

UNIFORM GENERAL CLOSING INSTRUCTIONS

Mortgage Bankers Association of America (MBA)

American Land Title Association (ALTA)

American Escrow Association (AEA)

Post Comment Draft 12/18/08

NOTES TO POTENTIAL ADOPTERS

Companies that are considering adoption of these Uniform General Closing Instructions “GENERAL INSTRUCTIONS” and the Uniform Specific Closing Instructions “SPECIFIC INSTRUCTIONS”, (together the “INSTRUCTIONS”) into their normal business practice should be aware of the following goals that guided the construction of these INSTRUCTIONS:

These INSTRUCTIONS apply to Closings involving residential (1-4 family) properties and do not apply to closings involving Loans that are secured by multifamily or commercial properties. Reverse mortgage and manufactured home instructions will be developed later.

It is intended that changes will be required in traditional closing processes in order to make this concept work efficiently. Local traditions that have been observed for years, but add no value to the process, will have to be modified to create the uniformity desired.

It is intended that these INSTRUCTIONS will provide greater clarity about responsibilities for each step in the closing process and that these INSTRUCTIONS will change industry behaviors that are inherently subject to the risk of fraud.

It is expected that these INSTRUCTIONS will be one of the fundamental building blocks of the fully electronic mortgage process. Data to be transmitted between the parties is intended to be formatted according to Mortgage Industry Standards Maintenance Organization (MISMO) standards.

It is intended that adjustments in pre-closing procedures will be required so that the new timing requirements are met in the normal course of business. This will benefit all parties to the transaction, including consumers.

It is intended that MBA will update, as needed, and maintain the most current version of this document on an accessible web site. MBA will encourage its members to adopt the INSTRUCTIONS.

It is intended that industry trade groups will provide training to their members on the content of the INSTRUCTIONS and the behaviors that use of the INSTRUCTIONS

will require from their members. **Certain items set out in these GENERAL INSTRUCTIONS are identified as Training Directives and are not actual instructions.**

TABLE OF CONTENTS

A.	GENERAL CONDITIONS AND DEFINITIONS.....
A.1	SPECIFIC INSTRUCTIONS Prevail
A.2	Agreement to Comply; Penalties for Noncompliance
A.3	SPECIFIC INSTRUCTIONS Sections
A.4	Definitions
B.	MISCELLANEOUS
B.1	Timing Requirements
B.2	Unauthorized Practice of Law (UPL)
B.3	Lender's Successors and Assigns
B.4	Attachments Not Provided
B.5	Privacy Protection
C.	SETTLEMENT SERVICES.....
C.1	Approved Settlement Agent
C.2	Closing Protection
C.3	Gap Insurance
C.4	Coverage
C.5	Name of Insured
C.6	Loan Number
C.7	Lender's Title Policy and Endorsements
C.8	Lien Position
C.9	Exceptions and Restrictions
D.	PROPERTY INSURANCE.....
D.1	Flood Insurance
D.2	Hazard Insurance
D.3	Other Coverages
E.	SETTLEMENT STATEMENT.....
E.1	RESPA
E.2	Lender Approval
E.3	Allowable Closing Costs and Deposit Disclosures
E.4	Borrower Loan Proceeds
E.5	Payoffs
E.6	Good Faith Estimate at Closing
E.7	Escrow Accounts
E.8	Fees and Charges
E.9	Closing Cost Credits

- E.10 Mortgage Broker Compensation
- E.11 Settlement Agent Fees

F. CLOSING CONDITIONS.....

- F.1 Compliance with INSTRUCTIONS
- F.2 Verification of Identity
- F.3 Loan Document Review
- F.4 Closing Process
- F.5 Notice of Right to Cancel
- F.6 HOA Dues
- F.7 Power of Attorney
- F.8 Survey
- F.9 Repair and Wood Destroying Organisms
- F.10 Other Required Documents
- F.11 Document Formatting
- F.12 Document Completion
- F.13 Document Signing

G. DISBURSEMENT CONDITIONS.....

- G.1 Compliance with INSTRUCTIONS
- G.2 Document Completion
- G.3 Prior Authorization Required
- G.4 Additional Funding Conditions
- G.5 Warehouse Lender
- G.6 Rescission
- G.7 Sufficient Borrower Funds to Close
- G.8 Table Funded Loans and Concurrent Closings
- G.9 Excess Loan Proceeds
- G.10 Document Delivery
- G.11 Loan Payment Instructions

H. POST-DISBURSEMENT CONDITIONS.....

- H.1 Loan Document Delivery
- H.2 Land Record Filings
- H.3 Recorded Document Delivery
- H.4 Title Policy
- H.5 IRS Filings
- H.6 Document Requests
- H.7 Document Resolution
- H.8 Damage or Loss
- H.9 Ownership of Loan Documents
- H.10 No Limitations on Usage

I. MANUFACTURED HOUSING INSTRUCTIONS.....

J. FRAUD PREVENTION AND DISCLOSURE OF SUSPICIOUS ACTIVITIES

- J.1 Reporting Suspicious Activities
- J.2 Suspicious Activities

K. MODEL FORMS

- K.1 Mortgage Broker Acknowledgement
- K.2 Borrower Certification
- K.3 Non-Borrower Acknowledgment

L. ELECTRONIC CLOSING REQUIREMENTS.....

- L.1 Consent
- L.2 Title Insurance Requirements for eMortgages
- L.3 Electronic Signatures
- L.4 eNote Signatures
- L.5 Borrower access to eNote
- L.6 Register the eNote on the MERS® eRegistry

M. ELECTRONIC RECORDS MAINTENANCE.....

- M.1 Maintaining Electronic Documents with Electronic Signatures
- M.2 Tamper-Evident Seals
- M.3 File Formats
- M.4 Self Contained

COMMENT DRAFT

UNIFORM GENERAL CLOSING INSTRUCTIONS

These INSTRUCTIONS apply to loans secured by residential 1-4 unit properties.

A. GENERAL CONDITIONS AND DEFINITIONS

A.1 These Uniform General Closing Instructions “GENERAL INSTRUCTIONS” and the Uniform Specific Closing Instructions “SPECIFIC INSTRUCTIONS”, (together the “INSTRUCTIONS”) are an agreement between Lender and Settlement Agent whereby Settlement Agent agrees to perform Loan Closings and other settlement services for Lender, and Lender agrees to provide information, Loan Documents and Loan Proceeds to Settlement Agent, as specified in these INSTRUCTIONS. Any instruction contained in these GENERAL INSTRUCTIONS may be overridden by a provision in the SPECIFIC INSTRUCTIONS.

A.2 Agreement to Comply.

By conducting the Closing, Settlement Agent affirms that Settlement Agent has read, understands and agrees to comply with and satisfy all conditions of the INSTRUCTIONS, including all attachments listed in the **ATTACHMENTS** section of the SPECIFIC INSTRUCTIONS.

Settlement Agent must not change, modify or waive any provisions of the INSTRUCTIONS without Lender’s prior Written Consent. If Settlement Agent uses a Signing Agent, Settlement Agent is responsible for selecting and directing Signing Agent and is responsible for the actions of any Signing Agent utilized in this transaction. Settlement Agent shall not designate as a Signing Agent any of the following: Lender, any real estate agent or broker involved in the transaction, or Mortgage Broker, or any of their employees.

Training Directive: Employees of Settlement Agent who conduct Signings are doing so as Settlement Agent and not as Signing Agent.

To the extent permissible under Applicable Law, Settlement Agent agrees to indemnify Lender from any losses resulting from Settlement Agent’s or Signing Agent’s failure to follow the INSTRUCTIONS. (see next paragraph instead) Such indemnification shall be capped at an amount equal to one hundred (100) times the amount of the closing fees paid to the Settlement Agent in the related Closing if the failure to follow the INSTRUCTIONS is negligent and not willful, and will include, but not be limited to, reasonable attorney’s fees and court costs incurred by Lender. Such indemnification shall not be capped if there is found to be participation or involvement in a fraud against the Lender by the Closing Employee or the Signing Agent.

Lender must promptly send written notice of a claim under this indemnity to Settlement Agent at its Mailing Address shown on the Uniform Specific Closing Instructions. Settlement Agent is not liable for a loss if the written notice is not received within one year from the date of the closing. Settlement Agent will not be liable to Lender for loss arising out of fraud, dishonesty or negligence of Lender's employee, agent, or attorney, Lender's settlement or release of any claim without the written consent of Settlement Agent, any matters created, suffered, assumed or agreed to by Lender, or any matters known to Lender.

When Settlement Agent shall have reimbursed Lender pursuant to this indemnity, it shall be subrogated to all rights and remedies which Lender would have had against any person or property had Lender not been so reimbursed. (see paragraph above) Either Settlement Agent or Lender may demand that any claim arising under this letter be submitted to arbitration pursuant to the Title Insurance Arbitration Rules of the American Land Title Association.

Training Directive: Failure to comply with the INSTRUCTIONS may also result in Settlement Agent being removed from Lender's approved settlement agent list.

A.3 The SPECIFIC INSTRUCTIONS contain the following Sections:

1. SUMMARY
2. PROPERTY
3. BORROWER AND OTHER SIGNATORIES
4. LENDER CONTACTS
 - A. GENERAL CONTACT
 - B. FRAUD PREVENTION CONTACT
5. LOAN INFORMATION
6. OTHER CONTACTS
 - A. SETTLEMENT AGENT
 - B. MORTGAGE BROKER
 - C. SELLER
 - E. REAL ESTATE AGENT/BROKER
 - F. TITLE AGENT
 - G. WAREHOUSE LENDER
7. MORTGAGEE TITLE INSURANCE
8. PROPERTY INSURANCE
9. LOAN DOCUMENTS
10. FEES, CHARGES, IMPOUNDS AND PAYOFFS
11. LOAN CONDITIONS
 - A. PRE-SIGNING CONDITIONS
 - B. PRE-FUNDING CONDITIONS
12. FUNDING AND RETURN OF LOAN PROCEEDS
 - A. FUNDING INFORMATION
 - B. RETURN OF LOAN PROCEEDS
13. ATTACHMENTS

A.4 Definitions.

Capitalized terms used in these GENERAL INSTRUCTIONS are defined in the SPECIFIC INSTRUCTIONS and these GENERAL INSTRUCTIONS:

Training Directive: These terms are defined for purposes of the INSTRUCTIONS and may differ from more common uses of the terms. NOTE: Not all definitions provided in the GENERAL INSTRUCTIONS are set out below. Some are contained within the Notes above or in the text of the GENERAL INSTRUCTIONS themselves.

