

**GENERAL CLOSING INSTRUCTIONS**  
**Mortgage Bankers Association Sub Group**  
**Draft 2/3/06**

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**NOTE: Blue provisions relate only to purchase money loans, Green provisions relate only to Manufactured Housing loans and Orange provisions relate to junior liens.**

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**A. SPECIFIC CLOSING INSTRUCTIONS PREVAIL.**

A.1. Any instruction contained in these GENERAL CLOSING INSTRUCTIONS can be overridden by a provision in the SPECIFIC CLOSING INSTRUCTIONS for the Loan.

**B. GENERAL CONDITIONS.**

**B.1 Definitions.**

As used in these GENERAL CLOSING INSTRUCTIONS, capitalized terms are as defined in the SPECIFIC CLOSING INSTRUCTIONS, the MISMO Data Dictionary or as defined within these GENERAL CLOSING INSTRUCTIONS.

- a. “Borrower” means the person or persons set out in the **Borrower Information** section of the SPECIFIC CLOSING INSTRUCTIONS.
- b. “Borrowers Certification” means the document attached to the SPECIFIC CLOSING INSTRUCTIONS and referenced in the **Required Documentation** section of the SPECIFIC CLOSING INSTRUCTIONS.
- c. “Close” or “Closing” or any derivative of either means the process of collecting and disbursing the signatures and funds and satisfaction of any other conditions required to achieve Completion of Closing in connection with a Loan.
- d. “Closing Instructions” mean these GENERAL CLOSING INSTRUCTIONS together with the SPECIFIC CLOSING INSTRUCTIONS provided to the Settlement Agent in connection with a Loan.
- e. “Closing Protection Letter” means the document from the Title Insurer protecting the Lender from Settlement Agent and/or Signing Agent defalcation or failure to follow these written GENERAL and SPECIFIC CLOSING INSTRUCTIONS as they relate to Title Policy issues in connection with a Loan.
- f. “Completion of Closing” means in connection with a Loan:
  - i) in a Table Funding State, the Disbursement of the Lender’s Funds.
  - ii) in an Escrow Closing State, the Recordation of the Security Instrument.
- g. “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.
- h. “Disbursement Date” means the date the funds are actually Disbursed.

- i. “Escrow” means a type of loan closing in which a Settlement Agent accepts the loan funds and mortgage from the Lender, and if a purchase, the downpayment from the buyer and the deed from the **Seller**, and completes the actions required by the transaction. Escrow closes when all conditions of a real estate transaction and Loan transaction are met and the title of the property is transferred to the buyer subject to a valid lien.
- j. “Escrow Account” means an escrow account or trust account used to hold Loan Proceeds and other proceeds related to the Closing.
- k. “Escrow Closing State” means a state where Loans are traditionally closed in Escrow.
- l. “Fidelity Bond” means the bond approved by the Settlement Agent and held by an Independent Loan Closer protecting the Lender and the Settlement Agent from Independent Loan Closer defalcation or failure to follow these written **GENERAL and SPECIFIC CLOSING INSTRUCTIONS**.
- m. “Fund” or “Funding Approval” or any other derivative of the word means the act of Lender authorizing Settlement Agent to Disburse the Loan Proceeds.
- n. “HOA” means homeowner’s association.
- o. “Independent Loan Closer” means any person possessing fidelity bond coverage approved by the Settlement Agent and a license or registration issued by the state where the Loan Documents are Signed, who is not an employee of the Settlement Agent and acts as the Signing Agent.
- p. “Lender” means the entity set out in the **Lender Contact Information** section of the **SPECIFIC CLOSING INSTRUCTIONS**.
- q. “Loan” means the Loan described in the **Loan Information** section of the **SPECIFIC CLOSING INSTRUCTIONS**.
- r. “Loan Documents” means all documents required by the Lender to close the Loan.
- s. “Loan Proceeds” means the Loan Amount described in the **Loan Information** section of the **SPECIFIC CLOSING INSTRUCTIONS** to be Disbursed.
- t. “Mortgage Broker” means the entity set out in the **Mortgage Broker Contact Information** section of the **SPECIFIC CLOSING INSTRUCTIONS**.
- u. “Non-Borrowers Acknowledgment” means the document attached to the **SPECIFIC CLOSING INSTRUCTIONS** and referenced in the **Required Documentation** section of the **SPECIFIC CLOSING INSTRUCTIONS**.

- v. “Person with Rights” as defined in Section C.9 (d). of these GENERAL CLOSING INSTRUCTIONS.
- w. “POC” means paid outside of Closing.
- x. “Property” means the property identified in the **Property Information** section of the SPECIFIC CLOSING INSTRUCTIONS. Property is real property unless otherwise stated in the **Property Information** section of the SPECIFIC CLOSING INSTRUCTIONS.
- y. “Recordation” means when the Settlement Agent receives confirmation from the appropriate land records office that the Security Instrument and any other documents required to be recorded have been accepted for recording (together with any required fees) in the normal course of business.
- z. “Right Of Rescission” means the Notice of Right to Cancel or Right of Rescission Notice document referenced in the **Required Documentation** section of the SPECIFIC CLOSING INSTRUCTIONS.
- aa. “Security Instrument” means the Mortgage or Deed of Trust securing the Lender’s Loan with a recordable lien against the Property.
- bb. “Seller” means the person or persons or entity set out in the **Seller Information** section of the SPECIFIC CLOSING INSTRUCTIONS.
- cc. “Settlement Agent” means the entity set out in the **Settlement Agent Contact Information** section of the SPECIFIC CLOSING INSTRUCTIONS.
- dd. “Settlement Statement” means the HUD-1 or HUD-1A form.
- ee. “Sign” or any capitalized derivative of the word means the act of Borrower signing the Loan Documents.
- ff. “Signing Agent” means any person or entity directly responsible for supervising the Signing of the Loan Documents who is present at the time of Closing for the purpose of procuring the Borrower’s execution of documents related to the Closing process.
- gg. “Table Funding State” means a state where traditionally the buyer and seller meet to finalize the transaction and where purchase money and ownership documents, including the deed exchange hands. The Closing can only take place once all the conditions of the real estate contract and the Lender’s requirements have been met.
- hh. “TIL” means the Truth In Lending disclosure required by federal law.

- ii. “Title Insurer” means the entity issuing the Title Policy required in the **Title Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS.
- jj. “Title Document” means a preliminary title report or binder to issue a Title Policy.
- kk. “Title Policy” means the policy of title insurance issued in compliance with Section C of these GENERAL CLOSING INSTRUCTIONS.

B.2 Fraud Prevention and Whistleblowing.

