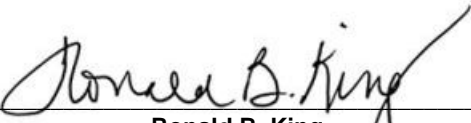



SIGNED this 24th day of November, 2008.



  
\_\_\_\_\_  
Ronald B. King  
United States Chief Bankruptcy Judge

  
\_\_\_\_\_  
Leif M. Clark  
United States Bankruptcy Judge

  
\_\_\_\_\_  
Frank R. Monroe  
United States Bankruptcy Judge

  
\_\_\_\_\_  
Craig A. Gargotta  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

STANDING ORDER FOR CHAPTER 13 CASE ADMINISTRATION  
FOR AUSTIN DIVISION

The Bankruptcy Judges for the Western District of Texas for the Austin Division have determined that the following procedures are necessary for the efficient and orderly administration of Chapter 13 cases:

1. ADOPTION OF CHAPTER 13 PLAN FORMAT:

Attached as Exhibit #1 to this Standing Order is a Chapter 13 Plan Form which shall be used by all Chapter 13 debtors in cases filed after the effective date of this Order. ***The form plan may be revised periodically.*** The Clerk shall make available to the public the Chapter 13 Plan Form.

The current form plan is additionally a Motion to Value Collateral and a Motion to Avoid Liens under 11 U.S.C. Section 522. Objections to the Valuation or Lien Avoidance feature of the Plan/Motion must be in writing and filed no later than ten (10) days prior to confirmation. All

other confirmation objections must be filed no later than ten (10) days prior to the confirmation hearing date.

2. BAR DATE FOR FILING SECURED CLAIMS:

A proof of claim by a secured creditor, other than a governmental agency, is timely filed by the creditor not later than ninety (90) days after the first date set for the meeting of creditors called under Section 341 of the Code.

3. TRUSTEE RECOMMENDATION CONCERNING CLAIMS:

After the deadline for filing proofs of claims has passed, the Chapter 13 Trustee (hereinafter, "Trustee,") shall file a Recommendation Concerning Claims and serve a copy upon the Debtor, Debtor's counsel, all creditors and other parties in interest. No order will be entered approving the Recommendation Concerning Claims. Instead, if no objection or other response is timely filed, then the Recommendation Concerning Claims shall be binding upon all creditors and other parties in interest, and the Trustee is authorized to make disbursements according to the provisions of the Recommendation without further order of the Court.

If an objection or other response to the Recommendation Concerning Claims is timely filed, the Trustee may nonetheless make distribution in accordance with the provisions of the Recommendation, except with respect to the claim that is subject of the response or objection. The Trustee shall reserve funds attributable to the challenged claim until the allowance or treatment of the claim has been resolved. If, as a result of the claim resolution, there is a greater or lesser amount of money available for distribution to other creditors, the Trustee may adjust the payments to creditors accordingly without having to file further Recommendation Concerning Claims.

The Recommendation Concerning Claims must prominently display the following notice:

**THIS PLEADING REQUESTS RELIEF THAT MAY BE ADVERSE TO YOUR INTERESTS.**

**NO HEARING WILL BE CONDUCTED ON THIS RECOMMENDATION CONCERNING CLAIMS (OR ITS TREATMENT OF ANY CLAIM) UNLESS A WRITTEN RESPONSE IS FILED WITHIN TWENTY (20) DAYS FROM THE DATE OF SERVICE.**

**A TIMELY RESPONSE IS NECESSARY FOR A HEARING TO BE HELD. IF NO RESPONSE IS TIMELY FILED, THE TREATMENT OF CLAIMS REFLECTED IN THIS RECOMMENDATION SHALL BE DEEMED APPROVED BY THE COURT WITHOUT FURTHER HEARING OR ORDER.**