- a. "Applicable Law" means all federal laws and regulations and state and local laws and regulations that apply to mortgage lending and real estate transactions for Property located in a given state.
- b. "Business Day" means a day on which National Banks are open to the public for carrying on substantially all business functions and ending at 5:00 p.m. in the Settlement Agent's time zone. However, for purposes of rescission the term means all calendar days except Sundays and the legal public holidays specified in 5 U.S.C. 6103(a) (http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=browse_usc&docid=Cite:+5USC6103).
- c. "Borrower" means the Person shown as Borrower in the **BORROWER AND OTHER SIGNATORIES** section of the SPECIFIC INSTRUCTIONS.
- d. "Borrower's Certification" means the document attached to these GENERAL INSTRUCTIONS as **Model Form K.2**.
- e. "Close" or "Closing" or any derivative of either means: (i) procuring signatures, (ii) the Process of collecting and disbursing funds, and (iii) satisfying any conditions required to achieve Completion of Closing in connection with the Loan.
- f. "Closing Documents" means all the Loan Documents, Recordable Documents and any other documents required for Completion of Closing.
- g. "Closing Employee" means the individual employed by Signing Agent or Settlement Agent who is directly responsible for supervising the Signing of the Loan Documents and who is present at the Signing for the purpose of procuring Borrower's signature on Loan Documents.
- h. "Closing Protection Letter" means the document issued by Title Insurer to Lender which document provides certain protections to Lender with respect to the acts or omissions of Settlement Agent, in a form acceptable to Lender.
- i. "Completion of Closing" means: (i) the completion of Disbursing Lender's Loan Proceeds as instructed by Lender in these INSTRUCTIONS, (ii)

returning properly signed and dated Loan Documents to Lender, and (iii) filing the Recordable Documents with the appropriate land records office.

- j. “Disburse” or any derivative of the word means the act of Settlement Agent or any other authorized party releasing the Loan Proceeds to the appropriate persons.
- k. “Disbursement Approval” means the Written Approval of Lender authorizing Settlement Agent to Disburse the Loan Proceeds. *Training Directive: may be called funding approval or obtaining a funding number.*
- l. “Electronic Note” or “eNote” means an Electronic Record under E-SIGN (See <http://uscode.house.gov/download/pls/15C96.txt>) and UETA (<http://www.ncsl.org/programs/lis/CIP/ueta.htm#Federal>) that:
 - i. would be a note under the Uniform Commercial Code if the Electronic Record were in writing;
 - ii. the issuer of the Electronic Record expressly has agreed is a Transferable Record; and
 - iii. for purposes of E-SIGN, relates to a loan secured by real property. A Transferable Record is also referred to as an eNote.
- m. “Electronic Record” means a record created, generated, sent, communicated, received, or stored by electronic means.
- n. “Electronic Signature” means an electronic symbol or Process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- o. “Escrow Closing” means a type of loan closing Process in which Settlement Agent accepts at different times the Loan Proceeds and Security Instrument from Lender, any other required funds and documents, and Closes the Loan and performs the actions required for Completion of Closing. *Training Directive: See also “Secondary Escrow” definition.*
- p. “Escrow Account” means any account used to hold the Loan Proceeds and other funds related to the Closing in accordance with Applicable Law. *Training Directive: This is to be distinguished from Tax and Insurance impound accounts which are sometimes also called escrow accounts.*
- q. “Escrow Closing State” means a state where loans are traditionally Closed by Escrow Closing.
- r. “Fund” or any other derivative of the word means delivery of the Loan Proceeds by Lender to Settlement Agent or Title Insurer in a Secondary Escrow and confirmed receipt thereof.

- s. “Lender” means the Person shown in **Section A** of the **LENDER CONTACTS** section of the SPECIFIC INSTRUCTIONS.
Training Directive: All references herein to contacting the Lender in these instructions refer to the persons designated in the SPECIFIC INSTRUCTIONS, i.e. the Fraud Prevention Contact or the Processing Contact as appropriate.
- t. “Loan” means the Loan described in the **LOAN INFORMATION** section of the SPECIFIC INSTRUCTIONS.
- u. “Loan Documents” means all documents required by Lender to Close the Loan.
- v. “Loan Proceeds” means the funds delivered by Lender to Settlement Agent or Title Insurer in a Secondary Escrow.
- w. “MERS® eRegistry” means the System owned by Mortgage Electronic Registrations System, Inc. (MERS) that identifies the owner (Controller) and Custodian (Location) for registered eNotes.
- x. “MIN Number” means “Mortgage Identification Number.” The 18-digit number used to identify a loan on the MERS® eRegistry.
- y. “MISMO” means the Mortgage Industry Standards Maintenance Organization.
- z. “Mortgage Broker” means the Person, if any, shown as Mortgage Broker in the **OTHER CONTACTS** section of the SPECIFIC INSTRUCTIONS.
- aa. “Mortgage Broker Certification” means the document attached to these GENERAL INSTRUCTIONS as **Model Form K.1**.
- bb. “Non-Borrower Acknowledgment” means the document attached to these GENERAL INSTRUCTIONS as **Model Form K.3**.
- cc. “Person” means any natural person or persons, or any legally created entity.
- dd. “Person with Rights” means any Person who may have an interest in the Property by virtue of a relationship with Borrower or an owner of the Property under Applicable Law. *Training Directive: This includes spouses, Registered Domestic Partners, members of a Civil Union, any other relationships recognized by Applicable Law, and those having a homestead or equitable or legal interest.*
- ee. “POC” means paid outside of Closing.

- ff. “Power of Attorney” means a legal instrument that is used to delegate legal authority to another. The person who signs (executes) a Power of Attorney is called the Principal. The Power of Attorney gives legal authority to another person (called an Agent or Attorney-in-Fact) to make and/or consummate property, financial or other legal decisions for the Principal.
- gg. “Procedure” or “Process” means the series of actions or steps necessary to perform a particular task or meet a particular requirement. Except where Applicable Law or the context requires otherwise, a Procedure or Process may be deployed through electronic means, or involve steps or actions which are non-electronic, or a combination of the two.
- hh. “Property” means the property identified in the Property Information Section of the SPECIFIC INSTRUCTIONS. Property is real property unless otherwise stated in the **PROPERTY** section of the SPECIFIC INSTRUCTIONS.
- ii. “Recordable Documents” means all the documents that are required to be recorded in the applicable Land Records office to accomplish the Completion of Closing.
- jj. “Secondary Escrow” means a type of Loan Closing in which Title Insurer or its approved agent provides services in support of Settlement Agent by receiving the Loan Proceeds and other Closing funds and performing other functions in accordance with these GENERAL INSTRUCTIONS with respect to matters and payments that pertain to title issues. *Training Directive: Not to be confused with a direct title settlement operations. This process is used when protections afforded by the Closing Protection Letter are not available with respect to Settlement Agent. This may also be known as a sub escrow.*
- kk. “Security Instrument” means the mortgage, or deed of trust, security deed, deed to secure debt, or any other instrument, including any attachments or riders thereto, securing Lender’s Loan with a lien against the Property.
- ll. “Seller” means the Person shown as Seller in the **OTHER CONTACTS** section of the SPECIFIC INSTRUCTIONS.
- mm. “Settlement Agent” means the Person shown as Settlement Agent in the **OTHER CONTACTS** section of the SPECIFIC INSTRUCTIONS. *Training Directive: A Title Insurer may be considered a Settlement Agent if acting pursuant to a Secondary Escrow arrangement as defined below or if acting through a direct operation.*
- nn. “Settlement Statement” means the HUD-1 or HUD-1A form pursuant to the Real Estate Settlement Procedures Act (RESPA) (See

<http://uscode.house.gov/download/pls/12C27.txt>) and Regulation X (24 CFR 3500) (See http://www.access.gpo.gov/nara/cfr/waisidx_07/24cfr3500_07.html) including Appendix A to Part 3500.

- oo. "Sign" or any derivative of the word means the act of any Person executing any of the Closing Documents or any other document required by these Instructions. Any Signature may be accomplished by any Procedure or Process approved by the Lender.
- pp. "Signer" or any derivative of the word means the Person executing the Closing Documents.
- qq. "Signing Agent" means any Person, other than an employee of Settlement Agent, who is designated by Settlement Agent to supervise the Signing of the Loan Documents.
- rr. "System" means a computer system, or any component of such computer system, used to create, register, transfer, store, maintain, retrieve, and/or secure an eNote or other electronic documents.
- ss. "System Provider" means a person that provides a System, or any component of such System, used to create, register, transfer, store, maintain, retrieve, and/or secure an eNote or other electronic documents
- tt. "Tamper-Evident Seals" means a "seal" wrapping an electronic document that is created by a digital signature. The seal can be verified to ensure that no changes have been made to the document since the seal was put in place.
- uu. "TIL" means the Truth in Lending Disclosure Statement required by Applicable Law (See <http://uscode.house.gov/download/pls/15C41.txt> and then scroll down to SUBCHAPTER I - CONSUMER CREDIT COST and regulations at http://www.access.gpo.gov/nara/cfr/waisidx_07/12cfr226_07.html).
- vv. "Title Agent" means a Title Insurer or any other Person authorized by Title Insurer to issue a Title Policy.
- ww. "Title Insurer" means the insurer under the title policy.
- xx. "Title Commitment" means a preliminary report or commitment to issue a Title Policy.
- yy. "Title Policy" means Lender's policy of title insurance to be issued in compliance with **Section C** of these GENERAL INSTRUCTIONS. *Training Directive: (See <http://www.alt.org/forms/>) for states where state specific forms are not otherwise required.*

zz. "Warehouse Lender" means the Person shown as Warehouse Lender in the **Summary** section of the SPECIFIC INSTRUCTIONS.

aaa. "Written Approval or Consent" means an approval or consent Signed by an authorized employee of the entity granting such consent or approval.

B. MISCELLANEOUS

B.1 Timing Requirements.

If this Loan is not Signed and Disbursed on or before the Signing Expiration Date as provided in the **LOAN DOCUMENTS** section of the SPECIFIC INSTRUCTIONS, Settlement Agent must immediately notify Lender's General Contact identified in the **LENDER CONTACTS** section of the SPECIFIC INSTRUCTIONS and return the Loan Documents and the Loan Proceeds to Lender at Lender's expense, unless otherwise instructed by Lender in writing.

B.2 Unauthorized Practice of Law (UPL).

Settlement Agent and Signing Agent must comply with all applicable UPL statutes, regulations or final judicial or administrative rulings in connection with the Closing.

B.3 Lender's Successors and Assigns.

Settlement Agent agrees and understands that Lender may sell the Loan in the secondary market and all of Lender's rights and privileges and obligations under the INSTRUCTIONS inure to the benefit of Lender's successors and assigns subject to any claims and defenses otherwise maintainable against Lender.

B.4 Attachments Not Provided.

Settlement Agent agrees to request from Lender (and Lender agrees to promptly provide) any enclosure or attachment referenced in the SPECIFIC INSTRUCTIONS that was not provided by Lender at least one Business Day before Signing. Signing shall be postponed to a time at least one Business Day after receipt of the complete package, unless otherwise agreed in writing by all parties to the Closing. *Training Directive: In order to simplify the reconciliation process, Lender shall only supply specific documents requested, rather than a resend of the entire package.*

B.5 Privacy Protection.

Settlement Agent and Signing Agent are required to follow applicable federal and state privacy protection laws and regulations and shall have policies and procedures in place to meet these requirements.

a.

C. SETTLEMENT SERVICES.

C.1 Title Agent.

- a. If Settlement Agent, as Title Agent, issues the Title Commitment on behalf of a specific Title Insurer, Settlement Agent must also issue a Title Policy from the same Title Insurer unless otherwise approved in writing by Lender.

Training Directive: Lender may agree to receive a Title Policy from a substitute title insurer if Lender receives a satisfactory Closing Protection Letter from that substitute title insurer.

- b. Settlement Agent must immediately notify Lender in writing to the 'General Contact' identified in the **LENDER CONTACTS** section of the SPECIFIC INSTRUCTIONS if Title Insurer whose name is on the Title Commitment terminates its underwriting agreement with Settlement Agent for any reason prior to the Completion of Closing.

