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CHAPTER 13 BANKRUPTCY TRUSTEE
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NONSTANDARD PLAN PROVISIONS

The following are nonstandard provisions for use in Chapter 13 plans. They are offered to facilitate consistency for practitioners, predictability for debtors and accurate administration by the Trustee's office. The Trustee may request that the provisions be modified or removed from a plan based on the specifics of a case. These provisions may change periodically. The Trustee cannot provide legal advice and these provisions are not intended as legal advice, as the facts and circumstances of each case must be reviewed independently.

Secured Claim "Survival" Language

When a vehicle claim must "survive" because the debtor does not have sufficient funds to pay it in full over a sixty-month term:

The Trustee shall make the monthly payments only on the claim of _____ [creditor] regarding the _____ [vehicle description] included in Section IV.C.10. The Trustee shall not pay all available funds pro rata on this claim under Section IV.C.4. The claim may not be paid in full during the plan and any remaining balance owed at the time of plan completion will be paid directly by the debtor(s) post-discharge. However, the debtor(s) is obligated to complete the applicable commitment period provided for in Section II.

Domestic Support Obligation Priority Claim Not Being Paid in Full

When a below median debtor with a thirty-six month applicable commitment period will not be able to pay a priority domestic support obligation *to a governmental unit* in full during the plan:

The debtor(s)' domestic support obligation payable to _____ (ECF Claim No. _____) may not be paid in full. Notwithstanding Section II. of the plan, the debtor(s) shall make plan payments for a sixty month period pursuant to 11 U.S.C. § 1322(a)(4).

IRS Civil Penalties

Where the IRS claim includes priority civil penalty amounts that are "doubled" in a joint case because the debtors are jointly and severally liable on the amounts:

The IRS proof of claim includes civil penalty amounts as to both debtors (ECF Claim No. _____). The Trustee shall pay only one-half of the total civil penalty amounts included in the claim.

Payment of a Mortgage or HELOC in Full

When the debtor is paying a Section IV.C. mortgage, HELOC or other relevant obligation in full:

The Trustee shall pay the secured claim of _____ (ECF Claim No. __) in full with __% interest.

Proceeds from Asset of Unknown Value

When the debtor needs to commit proceeds from an asset of unknown value such as a personal injury claim or inheritance proceeds:

Within seven days of receipt, the debtor(s) shall pay to the Trustee any non-exempt proceeds from the debtor's _____ claim [please make sure the claim is adequately identified]. The Trustee shall disburse the funds to unsecured claims. These funds do not reduce the amounts the debtor(s) is obligated to pay under the plan, including amounts based on plan payments, the amount in Section IV.E. or the liquidation value in Section IX.

Bonuses and / or Overtime Income

Within seven days of receiving a bonus (generally received in ____), the debtor(s) shall (a) notify the Trustee of the bonus amount; (b) provide the Trustee with documentation of the bonus (e.g., a paystub); and (c) turn over the net bonus amount to the Trustee to disburse pursuant to the plan. These funds do not reduce the amounts the debtor(s) is obligated to pay under the plan, including amounts based on plan payments, the amount in Section IV.E. or the liquidation value in Section IX.

Continuing Assets / Income Such as Stock Awards

By each of the following dates, the debtor shall (a) sell all of their vested _____ stock, (b) pay to the Trustee all net proceeds for distribution pursuant to the plan, and (c) provide the Trustee with documentation evidencing the stock proceeds: _____. These funds do not reduce the amounts the debtor(s) is obligated to pay under the plan, including amounts based on plan payments, the amount in Section IV.E. or the liquidation value in Section IX.

Debtor Unemployed but Seeking Employment

Where a debtor is unemployed at the time of confirmation but is looking for work, or expects to be employed in a better paying job soon (leaving aside any feasibility issues):

Within fourteen days of obtaining employment, the debtor(s) shall file amended Schedules I and J and provide the Trustee with current proof of income.

Sale or Refinance of Real Property

By _____, the debtor(s) shall sell or refinance the real property at _____.

By _____, the debtor(s) shall sell or refinance the real property at _____ and pay to the Trustee sufficient proceeds to complete the plan.

By _____, the debtor(s) shall sell or refinance the real property at _____ and pay to the Trustee sufficient proceeds for feasibility of the plan.

Sale or Refinance of Real Property with Relief from the Stays

By _____, the debtor(s) shall sell or refinance the real property at _____. If the real property is not sold or refinanced by that date, _____ [secured creditor(s)] may file an ex parte order granting it relief from the stays of 11 U.S.C. §§ 362(a) and 1301(a) to enforce its security interest against the property, including taking possession and sale.

By _____, the debtor(s) shall sell or refinance the real property at _____ and pay to the Trustee sufficient proceeds to complete the plan. If the real property is not sold or refinanced by that date, _____ [secured creditor(s)] may file an ex parte order granting it relief from the stays of 11 U.S.C. §§ 362(a) and 1301(a) to enforce its security interest against the property, including taking possession and sale.

By _____, the debtor(s) shall sell or refinance the real property at _____ and pay to the Trustee sufficient proceeds for feasibility of the plan. If the real property is not sold or refinanced by that date, _____ [secured creditor(s)] may file an ex parte order granting it relief from the stays of 11 U.S.C. §§ 362(a) and 1301(a) to enforce its security interest against the property, including taking possession and sale.

Preferences and / or Fraudulent Conveyances

Any net recovery by the Trustee under 11 U.S.C. §§ 544, 547, 548, 549, 550 and/or 551 shall be paid to allowed unsecured claims and these amounts shall not reduce the amounts the debtor(s) is obligated to pay under the plan, including amounts based on plan payments or the liquidation value in Section IX. The Trustee may pay from the debtor(s)' plan payments the filing fee for any adversary proceeding the Trustee files.

Retirement Loan Payoff

The debtor(s)' plan payment shall increase by \$_____ per month beginning _____ once the debtor(s)' retirement loan is paid in full.

***Lanning* Language (Local Bankruptcy Rule 3015-1(e))**

If the debtor asserts that the debtor is unable to pay the projected disposable income figure that results from the means test:

The debtor(s) is unable to pay all or part of the debtor(s)' \$_____ projected disposable income (the monthly disposable income shown on line 45 of Official Form B 122C-2 multiplied by the sixty-month applicable commitment period), and instead proposes to pay to allowed nonpriority unsecured claims at least the amount listed in Section IV.E.