***If any one or more of the circumstances set out in Section B.9 or Section J of these GENERAL CLOSING INSTRUCTIONS is known (or should have been known in the normal exercise of its duties) by the individual Settlement Agent or Signing Agent conducting the Closing to exist during any stage of this transaction***, Settlement Agent or Signing Agent must immediately contact Lender and postpone Closing or Disbursement of the Loan until Settlement Agent receives permission to proceed from Lender’s Contact Person designated in the **Lender Contact Information** section of the SPECIFIC CLOSING INSTRUCTIONS.

B.3 Agreement to Comply.

By conducting the Closing, Settlement Agent affirms that Settlement Agent has read, understands and agrees to strictly comply with and satisfy all conditions of these GENERAL and SPECIFIC CLOSING INSTRUCTIONS, including all attachments. Lender will hold Settlement Agent liable for any losses resulting from Settlement Agent’s failure to follow these GENERAL and SPECIFIC CLOSING INSTRUCTIONS. Settlement Agent must not change, modify or waive any provisions of these GENERAL and SPECIFIC CLOSING INSTRUCTIONS without Lender’s prior written consent. Settlement Agent acknowledges that it is responsible for the actions of any Signing Agent utilized in this transaction and has **obtained fidelity bond protection from an acceptable insurer through any Independent Loan Closer.**

B.4 Closing Expiration.

The Loan must be Signed on or before the earliest of the time:

- a. when the Loan Documents expire as provided in the **Closing Document Information** section of the SPECIFIC CLOSING INSTRUCTIONS,
- b. when the interest rate lock-in expires as provided in the **Closing Document Information** section of the SPECIFIC CLOSING INSTRUCTIONS, or
- c. provided in the **Required Documentation** section of the SPECIFIC CLOSING INSTRUCTIONS after Settlement Agent receives Lender’s funds (the “Loan Proceeds”).

B.5 Failure to Sign on Time.

If this Loan is not Signed on or before the earliest date prescribed in B.4 above, Settlement Agent must immediately notify the Lender's Contact Person as provided in the **Lender Contact Information** section of the SPECIFIC CLOSING INSTRUCTIONS and return the Loan Documents and the Loan Proceeds to Lender unless otherwise instructed by Lender.

B.6 Unauthorized Practice of Law (UPL).

Settlement Agent and Signing Agent must comply with all UPL laws and rulings of the jurisdiction where the property is located, and ensure that all activities related to the Loan transaction conform with these laws and rulings.

B.7 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 under these GENERAL and SPECIFIC CLOSING INSTRUCTIONS inure to the benefit of Lender's successors and assigns.

B.8 Incomplete Closing Instructions or Loan Documents.

Settlement Agent agrees to contact and obtain from Lender any enclosure referenced in the SPECIFIC CLOSING INSTRUCTIONS that it does not have prior to Completion of Closing.

B.9 Whistleblower Instructions.

The Settlement Agent or Signing Agent shall provide a written report to designated Lender senior management as set forth in the **Lender Contact Information** section of the SPECIFIC CLOSING INSTRUCTIONS, if the Settlement Agent or Signing Agent discovers unfair, deceptive, misleading or unlawful behavior by any Lender or Mortgage Broker employee in connection with any Loan.

Settlement Agent or Signing Agent shall explain fully the Closing process and Loan documents to Borrowers and to answer all questions from Borrowers to the best of the Settlement Agent's or Signing Agent's ability, unless the Settlement Agent or Signing Agent is prohibited by law or professional standards from doing so. Further, Settlement Agent or Signing Agent shall not to pressure or rush Borrowers at Closing or encourage them to close by suggesting Borrowers may use the rescission period either to read Loan documents or to address questions or objections raised at Closing.

Employees of Lender or Mortgage Broker may attend Closings only if requested by a Borrower. Lender or Mortgage Broker employees attending a Closing may not pressure or rush Borrowers, encourage them to close by suggesting they may use the rescission period either to read Loan documents or to address questions or objections raised at Closing, or in any way obstruct the ability of the Settlement Agent or Signing Agent to perform his or her duties.



The Settlement Agent or Signing Agent shall report any violation of this section by any Lender or Mortgage Broker employee to designated Lender senior management.

## C. TITLE INSURANCE.

### C.1 Approved Settlement Agent. **NOTE: This Section is applicable only to Settlement Agents who issue a Title Document and/or a Title Policy.**

If Settlement Agent issues the Title Document, Settlement Agent must also issue a Title Policy from the same title insurer whose name appears on the Title Document unless:

- a. Lender agrees to receive a title policy from a different title insurer and Lender receives a satisfactory closing protection letter from that title insurer; or
- b. Lender receives a Title Document from a different title insurer and Lender receives a satisfactory closing protection letter from that title insurer.

Settlement Agent must immediately notify Lender in writing if the title insurer terminates its underwriting agreement with Settlement Agent for any reason.

### C.2 Closing Protection; Loan Proceeds to Title Insurer **NOTE: This Section is applicable only to Settlement Agents who issue a Title Document and/or a Title Policy.**

- a. Settlement Agent must provide Lender with a valid and current closing protection letter, approved attorney letter, or errors and omission coverage and fidelity bond, acceptable to Lender. Settlement Agent must be an approved agent of the title insurance company whose name appears on the Title Document. The Title Document must be issued by the same Title Insurer that issued the Closing Protection Letter to Lender.
- b. If Lender Funds the Loan Proceeds directly to Title Insurer, no portion of the Loan Proceeds may be forwarded to Settlement Agent unless all conditions of these GENERAL and SPECIFIC CLOSING INSTRUCTIONS have been satisfied or as required by law to consummate the transaction.

### C.3 Gap Coverage.

In states where gap coverage is available, Settlement Agent must cause Title Insurer to update the Title Document to the exact time of Disbursement to ensure that no changes in title to the property have occurred between the issuance date of the Title Document and the date of Disbursement.

### C.4 Coverage.

The Title Policy coverage must be no less than equal to the full Loan Amount or, if the Loan has a negative amortization feature, the coverage must equal the percent of the Loan Amount as provided in the **Title Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS. For HELOC loans requiring title insurance, the coverage must

secure future advances up to the maximum credit line as provided in the **Title Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS.

C.5 Name of Insured.

The insured named on the Title Policy must read as set forth in the **Title Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS, immediately followed by "and/or its assigns, as their interest may appear," or substantially similar language permitted in the Settlement Agent's jurisdiction.

C.6 Loan Number.

Lender's loan number as provided in the **Loan Information** section of the SPECIFIC CLOSING INSTRUCTIONS must appear on the Title Policy for informational purposes only.

C.7 Lender's Title Policy.

A Title Policy must be issued if required by the **Title Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS, otherwise, only a Title Document must be delivered to and approved by Lender. When required, Settlement Agent commits to cause Title Insurer to issue a Lender's Title Policy to Lender as provided in the Title Document. If the Title Policy is sent without a complete lien description, Settlement Agent must cause Title Insurer to deliver to Lender an addendum to the Title Policy with the complete lien description within 10 days of Settlement Agent receiving the recording information.