C.2 Closing Protection.

Unless prohibited by Applicable Law, if Settlement Agent is not a direct operation of Title Insurer, Settlement Agent who is acting as a Title Agent must provide Lender with a valid and current Closing Protection Letter acceptable to Lender, issued by Title Insurer subject to payment of applicable charges. *Training Directive: If a Closing Protection Letter cannot be provided, Lender may agree to accept errors and omission coverage and fidelity bond, or an agreement from Title Insurer to manage a Secondary Escrow, or other arrangements satisfactory to Lender. Title Insurers that operate Settlement Agents as direct operations (i.e. owned by the Title Insurer) are already responsible for the actions of their subsidiary. (See <http://www.alta.org/forms/>) for standard Closing Protection Letter format.*

The Closing Protection Letter must be issued by the same Title Insurer that issued the Title Commitment to Lender. The Closing Protection Letter must accurately identify Lender by its name as shown on the Note. Unless additional requirements are imposed by Applicable Law, the transfer of Loan Proceeds to Settlement Agent constitutes Lender's acceptance of the terms of closing protection coverage offered by Settlement Agent.

Training Directive: It is expected that a separate Closing Protection Letter will be issued for each Loan Closing, but some Lenders may arrange master arrangements. Individual Closing Protection Letters should be dated within two weeks of the Closing Date. .

Training Directive-It is not necessary or appropriate to ask for a Closing Protection Letter when Settlement Agent is a direct operation of Title Insurer.

C.3 Gap Coverage.

In states where gap coverage is available and is not included in the Title Policy, Settlement Agent must direct Title Insurer to issue applicable gap coverage for the transaction to the Lender. Gap is the time period between the effective date of the Title Commitment and the recording of the interest to be insured.

C.4 Coverage.

The Title Policy liability amount must be as provided in the **TITLE INSURANCE** section of the SPECIFIC INSTRUCTIONS.

C.5 Name of Insured.

The insured named on the Title Policy must read as set out in the **TITLE INSURANCE** section of the SPECIFIC INSTRUCTIONS.

C.6 Loan Number.

When provided by Lender in the **LOAN INFORMATION** section of the SPECIFIC INSTRUCTIONS, the Mortgage Identification Number (MIN) and Lender's loan number must appear on the first page of Schedule A of the Title Policy for informational purposes only. **Texas needs to fix its forms to accommodate this.**

C.7 Lender's Title Policy.

A Title Policy must be issued as identified in 'Type of Title Policy' and the 'Endorsements' Subsections of the **TITLE INSURANCE** section of the SPECIFIC INSTRUCTIONS.

- a. The Title Policy must be the most current ALTA Loan Policy (see <http://alta.org/forms/>) or the state-specific equivalent. Lender requires an ALTA Short Form Loan Policy version of the current ALTA Loan Policy, or state-specific equivalent, where available, unless otherwise specified in the Uniform Specific Closing Instructions.
- b. Iowa Only: Lender may accept a final title opinion insured by Iowa Title Guaranty in lieu of a Title Policy.

C.8 Lien Position.

- a. Validity. Only subject to any applicable exceptions shown in **Section C.9** of these GENERAL INSTRUCTIONS, or otherwise agreed to by Lender in the **TITLE INSURANCE** section of the SPECIFIC INSTRUCTIONS, the Title Policy must insure that Lender's Security Instrument creates a valid lien on the Property and that Lender's interest is insured in the lien priority position provided in the **TITLE INSURANCE** section of the SPECIFIC INSTRUCTIONS.
- b. Subordination. Settlement Agent must obtain Lender's prior Written Consent for the subordination of any existing lien. The proposed subordination agreement must be on a form acceptable to Lender.

Settlement Agent must record the subordination agreement as specified in the **TITLE INSURANCE** section of the SPECIFIC INSTRUCTIONS.

- c. Persons with Rights. The Title Policy must not contain any exception for any legal or equitable right, title or interest that any Person with Rights may have in the Property.

C.9 Exceptions and Restrictions.

Except as otherwise provided in the **Title Insurance** section of the SPECIFIC INSTRUCTIONS, Settlement Agent shall instruct the Title Insurer that only exceptions substantially similar to the following, or exceptions relating to the same matters in any other current ALTA Loan Policy, or state-specific equivalent:

- a. Those taxes and special assessments that become due or payable subsequent to Date of Policy.
- b. Covenants, conditions, or restrictions, if any, appearing in the Public Records.
- c. Any easements or servitudes appearing in the Public Records.
- d. Any lease, grant, exception, or reservation of minerals or mineral rights appearing in the Public Records.
- e. Any other standard exceptions that appear in a standard state-specific form as required for all similar Loan Policies.

The exceptions must also include affirmative insurance as appears in the ALTA Short Form Loan Policy or in the standard state-specific equivalent form or must also include an ALTA Endorsement 9-06 or equivalent state-specific form available in the state.

The Title Policy may contain any other exceptions or restrictions approved in writing or electronically by the Lender.

Training Directive: If Lender approves a specific restriction, Lender may wish to inquire as to whether title insurance coverage via an ALTA Form 9 Endorsement (or regional equivalent) will be available to provide insurance that such restrictions are not violated as of the date of the policy and any future violation will not result in forfeiture or reversion of title. Settlement Agent needs to review these matters with Title Insurer.

D. PROPERTY INSURANCE.

D.1 Flood Insurance.

If Flood insurance is required for the Property in the **PROPERTY INSURANCE** section of the SPECIFIC INSTRUCTIONS, Borrower must sign the Notice of Flood Hazard Acknowledgment Receipt.

D.2 Hazard Insurance.

Borrower must provide Settlement Agent evidence of insurance (paid premium, binder, endorsement, or certificate) to substantiate the figures placed on the Settlement Statement.

D.3 Other coverages may be required. See the **PROPERTY INSURANCE** section of the SPECIFIC INSTRUCTIONS.

E. SETTLEMENT STATEMENT.

E.1 RESPA.

Settlement Agent must prepare a Settlement Statement in accordance with the instructions set out in the SPECIFIC INSTRUCTIONS. Settlement Agent must provide and deliver the Settlement Statement to Borrower, Seller and Lender in accordance with 24 CFR § 3500.

(See http://www.access.gpo.gov/nara/cfr/waisidx_07/24cfr3500_07.html).

Under these provisions, Settlement Agent must permit Borrower to inspect the Settlement Statement, completed to set out those items that are known to Settlement Agent at the time of delivery for inspection, during the Business Day immediately preceding the Signing.

If Lender has not provided the information required for Settlement Agent to comply with this **Section E.1** at least two full Business Days before the scheduled Signing, Lender must notify Settlement Agent, Borrower and Mortgage Broker, if any, that the scheduled Signing has been postponed to a date and time at least two Business Days after receipt of required information from Lender, unless there is a knowing and uncoerced waiver of the two full Business Day time period requested by Borrower, **and Lender, Settlement Agent, and Borrower** all agree in writing to an expedited Signing. *Training Directive: This waiver is intended to be allowed only in extraordinary circumstances. All parties need to plan ahead so that normal time crunches such as lock expiration do not become an issue.*

E.2 Lender Approval.

a. General Rule. Settlement Agent must forward the final Settlement Statement to Lender's General Contact and obtain Lender's Written Approval of the final Settlement Statement at least one full Business Day before Signing (Subject to **Section E.1** of these GENERAL INSTRUCTIONS when Lender's information is not timely received). Once Lender has approved the Settlement Statement, Settlement Agent will not

make any changes to the Settlement Statement without first securing Lender's Written Approval of the changes. If Lender returns the Settlement Statement to Settlement Agent with changes to be made, final approval has not been given and will not be given until Lender receives a revised Settlement Statement. Date driven changes and minor changes (less than \$10) to recording fees will not require Lender's prior approval.

- b. Escrow Closing State. Settlement Agent must obtain Lender's Written Approval of an estimated Settlement Statement at least one full Business Day before Signing (Subject to **Section E.1** of these GENERAL INSTRUCTIONS when Lender's information is not timely received). Once Lender has approved the estimated Settlement Statement, Settlement Agent will not make any changes to the estimated Settlement Statement without first securing Lender's Written Approval of the changes. If Lender returns the estimated Settlement Statement to Settlement Agent with changes to be made, final approval has not been given and will not be given until Lender receives a revised estimated Settlement Statement. Date driven changes and minor changes (less than \$10) to recording fees will not require Lender's prior approval.

Training Directive: The difference between the General Rule and the Escrow Closing Rule is that the Settlement Statement can only be estimated in an Escrow Closing prior to Closing.

Training Directive: Examples of "date driven" changes would be "pre-paid interest" and "interest on loan payoffs" and "tax prorations and/or tax payments".

- c. Changes at Signing. If changes occur in the Settlement Statement at the time of Signing, Settlement Agent must submit the proposed changes to Lender's Contact shown in the **LENDER CONTACTS** section of the SPECIFIC INSTRUCTIONS for Written Approval. Lender will respond to Settlement Agent within two business hours of receiving the proposed changes. Lender's failure to respond timely will result in further postponement of the Closing.

Training Directive: This applies to changes to both the Borrower and Seller side of the Settlement Statement. This also means that the Settlement Agent should not allow signing to continue until Lender approval is received.

E.3 Closing Costs and Deposit Disclosures.

The Loan Amount may be based on Borrower financing any or all closing costs shown in the **FEES, CHARGES, IMPOUNDS, AND PAYOFFS** section of the SPECIFIC INSTRUCTIONS. If Borrower's actual closing costs are LESS than the amount shown in the **FEES, CHARGES, IMPOUNDS, AND PAYOFFS** section of the SPECIFIC INSTRUCTIONS, Settlement Agent must contact Lender immediately for approval of the difference. The Settlement Statement must accurately disclose the amount and depositor of any monies contributed on

behalf of Borrower or deposited with Lender, if known by Settlement Agent. Third party deposits must be disclosed based on the information provided to the Settlement Agent in the 200 Series on or below line 204 of the Settlement Statement.

- *Training Directive: Lender must specify the required information on funds in its possession in the **LOAN CONDITIONS** section of the **SPECIFIC INSTRUCTIONS**. For example, the Borrower brings in a Cashier's Check – and the "purchaser's name" is not that of the Borrower – show this cashier's check below Line 204, with the name of the "purchaser of the check" as the "depositor". It is not the Settlement Agent's responsibility to "look behind" the items delivered for deposit – but may rely on the face of the item when determining the "depositor".*

E.4 Borrower Loan Proceeds.

Borrower must not receive any Loan Proceeds other than the amount approved by Lender in the **PREFUNDING CONDITIONS** section or **ATTACHMENTS** section of the **SPECIFIC INSTRUCTIONS**. If Lender approves a cash payment to Borrower, those Loan Proceeds must be paid directly to Borrower in the form of a single check unless otherwise approved by Lender.

Training Directive: The single check is intended to minimize the opportunity of unscrupulous parties to the transaction from encouraging the Borrower to request multiple disbursement checks that are readily endorsed to such persons.

E.5 Payoffs.

