

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA**

Name of Debtor:

Case No.

Last four digits of Soc. Sec. No.:

Last four digits of Soc. Sec. No.:

CHAPTER 13 PLAN

Section 1. Notices

- 1.01. Use of this form is mandatory.** The Bankruptcy Court of the Northern District of California requires the use of this local form chapter 13 plan in lieu of any national form plan. Fed. R. Bankr. P. 3015.1.
- 1.02. Nonstandard provisions.** Any nonstandard provision is in section 7 below. If there are nonstandard provisions this box must be checked []. A nonstandard provision will be given no effect unless this section indicates one is included in section 7 and it appears in section 7.
- 1.03. No alterations to form plan permitted.** Other than to insert text into designated spaces, to expand tables to include additional claims, or to change the plan title to indicate the date of the plan or that it is a modified plan, the preprinted text of this form shall not be altered. No such alteration will be given any effect.
- 1.04. Valuation of collateral and lien avoidance requires a proceeding.** The confirmation of this plan will not limit the amount of a secured claim based on a valuation of the collateral for the claim, nor will it avoid a security interest or lien. This relief requires a separate claim objection, valuation motion or adversary proceeding, or lien avoidance motion that is successfully prosecuted in connection with the confirmation of this plan.
- 1.05. Separate notice of confirmation hearing.** You will receive a separate notice of the date, time, and location of a hearing to confirm this plan and of the deadline to object to its confirmation. In the absence of a timely written objection, the plan may be confirmed without a hearing. It will be effective upon its confirmation.

Section 2. Plan Payments and Plan Duration

- 2.01. Monthly plan payments.** To complete this plan, Debtor shall submit to the supervision and control of Trustee on a monthly basis the sum of \$_____ from future earnings. This monthly plan payment is subject to adjustment pursuant to section 3.07(b)(4)(i) below and it must be received by Trustee not later than the 20th day of each month beginning the month after the order for relief under chapter 13. The monthly plan payment includes all adequate protection payments due on Class 2 secured claims.
- 2.02. Other payments.** In addition to the submission of future earnings, Debtor will make payment(s) derived from property of the bankruptcy estate, property of Debtor, or from other sources, as follows: _____

_____.
- 2.03. Duration of payments.** The monthly plan payments will continue for ____ months unless all allowed unsecured claims are paid in full within a shorter period of time. If necessary to complete the plan, monthly payments may continue for an additional 6 months, but in no event shall monthly payments continue for more than 60 months. This section is to be read in conjunction with section 3.14.

Section 3. Claims and Expenses

A. Proofs of Claim

- 3.01.** With the exception of the payments required by sections 3.03, 3.07(b), 3.08(b), 3.10, and 4.01, a claim will not be paid pursuant to this plan unless a proof of claim is filed by or on behalf of a creditor, including a secured creditor.
- 3.02.** The proof of claim, not this plan or the schedules, shall determine the amount and classification of a claim unless the court's disposition of a claim objection, valuation motion, adversary proceeding, or lien avoidance motion affects the amount or classification of the claim, consistent with section 1.04.
- 3.03.** Post-petition amounts due on account of a domestic support obligation, a loan from retirement or thrift savings plan, or an executory contract/unexpired lease being assumed, shall be paid by Debtor directly to the person entitled to such payments whether or not the plan is confirmed or a proof of claim has been filed.

B. Administrative Expenses

- 3.04. Trustee's fees.** Pursuant to 28 U.S.C. § 586(e), Trustee shall receive up to 10% of plan payments, whether made before or after confirmation, but excluding direct payments by Debtor on Class 4 claims and executory contracts and unexpired leases.
- 3.05. Debtor's attorney's fees.** Debtor's attorney was paid \$ _____ prior to the filing of the case. Subject to prior court approval, additional fees of \$ _____ shall be paid through this plan. Debtor's attorney will seek the court's approval by [**choose one**]: complying with General Order 35; or filing and serving a motion in accordance with 11 U.S.C. §§ 329 and 330, Fed. R. Bankr. P. 2002, 2016, and 2017 [if neither alternative is selected, the attorney shall comply with the latter].
- 3.06. Administrative expenses.** In accordance with sections 5.02 and 5.03 below, \$ _____ of each monthly plan payment shall be paid on account of: (a) compensation due a former chapter 7 trustee; (b) approved administrative expenses; and (c) approved attorney's fees. Approved administrative expenses shall be paid in full through this plan except to the extent a claimant agrees otherwise or 11 U.S.C. § 1326(b)(3)(B) is applicable.