**BY ORDER OF THE COURT, THE TRUSTEE'S RECOMMENDATION CONCERNING CLAIMS SHALL SET A BAR DATE FOR OBJECTING TO CLAIMS, FOR CONTESTING THE VALIDITY OR PRIORITY OF LIENS, AND FOR CHALLENGING THE PRIORITY OF CLAIMS. THE BAR DATE SHALL BE THE TWENTIETH (20<sup>TH</sup>) DAY AFTER THE SERVICE OF THE RECOMMENDATION OF CLAIMS AS SHOWN IN THE CERTIFICATE OF SERVICE ATTACHED HERETO. ANY OBJECTION, MOTION, OR ADVERSARY PROCEEDING CONTESTING THE VALIDITY OR PRIORITY OF ANY CLAIM REFLECTED IN THIS RECOMMENDATION CONCERNING CLAIMS MAY NOT BE FILED AFTER THE EXPIRATION OF THE BAR DATE EXCEPT UPON LEAVE OF COURT, AFTER MOTION REQUESTING SUCH LEAVE, AND UPON NOTICE OF HEARING TO THE CHAPTER 13 TRUSTEE, THE DEBTOR, THE DEBTOR'S COUNSEL AND ALL PARTIES IN INTEREST.**

4. OBJECTIONS TO CLAIMS:

Objections to proofs of claim must be in writing and filed no later than twenty (20) days after service of the Trustee's Recommendation Concerning Claims.

5. MOTIONS TO VALUE PROPERTY INDEPENDENT OF THE PLAN:

Motions to value property or to avoid a lien may be filed as part of the debtor's plan as provided in Section III of the Plan Form. Any request by the debtor to value property of the estate or to avoid a lien under Section 522(f), independent of the plan, must be in writing and filed no later than twenty days after service of the Trustee's Recommendation Concerning Claims.

6. RESPONSES TO OBJECTIONS TO CLAIM:

RESPONSES TO MOTIONS TO VALUE PROPERTY:

Responses to objections to claims and motions to value property must be filed by the deadline provided in the notice included in such motion pursuant to Local Bankruptcy Rule 9014. If no such notice is included, no response is necessary and the objection to claim shall be set for hearing.

7. AMENDMENTS TO THE PLAN OF REORGANIZATION:

The last date that a debtor may seek to amend its plan of reorganization is not later than 30 days prior to the date scheduled for hearing on the confirmation of the plan. The Court will only consider de minimis, nonsubstantive, or technical amendments to the plan made after that date.

8. SERVICE OF THE PLAN AND PRE-CONFIRMATION AMENDMENTS:

(a) Whether or not the plan is filed with the Chapter 13 petition at the commencement of the case, the debtor shall be responsible for serving the plan on all creditors.

(b) Whenever a Chapter 13 plan is amended prior to confirmation, the debtor shall serve the amended plan on all creditors, parties in interest and the Trustee within two business (2) days after filing with the Court.

(c) A certificate of service must be filed with the Clerk of the Court reflecting service of any plan or amended plan and should indicate service was made pursuant to L. Rule 9013.

9. DEBTOR'S DUTY TO FACILITATE NOTICE REGARDING DOMESTIC SUPPORT OBLIGATION:

In order to facilitate the expedient notice to domestic support claim holders and the applicable state agency provided for in 11 U.S.C. §1302, debtor shall, at the same time the schedules are filed, provide to the Trustee the names and current addresses and telephone numbers of all persons to whom debtor owes a domestic support obligation. At the same time debtor shall provide to the

Trustee the name, address, and telephone number of the state child support enforcement agencies as set forth under Section 1302(d)(1)(A)(i) for the states in which the persons to whom debtor owes a domestic support obligation resides.

10. ADEQUATE PROTECTION PAYMENTS BY THE CHAPTER 13 TRUSTEE:

(a) All pre-confirmation payments required by §1326(c) will be made by the Chapter 13 Trustee. Unless the Court orders otherwise pursuant to a motion filed under subparagraph (d) below, the monthly installments proposed by the debtor(s) plan will be considered to provide adequate protection to such creditor. The debtor's plan of reorganization must propose a pre-confirmation adequate protection payment to all creditors entitled to such payment pursuant to 11 U.S.C. §1326(a).

(b) To be paid adequate protection payments, each secured creditor must file a claim, with adequate proof of security interest attached, with the Clerk of the Court, and serve it on the debtor(s) and debtor(s) attorney.