The Settlement Statement must reflect the amount of any of Borrower's outstanding debt as set out in the payoff statements required to be paid off with Lender's Loan Proceeds. Required payoffs of credit cards or collection accounts, if any, are specified in the **PRE-FUNDING CONDITIONS** section of the **SPECIFIC INSTRUCTIONS**. If Borrower provides a more current statement from the credit card or collection account holder, the Settlement Agent shall provide a copy to Lender. Lender shall provide Written Approval to any changes to the Settlement Statement within two business hours. The Settlement Agent must send a payment in the amount and to the creditor, address and account as provided by the Lender. If the payment is returned to the Settlement Agent, the Settlement Agent may return that amount to the Borrower.

*Training Directive: See **Sections E.2.c. and G.4** of these **GENERAL INSTRUCTIONS** above for directions on how to proceed.*

E.6 Good Faith Estimate at Signing.

If Lender requests the Good Faith Estimate (GFE) be acknowledged or re-acknowledged at time of Signing, the GFE form must be dated the date the GFE was initially provided to Borrower (as shown by Lender in the **LOAN INFORMATION** section of the **SPECIFIC CLOSING INSTRUCTIONS**) and the acknowledgment must be dated the date it was actually signed (i.e. at Signing).

E.7 Escrow Accounts.

Settlement Agent must pass all monies it collects related to the Closing through its Escrow Accounts, unless otherwise directed by Lender in the SPECIFIC CLOSING INSTRUCTIONS, and properly disclose them on the Settlement Statement.

E.8 Fees and Charges.

Except as provided in **Section E.10** of these GENERAL INSTRUCTIONS, and as itemized in the SPECIFIC INSTRUCTIONS, only charges actually paid outside of Closing may be marked POC. If the Closing consists of two Loans to be secured by a first lien and a junior lien, respectively, and Lender authorizes Settlement Agent to prepare only one Settlement Statement combining both Loans, all fees must be disclosed separately and must be clearly identified as to which Loan the fee was applied. There can be no more than one Settlement Statement per Loan.

Training Directive: Creation of multiple Settlement Statements with different information for a Loan is fraud. Creation of multiple versions of the Settlement Statement (i.e. one for Seller and one for Buyer) with identical information except where blanked out is acceptable. Lender in this case must receive the complete Settlement Statement with all information visible.

E.9 Closing Cost Credits.

If any or all of the closing costs are being paid with a credit from any Person, the costs and the credits must be disclosed on the Settlement Statement

E.10 Mortgage Broker Compensation.

a. Yield Spread Premium.

The yield spread premium shown in the **FEES, CHARGES, IMPOUNDS AND PAYOFFS** section of the SPECIFIC INSTRUCTIONS, if applicable, must be disclosed on the Settlement Statement. If Lender pays the yield spread premium outside of Closing, it must be shown as "Yield Spread Premium POC by Lender to [Mortgage Broker's name]." If Lender requests Settlement Agent to pay the yield spread premium to Mortgage Broker, it must be shown as "Yield Spread Premium Paid by Lender to [Mortgage Broker's name]" and the fee must be paid directly to Mortgage Broker.

b. Lender-Paid Mortgage Broker Fee.

The Lender-paid Mortgage Broker fee shown in the **FEES, CHARGES, IMPOUNDS AND PAYOFFS** section of the SPECIFIC INSTRUCTIONS, if applicable, must be disclosed on the Settlement Statement. If Lender pays the fee directly, it must be shown as "Mortgage Broker Fee POC by Lender to [Mortgage Broker's name]." If Lender requests Settlement Agent to pay the fee to Mortgage Broker, it must be shown as "Mortgage Broker Fee Paid by Lender to [Mortgage Broker's name]" and the fee must be paid directly to Mortgage Broker.

c. Borrower-Paid Mortgage Broker Fee.

The Borrower-paid Mortgage Broker fee shown in the **FEES, CHARGES, IMPOUNDS AND PAYOFFS** section of the SPECIFIC INSTRUCTIONS, if applicable, must be disclosed on the Settlement Statement as "Mortgage Broker Fee to [Mortgage Broker's name]" and the fee must be paid directly to Mortgage Broker.

d. Mortgage Broker Fee or Yield Spread Premium

Whenever a Mortgage Broker is being paid in the transaction, the Mortgage Broker Statement (See **Model Form K.1.**) must be signed by Mortgage Broker and collected by Settlement Agent before the disbursement of any funds by any party to Mortgage Broker.

Training Directive: Mortgage Broker fee or Yield Spread Premium must not be Disbursed until Settlement Agent receives the Mortgage Broker Statement signed by Mortgage Broker. Best practice would have this form delivered to Settlement Agent prior to Borrower Signing.

E.11 Settlement Agent Fees.

The dollar amounts specified for Settlement Agent fees are based on information provided by Settlement Agent. Settlement Agent represents that all fees charged by Settlement Agent will be bona fide and reasonable, comply in all respects with Applicable Law, and be properly disclosed on the Settlement Statement. If any charge is added to or changed in the Settlement Statement, Settlement Agent will notify Lender of the addition or change and not allow Signing until Settlement Agent receives corrected Loan Documents or written instructions to proceed.

Training Directive: Settlement Agent fees are not spelled out in the SPECIFIC INSTRUCTIONS – and changes between the estimates and actual fees are dealt with during the Settlement Statement approval process, not requiring new Lender Instructions.

F. CLOSING CONDITIONS.

F.1 Compliance with INSTRUCTIONS.

All applicable conditions of the INSTRUCTIONS must be satisfied by, at or following Signing as required. Use of a Signing Agent does not relieve Settlement Agent of its obligation to ensure compliance with the INSTRUCTIONS.

F.2 Verification of Identity.

Settlement Agent, either through its employee or its Signing Agent, must verify the identity of each Seller and Borrower (See USA PATRIOT ACT and the USA PATRIOT Improvement and Reauthorization Act of 2005 http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=107_cong_public_laws&docid=f:publ056.107.pdf and http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=109_cong_public_laws&docid=f:publ177.109.pdf) as follows:

- a. Explain that their information is being obtained to verify identity.
- b. Obtain from each Borrower a copy of Borrower's government issued ID (See **Sections F.2.d. and F.2.e.** below) and:
 - i. Have Borrower sign the Borrower's Certification (**Model Form K.2**) (if listed in the **LOAN DOCUMENTS** section of the SPECIFIC INSTRUCTIONS). *Training Directive: The certification should have the Borrowers' name, date of birth, social security or other ITIN number, and type, date of issue, expiration of ID Document and property location pre-filled from the Lender's approval data .*
Training Directive: This signature is not notarized.
 - ii. Require and verify that the information provided in the Borrower's Certification matches the identifying information provided by Borrower at Signing.
 - iii. If the information provided in the Borrower's Certification does not match the identifying information provided by Borrower, the Signing must be postponed until the Lender has approved the information provided by the Borrower and corrected the Borrower's Certification.
- c. For U.S. Residents, Closing Employee shall review an unexpired U.S. government or a U.S. state government-issued identification that bears a photograph or similar safeguard. The U.S. government ID may not be a foreign-issued passport, Permanent Resident Alien Card, or Visa.
Training Directive: A Permanent Resident Alien Card is also called a "Green Card".
- d. For non U.S. residents, Closing Employee shall review one or more of the following:
 - i. Unexpired government-issued document evidencing nationality or residence and bearing a photograph.
 - ii. Unexpired passport with passport number and country of issuance.
 - iii. Unexpired alien identification card.

F.3 Loan Document Review.

Lender will provide Borrower with copies of the Loan Documents and Lender's contact information at least one Business Day before the scheduled Signing and obtain an acknowledgment of receipt by the Borrower. If this receipt is not provided to Settlement Agent at least one Business Day before the scheduled Signing, then the Signing must be postponed until this condition is met or waived by Borrower and Settlement Agent.

Training Directive: Delivery must be accomplished in such a way that the Borrower actually has the information to review. This can be achieved either with physical delivery or by electronic posting or delivery.

F.4 Closing Process.

Unless prohibited by Applicable Law or professional standards, Closing Employee must, before and during Signing and to the best of their ability, explain fully the Closing Process to Borrower and answer Borrower's questions, or direct Borrower to the appropriate party to answer any questions. Further, Closing Employee must not pressure Borrower at Signing or encourage Borrower to Sign prior to reading the Loan Documents. Closing Employee shall not suggest that Borrower use the rescission period to read Loan Documents or to address questions or objections raised at Signing.

Training Directive: If such an explanation is prohibited by the Closing Employee, Closing Employee must direct the Borrower to other appropriate resources for answers to Borrower's questions.

F.5 NOTICE OF RIGHT TO CANCEL.

The Notice of Right to Cancel is provided by Lender on Loans subject to rescission (see **LOAN DOCUMENTS** section of the SPECIFIC INSTRUCTIONS) and IS SIGNATURE AND DATE SENSITIVE. Closing Employee must ensure that the instructions below are followed when the Notice of Right to Cancel is required.

a. BEFORE THE RESCISSION PERIOD BEGINS, the following persons:

- i. all persons on title after Closing;
- ii. Borrower; and
- iii. any other Person with Rights

*Training Directive: Refer to the Title Commitment and the **LOAN DOCUMENTS** section of the SPECIFIC INSTRUCTIONS for the appropriate parties. This should include everyone who is required to sign the Security Instrument.*

must sign the following documents:

- i. Security Instrument.
- ii. Notice of Right to Cancel
- iii. Truth in Lending Disclosure (TIL)
- iv. Itemization of Amount Financed (if provided)

b. Copies.

Each person who is required to sign the Notice of Right to Cancel must be given and must acknowledge receipt of the following documents at the time of closing for them to retain:

- i. TWO copies of the **completed** Notice of Right to Cancel
- ii. ONE copy of the TIL

Training Directive: Use model receipt form to show acknowledgement.

c. Home Equity Line of Credit (HELOC) loans.

If the loan is designated a HELOC loan in the **LOAN INFORMATION** section of the SPECIFIC INSTRUCTIONS, Borrower must sign the HELOC Credit Agreement provided by the Lender, but **MUST NOT** sign the Non-

Borrower Acknowledgment. All other persons on title and any Person with Rights must sign only the Non-Borrower Acknowledgment (see **Model Form K.3**) if the document is required in the **PRESIGNING CONDITIONS** section or **ATTACHMENTS** section of the SPECIFIC INSTRUCTIONS.

- d. Rescission Date.
 - i. Closing Employee must ensure that the transaction date and the rescission expiration date on the Notice of Right to Cancel match the dates provided by the Lender in the SPECIFIC INSTRUCTIONS when each person signs. If either date is incorrect, Closing Employee must draw a line through the incorrect date, write in the correct date, have the correct date initialed by all persons signing the Notice, and notify Lender.
 - ii. If more than one person is to acknowledge receipt of the Notice of Right to Cancel and they all do not do so on the same date, each person should sign his/her own Notice of Right to Cancel and the dates on the form must be correct as to that Person.
 - iii. Each Person who acknowledges receipt must date acknowledgement of the Notice of Right to Cancel in his or her own handwriting.
 - iv. DO NOT correct the transaction date or the rescission expiration date to reflect a date earlier than the date printed on the Notice of Right to Cancel. The rescission period can only begin to run on or after the printed transaction date. Any correction made to either date must reflect a date later in time to the printed date, as instructed by the Lender.
 - v. If the transaction date or the rescission expiration date on the Notice of Right to Cancel is blank, Closing Employee must properly fill in the blank. DO NOT have Borrower initial the date. Only corrections or changes made to the Notice of Right to Cancel are to be initialed by Borrower.
- e. Beginning of Rescission Period.