C. Secured Claims

- 3.07. Class 1 includes all delinquent secured claims that mature after the completion of this plan, including those secured by Debtor's principal residence.**

(a) Cure of defaults. All arrearages on Class 1 claims shall be paid in full by Trustee. The monthly installments specified in the table below as the "monthly arrearage dividend," in conjunction with the distribution scheme in section 5 of this plan, shall pay the arrearages in full.

(1) If the provision for interest is left blank, interest will accrue at the rate of 0%.

(2) The arrearage dividend must be applied by the Class 1 creditor to the arrearages. If this plan provides for interest on the arrearages, the arrearage dividend shall be applied first to such interest, then to the arrearages.

(b) Maintaining payments. From plan payments received, Trustee shall make all post-petition monthly payments to the holder of each Class 1 claim whether or not a proof of claim is filed. The amount of any such payment shall be determined by this plan unless the claim holder demands a different amount in a notice of a payment change filed in accordance with Fed. R. Bankr. P. 3002.1(b).

(1) If Debtor makes a partial plan payment that is insufficient to satisfy all post-petition monthly payments due each Class 1 claim, distributions will be made in the order such claims are listed in the table below.

(2) Trustee will not make a partial distribution on account of a post-petition monthly payment.

(3) If Debtor makes a partial plan payment, or if it is not paid on time, and Trustee is unable to make timely a post-petition monthly payment, Debtor may be obligated to pay a late charge.

(4) Holders of Class 1 claims shall send all statements and notices concerning payments, impound escrow adjustments, interest rate adjustments, and the assessment of fees and costs both to Debtor and Trustee.

(i) If the holder of a Class 1 claim files a notice of payment change in accordance with Fed. R. Bankr. P. 3002.1(b) demanding a higher or lower post-petition monthly payment, the plan payment shall be adjusted accordingly.

(ii) If the holder of a Class 1 claim gives Debtor and Trustee notice of post-petition fees, expenses, and charges in accordance with Fed. R. Bankr. P. 3002.1(c), Debtor may modify this plan if Debtor wishes to provide for such fees, expenses, and charges.

(5) Post-petition monthly payments made by Trustee and received by the holder of a Class 1 claim shall be applied as if the claim was current and no arrearage existed on the date the case was filed.

(c) **No claim modification and lien retention.** Each Class 1 creditor shall retain its lien. Other than to cure arrears, this plan does not modify Class 1 claims.

Class 1 Creditor's Name/ Collateral Description	Amount of Arrears	Interest Rate on Arrears	Arrearage Dividend	Monthly Arrearage Dividend Start Date (Start Date will be a specific month/year during the plan)	Post-Petition Monthly Payment
1.					
2.					
3.					
			Totals:	\$	\$

3.08. Class 2 includes all secured claims that are modified by this plan, or that have matured by the petition date.

(a) **Payment of claim.** Subject to section 3.08(c), the “monthly dividend” payable to each Class 2A and 2B claim is a monthly payment sufficient to pay each claim in full with interest at the rate specified below. If no interest rate is specified, a 5% rate will be imputed.

(b) **Adequate protection payments.** Prior to confirmation and once a proof of claim is filed, Trustee shall pay on account of each Class 2(A) and 2(B) claim secured by a purchase money security interest in personal property an adequate protection payment if required by 11 U.S.C. § 1326(a)(1)(C). The adequate protection payment shall equal the monthly dividend. Adequate protection payments shall be disbursed by Trustee in connection with the customary disbursement cycle beginning the month after the case was filed. If a Class 2 claimant is paid an adequate protection payment, that claimant shall not be paid a monthly dividend for the same month.