(c) If no claim objection is made by the debtor(s) or other party in interest within 10 days of the filing of the claim, adequate protection payments to the secured creditor will commence in the amount specified under an order on a motion made under (d) below, or, if no such order has been entered, in the amount specified under the proposed plan, with the next regular trustee disbursement after the thirtieth day following the filing of the petition if the plan has not been confirmed. Adequate protection payments will cease upon confirmation of the plan.

(d) A secured creditor may file a Motion for Adequate Protection Payment pursuant to 11 U.S.C. §363(e), utilizing fifteen (15) day negative notice language, if the creditor is not provided for in the plan or objects to the monthly payment proposed in the debtor's plan.

(e) If the case is dismissed or converted prior to confirmation, and the debtor(s) have

filed a plan and made payments, then the money on hand with the Trustee on the date of the dismissal or conversion of the case shall be disbursed on the next regular disbursement date first in satisfaction of adequate protection payments provided under paragraph (a) above, that have come due in the month of disbursement.

(f) Any adequate protection payments made hereunder will reduce the principal amount of the recipient's claim unless otherwise ordered by the Court.

(g) The Trustee is allowed to take the statutory fee allowed on all such payments under this heading.

11. MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY:

Unless the Court orders otherwise, the Trustee shall cease disbursements on a claim sixty (60) days after an Order for Relief from the Stay or Notice of Termination of Stay is entered OR once the Trustee receives a Notice of Repossession or Foreclosure, whichever is earlier. The creditor retains the right to file an amended unsecured deficiency claim, but such claim must be filed no later than ninety (90) days from the date of the entry of the Order for Relief from the Stay unless the Court orders otherwise.

12. ATTORNEYS' DUTIES AND COMPENSATION:

**An attorney representing a debtor under Chapter 13 shall be the attorney of record in the bankruptcy case from the filing of the petition for relief under Chapter 13, if signed by the attorney, or from the filing of a notice of appearance until the close or dismissal of the case (including disposition of motions to reinstate), unless relieved from representation by order of the Court obtained pursuant to Motion and notice under Local Rule 9013.**

The Bankruptcy Court for the Western District of Texas may determine and maintain a standard benchmark fee for routine non-business Chapter 13 cases, and a standard benchmark fee for routine business Chapter 13 cases.

In a routine chapter 13 case, the following services shall be included in the benchmark fee:

- A. all conferences with debtor(s);
- B. preparation of Petition, Schedules, Statement of Financial Affairs, Plan and amendments thereto;
- C. attendance at all §341 Meetings of Creditors;
- D. attendance at Confirmation and Discharge hearings (including reset confirmation hearings); and
- E. preparation of routine motions, which shall be deemed to include the

following:

1. motions to waive pay order;
2. motions to pay filing fees in installments;
3. objections to claims, and motions to value or avoid lien.

F. Notwithstanding the foregoing subparagraph E, an attorney may, for cause shown, request additional fees for the services listed. If so, the attorney must make the request for fees for additional services as set out below. Counsel shall not condition representation upon payment of an additional fee.

An attorney in a Chapter 13 case may only request and obtain an award of fees for additional services beyond those specified above by court order, on motion, notice, and opportunity for hearing. Such request may be by separate motion, or in the motion which constitutes the additional services. Any such request for additional fees shall be set forth in the caption of the pleading (and in the form of order submitted), shall number the request in the caption and in the body of the motion, shall set forth the total fees requested to date (including the benchmark fee awarded and any additional fees previously awarded or pending), the basis for the request, and shall be served on all parties in the case. No request for fees for filing a responsive pleading for the debtor can be contained in such responsive pleading. A separate Motion for fees is required. Furthermore, the debtor's attorney may not demand or receive fees from the debtor for such representation without a separate Motion and Order.

Attorney's fees will be disbursed according to the provisions of the plan. The plan must specifically state the monthly amount to be disbursed in attorney's fees. Unless specifically ordered otherwise by the Court upon motion, notice and opportunity

for hearing, such monthly amount shall not exceed \$500 for the first disbursement following confirmation, and then \$100 per month thereafter.

