

FAX COVER SHEET.

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**Fees:	Domestic	\$ 3.00 first page	\$ 2.00 each additional page
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TO: P. J. Garcia

FAX NO: 714 842 9934

PAGES: _____

FROM: Genia Engelstad

DATE: 6-9-06

draft 19 - many more to come.

Kenneth A. Markison - Senior Director
& Regulatory Counsel - Gov. Affairs

MBA

said Mortgage Bankers - title and
escrow not on board yet

- But this will happen. especially
with upcoming items such as:
emortgages - e forms, e docs

Stay tuned for more

updates -

SPECIFIC CLOSING INSTRUCTIONS

These Specific Closing Instructions are to be read in conjunction with the General Closing Instructions, which are incorporated by reference and may be found at www.mbaa.org/gci.htm. If any provisions in these Specific Closing Instructions conflict with the provisions in the General Closing Instructions, the Specific Closing Instructions shall control.

Date: _____ Time: _____

SETTLEMENT AGENT CONTACT INFORMATION

Contact Name:	File No:
	Phone:
Company Name:	Fax:
	Email:
Mailing Address:	

TITLE INSURER CONTACT INFORMATION

Contact Name:	File/Order No:
	Phone:
Company Name:	Fax:
	Email:
Mailing Address:	

LENDER CONTACT INFORMATION

Instructions: If settlement is not completed within ___ hours after receipt of funds, Settlement Agent must notify the Lender's Contact Person immediately and return Lender's funds and Closing Documents to Lender immediately unless otherwise indicated.

Contact Name:	Phone:
	Fax:
Company Name:	Email:
Mailing Address:	

MORTGAGE BROKER CONTACT INFORMATION

Contact Name:	Phone:
	Fax:
Mortgage Broker Name:	Email:
Mailing Address:	

BORROWER INFORMATION

Borrower Name:	Phone:
	Fax:
Borrower Entity Type (Individual, Partnership, etc.):	Email:
Borrower Type (Individual, Co-Signer, Title Only, Officer):	
Mailing Address:	
Power of Attorney Information:	

Borrower Name:	Phone:
	Fax:
Borrower Entity Type (Individual, Partnership, etc.):	Email:
Borrower Type (Individual, Co-Signer, Title Only, Officer):	
Mailing Address:	
Power of Attorney Information:	

PRIMARY SELLER INFORMATION

Seller Name:	Phone Number:
	Fax Number:
Mailing Address:	Email:

PROPERTY INFORMATION

Property Address: Property County:
 Property Type: Sales Price: Down Payment:
 Appraised Value: LTV:

CLOSING DOCUMENT INFORMATION

Closing Document Expiration Date: Interest Rate Expiration Date:
 Other Document Specific Information:

LOAN INFORMATION

Loan Purpose: Closing Date:
 FHAVA Number: Per Diem Interest:
 Vesting to Read:
 Loan Number: MERS Number: Loan Amount:
 Loan Type: Anticipated Disbursement Date: Funding/Settlement Date:
 APR: Initial Payment Amount: Term/Amortization:
 First Payment Date: Last Payment Date: Maturity Date:
 Index: Margin: Interest Change Date:
 Lifetime Rate Cap: Lifetime Rate Floor: Periodic Rate Cap:

REQUIRED DOCUMENTATION

Instructions: The following documents are necessary to complete the above-referenced loan transaction. Within 2 business days after closing, Settlement Agent must return to Lender the following documents, other than those to be presented for recording. [Settlement Agent must [use the enclosed envelope or label provided, and] send package to Lender by: [Regular Mail/Overnight/Expedite Delivery (If Lender is to pay for overnight delivery bill to [Carrier] [Account Number]]. Settlement Agent must submit for recording all original Mortgage/Deed of Trust, Riders and/or Assignments, upon receiving signatures, receiving funds and when all conditions of the real estate transaction and/or loan transaction are met.

Deed of Trust Legal Exhibit A Hazard Insurance Requirements 4506	Borrower's Certification Initial Escrow Acct. Disc. Statement Notice of Right to Cancel	Credit Agreement Fair Lending Notice Patriot Act
Sample List of Documents	<i>This list should be populated based on the loan package. Additional information may appear such as an annotation of who signs which document and references to the General Closing Instructions may be added, ex. Instructions for Notice of Right to Cancel.</i>	<i>Overflow to appear on Attachment</i>

TITLE INSURANCE

Instructions: Settlement Agent shall not disburse Lender's funds until the Title Insurer has been provided with a copy of these Specific Closing Instructions and has agreed to comply with the following conditions:

- 1) Lien Priority: [1st/2nd], subject to the following exceptions:
- 2) Endorsements:
- 3) Insured Lender::
- 3) Approved Secondary Financing::
- 4) Type of Policy:
- 5) Title Policy Coverage Amount:
- 6) Survey Required: [Yes/No]
- 7) Other Conditions:

HAZARD INSURANCE

Loss payee/mortgagee clause to read:

Flood:	Deductible:
Hazard:	Deductible:
Other:	Deductible:

[BLANK SPACE DUE TO INTERIM FORMAT. FINAL VERSION WILL MINIMIZE WHITE SPACE.]