- a. The Title Policy must be a standard long form ALTA Lender's Title Policy (or the state-specific equivalent). Lender will accept a short form if the Loan is secured by a one- to four-family dwelling (except a cooperative unit) and all the terms of the standard long form are incorporated therein.
- b. Iowa Only: Lender will accept a Certificate of Title (Opinion of Title) in lieu of a Title Policy, if the following conditions are met:
  - i. An opinion of title must be provided to Lender by an attorney licensed to practice law in the State of Iowa.
  - ii. The attorney must be insured against malpractice in rendering opinions of title in an amount commonly prevailing in the State of Iowa, taking into account the volume of opinions rendered by the attorney.
  - iii. The opinion must be addressed as provided in the **Lender Contact** section of the SPECIFIC CLOSING INSTRUCTIONS.
  - iv. The opinion must provide the following statement: "[Attorney's name] agrees to indemnify Lender, and its successors and assigns to the full extent of any loss attributable to a breach of [attorney's name] duty to exercise reasonable care and skill in the examination of the title and the giving of this opinion."
  - v. The opinion must not take exception to survey matters. If the attorney will not issue a title opinion without a survey exception, a

Title Policy including the ALTA Form 9 endorsement (or its equivalent) must be obtained.

c. For a home improvement or new construction loan, Settlement Agent must cause Title Insurer to issue an ALTA LP-10 (with ALTA Rewrite) Title Policy (or the state-specific equivalent).

#### C.8 Ratings.

On the day of Closing, Title Insurer must have one of the following ratings:

- a. Demotech - "Financial Stability Rating" of "S" (Substantial) or better, or a "Statutory Accounting Rating" of "C" (Average) or better
- b. Standard and Poor's - "BBB" or better
- c. Moody's Investor Service - "Baa" or better
- d. LACE Financial Corporation - "C" or better
- e. Duff and Phelps Credit Rating Company - "BBB" or better
- f. Fitch Ratings "Insurer Financial Strength" Rating-"BBB" or better

#### C.9 Lien Position.

a. Validity. Only subject to any applicable exceptions shown in Section C.10 a. below, Lender's Security Instrument must create a valid lien on the Property. The secured interest must be in the lien position provided in the **Title Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS. All other liens must be extinguished, except for a junior lien created after this Loan. **Any lien superior to Lender's lien must have the express written consent of Lender.**

b. Subordination. Settlement Agent must obtain Lender's prior written consent for the subordination of any existing lien. Settlement Agent must provide Lender with the proposed subordination agreement, which must be on a form acceptable to Lender. If Lender approves the subordination and the subordination agreement, Settlement Agent must record the subordination agreement as specified in these Closing Instructions.

c. Pay-offs and Releases. Settlement Agent must obtain valid information concerning the payoff and an executed lien release for each existing lien to be paid in full and extinguished.

d. Persons with Rights.

If Borrower is married to a person of opposite sex or same sex, or is in a Registered Domestic Partnership, a Civil Union or any other relationship recognized by applicable State Law (a "Person with Rights"), Settlement Agent

agrees to take all necessary actions to ensure that Lender's lien is superior to any legal or equitable rights, title or interest the Person with Rights may have in the Property.

**C.10 Exceptions.** Except as otherwise as provided in the **Title Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS:

- a. Only the following marked exceptions may appear in the Title Policy:
  - i. Duly recorded covenants and restrictions against the land
  - ii. Public Utility Subsurface Easements
  - iii. Above Surface Public Utilities
  - iv. Mutual Easement Agreements
  - v. Taxes and assessments not yet due or payable
  - vi. Any other exceptions approved in writing by lender
  - vii. ***Notwithstanding inclusion of any of the above exceptions, title insurance policy must include coverage (typically by comprehensive endorsement such as the ALTA Form 9 or its equivalent).***
  
- b. The following exceptions are NOT PERMITTED:
  - i. Bond liens
  - ii. Assessment liens
  - iii. Tax liens
  - iv. HOA dues/assessments liens beyond State Law "Superlien" amounts
  - v. Judgment liens
  - vi. Survey easements and encroachments
  - vii. Taxes and assessments due within 60 days after Closing (must be paid at Closing)
  - viii. Prior lines of credit (must be closed with written confirmation obtained)
  - ix. **Junior liens**

**C.11 Restrictions.**

Restrictions shown in the Title Policy are not permitted unless acceptable to Lender as provided in the **Title Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS. If a particular restriction is acceptable to Lender, an ALTA Form 9 must be provided, or the following language must appear in the policy: "Restrictions are not violated as of the date of this policy and any future violation will not result in forfeiture or reversion of title."

**C.12 Reissue Rate.**

Settlement Agent is required to cause Title Insurer to charge Borrower a "reissue rate" if Borrower is entitled to such rate. Settlement Agent agrees to indemnify Lender against any claim by Borrower that an inappropriate rate was charged.

## D. PROPERTY INSURANCE.

### D.1 Flood Insurance.

Flood insurance is required for all properties as provided in the SPECIFIC CLOSING INSTRUCTIONS. If requested by Lender in the **Hazard Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS, Settlement Agent must obtain evidence that Borrower has flood insurance coverage for the Property, and promptly send Lender a copy. Borrower must sign the Notice of Flood Hazard Acknowledgment of Receipt if required in the **Hazard Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS.

### D.2 Hazard Insurance.

Settlement Agent must obtain evidence that Borrower has hazard insurance coverage for the Property as provided in **the Hazard Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS. If the loan is for a purchase, the term must be at least one year, prepaid. If a refinance, the remaining term must be for at least three months. If less than three months, the policy must be renewed for a term of at least one year. Borrower must sign the Hazard Insurance Requirements form enclosed with the Loan Documents.

D.3 Other coverages may be required. See the **Hazard Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS.

## E. SETTLEMENT STATEMENT

### E.1 RESPA.

Settlement Agent must prepare a HUD-1/HUD-1A Settlement Statement in accordance with the Real Estate Settlement Procedures Act and Regulation X (24 CFR 3500) including Appendix A to Part 3500 and in accordance with the instructions set forth in the SPECIFIC CLOSING INSTRUCTIONS. Settlement Agent must also provide and deliver the HUD-1 or HUD-1A to the Borrower, **Seller** and Lender in accordance with 24 CFR 3500. Under these provisions, Settlement Agent must permit the borrower to inspect such HUD-1 or HUD-1 A, completed to set forth those items that are known to the Settlement Agent at the time of inspection, during the business day immediately preceding the settlement; **only items related to the Seller's transaction may be omitted.** Settlement Agent agrees to indemnify Lender against any claim by Borrower that Borrower was denied permission to inspect the HUD-1 or HUD-1A in accordance with these requirements. If the Lender has not provided the information required for Settlement Agent to comply with this section at least 48 hours prior to the scheduled Signing, Settlement Agent shall postpone the scheduled Signing to a date and time at least 48 hours after receipt of required information from the Lender.