13. CERTIFICATION REGARDING POST-PETITION DOMESTIC SUPPORT OBLIGATIONS AND TAX RETURNS

No later than 20 days prior to the first scheduled confirmation hearing, the debtor shall file an affirmation pursuant to F.R.C.P. 43(d) which affirms that (1) the debtor has paid all amounts that are required to be paid under a domestic support obligation, and that first become payable after the date of the filing of the petition if the debtor is required by a judicial or administrative order, or by statute, to pay such domestic support obligations as required by Section 1325 (a)(8) and (2) the debtor has filed all applicable Federal, State, and local tax returns as required by Section 1308, pursuant to Section 1325(a)(9).

In the case of a debtor who is required by a judicial or administrative order, or by statute, to pay a domestic support obligation, debtor shall also file with the Court the certification required by 11 U.S.C. Section 1328(a) within 20 days after the completion by the debtor of all payments under the Plan.

14. APPLICATIONS TO INCUR CONSUMER DEBT

The debtor shall not incur consumer debt without written approval of either the Court or the Trustee.

The debtor's attorney (or the debtor, if not represented by counsel) SHALL make written application to the Trustee for approval to incur consumer debt. The debtor's attorney shall not file the application with the Clerk. If approved by the Trustee, the Trustee shall file the approval with the clerk. If not approved by the Trustee within ten days, the debtor's attorney may then file with the clerk a motion to incur consumer debt and the motion shall contain as an attachment the Trustee's denial of the application to incur debt.



Additional attorney's fees incurred as a result of an application to incur debt may be paid through the Chapter 13 plan and the plan base shall be increased accordingly.

15. SALE OF EXEMPT PROPERTY:

Exempt property may be sold by the Debtor(s) at any time without further order of this Court. All valid liens, claims, or encumbrances shall attach the proceeds of such sale. Proceeds from the sale of exempt property may be paid directly to the Debtor(s).

16. DISPOSITION OF FEDERAL INCOME TAX REFUNDS IN CHAPTER 13 CASES:

The Internal Revenue Service (IRS) is authorized to apply any tax refunds of debtors to the payment of any tax obligations due and owing by the debtors, regardless of whether such tax obligations or tax refunds arose before or after the filing of the case, so long as such tax claims are entitled to priority status under 11 U.S.C. §507(a). The base balance of the plan will not be reduced by reason of any IRS offset.

Any income tax refund issued after petition date and before the debtor has made the final payment under the plan or the debtor's case is converted or dismissed, may be issued and delivered by the IRS directly to the Trustee. If the IRS returns the tax refund to the debtor, the debtor shall immediately forward the refund to the Trustee as additional disposable income, unless other use of such funds is approved by the Trustee or by the Court. The base amount of the plan shall be increased to include the amount of this additional receipt.

If the debtor is delinquent in plan payments the Trustee may apply any such amount first to the delinquency.

The Trustee is hereby authorized to receive, endorse, deposit and apply to debtor's plan and any plan delinquency any tax refund issued to debtor by the IRS after the petition date and

before the debtor has made the final payment under the plan, or the debtor's case is converted or dismissed.

17. SUMMARY DISMISSAL OF CASE:

A Chapter 13 case may be summarily dismissed upon submission of an order by the Trustee for any one of the following causes:

- (a) Failure of the debtor to timely file a plan.
- (b) Failure of the debtor to timely file Schedules.
- (c) Unexcused failure of the debtor to appear at the scheduled meeting of creditors.
- (d) The debtor becomes sixty (60) days delinquent on payments under a confirmed plan.
- (e) Failure to comply with the provisions of a prior order which provides for such relief.
- (f) Failure to submit tax returns pursuant to 11 U.S.C. §521(e)(2).
- (g) Failure to submit payment advices pursuant to 11 U.S.C. §521(a)(1)(B)(iv).

18. EFFECTIVE DATE:

The provisions of this Order, with the exception of Paragraph 10, are effective for all Chapter 13 cases where the order for relief was entered on or after October 17, 2005. The provisions of Paragraph 10 become effective for all Chapter 13 cases filed after the date of the entry of this Order.