The rescission period will begin at 12:01 a.m. on the date after Closing Employee acknowledges the last signature on the Security Instrument or the date printed on the Loan Documents, whichever is later, assuming the Notice of Right to Cancel notices and TIL are signed and delivered to all the parties required to receive them on the same date. Otherwise the rescission period begins on the date the Notice of Right to Cancel and TIL are signed and delivered to the last Borrower.
- f. Changes to Loan Documents.

If any changes are necessary to the Note, the Security Instrument, the TIL, or the Notice of Right to Cancel after the rescission period has begun, Settlement Agent must contact Lender for written instructions. *Training Directive: Anticipate that the transaction will need to be re-signed if this occurs – and that a new rescission period will begin.*

g. Right to Cancel Exercised.

If Borrower provides written or verbal notice to Settlement Agent that he/she is cancelling the Loan, Settlement Agent must notify Borrower that the Notice of Right to Cancel can only be exercised by delivery to Lender. Settlement Agent must then promptly fax any written notice of rescission to Lender and also promptly notify Lender by telephone or electronic means about Borrower's expressed intent to cancel. *Training Directive: Delivery of the notice to rescission to the Settlement Agent is not the proper method for a Borrower to rescind, but if it happens, follow this instruction.*

h. End of Rescission Period.

DO NOT Disburse the Loan before the rescission period has expired and Lender has given Disbursement Approval, if required by the **LOAN CONDITIONS** section of the SPECIFIC INSTRUCTIONS. When the rescission period has expired, Settlement Agent must contact Lender for any required Disbursement Approval. *Training Directive: a HELOC loan where proceeds are used to purchase the Property is not subject to Rescission.*

F.6 Home Owner Association Dues.

If Lender or Title Insurer requires Home Owner Association (HOA) dues and assessments to be paid at Closing, Settlement Statement must reflect the amount set out on a written statement provided by the HOA or as determined by a public records search as the amount to be paid out to the HOA.

F.7 Power of Attorney.

If an executed Power of Attorney is to be used to Sign Loan Documents, Settlement Agent must ensure that the Power of Attorney has been or will be filed in the appropriate land records office before, or simultaneously with, the recording of any other Loan Documents. Title Insurer must have approved the Power of Attorney for use in the transaction and ensure that a Title Commitment and Title Policy will be issued without exception for the Power of Attorney use or signature format. Settlement Agent must collect a recording fee, if necessary. Settlement Agent must not allow Borrower's attorney-in-fact to sign Loan Documents on behalf of Borrower until the Power of Attorney document has been reviewed and accepted by Lender. Unless approved in writing in advance by Lender, Settlement Agent or Signing Agent must not act as the attorney-in-fact or sign documents on behalf of any party to the transaction. If Lender and Settlement Agent accept the Power of Attorney, Settlement Agent must ensure

that all Loan Documents are executed properly and in accordance with Applicable Law. Settlement Agent may attach the Power of Attorney as an exhibit to any recordable document to facilitate this requirement. On VA Loans, there must be a POA Certification, also known as "Live and Well" per VA Regs. (See http://www.warms.vba.va.gov/admin26/pamphlet/pam26_7/ch09.doc and <http://www.homeloans.va.gov/lenderssampdocs.htm>).

F.8 Survey.

If a survey is provided to the Settlement Agent in order to satisfy a requirement of the **TITLE INSURANCE** section of the SPECIFIC INSTRUCTIONS, Settlement Agent must compare the legal description, and, where required, the street address on the survey with the Loan Documents. If they do not match, Settlement Agent must notify Lender and await instructions on how to proceed.

F.9 Repair and Wood Destroying Organisms.

Proof of completion of all repairs required before Closing in the **PRESIGNING CONDITIONS** section of the SPECIFIC INSTRUCTIONS as a result of findings in the appraisal or in a wood destroying organisms report must be obtained and forwarded to Lender (except for an FHA 203(K) or construction-to-permanent loan), including repairs or certifications required of other licensed contractors (i.e. roofing, plumbing, electrical, etc.).

For VA loans, the following certification must appear on the wood destroying organisms report, signed by the veteran: "I hereby certify that I have received a copy of the wood destroying organisms report and completion, if applicable, and all work completed, if any, was completed to my satisfaction and at no cost to me".

For FHA Loans, the Wood Destroying Organisms report http://www.hudclips.org/sub_nonhud/html/pdfforms/npma-33.pdf must be signed by Borrower.

F.10 Other Required Documents.

If the **LOAN CONDITIONS** section of the SPECIFIC INSTRUCTIONS requires other documentation before Closing, it must be obtained before Completion of Closing and Lender must be given a copy.

F.11 Document Formatting.

a. Any legal requirements concerning the content, display, or format of information must be observed for both electronic and paper documents prepared by Settlement Agent.

Training Directive: Some of the formatting and display requirements that must be observed are: i) Use of specific fonts, specific type sizes, minimum type sizes, and boldface or italic styling; ii) Physical location of particular information, such as disclosures that are required to appear just above the place for signature; and iii) Requirements that information be boxed, or segregated, or separately displayed.

- b. If specific or separate legal requirements concerning content or format of the information have been established for Electronic Records by the controlling legislative or regulatory authority, those requirements must be observed for any Electronic Records created by Settlement Agent.

F.12 Document Completion.

Before Signing, Settlement Agent must examine the Loan Documents and determine that:

- a. All Loan Documents identified in the **LOAN DOCUMENTS** section of the SPECIFIC INSTRUCTIONS are included in the loan package received from Lender or its agent and completed in accordance with directions provided in the **LOAN CONDITIONS** section of the SPECIFIC INSTRUCTIONS (i.e. no blank spaces).
- b. No pages, riders, addenda or exhibits paginated and identified in the **LOAN DOCUMENTS** section, **LOAN CONDITIONS** section and **ATTACHMENTS** section of the SPECIFIC INSTRUCTIONS are missing.
- c. The Property's legal description on the Title Commitment matches the legal description on the recordable Loan Documents.

F.13 Document Signing.

Settlement Agent must present the TIL to Borrower and anyone else who is Signing the Security Instrument for Signing before presentation of the Note and other Loan Documents. The Notice of Right to Cancel must be signed concurrently with the other Loan Documents. Borrower may Sign the Loan Documents on or after the date printed on the Loan Documents. Borrower may Sign Loan Documents in a different month or year than the document date so long as they are Signed before the Signing Expiration Date set out in the **LOAN DOCUMENTS** section of the SPECIFIC INSTRUCTIONS.

Training Directive: Loan Documents will be effective the later of: a) The date printed on the Loan Documents, or b) The date Borrower's signature is acknowledged on the Security Instrument. Any rescission period will begin to run on the later date.

Settlement Agent **MUST NOT** Disburse the Loan Proceeds before the effective date of the Loan Documents or the expiration of the Notice of Right to Cancel, whichever is later.

No acknowledgment may be backdated.

*Training Directive: Any request to backdate any acknowledgment from any party is a potential fraud that should be reported to Lender pursuant to **SECTION J** of these GENERAL INSTRUCTIONS.*

G. DISBURSEMENT CONDITIONS.

G.1 Compliance with INSTRUCTIONS.

Settlement Agent (or, if applicable, any authorized party handling a Secondary Escrow) must not Disburse the Loan Proceeds unless and until each and every one of the applicable conditions in the INSTRUCTIONS have been satisfied or will be satisfied in the normal course of Closing before Completion of Closing (other than the issuance of the Title Policy). If a Signing Agent is utilized in the transaction, Settlement Agent is not relieved of its obligation to ensure compliance with these INSTRUCTIONS.

G.2 Document Completion.

Before the Completion of Closing, all Loan Documents must be properly completed (except as provided in **Section G.5** of these GENERAL INSTRUCTIONS, no blanks and except as provided in **Section E.6** of these GENERAL INSTRUCTIONS, no backdating), Signed, and acknowledged where applicable.

Training Directive: If pages or sections are to be initialed, clearly state that requirement by adding "_____ initial" at the bottom of such pages or locations.

G.3 Prior Approval Required.

Under no circumstances may Settlement Agent Disburse the Loan Proceeds before obtaining written Lender's approval of the Settlement Statement as provided in **Section E.2** of these GENERAL INSTRUCTIONS. Loan Proceeds must be Disbursed in strict compliance with these INSTRUCTIONS and the Settlement Statement.

G.4 Additional Funding Conditions.

If the **LOAN CONDITIONS** section of the SPECIFIC INSTRUCTIONS require payoff of credit card or collection accounts, Borrower must provide a statement from the appropriate creditor with the proper address and account number. If Borrower fails to provide the statements, the Signing must be postponed until the documents are provided.

Training Directive: This is to avoid escheatment of Borrower's funds due to lack of proper address or account number.

G.5 Warehouse Lender

If a Warehouse Lender is identified as such in the **SUMMARY** section of the SPECIFIC INSTRUCTIONS, Settlement Agent is hereby notified that Warehouse Lender has a security interest in the promissory note, Security Instrument, and all other Loan Documents for the Loan.

From time to time Warehouse Lender will wire to Settlement Agent, for the account of Lender, funds representing the purchase price or warehouse loan proceeds (the "Warehouse Funds") to be provided by Warehouse Lender for the Loan as requested by Lender. These Warehouse Funds are to be used for the

sole purpose of funding the Loan at Closing in the normal course as if they were provided by the Lender. Settlement Agent is not to distribute such Warehouse Funds directly to Lender under any circumstances.

In the event that the above referenced Loan does not Close within 24 hours of the receipt of the Warehouse Funds from Warehouse Lender, the Warehouse Funds shall be immediately wired back to Warehouse Lender, to the account set out in the **OTHER CONTACT INFORMATION-WAREHOUSE LENDER** section of the SPECIFIC INSTRUCTIONS.

Settlement Agent is responsible for sending the following documents to Warehouse Lender at the address set out in the **OTHER CONTACT INFORMATION-WAREHOUSE LENDER** section of the SPECIFIC INSTRUCTIONS after Completion of Closing:

- a. The Original Note with all original Riders evidencing the Loan with blank endorsement or allonge, to a blank payee, properly executed as included in the Closing package received from Lender.
- b. An original assignment in recordable form to blank or as included in the Closing package received from Lender.
- c. A certified copy of the executed Security Instrument with complete copies of all riders.

G.6 Rescission.

If a Notice of Right to Cancel is listed in the **LOAN DOCUMENTS** section of the SPECIFIC INSTRUCTIONS, Lender will not Fund the Loan and the Loan Proceeds must not be Disbursed to anyone until the three-day rescission period has expired, Settlement Agent has not received notice from Borrower or Lender that the Right to Cancel has been exercised, and all of the conditions of **Section F.5** of these GENERAL INSTRUCTIONS have been satisfied.

G.7 Sufficient Borrower-Funds to Close.

Before or at closing, Settlement Agent must receive from Borrower cash or other good funds (as defined by Applicable Law) sufficient to pay all amounts shown on the Settlement Statement as payable by Borrower. Types of trade equity (real estate swaps, tax exchanges) or any other sources of noncash funds to Close must be authorized in writing by Lender before Signing.