### E.2 Lender Approval.

- a. General Rule. Settlement Agent must obtain Lender's approval of the final Settlement Statement at least 24 hours prior to Signing. 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

such changes. If Lender returns the Settlement Statement to Settlement Agent with corrections to be made, final approval has not been given and will not be given until Lender receives a completely accurate Settlement Statement.

b. Escrow State Closings. Settlement Agent must obtain Lender's approval of an estimated Settlement Statement worksheet ("Worksheet") at least 24 hours prior to Signing. Once Lender has approved the Worksheet, Settlement Agent will not change any finance charges or make other changes to the Worksheet without first securing Lender's written approval of such changes. If Lender returns the Worksheet to Settlement Agent with corrections to be made, Settlement Agent will resubmit the Worksheet consistent with Lender's corrections. Settlement Agent will deliver a certified copy of the final Settlement Statement to Lender as soon as practicable.

E.3 Execution.

Settlement Agent must sign and date the Certification Addendum to the Settlement Statement and provide a copy to Borrower and Seller.

E.4 No Cash Out.

Borrower must not receive any cash proceeds unless approved by Lender. If Lender approves a cash payment to Borrower, those Loan Proceeds must be delivered to Borrower only.

E.5 Payoffs.

Settlement Agent must obtain current payoff statements from existing lien holders. The Settlement Statement must reflect the correct amount of any outstanding debt as set forth in the payoff statements required to be paid-off with Lender's Loan Proceeds. Settlement Agent agrees to be liable for incorrectly transcribed payoff amounts.

E.6 Home Equity Line of Credit (HELOC).

Only the charges disclosed in the SPECIFIC CLOSING INSTRUCTIONS may be charged on the Settlement Statement. Excess Loan Proceeds must be wired to the location set forth in the Lender Contact section of the SPECIFIC CLOSING INSTRUCTIONS.

E.7 GFE at Closing

If the Lender requests the GFE be acknowledged at time of Closing, the GFE form must state the date the GFE was actually sent to the Borrower and the acknowledgment must state the date it was actually signed (i.e. Closing).

E.8 Escrow Accounts.

Settlement Agent must pass all monies it collects related to the Closing through its Escrow Accounts and properly disclose them on the Settlement Statement.

E.9 FHA Loan Amount.

The Loan Amount is based on Borrower paying allowable closing costs (excluding prepaid tax and insurance escrows and interest) set forth in the **Conditions to be Satisfied Prior to Disbursement of Loan Proceeds** section of the SPECIFIC CLOSING INSTRUCTIONS. If Borrower's actual closing costs are LESS than this amount, Settlement Agent must suspend the Closing and notify Lender immediately. The Settlement Statement must accurately reflect any monies contributed on behalf of Borrower or deposited with Lender.

E.10 Fees and Charges.

The exact charges shown must be reflected and described on the appropriate line item in the Settlement Statement and paid as indicated. These amounts cannot be changed from the amounts shown on the **Loan Fees, Charges, Reserves and Payoffs** section of the SPECIFIC CLOSING INSTRUCTIONS without the prior written consent of Lender. Except as provided in Section E.11, only charges actually paid outside of Closing may be marked POC. If the Closing consists of a first and junior lien and Settlement Agent prepares only one Settlement Statement, all fees must be disclosed separately and must be clearly identified as to which loan the fee was applied.

E.11 Lender-Paid Mortgage Broker Fee.

The lender-paid mortgage broker fee, if applicable, must be disclosed on the Settlement Statement as a POC item and paid directly to the Broker as provided in the **Loan Fees, Charges, Reserves & Payoffs** section of the SPECIFIC CLOSING INSTRUCTIONS.

E.12 Settlement Agent Fees.

The dollar amounts specified for Settlement Agent Fees are based on information provided by Settlement Agent. If a "0" appears on the line, Settlement Agent has indicated the fee will not be charged. Settlement Agent represents that all fees charged by Settlement Agent will be bona fide and reasonable, comply in all respect with federal and state law, and properly disclosed on the Settlement Statement. If any finance charge or other material amount is added to or changed in the Settlement Agent Fee section, 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.

F. CLOSING CONDITIONS.

F.1 Compliance with GENERAL and SPECIFIC CLOSING INSTRUCTIONS.

All applicable conditions of these GENERAL and SPECIFIC CLOSING INSTRUCTIONS must be satisfied by, at or following Closing as required. If Settlement Agent is not the Signing Agent, Settlement Agent is not relieved of its obligation to ensure compliance with the GENERAL and SPECIFIC CLOSING INSTRUCTIONS by the Signing Agent.

F.2 Verification of Identity.

Because Signing Agent has face-to-face contact with Borrower and other signatories (as designated in the **Borrower Information** section of the SPECIFIC

CLOSING INSTRUCTIONS), and Lender may not, Signing Agent must ascertain and verify the identity of all parties signing as required by the USA Patriot Act. Signing Agent must perform the following activities for each Borrower and other signatories:

- a. Explain. Explain that their information is being obtained to verify identity.
- b. Identity Affidavit and Certification.
  - (i) Require each Borrower to complete and sign the Borrower's Certification containing the Borrowers' name, date of birth, social security or other ITIN number, and type, date of issue and expiration of ID Document reviewed,
  - (ii) Verify that the information provided by each Borrower in the Certification matches the identifying information provided by Borrower to the notary public at Closing, and
  - (iii) Sign the Certification at the bottom.
- c. Closing Agent/Notary Public Certification. Complete and sign the Borrower's Certification to certify that the information provided in the Borrower's Certification matches the identifying information provided by Borrower to the notary public at Closing.
- d. U.S. Residents. Obtain a copy of an unexpired U.S. government or a U.S. state government-issued identification that bears a photograph or similar safeguard, but do not forward copies of photographs or copies of driver's licenses to Lender. The U.S. government ID may not be a foreign-issued passport, Permanent Resident Alien Card, or Visa.
- e. Non-U.S. Residents. Obtain a copy of 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.Do not forward copies of the photographs or passports to Lender.
- f. Structured Organizations. Obtain a copy of the government-issued business license, if available, and:
  - i. For corporations, a current (less than 30 days old) certificate of good standing from the state of incorporation and a duly certified authorizing resolution.
  - ii. For partnerships, a copy of the partnership agreement.
  - iii. For trusts, the trust agreement.
  - iv. For DBAs, the assumed name certificate.
- g. Copies to Lender. Return to Lender clear and legible copies of all identifying information provided by Borrower, copies of all documents relied on



to establish Borrower's identity, and all documents used to resolve any discrepancy in the identifying information obtained. Do not forward copies of photographs or Driver's Licenses to Lender.