The above procedures are hereby adopted for the Bankruptcy Court for the Western District of Texas in the Austin Division.

IT IS SO ORDERED.

###

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

IN RE:

§  
§  
§  
§  
§

CASE NO.

Debtor(s)

Chapter 13 Proceeding

**DEBTOR(S)' CHAPTER 13 PLAN  AMENDED**  
**AND MOTIONS FOR VALUATION AND LIEN AVOIDANCE**

**Plan Summary**

- A. The Debtor's Plan Payment is scheduled at \_\_\_\_\_ per month [  Pay Order,  Direct Pay] for \_\_\_\_\_ months. The gross amount to be paid into the Plan is \_\_\_\_\_.
- B. The Plan proposes to pay all allowed priority, special class and secured claims and approximately \_\_\_\_\_ % of the unsecured allowed claims. **THIS PLAN DOES NOT ALLOW CLAIMS.** You must file a proof of claim to receive distributions under any plan. Other than adequate protection payments, disbursements will begin after entry of an order of confirmation of the plan.
- C. Value of non-exempt assets \_\_\_\_\_.
- D. Current monthly income \_\_\_\_\_, - expenses \_\_\_\_\_ = available for Plan \_\_\_\_\_.
- E. The total amount to be paid into the Plan shall be increased for tax refunds as set forth in the Standing Order for Chapter 13 Case Administration in this Division. These additional receipts shall be disbursed according to the provisions of the Plan. The Debtor(s) is (are) directed to forward the tax refund to the Trustee.

**Special Plan Provisions**

## Plan Provisions

### I. Vesting of Estate Property

Upon confirmation of the plan, all property of the estate shall (shall not) vest in the Debtor(s), and shall not (shall) remain as property of the estate subject to the automatic stay of 11 U.S.C. §362.

### II. Executory Contracts/Unexpired Leases/Contracts for Deed

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to assume the following executory contracts, if any:

Pursuant to 11 U.S.C. §1322(b)(7) of the Bankruptcy Code, the Debtor(s) hereby elects to reject the following executory contracts, if any:

### III. Specific Treatment for Payment of Allowed Claims

#### 1. DIRECT PAYMENTS BY DEBTOR TO CREDITORS; SURRENDER OF COLLATERAL

A. Debtor shall pay the following creditors directly:

Creditor Name	Remarks	Debt Amount	Monthly Payment
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B. Debtor shall surrender the following collateral:

Creditor Name	Remarks	Debt Amount	Collateral Surrendered
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#### C. Creditor's Direct Communication With Debtors

Creditors whose claims are scheduled to be paid directly by the debtor, including creditors with claims secured by real property or vehicles, are authorized to send monthly statements to the debtor. They are also authorized to communicate directly with the debtor in response to a debtor's questions about monthly payments, escrow accounts, account balances, increases in monthly payments, and other routine customer service inquiries.

#### 2. PAYMENTS BY TRUSTEE

A. Administrative Expenses (including Attorney's fees)

*The Trustee may receive up to 10% of all sums disbursed, except on any funds returned to the debtor.*

Creditor	Estimated Amount of Debt	Monthly Payment Amount
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**B. Secured Claims – Real Property**

Creditor/Collateral	Est. Claim	Mo. Pmt or Method of Disbursement	Interest Rate	Other Treatment/Remarks
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**C. Secured Claims – Personal Property; Adequate Protection Payments; Motions to Value Collateral**

**The debtor must propose an adequate protection payment to all creditors entitled to such payment pursuant to 11 U.S.C. §1326(a).** Each secured creditor must file a proof of claim, with adequate proof of security interest attached, with the Clerk of Court, and serve it on the debtor(s) and debtor(s) attorney. If no claim objection is made by the debtor(s) or other party in interest within 10 days of the filing of the claim, adequate protection payments to the secured creditor will commence as stated herein or as otherwise ordered by the Court in the next regular trustee disbursement after the thirtieth day following the filing of the petition. Such payments shall cease upon confirmation of the Plan.

