**UNITED STATES BANKRUPTCY COURT**

**FOR THE DISTRICT OF SOUTH CAROLINA**

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| IN RE:  [Debtor(s) Name],  Debtor(s). | C/A No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_  Chapter 13 SETTLEMENT ORDERON MOTION FOR RELIEF FROM AUTOMATIC STAY(Conduit & Direct Pay/Equity) [[1]](#footnote-1) |

This matter comes before the Court on the motion for relief from the automatic stay filed by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Movant”) based upon Debtor(s)’ failure to comply with the terms of the previously confirmed Chapter 13 plan. The property or security which is the subject of the motion is described as follows:

[Property Description]

According to the certifications of facts, the value/equity in the subject property above the Movant’s lien is $\_\_\_\_\_\_.[[2]](#footnote-2)

Upon the agreement of the parties and the Chapter 13 Trustee, Debtor(s) are to address the default in the previously confirmed plan by increasing the plan payment to the Chapter 13 Trustee and curing the post-petition arrearage through other payments made directly to the Movant as described below.

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| **POST PETITION ARREARAGE:**  As of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Debtor(s) have accrued a post petition arrearage in the total amount of $*\_\_\_\_\_\_\_\_\_.* The post petition arrearage consists of:  Payments for the month(s) of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in the amount of $\_\_\_\_\_ per month.  Late charges in the amount of $ \_\_\_\_\_\_.  Attorney’s fees and costs in the amount of $\_\_\_\_\_\_\_\_.  Other costs (specify below) in the amount of $\_\_\_\_\_\_\_\_.  Therefore, it is hereby ORDERED:  **NEW PLAN PAYMENT TO TRUSTEE:**  Debtor(s) shall file an amended chapter 13 plan within 10 days of the entry of this Order providing that Debtor(s) shall pay regular monthly payments due to Movant by increasing the plan payments to the Chapter 13 Trustee. The total plan payment beginning with the \_\_\_\_\_\_\_\_\_\_\_\_ (month, year) payment will be $\_\_\_\_\_\_\_\_.  **CURE PAYMENT TO MOVANT:**  In addition to the payments to the Trustee, Debtor(s) shall cure the above listed post petition arrearage by making Cure Payments directly to the Movant as follows:  Pay initial payment of $ \_\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.  Pay $\_\_\_\_\_\_\_\_ per month beginning \_\_\_\_\_\_\_\_\_\_, 20\_\_ for \_\_\_ consecutive months.  Pay final payment of $\_\_\_\_\_\_ by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_.  Cure Payments shall be paid directly to Movant at:  [Address for Cure Payment]  **CONSEQUENCES OF DEFAULT:**  The failure to file an amended plan within 10 days of the entry of this Order or the failure to make a Cure Payment directly to Movant within 14 days from its due date shall be considered a default under the terms of this Order.  Upon a default, Movant or the Trustee may file an affidavit of default and request for further hearing, and a hearing will be scheduled to determine whether relief from stay is warranted.[[3]](#footnote-3) Debtor(s) and Trustee shall have ten (10) days from the date of service of the notice of further 362 hearing to object to the Movant’s request for relief. If no timely objections are filed, the Court may grant relief without any further hearing.  **OTHER AGREEMENTS:**  Movant agrees to waive any claim arising under 11 U.S.C. § 503(b) or § 507(b) as a result of this Order. In the event relief from the automatic stay is granted due to Debtor(s)’ default under the terms of this Settlement Order, Movant agrees that any funds received in excess of all liens, costs, and expenses will be paid to the Trustee.  The parties agree that the Fed. R. Bankr. P. 4001(a)(3) stay:  is applicable to any order granting relief for default on this settlement order.  is not applicable to any order granting relief for default on this Settlement  Order. |

**AND IT IS SO ORDERED.**

**WE SO MOVE AND CONSENT:**

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| /s/ Attorney for Movant  Attorney for Movant  District Court I.D. \_\_\_\_\_\_\_  /s/ Chapter 13 Trustee ­­­­­\_\_\_\_\_\_  Chapter 13 Trustee | /s/ Attorney for Debtor(s)  Attorney for Debtor(s)  District Court I.D. \_\_\_\_\_\_\_ |

**CERTIFICATION:**

Prior to consenting to this settlement order, the payment obligations set forth in this Order, including the amounts, method, and timing of payments, and consequences of default were reviewed with and agreed to by Debtor(s) or the party obligated to pay.

/s/ Attorney for Debtor(s)

Attorney for Debtor(s)

District Court I.D. \_\_\_\_\_

1. This form is to be used if the value/equity above the movant’s lien in the property exceeds $5,000.00. [↑](#footnote-ref-1)
2. The amount of equity states should be the total equity or value above the movant’s lien in the property without regard to any claimed exemptions or junior liens. [↑](#footnote-ref-2)
3. For defaults based on Debtor(s)’ failure to timely file an amended plan, Movant’s affidavit of default shall be with the consent of the Chapter 13 Trustee. [↑](#footnote-ref-3)