(c) **Claim amount.** The amount of a Class 2 claim is determined by applicable nonbankruptcy law. However, except as noted below, Debtor may reduce the claim amount to the value of the collateral securing it by: (1) filing, serving, and obtaining an order granting a motion to determine the value of that collateral; or (2) filing, serving and obtaining a judgment in an adversary proceeding to determine the value of the collateral. If this plan proposes to reduce a claim based upon the value of its collateral, the failure to move to value that collateral in conjunction with plan confirmation may result in the denial of confirmation.

(1) **Class 2 claims that cannot be reduced based on value of collateral.** Debtor is prohibited from reducing a claim if the claim holder has a purchase money security interest and the claim either was incurred within 910 days of the filing of the case and is secured by a motor vehicle acquired for the personal use of Debtor, or was incurred within 1-year of the filing of the case and is secured by any other thing of value. These claims must be included in Class 2(A).

(2) **Class 2 claims that may be reduced based on the value of their collateral** shall be included in Class 2(B) or 2(C) as is appropriate.

(3) **Class 2 claims secured by Debtor’s principal residence.** Except as permitted by 11 U.S.C. § 1322(c), Debtor is prohibited from modifying the rights of a holder of a claim secured only by Debtor’s principal residence.

(d) **Lien retention.** Each Class 2 creditor shall retain its existing lien until completion of the plan, unless not required by the Bankruptcy Court, entry of Debtor’s discharge, or applicable non-bankruptcy law.

Class 2(A) Creditor's name and description of collateral	Purchase money security interest in personal property? YES/NO	Amount claimed by creditor	Value of creditor's interest in its collateral	Interest Rate	Monthly Dividend
Class 2(A) claims are not reduced based on value of collateral					
1.					
2.					
				Total \$	

Class 2(B) Creditor's name and description of collateral	Purchase money security interest in personal property? YES/NO	Amount claimed by creditor	Value of creditor's interest in its collateral	Interest Rate	Monthly Dividend
Class 2(B) claims are reduced to an amount greater than \$0 based on value of collateral					
1.					
2.					
				Total \$	

Class 2(C) Creditor's name and description of collateral	Purchase money security interest in personal property? YES/NO	Amount claimed by creditor	Value of creditor's interest in its collateral	Interest Rate	Monthly Dividend
Class 2(C) are claims reduced to \$0 based on value of collateral					
1.			\$0.00	0%	\$0.00
2.			\$0.00	0%	\$0.00
				Total \$	\$0.00

3.09. Class 3 includes all secured claims satisfied by the surrender of collateral.

Class 3 Creditor's Name/Collateral Description	Estimated Deficiency	Is Deficiency a Priority Claim? YES/NO
1.		
2.		

3.10. Class 4 includes all secured claims paid directly by Debtor or third party. Class 4 claims are not in default and are not modified by this plan. These claims shall be paid by Debtor or a third person whether or not a proof of claim is filed or the plan is confirmed.

Class 4 Creditor's Name/Collateral Description	Monthly Contract Installment	Person Making Payment
1.		
2.		

3.11. Bankruptcy stays.

(a) Upon confirmation of the plan, the automatic stay of 11 U.S.C. § 362(a) and the co-debtor stay of 11 U.S.C. § 1301(a) are (1) terminated to allow the holder of a Class 3 secured claim to exercise its rights against its collateral; and (2) modified to allow the nondebtor party to an unexpired lease that is in default and rejected in section 4 of this plan to obtain possession of leased property, to dispose of it under applicable law, and to exercise its rights against any nondebtor.

(b) Secured claims not listed as Class 1, 2, 3, or 4 claims are not provided for by this plan. While this may cause to terminate the automatic stay, such relief must be separately requested by the claim holder.

(c) If, after confirmation of the plan, the court grants a motion to terminate the automatic stay to permit a Class 1 or 2 claim holder to proceed against its collateral, unless the court orders otherwise, Trustee shall make no further payments on account of such claim and any portion of such claim not previously satisfied under this plan shall be satisfied as a Class 3 claim. Any deficiency remaining after the creditor's disposition of its collateral shall be satisfied as a Class 7 unsecured claim subject to the filing of a proof of claim.