G.8 Table Funded Loans and Concurrent Closings.

Regardless of whether Lender or Mortgage Broker is named as the lender on the Loan Documents, if Lender's Loan Proceeds are used to Disburse the Loan, then all conditions in the INSTRUCTIONS must first be satisfied by Settlement Agent (and/or, if applicable, the authorized party handling the Secondary Escrow).

G.9 Excess Loan Proceeds.

Unless a Warehouse Lender has been identified as such in the **SUMMARY** section of the SPECIFIC INSTRUCTIONS, Settlement Agent (or, if applicable, the authorized party handling the Secondary Escrow) must return any excess Loan Proceeds or any unadvanced portion of a HELOC draw to Lender within two Business Days of Completion of Closing. Excess Loan Proceeds must be returned by wire (at Lender's expense) or in the form of a check by mail to the respective locations designated in the **LENDER CONTACTS** section of the SPECIFIC INSTRUCTIONS. If the excess Loan Proceeds are returned by mail, Settlement Agent must include the Loan number and a copy of the Settlement Statement with the check. If a Warehouse Lender is involved, see **Section G.5** of these GENERAL INSTRUCTIONS.

G.10 Document Delivery.

Unless a Warehouse Lender has been identified as such in the **SUMMARY** section of the SPECIFIC INSTRUCTIONS, or unless otherwise requested by Lender in the **ATTACHMENTS** section of the SPECIFIC INSTRUCTIONS, Settlement Agent must deliver the following Closing Documents, if collected as a part of the Closing Process, to the address in the **LENDER CONTACTS** section of the SPECIFIC INSTRUCTIONS within two Business Days after Signing, or if an Escrow Closing, within two Business Days after expiration of the rescission period, and receipt of Disbursement Approval:

- a. Originals. The original of all Loan Documents except Recordable Documents.
- b. Conventional Loan. One copy of each Recordable Document, noted to be a "True and Correct Copy of the Signed Original" with the notary acknowledgement section completed in its entirety.
- c. Government Loan. Two copies of each Recordable Document, each copy noted to be a "True and Correct Copy of the Signed Original" with the notary acknowledgement section completed in its entirety.
- d. Settlement Statement. A copy noted to be a "True and Correct Copy of the Signed Original" Settlement Statement(s) that in the aggregate have been signed by all parties.
- e. Wood Destroying Organisms. If required by Lender, a standard inspection report and completion of required treatment and repairs, if any. On a VA or FHA Loan, Borrower must sign the report if required in the **LOAN CONDITIONS** section of the SPECIFIC INSTRUCTIONS. See **Section F.9** of these GENERAL INSTRUCTIONS.
- f. Hazard Insurance. Evidence of paid premium and insurance (binder, endorsement, or certificate).

- g. Survey. If required in the **TITLE INSURANCE** section of the SPECIFIC INSTRUCTIONS, a copy of the survey.
- h. Flood. If required in the **PROPERTY INSURANCE** section of the SPECIFIC INSTRUCTIONS, a copy of the signed (by Borrower) application for a flood policy/NFIP (must be signed at least five Business Days prior to Signing) or an executed NFIP "Certification of Purchase of Flood Insurance" and evidence of paid premium and insurance (binder, endorsement or certificate) with an effective date the same as the Closing Date.
Training Directive: NFIP means National Flood Insurance Policy issued by FEMA.
- i. Escrow Instructions. In an Escrow Closing State, copy noted to be a "True and Correct Copy of the Signed Original" of escrow instructions and any escrow amendments necessary.
- j. A copy of the Builder's Warranty.
- k. A copy of the Certificate of Occupancy (or similar local government approval).
- l. A copy of the Well and Septic Certification.
- m. Conveyance Document. For a purchase transaction, a copy noted to be a "True and Correct Copy of the Signed Original" of the original document that transferred title to Borrower.

G. 11 Loan Payment Instructions.

Closing Employee must provide Borrower with instructions on when, where and how Borrower is to make the Loan Payments if a First Payment Letter is provided by Lender in the **LOAN DOCUMENTS** section of the SPECIFIC INSTRUCTIONS.

H. POST-DISBURSEMENT CONDITIONS.

H.1 Loan Document Delivery.

If a Warehouse Lender has not been designated in the **SUMMARY** section of the SPECIFIC INSTRUCTIONS, Settlement Agent must deliver all properly signed Loan Documents to Lender at the designated address in the **LENDER CONTACTS** section of the SPECIFIC INSTRUCTIONS. If a Warehouse Lender has been designated, all Loan Documents other than those Loan Documents specifically set out in **SECTION G.5** of these GENERAL INSTRUCTIONS must be delivered to Lender, along with copies of the documents sent to the Warehouse Lender.

Documents are to be returned to Lender in the same order delivered to Settlement Agent by Lender with the SPECIFIC INSTRUCTIONS.

Training Directive: The following general groupings should be used by Lender:

Instructions

Copy of the SPECIFIC INSTRUCTIONS
Disbursement Approval

Disclosures

State Disclosure if required to be signed before any other document
(for example, Ohio)
U.S.A. Patriot Act Disclosure (federal)
Truth in Lending Disclosure Statement (federal)
Notice Concerning Mortgage Servicing Transfer at Settlement (federal) (if applicable)
State Disclosures (if applicable)
Notice of Furnishing Negative Information (federal)
Servicing Disclosure Statement (federal) (if applicable)
Initial Escrow Account Disclosure Statement (federal) (if applicable)
Notice of Right to Receive a Copy of an Appraisal (federal and/or state) (if applicable)
ARM Disclosures (federal) (if applicable)

Debt Instruments

Note
Addendum to Note (if applicable)
Allonge to Note (if applicable)

Security Instruments

Security Instrument
Legal Description Addendum (if applicable)

Riders

Adjustable Rate
Balloon
1-4 Family
Condominium
Planned Unit Development
Biweekly Payment
Second Home
Other(s)

Miscellaneous

Acceptance of Property Conditions and Survey and Title Matters

Hold Harmless Agreement
Tax and Insurance Information
Compliance Agreement
Name Affidavit
Form 4506-T Request for Transcript of Tax Return
Borrower's Certification & Authorization (if applicable)
First Payment Letter Mailing Address Certification
Payment Coupon (if applicable)
Confirmation of Taxpayer Identification Numbers
W-9 Request for Taxpayer Identification Number
Mortgage Loan Application (if applicable)

H.2. Land Record Filings.

Recordable Documents, to the extent applicable, must be presented for recording in the official land records where the Property is located in the following order where possible, or in the order required by Title Insurer issuing the Title Policy:

- a. Power of Attorney
- b. Deed or any other instrument used to convey title
- c. Lien Security Instrument to be insured in first priority position with all Riders attached
- d. Lien Security Instrument to be insured in a junior priority position with all Riders attached
- e. Subordination Agreement
- f. Other recordable documents

H.3 Recorded Document Delivery.

When Settlement Agent receives the recorded Loan Documents from the land records office, Settlement Agent must forward them to Lender at the designated address in the **Lender Contacts** section of the SPECIFIC INSTRUCTIONS within two business days of receipt; however, if recorded documents are received prior to issuance of the Title Policy, they should be delivered with the Title Policy.

H.4 Title Policy.

Settlement Agent must direct Title Insurer to deliver the Title Policy to Lender as set out in the **TITLE INSURANCE** section of the SPECIFIC INSTRUCTIONS.

H.5 IRS Filings.

Settlement Agent must file Form 1099-S with the IRS as required by Applicable Law.

H.6 Post Closing Loan Document Requests.

Settlement Agent must provide Lender with any and all copies of Loan Documents retained by Settlement Agent in the normal course of business which are subsequently requested by Lender in relation to the Closing not later than 7 Business Days from the request if the request is received by Settlement Agent within one year of the Disbursement, or 15 Business Days from the request if the request is received by Settlement Agent more than one year after the Disbursement. Settlement Agent may charge a reasonable fee for such copying and delivery.

H.7 Document Image Resolution.

For delivered images, if Lender deems the document image quality to be below standards, Lender reserves the right to require Settlement Agent to provide the best available copy.

H.8 Damage or Loss.

Settlement Agent must bear the entire cost of restoring Loan Documents damaged or lost for any reason while in Settlement Agent's custody (until proof of delivery to Lender).

H.9 Ownership of Loan Documents.

All Loan Documents, whether prepared or originated, held, or maintained by Settlement Agent, including all current and historical computerized data files, which are reasonably required to Close the Loan for Lender will be and will remain at all times, the property of Lender. All Loan Documents, whether in paper or electronic format, in the possession of Settlement Agent are retained by Settlement Agent in a custodial capacity only. This paragraph is not intended to prevent Settlement Agent from complying with any Applicable Law with respect to such records.

H.10 No Limitations on Usage.

For any Loan Documents created by Settlement Agent, regardless of format, Settlement Agent represents and warrants that the Loan Documents are maintainable, reproducible, and have no licensing conditions that would limit Lender from using the Loan Documents for any reason whatsoever.

H.11 Loan Document Corrections.

If Lender discovers that any Loan Document is not executed or completed in compliance with the Closing Instructions, Settlement Agent must use its best efforts to obtain a corrected Loan Document within 7 business days of the request from Lender. If a document was not originally requested by Lender in the SPECIFIC INSTRUCTIONS, it is Lender's responsibility to obtain the document from Borrower directly.

I. MANUFACTURED HOUSING INSTRUCTIONS.

If the Loan is designated as a manufactured housing unit in the **PROPERTY** section of the SPECIFIC INSTRUCTIONS, Lender will provide a Manufactured Home Addendum as set out in the **ATTACHMENTS** section of the SPECIFIC INSTRUCTIONS.

J. FRAUD PREVENTION AND DISCLOSURE OF SUSPICIOUS ACTIVITIES.

Lender is committed to taking the strongest action, including criminal referrals, against settlement agents and signing agents who, by their acts, create an increased risk of loss to Lender and reputation risk for both the mortgage lending and settlement service industries. Examples of these acts include but are not limited to: altering title commitments, back dating documents, falsifying settlement statements, facilitating identity theft by false impersonation, committing notary fraud, turning a blind eye to obviously false down payments or fraudulent checks, and creating false payoff figures.

It is not the purpose of this **Section J** to broaden liability of Signing Agent, Settlement Agent or their employees beyond existing legal requirements, but it is the intention of this **Section J** to require Settlement Agent to notify Lender's designated 'Fraud Prevention Contact' in the **LENDER CONTACTS** section of the SPECIFIC INSTRUCTIONS in accordance with this Section.

J.1 Reporting Suspicious Activities.

As soon as possible after discovery, Settlement Agent or Signing Agent must stop the Closing and notify Lender of any suspicious activity discovered (including but not limited to the items set out in **Section J.2** of these GENERAL INSTRUCTIONS below) directly to Lender's designated 'Fraud Prevention Contact' as set out in the **LENDER CONTACTS** section of the SPECIFIC INSTRUCTIONS. This includes obviously unfair, deceptive, misleading or unlawful behavior by any Lender or Mortgage Broker employee in connection with the Loan. Lender indemnifies Settlement Agent, Signing Agent and their employees against any legal claims brought by a Lender employee or Mortgage Broker or Mortgage Broker employee who is the subject of any report of suspicious activity given in good faith. Lender further agrees that it will require as a part of its loan application process that Borrower will be required to waive any claims it may have against Settlement Agent that result from a delay in Closing due to Settlement Agent's compliance with these INSTRUCTIONS. Lender further agrees that it will provide a 'Disclosure Of Potential Delays To Closing' notice (see **Model Form K.4** of these GENERAL INSTRUCTIONS) to Borrower and Seller at the time the initial GFE disclosure is provided.