F.3 THE NOTICE OF RIGHT TO CANCEL (also known as the NOTICE OF RIGHT OF RESCISSION) on loans subject to rescission (see **Required Documentation** section of the SPECIFIC CLOSING INSTRUCTIONS) IS SIGNATURE AND DATE SENSITIVE. Signing Agent must ensure that the instructions below are followed when the Right Of Rescission is required.

a. BEFORE COMPLETION OF CLOSING, the following persons:

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

must sign the following documents:

- i. Security Instrument.
- ii. Right Of Rescission.
- iii. Truth in Lending Disclosure Statement ("TIL").

b. Copies. Each person who is required to sign the Right Of Rescission must be given the following documents at the time of closing for them to retain:

- i. TWO copies of the Right Of Rescission
- ii. ONE copy of the TIL

c. HELOC loans. If the loan is designated a HELOC loan in the **Loan Information** section of the SPECIFIC CLOSING INSTRUCTIONS, Borrower must sign the HELOC Credit Agreement, but **MUST NOT** sign the Non-Borrower Acknowledgment. All other persons on title and the non-borrower spouse must sign only the Non-Borrower Acknowledgment if such a document is required in the **Required Documentation** section of the SPECIFIC CLOSING INSTRUCTIONS.

d. Rescission Date.

- i. Signing Agent must ensure that the rescission expiration date on the Right Of Rescission is correct considering the actual date[s] of signature when each person signs and TIL requirements. If the date is incorrect, Signing Agent must draw a line through the incorrect date, write in the correct date, and have the correct date initialed by all persons signing the Right Of Rescission. If more than one person is to sign the Right Of Rescission and they do not sign on the same date, each person should sign his/her own copy of the Right Of Rescission and the dates on the form must be correct as to that signer.

ii. Each person who signs must date the Right Of Rescission in his or her own handwriting.

iii. DO NOT correct the rescission expiration date to reflect a date earlier than the date printed on the Right Of Rescission. The rescission period can only begin to run on or after the printed date. Therefore, any correction made to the date must reflect a date later in time to the printed date.

iv. If the rescission expiration date on the Right Of Rescission is blank and Signing Agent has been instructed to properly fill in the blank with a date three business-days after original signature, DO NOT have the Borrower initial the date. Only corrections or changes made to the Right Of Rescission are to be initialed by Borrower.

e. Beginning of Rescission Period. The rescission period will begin at midnight on the date the Notary Public acknowledges the last signature on the Security Instrument or the date printed on the Loan Documents, whichever is later.

f. Changes to Loan Documents. If any changes are made to the Loan Documents, the TIL, or the Right Of Rescission after the rescission period has begun, the rescission period must begin again at midnight on the date all persons have initialed the changes on the Loan Documents, the TIL, or the Right Of Rescission.

g. End of Rescission Period. At the end of the 3 business-day TIL rescission period, the Lender must be contacted by the Signing Agent to confirm neither the Signing Agent nor the Lender has any information that any person has rescinded the loan. If the loan is not rescinded, Signing Agent must obtain Lender funding approval.

#### F.4 Homeowners' Association (HOA) Dues.

Prior to closing, any HOA dues and assessments on the Property must be determined by the Settlement Agent to be paid current, and subsequent HOA liens must be subordinate to Lender's lien, except as permitted by applicable State Law for HOA "Superliens".

#### F.5 Manufactured Housing.

If the Loan will be secured by a manufactured home as provided in the **Property Information** section of the SPECIFIC CLOSING INSTRUCTIONS, Settlement Agent prior to closing must read and comply with all requirements in Section I hereof, **Closing Instructions for Manufactured Housing**.

#### F.6 Power of Attorney.

If a Power of Attorney will be used to sign Loan Documents, Settlement Agent must ensure that the Power of Attorney has been or will be filed in the Land Records Office prior to recording any other Loan Documents. Settlement Agent must collect a

recording fee, if necessary. Settlement Agreement 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. **Settlement Agent must not act as the attorney-in-fact or sign documents on behalf of any party to the transaction.** If Lender accepts the Power of Attorney, Settlement Agent must ensure that all documents are executed properly and in accordance with applicable state law requirements. On VA Loans, an "Alive & Well" statement is also required.

F.7 Survey.

If a survey is provided to meet a requirement of the **Title Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS, the legal description, lot size and street address on the survey must agree with the Title Document and Loan Documents.

F.8 Repair and Termite Clearance.

Prior to closing, all repairs required by the appraisal or the termite report must be completed (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.). Settlement Agent must obtain a final inspection report certifying completion of all such repairs. For VA loans, the following certification must appear on the termite report, signed by the veteran: "I hereby certify that I have received a copy of the termite 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 termite report must be signed by Borrower.

F.9 Other Required Documents.

If the purchase contract or the **Required Documentation** section of the SPECIFIC CLOSING INSTRUCTIONS requires other documentation, prior to closing, it must be obtained and Lender must be given a copy of the results.

F.10 Copies to Borrower.

Prior to closing, a copy of the Loan Documents must be provided to Borrower.

F.11 Document Completion.

Prior to closing, Settlement Agent must examine the Loan Documents and determine that:

- a. All Loan Documents are completed (no blanks).
- b. No pages, riders, addenda or exhibits are missing.
- c. The Property's legal description on the Title Document matches the legal description on the Survey, if provided, and all Loan Documents.

F.12 Document Execution.

Borrower may Sign the Loan Documents before 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 the Loan Documents have not expired pursuant to the **Document Information** section of the SPECIFIC CLOSING INSTRUCTIONS. Loan Documents will be effective the later of:

- (a) The date printed on the Loan Documents, or
- (b) The date Borrower Signs the Loan Documents. Any rescission period will begin to run on the later date. Settlement Agent **MUST NOT** change the date printed on the Loan Documents or Disburse the Loan prior to the date printed on the Loan Documents.

## G. DISBURSEMENT CONDITIONS.

### G.1 Compliance with GENERAL and SPECIFIC CLOSING INSTRUCTIONS.

Settlement Agent must not Disburse the Loan Proceeds unless and until each and every one of the applicable conditions in the GENERAL and SPECIFIC CLOSING INSTRUCTIONS have been satisfied. If Settlement Agent is the Title Insurer that will Disburse the Loan Proceeds and issue the Title Policy, but did not conduct the Signing of the Loan, Settlement Agent is not relieved of its obligation to ensure compliance with these Closing Instructions.

### G.2 Document Completion.

Prior to the closing, all Loan Documents must be completed by the Settlement Agent or Signing Agent (no blanks and no backdating), properly Signed, and properly acknowledged where applicable. The Disbursement Date must be scheduled to occur on or after the date printed on the Loan Documents.

### G.3 Prior Authorization Required.

Under no circumstances may Settlement Agent Disburse the Loan Proceeds **PRIOR TO OBTAINING LENDER AUTHORIZATION**. Settlement Agent must obtain a Funding number from Lender, and Loan Proceeds must be Disbursed in strict compliance with the SPECIFIC CLOSING INSTRUCTIONS, these GENERAL CLOSING INSTRUCTIONS and the Settlement Statement. Failure to comply will result in Settlement Agent being removed from Lender's approved settlement agent list and an action for damages.