D. Unsecured Claims

3.12. Class 5 consists of unsecured claims entitled to priority pursuant to 11 U.S.C. § 507.

(a) **Domestic support obligations entitled to priority pursuant to 11 U.S.C. § 507.** These claims will be paid in full except to the extent the claim holder has agreed to accept less or 11 U.S.C. § 1322(a)(4) is applicable. When the claim holder has agreed to accept less than payment in full or when 11 U.S.C. § 1322(a)(4) is applicable, the claim holder and the treatment of the claim shall be specified in section 7, the Nonstandard Provisions.

(b) **Taxes, and other priority claims entitled to priority pursuant to 11 U.S.C. § 507.** These claims will be paid in full except to the extent the claim holder has agreed to accept less. When the claim holder has agreed to accept less than payment in full, the claim holder and the treatment of the claim shall be specified in section 7, the Nonstandard Provisions.

(c) **Estimate of priority claims pursuant to 11 U.S.C. § 507.** Debtor estimates that all priority claims, not including those identified in section 7, total \$ _____.

3.13. Class 6 includes designated nonpriority unsecured claims, such as co-signed unsecured debts, that will be treated differently than the other nonpriority unsecured claims provided for in Class 7. The claim holder of each Class 6 claim and the treatment of each claim shall be specified in section 7, the Nonstandard Provisions.

3.14. Class 7 consists of all other nonpriority unsecured claims not provided for in Class 6. These claims total approximately \$ _____. The funds remaining after disbursements have been made to pay all administrative expense claims and other creditors provided for in this plan are to be distributed on a pro-rata basis to Class 7 claimants.

[select one of the following options:]

____ **Percent Plan.** Class 7 claimants will receive no less than ___% of their allowed claims through this plan.

____ **Pot Plan.** Class 7 claimants are expected to receive ___% of their allowed claims through this plan.

This section is to be read in conjunction with section 2.03.

Section 4. Executory Contracts And Unexpired Leases

4.01. Debtor assumes the executory contracts and unexpired leases listed below. Debtor shall pay directly to the other party to the executory contract or unexpired lease, before and after confirmation of this plan and whether or not a proof of claim is filed, all post-petition monthly payments required by the lease or contract. Unless a different treatment is required by 11 U.S.C. § 365(b)(1) and is set out in section 7, the Nonstandard Provisions, pre-petition arrears shall be paid in full. Trustee shall pay the monthly dividend payable specified in the table below on account of those arrears.

4.02. Any executory contract or unexpired lease not listed in the table below is rejected.

Name of Other Party to Executory Contract/ Unexpired Lease	Post-Petition Monthly Payment	Pre-petition Arrears	Monthly Arrearage Dividend
1.			
2.			
		Total \$	

Section 5. Payment of Claims and Order of Distribution

- 5.01. After confirmation, payments by Trustee to holders of allowed claims and approved expenses will be made monthly.
- 5.02. **Distribution of plan payment.** At a minimum, Debtor's monthly plan payment must be sufficient to pay in full: **(a)** Trustee's fees; **(b)** post-petition monthly payments due on Class 1 claims; **(c)** the monthly dividend specified in section 3.06 for administrative expenses; and **(d)** the monthly dividends payable on account of Class 1 arrearage claims, Class 2 claims, and executory contract and unexpired lease arrearage claims. If Debtor tenders a partial monthly plan payment to Trustee, Trustee shall pay, to the extent possible, such fees, expenses, and claims in the order specified in parts (a) through (d) of this section, including the order listed within a class. Once a monthly plan payment, or a portion thereof, is not needed to pay a monthly dividend because a fee, expense, or claim is not allowed or has been paid in full, such plan payment shall be paid pro rata, based on claim balance, to holders of: **first**, § 3.06 administrative expenses; **second**, Class 1 arrearage claims, Class 2 claims, and executory contract and unexpired lease arrearage claims; **third**, Class 5 priority claims; **fourth**, Class 6 unsecured claims; and **fifth**, Class 7 unsecured claims. Over the plan's duration, these distributions must equal the total dividends required by sections 3.04, 3.06, 3.07, 3.08, 3.12, 3.13, 3.14, and 4.01.
- 5.03. **Priority of payment among administrative expenses.** The portion of the monthly plan payment allocated in section 3.06 for administrative expenses, shall be distributed first to any former chapter 7 trustee up to the monthly amount required by 11 U.S.C. § 1326(b)(3)(B), and second, to holders of approved administrative expenses on a pro rata basis.