If a Lender employee, Mortgage Broker employee, or real estate brokerage employee or agent attends the Signing, Settlement Agent shall not permit such a party to overtly pressure Borrower at Signing or overtly encourage Borrower to Sign prior to reading the Loan Documents, act as interpreter, or in any obvious way obstruct the ability of Settlement Agent or Signing Agent to perform its duties. It must not be suggested by any party that Borrower use the rescission period to read Loan Documents or to address questions or objections raised at Signing. In the event any conduct set out in this paragraph is observed, Settlement Agent must immediately contact Lender and postpone Signing or Disbursement of the Loan until Settlement Agent receives written permission to proceed from Lender's designated 'Fraud Prevention Contact' in the **LENDER**

CONTACTS section of the SPECIFIC INSTRUCTIONS. *Training Directive: Interested parties should not be allowed to act as interpreters for Borrowers who do not read or speak English – a disinterested third-party interpreter should be required.*

J.2 Suspicious Activities.

Unless expressly accepted by Lender in the LOAN CONDITIONS section of the SPECIFIC INSTRUCTIONS, if any one or more of the following circumstances is known (or should have been known by a reasonable person in the normal exercise of his/her duties) by Closing Employee to exist during any stage of this transaction, Settlement Agent must immediately contact Lender and postpone Signing or Disbursement of the Loan until Settlement Agent receives written permission to proceed from Lender's designated 'Fraud Prevention Contact' in the **LENDER CONTACTS** section of the SPECIFIC INSTRUCTIONS:

Training Directive: The standard here is that the Closing Employees cannot ignore circumstances that they become aware of or would be aware of if they just kept their eyes open. There is no duty to actively investigate or search for these circumstances.

a. Property Transfers.

- i. This transaction will occur in conjunction with, or simultaneously with, any other sale, transfer or financing of the Property (e.g., double escrow, double closing, flip sale, pass through, equity skimming, etc.), except for the following:
 - A. a junior loan provided or approved by Lender;
 - B. the Property was acquired through inheritance;
 - C. the Property is a single-family residence and Seller is a federal government agency;
 - D. Lender has approved the existence of multiple concurrent transactions in the SPECIFIC INSTRUCTIONS; or
 - E. a Section 1031 transaction.
- ii. A full or partial transfer of the Property has occurred within 180 days, or will occur on or before the Completion of Closing, except for the transfer to Borrower by the vested owner.
- iii. The Loan is for purchase money and Borrower has acquired record title to the Property before the Signing date.

- b. Any significant information that Closing Agent knows the Lender has not already been made aware of with respect to changes in the value or title of the Property, financial condition of Borrower, changes in marital status or the legal status of Borrower, changes to the sales contract (if a purchase), changes to the financing, Borrower or Seller bankruptcy, enforcement of

creditor's rights against Borrower or Seller, or any other obvious indication of suspicious activity.

- c. Potential or Actual Fraud, Misrepresentations, Falsehoods
 - i. Any obvious indication that a potential or actual fraud or scheme related to the transaction has been or may be committed.
 - ii. Any Person involved in the transaction, including but not limited to Borrower, Seller, real estate broker, builder, Mortgage Broker, Title Insurer, appraiser, Signing Agent or Settlement Agent appears to have made a material misstatement or committed a falsehood that might affect this transaction.
 - iii. A Loan Document or invoice obviously appears to have been tampered with, falsely generated, bears any falsified or materially incorrect data, bears different names or addresses for the same party, or bears a fictitious name.
 - iv. Any Person's handwriting or signature appears to be obviously inconsistent with earlier documents.
 - v. Any Person appears to be paid to lend credit or identity to the transaction.
- d. Property Condition.
Recent adverse changes to the condition of the Property, including fire, flood, regional disaster, or other damage that the Lender has not already been made aware of.
- e. Persons involved in the Transaction.
 - i. Closing Employee who handles the transaction has a conflict of interest, is a party to the transaction, has an ownership interest in or is controlled by or is related to Seller, Borrower, appraiser, Lender, Mortgage Broker or any other interested party to the transaction.
 - ii. Mortgage Broker appears to be or is a party to the transaction or has an ownership interest in or is controlled by or is related to Seller, Borrower, appraiser, Settlement Agent, Signing Agent, real estate agent, Closing Employee, or any other interested party to the transaction.
 - iii. Seller appears to have or has an ownership interest in or is controlled by or is related to Mortgage Broker, Borrower, appraiser, Settlement Agent, Signing Agent, Closing Employee, or any other interested party to the transaction.

- f. Borrower Lacks Comprehension.
If it is obvious to the Closing Employee that the Borrower does not comprehend the transaction.
- g. Title Insurance
If the Title Policy to be issued as a result of the Closing is to contain exceptions not shown in the original Title Commitment provided to Lender or otherwise accepted by Lender in the **TITLE INSURANCE** section of the SPECIFIC INSTRUCTIONS or if the title owner shown on the Title Commitment does not match Seller on the purchase contract.
Training Directive: Except in a Contract for Deed refinance or leasehold, the transaction cannot be subject to Seller acquiring title to the Property. New construction transactions may also have seller name issues which need to be addressed.
- h. Loan Documents.
The Loan Documents are incomplete or inconsistent with other information in Settlement Agent's closing file for this Loan.
- i. Identity.
Closing Employee cannot verify the identity of any signatory, or any signatory is unable to produce an unexpired form of government issued photo identification.
- j. Undisclosed Loan.
A lien undisclosed to Lender has been, or will be placed on the Property, or other financing undisclosed to Lender has been provided to Borrower.
- k. Source of Borrower Funds.
It is obvious that Borrower's funds are to be paid by a third party without Lender's approval.
- l. Coercion, Undue Influence.
It is obvious that Borrower appears to be coerced or is under undue influence.
- m. Sales Price.
The sales price is inconsistent with the Sales Price shown in the **PROPERTY** section of the SPECIFIC INSTRUCTIONS.
- n. Occupancy.
It is obvious that Borrower occupies another residence not subject to this transaction and does not appear to intend to occupy the Property (unless this is noted as an investment property on the **SUMMARY** section of the SPECIFIC INSTRUCTIONS).

- o. Payments.
Any request for a Disbursement is ambiguous, has incomplete information, lacks a clear description, appears unusual in any manner or has not been approved by Lender in the **LOAN CONDITIONS** section of the SPECIFIC INSTRUCTIONS.
- p. Prior Obligations.
It is obvious that Mortgage Broker has advised Borrower against making scheduled payments on any existing obligation.

K. MODEL FORMS

K.1 Mortgage Broker Certification.

Training Directive: Whenever a Mortgage Broker is being paid in the transaction, the following form must be signed by Mortgage Broker and collected by Settlement Agent before the disbursement of any funds by any party to Mortgage Broker:

I, _____ (Mortgage Broker), certify under penalty of perjury that I :

- a. am properly licensed, as required by Applicable Law, and properly authorized by Borrower and Lender to originate this Loan;
- b. am unaware of any unfair, deceptive, misleading or unlawful behavior by me or any other Mortgage Broker employee in connection with the Loan;
- c. am unaware of any of the circumstances set out in the Suspicious Activity SECTION of the applicable version of the UNIFORM GENERAL CLOSING INSTRUCTIONS located at <http://www.++++>.
- d. am in full compliance with the National Association of Mortgage Brokers' Code of Ethics, whether or not I am a member; and
- e. am authorized to sign on behalf of Mortgage Broker.

Mortgage Broker agrees to indemnify Settlement Agent for any claims made by Mortgage Broker's employee resulting from actions undertaken by Settlement Agent pursuant to the Suspicious Activity SECTION of the applicable version of the UNIFORM GENERAL CLOSING INSTRUCTIONS located at <http://www.++++>.

Date _____

Mortgage Broker Signature _____

K.2 Borrower Certification.

Printed Name:
Date of Birth:
SSN or Identification Number:
Identification:
 Date of Issue:
 Expiration Date:

In consideration of Lender extending funds in connection with the closing of the loan on property located at _____ (“Property”), _____ the undersigned (“I” or “my”) provides the following certifications:

Application Certification

I hereby certify that there has been no substantial change in the information provided in my original loan application to Lender. I certify the following:

I have had no change in my current employment and income since my initial application;

I have not received any notice of layoff;

I do not have any knowledge of any pending layoff or change to employment or income;

I have not incurred any additional debts since the time of my initial application;

My down payment and closing costs were not borrowed and came from my bank accounts or other approved sources as stated on my original loan application.

I further certify having no knowledge of any circumstances that would change my ability to meet the mortgage loan obligation.

Real Estate Certification

I hereby certify that the terms of the sales contract are true to the best of my knowledge and belief. Any other agreements entered into by any of the parties have been fully disclosed and are attached to the sales contract.

No Pending Real Estate Transactions

I hereby certify that there are no other real estate contracts or loans in process to which I am a party at this time, nor am I presently negotiating a contract in which a real estate loan will be applied for in the near future.

I understand and acknowledge that the above certifications are required in order to obtain the loan on the Property from Lender.

Closing Certification

I have read, understand and approve all of the Loan Documents, I have not been coerced to sign the Loan Documents, and I have not been told by any person, including the Mortgage Broker, not to make scheduled payments on existing obligations.

Date: _____

Signature(s) –Borrower(s)

K. 3 Non-Borrower Acknowledgement.

I understand that I am not a Borrower under the Loan and have no rights to draw against the account established by the Loan. Further, by signing this Acknowledgement, I am not undertaking a contractual obligation to make payments under the Loan. By signing the Security Instrument that accompanies the Loan, I also understand that my interest in the real property described in the Security Instrument could be lost if there is a default on the Loan.

Date: _____

Signature(s)

K. 3 Disclosure Of Potential Delays To Closing.

Please be aware that the following may affect your Closing:

In order to minimize losses and keep your loan rate as low as possible, Lender is committed to taking the strongest action, including criminal referrals, against anyone who, by their acts, creates an increased risk of loss to Lender and reputation risk for both the mortgage lending and settlement service industries. After discovery of any item set forth below, settlement agent stop the Closing and notify Lender so that the item may be investigated and cleared before the Closing continues.

a. Property Transfers.