### G.4 Additional Funding Conditions.

See the **Conditions to be Satisfied Prior to Disbursement of Loan Proceeds** section of the SPECIFIC CLOSING INSTRUCTIONS.

### G.5 Rescission.

If a Right Of Rescission is required in the **Required Documentation** section of the Specific Instructions, the Loan Proceeds must not be Disbursed to anyone until the 3-day rescission period has expired and all of the conditions of Section F.3 have been complied with. The Right Of Rescission document may not be backdated under ANY circumstances.

G.6 Sufficient Borrower Funds to Close.

Prior to or at closing, Settlement Agent must receive from Borrower cash or other good funds 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 prior to Signing by the Lender.

G.7 Table Funded Loans and Concurrent Closings.

Regardless of whether Lender or a Mortgage Broker is the named lender on the Loan Documents, if Lender's Loan Proceeds are used to Disburse the Loan, then all conditions in these SPECIFIC and GENERAL CLOSING INSTRUCTIONS must first be satisfied by Settlement Agent.

G.8 Excess Loan Proceeds.

If Lender's Loan Proceeds exceed the amount needed to Complete the Closing, Settlement Agent must return the excess Loan Proceeds to Lender. Loan Proceeds must be returned by wire to the location identified in the **Lender Contact Information** section of the SPECIFIC CLOSING INSTRUCTIONS, or returned in the form of a check by mail to the location identified in the **Lender Contact Information** section of the SPECIFIC CLOSING 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.

G.9 Document Delivery.

Settlement Agent must deliver the following documents, **if applicable**, to the address in the **Lender Contact Information** section of the SPECIFIC CLOSING INSTRUCTIONS within 24 hours after Closing:

- a. Originals. The original of all Loan Documents except documents to be sent for recording.
- b. Conventional Loan. One copy of each Closing Document sent for recording, certified to be a "True Copy of the Signed Original" with the notary acknowledgement section completed in its entirety.
- c. Government Loan. Two copies of each Closing Document sent for recording, each copy certified to be a "True Copy of the Signed Original" with the notary acknowledgement section completed in its entirety.
- d. Settlement Statement. The Settlement Statement(s) that in the aggregate have been signed by all parties.

- e. Termite Standard Inspection Report & Completion. On a VA or FHA Loan, Borrower must sign as provided in the **Required Documentation** section of the SPECIFIC CLOSING INSTRUCTIONS.
- f. Hazard Insurance. **If purchase, the original policy and/or paid receipt or acceptable Binder.** If refinance, evidence of paid premium and endorsement showing Lender's Loan number and Lender as loss payee.
- g. Survey. The original and one copy of a Survey that includes a flood evaluation and is acceptable for the issuance of clear title if required in the **Required Documentation** section of the SPECIFIC CLOSING INSTRUCTIONS.
- h. Flood. If required in the **Required Documentation** section of the SPECIFIC CLOSING INSTRUCTIONS an original executed application for a flood policy/NFIP or an executed NFIP "Certification of Purchase of Flood Insurance" and proof of payment (unless written by CIS). **If the Loan is a junior lien, include an original policy endorsement with increased coverage to include this Loan, showing Lender as an additional loss payee. If Lender is not the first lien holder, provide Lender with copies of the documents described in this paragraph together with the original endorsement.**
- i. Escrow Closing State Instructions. **In states where escrow closing is used, certified copy of title transfer escrow instructions and any amendments necessary.**
- j. Title Document. A copy of the Title Document and all restrictions mentioned in the Title Document.
- k. Tax and assessment searches. Must include account numbers.
- l. Builder's Warranty.
- m. Final Inspection Report from the appraiser indicating that all on-site and off-site improvements have been completed, unless an authorized Escrow Account has been approved for the purpose of completing the improvements.
- n. Certificate of Occupancy (or similar local government approval).
- o. Well and Septic Certification.
- p. Conveyance Document. A certified copy of the original recorded document that transferred title to the current record owner, such as a deed, court order, final divorce decree, etc..

- q. Power of Attorney.
- r. Searches. Include judgment and maiden name searches.

G. 10 Loan Payment Instructions.

Settlement Agent must provide the Borrower with instructions on when, where and how the Borrower is to make the Loan Payments as set out in the **Lender Contact Information** and **Loan Information** sections of the SPECIFIC CLOSING INSTRUCTIONS.

H. POST-DISBURSEMENT CONDITIONS

H.1 Loan Document Delivery.

Settlement Agent must deliver all executed Loan Documents to the address in the **Lender Contact Information** section of the SPECIFIC CLOSING INSTRUCTIONS.

H.2. Land Record Filings.

Instruments must be recorded in the official land records where the Property is located in the following exact order, or in the order required by the Title Insurer issuing the Title Policy:

- a. Deed or any other instrument used to convey title
- b. Power of Attorney
- c. First Lien Security Instrument with all Riders attached
- d. **Junior lien Security Instrument with all Riders attached**
- e. Subordination Agreement
- f. Other recordable documents

H.3 Recorded Document Delivery.

Settlement Agent must return the original recorded Loan Documents to Lender immediately upon Settlement Agent's receipt of the recorded Loan Documents from the land records office.

H.4 Title Policy.

Settlement Agent must cause the Title Insurer to deliver the Title Policy to Lender as provided in the Title Documents.

H.5 IRS Filings.

Settlement Agent must file Form 1099B with the IRS in compliance with the 1986 Tax Reform Act.

## H.6 Document Requests.

Settlement Agent must provide Lender with any and all documents requested by Lender in relation to the Completion of Closing not later than seven days from the request.

## I. Manufactured Housing Instructions

**If the Loan is designated as a manufactured housing unit in the Property Information section of the SPECIFIC CLOSING INSTRUCTIONS, the following conditions are required:**

I.1 Settlement Agent must verify that this is a manufactured housing transaction. If this is not a manufactured housing unit contact Lender immediately.

I.2 Settlement Agent must ascertain, verify and ensure the home will be taxed as real estate. Settlement Agent is responsible to ensure that any delinquent personal property taxes on the manufactured home, plus any unpaid sales and/or use taxes are paid prior to or at closing.

I.3 The final Lender's Title Policy must contain an **ALTA 7** or its equivalent (in Texas issue the T-31.1 endorsement), for manufactured housing, notating the make, model serial number and year the home was manufactured.

I.4 **Manufactured Home Transaction Requirements.** If the subject transaction involves the financing of a manufactured home, Settlement Agent must verify the home is permanently attached to the land and take all steps necessary to insure the lien on the land and the manufactured home is a real property lien and that it is legally classified and taxed as real property. Depending on where the property is located, such steps may include:

- a. the surrender of the Certificate of Title, filing a UCC-1 Financing Statement;
- b. obtaining the Manufacturer's Statement of Origin, and
- c. filing an Affidavit of Affixation.