Section 6. Miscellaneous Provisions

6.01. **Vesting of property.** Property of the estate will revert in Debtor upon confirmation.

If Debtor does not want the property to revert, Debtor must check the following box: SHALL NOT REVEST.

If the property of the estate does not revert in Debtor, Trustee is not required to file income tax returns for the estate or insure any estate property. Upon dismissal or completion of this plan, all property shall revert in Debtor.

Notwithstanding the reversion of property in Debtor, the court will retain its supervisory role post-confirmation to enforce Fed. R. Bankr. P. 3002.1 and provide any other relief necessary to effectuate this plan and the orderly administration of this case.

After the property reverts in Debtor, Debtor may sell, refinance or execute a loan modification regarding real or personal property without further order of the court with the approval of Trustee.

6.02. **Debtor's duties.** In addition to the duties imposed upon Debtor by the Bankruptcy Code, the Bankruptcy Rules, and applicable nonbankruptcy law, Debtor shall provide Trustee not later than the 14 days after the filing of the case with the Domestic Support Obligation Checklist for each domestic support obligation and a Class 1 Checklist and Authorization to Release Information for each Class 1 claim.

6.03. **Creditor's duties.** In addition to the duties imposed upon a Creditor by Federal Law, State Law, and contract, the Plan imposes the following additional duties:

(a) Release of Lien. The holder of a claim shall retain its lien until the earlier of the payment of the underlying debt as determined under non-bankruptcy law, or applicable bankruptcy law. After either one of the foregoing events, the creditor shall release its lien and provide evidence and/or documentation of such release to Debtor within 30 days.

(b) Refund all Overpayments to the Trustee. Creditors shall not refund any payments or overpayments to the Debtor.

(1) If a creditor withdraws its Proof of Claim after the Trustee has disbursed payments on such claim, the creditor shall refund all payments to the Trustee within 60 days of the withdrawal.

(2) If a creditor amends its Proof of Claim to assert an amount less than what was previously disbursed by the Trustee on such claim, the creditor shall refund the overpayment to the Trustee within 60 days of the amendment.

(3) If a creditor receives payment from the Trustee in excess of the amount asserted in its Proof of Claim or required to be paid under this Plan, the creditor shall refund the overpayment to the Trustee within 60 days of receiving the overpayment.

6.04. Remedies upon default. If Debtor defaults under this plan, or if the plan will not be completed within six months of its stated term, not to exceed 60 months, Trustee or any other party in interest may request appropriate relief by filing a motion and setting it for hearing pursuant to Local Bankruptcy Rule 9014-1. This relief may consist of, without limitation, dismissal of the case, conversion of the case to chapter 7, or relief from the automatic stay to pursue rights against collateral. This is without prejudice to Debtor's right to seek plan modification under 11 U.S.C. § 1329.

6.05. Impermissible Provisions. Notwithstanding any other term in this plan, Debtor does not seek through the confirmation and completion of this plan either a determination of the dischargeability of any debt or the discharge of any debt that is non-dischargeable as a matter of law in a Chapter 13 case under 11 U.S.C. § 1328(a).

Section 7. Nonstandard Provisions

Debtor may propose nonstandard provisions that modify the preprinted text of this form plan. All nonstandard plan provisions shall be set forth below, or on a separate page(s) appended to this plan. Each such provision shall be identified by a section number beginning with section 7.01 and indicate which section(s) of the form plan are modified by it. Nonstandard provisions placed elsewhere in the plan are void. The signatures below are certifications by Debtor and Debtor's attorney that this plan form has not been altered and that all nonstandard provisions are in section 7 and appended to this plan.

Dated:

Debtor

Debtor

Dated:

Debtor's Attorney