Creditor/Collateral	Adequate Protection Payment	Other Treatment/Remarks
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The Trustee shall pay allowed secured claims, which require the filing of a proof of claim, to the extent of the value of the collateral or the full amount of the claim, as specified below, plus interest thereon at the rate specified in this Plan. **Failure of the secured creditor to object to the proposed value will be deemed acceptance of the plan under Section 1325(a)(5)(A).** Except for secured claims for which provision is made to pay the full amount of the claim notwithstanding the value of the collateral, the portion of any allowed claim that exceeds the value of the collateral shall be treated as an unsecured claim under Section III(2)(E).

The Debtor moves to value collateral described below in the amounts indicated. The Debtor(s) declares, under penalty of perjury, that the foregoing values as stated in the above Motion and the Plan for the secured debt are true and correct and to the best of their knowledge represent the replacement value, pursuant to Section 506(a)(2), of the assets held for collateral.

\_\_\_\_\_  
Debtor

\_\_\_\_\_  
Co-Debtor

Objections to Valuation of Collateral proposed by this Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan. Following confirmation of the Plan, monthly payments shall be made as follows:

Creditor/Collateral	Est. Claim	Value of Collateral	Monthly Payment-	Interest Rate	Pay Value of Collateral (OR) Pay Full Amount of Claim
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Secured creditors shall retain their liens on the collateral which is security for their claims until the earlier of the payment of the underlying debt determined under non-bankruptcy law, or discharge under 11 U.S.C. Section 1328. In addition, if this case is dismissed or converted without completion of the Plan, such liens shall also be retained by the creditors to the extent recognized by applicable non-bankruptcy law.

**D. Priority Creditors**

Creditor	Estimated Amount of Debt	Payment Method 1. Before 2. After 3. Along with Secured creditors	Remarks
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**E. General Unsecured Creditors** [including claims from rejection of contracts, leases and contracts for will commence in the \_\_\_\_ month of the Plan. deed]. U

**F. Cure claims on Assumed Executory Contracts, Contracts for Deed & Leases:**

Creditor	Estimated Amount of Debt	Monthly Payment or Method of Disbursement	Remarks
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**Totals:**

**Administrative Claims** \_\_\_\_\_  
**Arrearage Claims** \_\_\_\_\_  
**Secured Claims** \_\_\_\_\_  
**Priority Claims** \_\_\_\_\_  
**Unsecured Claims** \_\_\_\_\_  
**Cure Claims** \_\_\_\_\_

G. Supplemental Plan Provisions

(a) MOTION TO AVOID LIENS UNDER 11 U.S.C. § 522(f)

Debtor moves to avoid the following liens that impair exemptions. Objections to Lien Avoidance as proposed in this Plan must be filed no later than ten (10) days prior to the confirmation hearing date. If no timely objection is filed, the relief requested may be granted in conjunction with confirmation of the Plan. (Debtor must list the specific exempt property said lien impairs and the basis of the lien, i.e. judicial, nonpurchase-money security interest, etc.)

Creditor	Property Subject to Lien	Amount of Lien to be Avoided	Remarks

**IV. General Information**

**Notice: Local Rule 3002 provides, in part:**

*“Every Creditor filing a Proof of Claim in all cases shall transmit a copy with attachments, if any, to the Debtor’s Attorney (or the Debtor if the Debtor is pro se) and the Trustee appointed in the case.”*

Any special concerns of a creditor may justify attendance at the Meeting of Creditors and such other action as may be appropriate under the circumstances. The deadline for the filing of objections to confirmation is ten days prior to the confirmation hearing.

Respectfully submitted this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
 Debtor  
 Address

\_\_\_\_\_  
 Co-Debtor  
 Address

\_\_\_\_\_  
 Attorney for Debtor  
 Address/Phone & Fax Number

**Certificate of Service**

**The Debtor(s) shall be responsible for service of the plan on the Trustee and all parties in interest.**

**ATTACH SCHEDULE OF VARIABLE PLAN PAYMENTS, IF APPLICABLE.**