I.5 The land on which the manufactured home is situated must be owned by Borrower in fee simple, unless the manufactured home is located in a cooperative or condominium project. Leasehold estates and investment properties are not allowed. **Settlement Agent must provide documentation to verify the acquisition and transfer of ownership of the land to Borrower.**

I.6 Confirm that the Appraisal Report Addendum (Form 1004C) is completed by the appraiser and included in the return loan package on conventional loans only.



I.7 The manufactured home must be permanently attached to a permanent foundation system and be connected to necessary utilities in accordance with local and state requirements, including sewer, water, electricity, gas service. The manufactured home must have a HUD label or state seal attached to each section. Do not close the loan if these conditions are not met.

I.8 Settlement Agent must obtain and provide documentation evidencing that the manufactured home is attached to a permanent foundation on the land. If state law requires a UCC-1 financing statement filing in order to perfect a security interest in the manufactured home then Settlement Agent must make such filing in any and all appropriate locations.

I.9 Settlement Agent must take all actions necessary to make sure the manufactured home together with the land is legally classified as real property. Chattel liens are unacceptable. **IF SETTLEMENT AGENT CAN NOT INSURE THE TRANSACTION AS REAL PROPERTY, DO NOT PROCEED WITH THE CLOSING AND CONTACT LENDER'S CLOSER IMMEDIATELY.**

I.10 Settlement Agent must obtain a Certificate of Title to the manufactured home, or to obtain any Certification of Title that has previously been issued, and perform all necessary procedures to assure that the Certificate of Title to the manufactured home is properly cancelled, or the manufacturer's statement of origin properly surrendered, and provide Lender with supporting documentary evidence of full performance. Settlement Agent must take all actions necessary to ascertain that the manufactured home has been affixed to the land, and assure that the Affidavit of Affixation (if required) is recorded and the Certificate of Title surrendered in accordance with applicable law. If an Affidavit of Affixation is not included in the closing package, Settlement Agent must provide one in accordance with applicable law and have it properly executed and recorded. Settlement Agent must take all actions necessary to assure the home is converted to real property and Lender's lien is properly evidenced as a real property lien.

I.11 If under state law the manufactured home is exempt from Certificate of Title requirements (for instance, where a home is attached initially to a permanent foundation system), Settlement Agent must ensure that the manufactured home qualifies for exemption, including monitoring of property installation procedures and the related documentation, and Settlement Agent must provide Lender with documentary evidence of the exemption and documentation showing that the manufactured home is real property that does not require a Certificate of Title, including documentation that the manufactured home has been permanently installed.

I.12 For new manufactured home purchases, the retailer/dealer must surrender to the Closing Agent the manufacturer's certificate/statement of origin, unless the manufacturer's statement of origin is required to be surrendered to a state agency, no later than the date of closing. Include this document in the returned loan package.

I.13 If the transaction involves trade equity from Borrower's existing manufactured home, the trade equity must be documented by a lien search in the appropriate real property or personal property records to verify ownership and existence of liens on the manufactured home and land, if included. **Settlement Agent must obtain from the Seller of the new manufactured home proof of title transfer and satisfaction of any existing liens on the traded manufactured home and include this documentation in the loan package.**

I.14 **The purchase, and financing** (or refinancing) of the land and the manufactured home must be evidenced and secured by a single valid and enforceable note and first lien Mortgage or Deed of Trust that is recorded in the land records. If a single lien is not legally recognized under state law, then Settlement Agent must take the necessary steps to make sure the manufactured home is evidenced on the Certificate of Title, or other document, and the land lien is properly documented by a Mortgage or Deed of Trust. The note and Security Instrument used must be Fannie Mae/Freddie Mac Uniform Instruments.

I.15 The legal description must contain the HUD label number, model year, make, model, width, length and Vehicle Identification Number, and Manufacturer's Identification Number of the manufactured home followed by "which, by intention of the parties, shall constitute a part of the realty and shall pass with it," or similar or additional language as required by applicable law.

I.16 Settlement Agent must provide proof of the elimination of the vehicle/chattel title to Lender at the address provided in the **Lender Contact** section of the SPECIFIC CLOSING INSTRUCTIONS within 90 days of the closing.

I.17 Title Company must ensure that any encumbrance noted on the Certificate of Title, including any liens of record in the county, state or applicable jurisdiction where the property is located, or any other security, lien or encumbrance noted on the Certificate of Title is satisfied out of the proceeds at closing.

I.18 **If this is a purchase transaction Borrower must make a minimum 5% down payment which must come from Borrower's own funds, and Borrower may not receive any cash back. Items of personal property (non-realty items) purchased in conjunction with the home must be deducted from the sales price and can not be financed as part of the Mortgage.**

I.19 Two powers of attorney executed by each Borrower naming Lender as attorney-in-fact for completion of any documentation relating to the manufactured home must be notarized and returned with the Loan Documents.

I.20 **State Specific Requirements:** If the property is located in one of the states listed below, Settlement Agent must adhere to the additional requirements indicated.

**California:** Settlement Agent must confirm that the local building enforcement agency has complied with the requirements concerning recording the HCD Form

433A. If this is a refinance transaction or the home has been previously owned, then a UCC search must be run as part of the title clearing activities and any UCC-1 that is located must be cleared.

**North Carolina:** Settlement Agent must record the Affidavit for Removal of Manufactured Home from Vehicle Registration Files, the Affidavit of Affixation, and the Certificate of Title surrendered.

**Oregon:** Settlement Agent must assure compliance with the statutory time requirements for recordation and delivery of documents required for exemption from registration and titling under Oregon law. Settlement Agent should conduct physical inspection of the property to verify that the manufactured home is affixed to the land.

**Tennessee:** For loans Settlement on or after January 2004, Settlement Agent must confirm that the appropriate "permit decal" is affixed to the inside of the electrical box. Duly complete the Affidavit of Affixation with exhibits and properly file with the County Register's office where the manufactured home and land are located, and surrender any Certificate of Title that may have been issued.

**Texas:** Settlement Agent to add the following language to the Deed of Trust if it is not included in the DOT or in a separate instrument:

**Land and Home Matters. Owner acknowledges that the land and manufactured home covered by this Security Instrument are to be treated as real property for all purposes under Texas law and that the parties have elected not to be governed by Chapter 347 of the Texas Finance Code.**

The Settlement must take place at the office of a federally-insured financial institution, a title company or an attorney at law. Settlement Agent must take all actions necessary to file for a Statement of Ownership and Location with the Manufactured Housing Division of the Texas Department of Housing and Community Affairs and, once issued, record a certified copy in the land records of the county in which the real property is located. Include proof of utility connection and mechanics lien documentation as necessary.

