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Sample

Debt Settlement Letter, Debtor
Review List

This review list is provided to inform you about the document in question and assist you in its preparation. Early efforts to settle a debt, especially with an offer of a 100% payout of the reduced sum, often result in big savings for the debtor as well as extinguishing a nasty dispute. The challenge is to avoid being trapped by sending in money in settlement that the debtor then claims is only for balance reduction. The way to avoid this is to require a clear settlement offer from the creditor prior to tendering the money. Also, you are always on stronger ground if they draft the agreement because they then have more of the burden of proof on them, as the drafter, than you do, as well as they are more comfortable, as a rule, with their own documents.

Debt reduction negotiations depend largely, as in most negotiations, on how strong the other side's hand is. If they have good security, you cannot do much but you usually can do 10% to 20%. If they have no security, and are concerned about you as a credit risk, they may be willing to take a discount of 25% to 50%, or more. The other factor in the equation is "when" to make your pitch for a reduced offer. Generally the company credit people themselves are unwilling to do this though they will turn it over, often, to contingency credit people who will take a third off whatever is collected plus offer you a reduced amount.

In our experience, you can try with the original holder but remember you will get another crack at it with the collection people they assign the case to. As with all negotiations, it is a matter of how good you are at it and your ability to settle at a reasonable number for them as well as yourself.

1. The term "settlement talks only" has a specific meaning to most lawyers and collection people. Courts like settlement talks. If you say this is for Settlement Talks Only, most courts will not want to review the letter and, most importantly, not let the other side abuse you with it, if it comes down to trial. This is as much a custom as a legal fact or theory; therefore, you cannot rely on it absolutely but it should be at least somewhat helpful.
2. The other language is constructed so you do not get trapped into paying the settlement amount and then be dunned for the balance. The best way to achieve this is to get them to send you the offer themselves.
3. Many collection people try to whip up emotions to get you going and embarrass you into paying. This is a business for them. If they use this approach, it is only a tactic. Do not be put off. Don't argue. Just be firm about what you can and cannot do. In this case, being weak is to come out better (that is, with a lower settlement percentage). Remember, they get paid on commission, as a rule, unless you are dealing with in-house people (and even then many do), so time is money for them. Interestingly, there is more pressure on them to go down to the final limit of their discount authority—than there is for you. If you gauge this correctly, you can estimate pretty well when they get there. Then you need to take the offer, if you can, and pay it. See our Negotiation Handbook disc, with various role playing scenarios and text, for more information on how to deal with negotiations—an always challenging subject!

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THIS INDENTURE, made and entered on this _____ day of _____, 19____, between _____ herein referred to as the Grantor, the Office of Surface Mining Reclamation and Enforcement (OSM), United States Department of Interior, herein referred to as the Trustee, and the United States of America, together known as the Beneficiaries.

The above described real property, consisting of _____ acres in the aggregate, more or less was conveyed to the Grantor, _____, by warranty deed from _____ as evidenced by being recorded in Book _____, Page _____ of _____, in the records of _____ County Clerk's Office.

The Grantor covenants with the Trustee that it is lawfully seized in fee simple of the real estate above conveyed, has full power, right and authority to convey same, that said real estate is free from all encumbrances, and that it will forever warrant and defend it and the legal title thereto.

The Grantor agrees to pay all taxes assessed on the real estate as they become due and owing and to adduce proof of the payment of same by providing Trustee with a copy of the said receipt.

The Grantor agrees not to commit waste of any sort.

THIS MORTGAGE ASSUMPTION AGREEMENT (hereinafter referred to as the "Agreement") made and entered into as of this _____ (1) _____ day of _____ (2) _____, _____ (3) _____ by and between _____ (4) _____ of _____ (5) _____, hereinafter referred to as the "Lender" and _____ (6) _____ of _____ (7) _____ (hereinafter referred to as "Borrower").

WHEREAS, Lender is the holder and owner of the following documents (hereinafter sometimes collectively referred to as the "Loan Documents");

1. Mortgage Note dated _____ (8) _____, in the original principal face amount of _____ (9) _____ DOLLARS (\$ _____) executed and delivered by _____ (10) _____ (hereinafter referred to as the "Original Borrower") in favor of Lender (hereinafter referred to as the "Note"); and,
2. Mortgage given by Original Borrower as "Mortgagor" to Lender as "Mortgagee" dated _____ (11) _____, which Mortgage is recorded on the Public Records of _____ (12) _____ County, _____ (13) _____ at O.R. Book _____ (14) _____ Page _____ (15) _____ (hereinafter referred to as the "Mortgage"), and which Mortgage encumbers the real property as described therein, and,

WHEREAS, the Original Borrower is desirous of conveying the property encumbered by the Mortgage, (hereinafter referred to as the "Property") to Borrower; and,

WHEREAS, the Borrower desires to receive said Property and formally assume the Mortgage and perform all of the covenants and conditions contained in the Mortgage Note, the Mortgage and all other Loan Documents as partial consideration for its purchase of the Property and as consideration for the Lender's willingness to consent to the sale of the Property which is encumbered by the Loan Documents;

WHEREAS, the Mortgage expressly prohibits the conveyance of the Property without the express written consent of the Lender; and,

WHEREAS, the Lender is unwilling to give its consent to the transfer of the Property to the Borrower unless the Borrower shall assume all of the obligations heretofore imposed by the Loan Documents upon the Original Borrower;

NOW, THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00) and in consideration of the Premises and of the mutual covenants contained herein, and for other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereto agree as follows:

1. Assumption. Borrower expressly assumes the Loan Documents and agrees to perform all covenants, conditions, duties and obligations contained therein and agrees to pay the Note and the obligations evidenced thereby in a prompt and timely manner in accordance with the terms thereof.

2. **Consent to Conveyance.** Lender hereby consents to the transfer of the Property to the Borrower, but the Lender expressly reserves the right to withhold its consent to any future sale of

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