- i. This transaction will occur in conjunction with, or simultaneously with, any other sale, transfer or financing of the Property (e.g., double escrow, double closing, flip sale, pass through, equity skimming, etc.), except for the following:
 - A. a junior loan provided or approved by Lender;
 - B. the Property was acquired through inheritance;
 - C. the Property is a single-family residence and Seller is a federal government agency;
 - D. Lender has approved the existence of multiple concurrent transactions in the SPECIFIC INSTRUCTIONS; or

- E. a Section 1031 transaction.
 - ii. A full or partial transfer of the Property has occurred within 180 days, or will occur on or before the Completion of Closing, except for the transfer to Borrower by the vested owner.
 - iii. The Loan is for purchase money and Borrower has acquired record title to the Property before the Signing date.
- b. Any significant information that Closing Agent knows the Lender has not already been made aware of with respect to changes in the value or title of the Property, financial condition of Borrower, changes in marital status or the legal status of Borrower, changes to the sales contract (if a purchase), changes to the financing, Borrower or Seller bankruptcy, enforcement of creditor's rights against Borrower or Seller, or any other obvious indication of suspicious activity.
- c. Potential or Actual Fraud, Misrepresentations, Falsehoods
 - i. Any obvious indication that a potential or actual fraud or scheme related to the transaction has been or may be committed.
 - ii. Any Person involved in the transaction, including but not limited to Borrower, Seller, real estate broker, builder, Mortgage Broker, Title Insurer, appraiser, Signing Agent or Settlement Agent appears to have made a material misstatement or committed a falsehood that might affect this transaction.
 - iii. A Loan Document or invoice obviously appears to have been tampered with, falsely generated, bears any falsified or materially incorrect data, bears different names or addresses for the same party, or bears a fictitious name.
 - iv. Any Person's handwriting or signature appears to be obviously inconsistent with earlier documents.
 - v. Any Person appears to be paid to lend credit or identity to the transaction.
- d. Property Condition.

Recent adverse changes to the condition of the Property, including fire, flood, regional disaster, or other damage that the Lender has not already been made aware of.
- e. Persons involved in the Transaction.
 - i. Closing Employee who handles the transaction has a conflict of interest, is a party to the transaction, has an ownership interest in or is

- controlled by or is related to Seller, Borrower, appraiser, Lender, Mortgage Broker or any other interested party to the transaction.
- ii. Mortgage Broker appears to be or is a party to the transaction or has an ownership interest in or is controlled by or is related to Seller, Borrower, appraiser, Settlement Agent, Signing Agent, real estate agent, Closing Employee, or any other interested party to the transaction.
 - iii. Seller appears to have or has an ownership interest in or is controlled by or is related to Mortgage Broker, Borrower, appraiser, Settlement Agent, Signing Agent, Closing Employee, or any other interested party to the transaction.
- f. Borrower Lacks Comprehension.
If it is obvious to the Closing Employee that the Borrower does not comprehend the transaction.
- g. Title Insurance
If the Title Policy to be issued as a result of the Closing is to contain exceptions not shown in the original Title Commitment provided to Lender or otherwise accepted by Lender in the **TITLE INSURANCE** section of the SPECIFIC INSTRUCTIONS or if the title owner shown on the Title Commitment does not match Seller on the purchase contract.
- h. Loan Documents.
The Loan Documents are incomplete or inconsistent with other information in Settlement Agent's closing file for this Loan.
- i. Identity.
Closing Employee cannot verify the identity of any signatory, or any signatory is unable to produce an unexpired form of government issued photo identification.
- j. Undisclosed Loan.
A lien undisclosed to Lender has been, or will be placed on the Property, or other financing undisclosed to Lender has been provided to Borrower.
- k. Source of Borrower Funds.
It is obvious that Borrower's funds are to be paid by a third party without Lender's approval.
- l. Coercion, Undue Influence.
It is obvious that Borrower appears to be coerced or is under undue influence.

- m. Sales Price.
The sales price is inconsistent with the Sales Price shown in the **PROPERTY** section of the SPECIFIC INSTRUCTIONS.
- n. Occupancy.
It is obvious that Borrower occupies another residence not subject to this transaction and does not appear to intend to occupy the Property (unless this is noted as an investment property on the **SUMMARY** section of the SPECIFIC INSTRUCTIONS).
- o. Payments.
Any request for a Disbursement is ambiguous, has incomplete information, lacks a clear description, appears unusual in any manner or has not been approved by Lender in the **LOAN CONDITIONS** section of the SPECIFIC INSTRUCTIONS.
- p. Prior Obligations.
It is obvious that Mortgage Broker has advised Borrower against making scheduled payments on any existing obligation.

Date: _____
Signature(s) –Borrower(s) or Seller(s)

L. ELECTRONIC ORINATION REQUIREMENTS.

L.1 Consent.

If the Loan is designated by Lender to be Closed electronically, Settlement Agent's consent to perform the Signing electronically according to the requirements of **Sections L and M** of these GENERAL INSTRUCTIONS must be obtained.

Training Directive: To be effective, Signer's consent must be given electronically. Emerging practice is to have Signer execute a consent form either at time of application or at closing (or in some cases, on both occasions). If additional technical specifications are required by Lender, these specifications must be set out in a separate electronic closing agreement and agreed to by Settlement Agent in writing before accepting the assignment to Close the Loan.

If a required disclosure is designated by Lender to be provided electronically, Settlement Agent must obtain Signer's consent to receive the electronic disclosure. If Signer's consent is obtained electronically, it must be on an electronic consent form. After Signer has electronically signed the Consumer Consent Form, the Consumer Consent Form must be securely stored with the other electronic Loan Documents.

The Process used by Settlement Agent to permit Signer to electronically sign the Consumer Consent Form must ensure the same level of integrity as the Electronic Signature Process used to permit Borrower to electronically sign the eNote.

- L.2 Title Insurance Requirements for eMortgages.
Settlement Agent must comply with the title insurance requirements set out in **Section C** of these GENERAL INSTRUCTIONS. In particular, the Title Policy must not take exception for any matters related to the fact that the Note secured by the Security Instrument is an electronic Note.
- L.3 Electronic Signatures (eSignatures).
Borrower must give express consent to conduct an electronic residential mortgage transaction by signing an electronic consent form provided by Lender. Borrower may sign the eNote and certain other Electronic Records using an Electronic Signature that is attached to or logically associated with the Electronic Record and signed or adopted by Borrower with the intent to sign the Electronic Record. Systems that create or accommodate Electronic Signatures must be designed to comply with the requirements set out in **Section L** of these GENERAL INSTRUCTIONS.

Training Directive-The Procedure used by Settlement Agent to create an Electronic Signature must address all of the following:

- a. *Signer's authority to sign the Electronic Record;*
- b. *Signer's intent to sign the Electronic Record;*
- c. *Attaching the Electronic Signature to or associating the Electronic Signature with the Electronic Record to be signed;*
- d. *The symbol or Process being used as an Electronic Signature;*
- e. *The method or Process for attributing the signature to Signer; and*
- f. *Each Electronic Record must be reviewed, electronically signed, and have the Electronic Signatures attached to or associated with the Electronic Record before moving on to the next Electronic Record.*

The Signing Process used by Settlement Agent must, at a minimum, implement the following to the extent permitted by Applicable Law:

- a. *Individually authenticate each Signer;*
- b. *Notify Signer when he or she initiates an eSignature;*
- c. *Clearly explain the implications that result from Signing the document;*
- d. *Prompt Signer to confirm his or her eSignature;*
- e. *Review each document individually and Sign by affixing all required signatures before moving on to the next document;*
- f. *During the review, determine the existence of the associated eSignature, the type of eSignature, the Process employed, and the identity of Signer; and*
- g. *Ensure the signature includes Signer's name, date, and timestamp.*

L.4 eNote Signatures.

Unless otherwise provided in the SPECIFIC INSTRUCTIONS, for eNote signatures, Lender requires the following in addition to the eSignature requirements stated in **Section L.3** of these GENERAL INSTRUCTIONS. All Signers must be physically present in the Signing location for any Loan Document required to be notarized and for the eNote.

L.5 Borrower Access to eNote.

At Closing Employee must provide Borrower access to the eNote and all other electronic documents presented to, and/or signed by, Borrower as part of the Closing package.

Training Directive: This requirement can be met by providing a paper copy or, if Borrower agrees, providing an electronic copy or long term access to the electronic copy.

L.6 Register the eNote on the MERS® eRegistry.

Settlement Agent must assist Lender, as required, to register the eNote on the MERS® eRegistry within one Business Day of the creation, signing, and tamper-evident sealing of the eNote.

SECTION M. ELECTRONIC RECORDS MAINTENANCE.

M.1 Maintaining Electronic Documents with Electronic Signatures.

Settlement Agent must maintain for the period of time required by Applicable Law all eMortgage Loan Documents for which an Electronic Signature is obtained in a manner that preserves the integrity of the Electronic Record and Electronic Signature.

If Settlement Agent holds Loan Documents on Lender's behalf for any period of time after Completion of Closing, Settlement Agent may use an in-house-built or third-party-vendor electronic records storage and management System for Loan Document retention until the Loan Documents are transmitted to Lender.

a. Retention of Electronic Format. All Loan Documents in the electronic file must either retain their original electronic file format, or if created in paper form be imaged based on Lender approved imaging standards.

b. Electronic Document Integrity. Settlement Agent, at a minimum, must establish a request and approval Process to grant role-based access rights to electronic Loan Documents in its System. The System must have user authentication and role-based access control capability, and must track and log user identity, action performed (view, modify, delete, etc.) on records, and time of the event. The System must detect and block unauthorized access and alteration of eLoan Documents, and to alert Settlement Agent if unauthorized attempts exceed pre-configured thresholds.

- c. Maintenance of Loan Documents. Settlement Agent must during the time that it holds the Loan Documents:
 - i. Provide viewing, retrieving, and printing capabilities for these documents in accordance with Purchase Document requirements regardless of the electronic formats in which Loan Documents and records are kept;
 - ii. Provide online access to Loan Documents as required by Lender;
 - iii. Maintain an electronic audit trail for all electronic transactions that occurred to the Loan Documents;
 - iv. Perform regular backups of all Loan Documents, and be able to replace Electronic Records that are damaged, corrupted, or lost;
 - v. Maintain a geographically remote Disaster Recovery/Business Continuity Plan (DR/BCP) site that is not susceptible to the same disasters as the primary site for all Electronic Records; and
 - vi. Document DR/BCP to provide recovery services of functionality, availability, and data to the point of failure within 48 hours of a declared disaster.

M.2 Tamper-Evident Seals.

The Tamper-Evident Seal must be created at the Completion of Closing by Settlement Agent. The Tamper-Evident Seal may be applied to each Closing Document individually.

Training Directive: A Tamper-Evident Seal is a "digital thumbprint" that can be re-verified at any point in subsequent processing to ensure that the document has not changed. When registering the eNote on the MERS® eRegistry, Lender will include information from the Tamper-Evident Seal, and its date and time. Once stored on the MERS® eRegistry, various business partners who may hold the eNote during the life of the Loan can verify the eNote copy that they have is identical to what Borrower Signed.

M.3 File Formats.

File formats for Electronic Records must be capable of accurately reproducing the fonts, styling, margins, and other physical features of the Electronic Record both when being electronically displayed and in print. Pagination, line spacing, and paragraph formatting and numbering must all be maintained unless approved electronic form versions are used.

On-screen viewing of the Electronic Records must be possible through open data formatting standards, or through means of proprietary programs used by Settlement Agent provided the proprietary software is offered through widely available methods such as an Internet browser or software that is free to the public (for example, Adobe Acrobat Reader) and not subject to licensing conditions that would limit Lender from using these documents for any reason whatsoever.

M.4 Self-Contained.

Electronically signed Electronic Records must contain all of the information necessary to reproduce the entire Electronic Record and all associated signatures in a form that permits the person viewing or printing the file to verify:

- a. The contents of the Electronic Record;
- b. The method used to sign the Electronic Record, if applicable; and
- c. The person or persons signing the Electronic Record and the capacity in which they signed.

END

COMMENT DRAFT