**Washington:** Settlement Agent is responsible for completing the process for elimination of the Certificate of Title; the loan may not be signed until all documentation is present to process the Certificate of Title elimination. Title Insurer must issue the ALTA 7 endorsement and bear all risk that the process is not properly completed or the title elimination document is not ultimately approved by the Washington Department of Licensing.

## J. FRAUD PREVENTION.

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 a bad reputation for the mortgage lending industry. Such acts include altering title documents, back-dating Loan Documents, falsifying settlement statements, facilitating identity theft, committing notary fraud, turning a blind eye to false down payments or fraudulent checks, creating false payoff figures, etc. See Section B.9 for Settlement Agent responsibilities in the event such actions are committed or encouraged by an employee of the Lender or Mortgage Broker.

***If any one or more of the following circumstances is known (or should have been known in the normal exercise of its duties) by the individual Settlement Agent or Signing Agent actually conducting the Closing to exist during any stage of this transaction, Settlement Agent must immediately contact Lender and postpone Closing or Disbursement of the Loan until Settlement Agent receives permission to proceed from Lender's designated Contact Person in the **Lender Contact Information** section of the SPECIFIC CLOSING INSTRUCTIONS:***

J.1 Property Transfers.

- a. 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:
  - i. a junior loan provided or approved by Lender;
  - ii. the Property was acquired through inheritance;
  - iii. the Property is a single-family residence and Seller is a federal government agency, other than Fannie Mae or Freddie Mac.
  - iv. the Lender has approved the existence of multiple concurrent transactions in the Specific Instructions.
- b. The Property has been conveyed within 6 months preceding the Closing Date and/or the new Loan represents an increase of over 25% of a previous Security Instrument recorded in that same time period, unless the conveyance or Security Instrument was noted in the Title Document and accepted by the Lender in the **Title Insurance** section of the SPECIFIC CLOSING INSTRUCTIONS.
- c. A full or partial transfer of the Property has occurred or will occur on or after the issuance date of the Conveyance Document, except for the transfer to Borrower by the vested owner shown in the Conveyance Document.
- d. The Loan is for purchase money and Borrower has acquired record title to the Property prior to the Closing Date.
- e. The Loan is for a refinance and Borrower has not acquired record title to the Property prior to the Closing Date.

f. The Earnest Money Deposit covers substantially all of the Seller's "profit" or the Down Payment, and may not be "real".

J.2 Material Facts.

Any material fact that may have an impact on Lender's decision to make the Loan. A material fact includes but is not limited to, any significant information on changes in the value or title of the Property, changes to the sales contract (if a purchase), changes to the financing, bankruptcy, enforcement of creditor's rights, or any knowledge or indication of suspicious activity.

J.3 Fraud, Misrepresentations, Falsehoods.

- a. a fraud or scheme related to the transaction has been or may be committed.
- b. any party to the transaction, including but not limited to Borrower, Seller, Real Estate Broker, Builder, Mortgage Broker, Title Insurer, Appraiser, Signing Agent or Settlement Agent has made a material misstatement or committed a falsehood.
- c. a loan document or invoice has been tampered with, falsely generated, bears any incorrect or falsified data, bears different names or addresses for the same party, or bears a fictitious name.
- d. a party's handwriting or signature is inconsistent on the Loan Documents.
- e. Borrower is being paid to lend credit or identity to the transaction.

J.4 Property Condition.

Recent changes to the condition of the Property, including fire, flood, regional disaster, or other damage.

J.5 Parties to the Transaction.

The employee of Signing Agent who handles the transaction has a conflict of interest, is a party to the transaction, or is a family member, a relative or a close personal friend of any party to the transaction. "Relative" includes spouse, parent, child, brother, sister, aunt, uncle, niece, nephew, cousin, grandparent, fiancé or life partner, as well as corresponding in-law and step relations.

J.6 Incomplete Loan Documents.

Any attachment referenced in the **Required Documentation** section of the SPECIFIC CLOSING INSTRUCTIONS is not attached.

J.7 FHA Allowable Costs.

Borrower's actual costs are less than the allowable closing costs set forth in the **Conditions to be Satisfied Prior to Disbursement of Loan Proceeds** section of the SPECIFIC CLOSING INSTRUCTIONS (excluding prepaid interest and tax and insurance escrows).

- J.8 Title Document.
- a. If the Title Document does not conform with the Title Policy requested by Lender, or the Title Document conflicts with the Title Policy requested by Lender.
  - b. The title owner shown on the Title Document does not match the Seller on the purchase contract. (Note: Except in a Contract for Deed refinance, the transaction cannot be subject to the Seller acquiring title to the Property.)
- J.9 Loan Documents.  
The Loan Documents are incomplete or inconsistent with other information in the closing file.
- J.10 Identity.  
Signing Agent cannot determine the true identity of any signatory, or any signatory is unable to produce an unexpired form of government issued identification.
- J.11 Silent Second.  
A “silent second mortgage” has been or will be placed on the Property.
- J.12 Source of Borrower Funds.  
Borrower’s funds are paid from a source other than a source specified in the **Source of Funds** section of the SPECIFIC CLOSING INSTRUCTIONS.
- J.13 Mortgage Broker.  
The mortgage broker is the same person or is owned or controlled by the same person as the Seller, Borrower, appraiser, Settlement Agent, or any other interested party to the transaction.
- J.14 Prior Interest.  
Borrower, real estate agent, mortgage broker, appraiser, Settlement Agent or any other person with an interest in the transaction, **except Seller**, has had a prior interest in the Property.
- J.15 Coercion, Undue Influence, Incapacity.  
Borrower **or Seller** appears to be coerced, under undue influence, or incapable of reading and understanding the nature of the transaction.
- J.16 Sales Price.  
There are any changes to the sales price or the escrow opening instructions or it appears that the Earnest Money Deposit is fictitious.
- J.17 Closing Fees.  
The amounts provided by the Settlement Agent and disclosed in the **Loan Fees, Charges, Reserves and Payoffs** section of the SPECIFIC CLOSING INSTRUCTIONS for services provided by Settlement Agent are incorrect.

J.18 Non-Occupied.

Borrower owns and occupies another residence not subject to this transaction and does not intend to occupy the Property (unless this is noted as an investment property on the **Property Description** section of the SPECIFIC CLOSING INSTRUCTIONS).

J.19 Payments.

Any request for a payment from Loan Proceeds is ambiguous, has missing or incomplete information, lacks a clear description, or appears unusual in any manner.

J.20. Seller.

If Seller is a business entity, Borrower directly or indirectly controls Seller or is related to Seller's owner.

J.21 Commissions.

If any real estate sales commissions are excessive for the market area.

J.22 Manufactured Housing (i.e., Mobile Homes).

Settlement Agent discovers that the home has not been affixed to the land or converted to real property.

J.23 Taxes.

The Property tax assessment is 10% or more of the appraised value shown in the **Property Information** section of the SPECIFIC CLOSING INSTRUCTIONS.

END