation and other information previously accepted by the assignor by proceeding with the review as if the Successor Servicer were the initial Mortgagee or servicer.

¹⁵ Absent agreement in writing to the contrary, the Debtor and the Mortgagee shall each be responsible for payment of \$250.00 to the Mediator. Nothing contained herein shall be construed as a determination with respect to reimbursable mediation fees, costs and other charges for which a Debtor may be responsible under the Mortgage and/or related loan documents.

¹⁶ A retention agreement between the Debtor and his or her attorney should address issues of compensation related to the MMP.

¹⁷ Any fees and expenses of the Mortgagee shall be disclosed to the Debtor in writing prior to approval of any Mortgage modification. Nothing contained herein shall excuse the Mortgagee from complying with Fed. R. Bankr. P. 3002.1.

15. **Conversion or Dismissal.** If the Debtor's case is dismissed or converted to another chapter prior to completion of the MMP, the MMP shall immediately terminate and the parties shall be relieved of any requirement thereunder unless otherwise expressly set forth in an order of the court.

RIDER A

(Portal Administrators)

The Debtors Bar of West Michigan, in consultation with the Trustees and attorneys representing Mortgagees in the Western District of Michigan, may from time to time consider proposals for one or more new Portal administrators. Inquiries regarding eligibility to act as a Portal Administrator may be directed to the President of the Debtors Bar of West Michigan, the website for which is <http://www.debtorsbar.com>.

The following organizations are currently eligible to serve as the Portal Administrator:

ADMINISTRATOR	WEBSITE	TELEPHONE	EMAIL
Default Mitigation Management LLC	www.dmmportal.com	(800) 481-1013	support@defaultmitigation.com

RIDER B

(Mediators)

To be eligible to serve as a mediator under the MMP, an attorney must (a) have been pre-approved by the court to act as a neutral pursuant to LBR 9019-6, (b) have at least ten (10) years of experience practicing consumer bankruptcy law, and (c) be willing to accept at least one additional pro bono assignment each year. Any attorney who wishes to be considered as mediator for the MMP is invited to submit a letter setting forth his or her qualifications to Judge Gregg at jtg_chambers@miwb.uscourts.gov.

The following attorneys are currently eligible to serve as mediators in connection with the MMP:

A. Todd Almassian, Esq.
Keller & Almassian PLC
230 Fulton St., E.
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