CONDITIONS TO BE SATISFIED PRIOR TO DISBURSEMENT OF LOAN PROCEEDS

Additional Funding Instructions:

[Empty rectangular box for Additional Funding Instructions]

Attachments: The following documents are attached:

- Attachment to Specific Closing Instructions
- Construction Addendum
- Government Loan Addendum
- Texas Loan Addendum
- Reverse Mortgage

FUNDING INSTRUCTIONS

Wire Information:

Wire Amount: \$

Items withheld from or added to Wire:

GENERAL CLOSING INSTRUCTIONS
Mortgage Bankers Association Sub Group
Draft 06/05/06

NOTES TO POTENTIAL ADAPTORS

Companies that are considering adoption of these General Closing Instructions into their normal business practice should be aware of the following goals that guided the construction of these General Closing Instructions:

It is intended that changes will be required in lender and settlement agent 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 General Closing Instructions will provide greater clarity about which party is responsible for each step in the closing process. The General Closing Instructions are not intended to change who is responsible for each step in any significant way, but will set out remedies for failure to comply.

It is intended that these General Closing Instructions will change industry behaviors that are inherently subject to the risk of fraud, e.g. the use of unsupervised signing agents will no longer be allowed.

It is expected that these General Closing Instructions will be one of the fundamental building blocks of the fully electronic mortgage process. Data will be formatted according to MISMO standards.

It is intended that lenders will adjust their preclosing procedures so that the new timing requirements are met on the normal course. This will benefit all parties to the transaction, including the borrowers.

It is intended that industry trade groups will provide training to their members on the content of the General Closing Instructions and the behaviors use of the General Closing Instructions will required from their members.

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DRAFT

GENERAL CLOSING INSTRUCTIONS

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 to be Closed.

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 Logical Data Dictionary (at www.mismo.org) or as defined within these GENERAL CLOSING INSTRUCTIONS.

- a. "Alteration" means a change to the terms or conditions of a record, or change in the variable information added to the record after it is signed, or if it is not required to be signed, after it is delivered to the intended recipient.
- b. "Authoritative Copy" means the copy of the Transferable Record (eNote) that has been registered on the MERS® eRegistry.
- c. "Borrower" means the person or persons set out in the Borrower Information Section of the SPECIFIC CLOSING INSTRUCTIONS.
- d. "Borrower's Certification" means the document attached to these GENERAL CLOSING INSTRUCTIONS as Required Form K.2.
- e. "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.
- f. "Closing Instructions" mean these GENERAL CLOSING INSTRUCTIONS together with the SPECIFIC CLOSING INSTRUCTIONS provided to the Settlement Agent in connection with a Loan.
- g. "Closing Protection Letter" means the document from the Title Insurer protecting the Lender from Settlement 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.
- h. "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, 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.
- i. "Compliance Agreement" means the document attached to these GENERAL CLOSING INSTRUCTIONS as Required Form K.3.
- j. "Consumer Consent Form" means the document attached to these GENERAL CLOSING INSTRUCTIONS as Required Form K.6.
- k. "Controller" means the person named in the MERS® eRegistry that has legal control of the authoritative copy of the eNote (Transferable Record). (For example, the Controller can be thought of as the "holder," "holder in due course," and/or "purchaser" of an original paper note as defined under the Uniform Commercial Code.)
- l. "Disburse" or any derivative of the word means the act of the Settlement Agent or any other authorized party releasing the Loan Proceeds to the appropriate persons.
- m. "Disbursement Date" means the date the funds are actually Disbursed.
- n. "Electronic Note" or "eNote" means an electronic record that would be a promissory note if it was issued in paper, and that the Borrower has agreed to issue as a Transferable Record.
- o. "Electronic Record" means a record created, generated, sent, communicated, received, or stored by electronic means.
- p. "Electronic Signature" means an electronic symbol or process attached to or logically associated with a Record and signed or adopted by a Person with the intent to sign the Record.
- q. "Escrow" means a type of loan closing in which the 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, in a purchase transaction, the title of the property is transferred to the buyer subject to valid lien(s) as acceptable.
- r. "Escrow Account" means an escrow account or trust account used to hold Loan Proceeds and other proceeds related to the Closing in a fiduciary manner in accordance with applicable state law.

- s. "Escrow Closing State" means a state where loans are traditionally closed in Escrow.
- t. "First Payment Letter" means the document attached to these GENERAL CLOSING INSTRUCTIONS as Required Form K.5.
- u. "Fund" or "Funding Approval" or any other derivative of the word means the act of the Lender authorizing the Settlement Agent to Disburse the Loan Proceeds.
- v. "HOA" means homeowner's association.
- w. "Impound Account" means an account to be held by the Lender's loan servicer containing the Borrower's tax and insurance escrow funds.
- x. "Lender" means the entity set out in the Lender Contact Information Section of the SPECIFIC CLOSING INSTRUCTIONS.
- y. "Loan" means the Loan described in the Loan Information Section of the SPECIFIC CLOSING INSTRUCTIONS.
- z. "Loan Documents" means all documents required by the Lender to close the Loan.
- aa. "Loan Proceeds" means the Loan Amount described in the Loan Information Section of the SPECIFIC CLOSING INSTRUCTIONS to be Disbursed.
- bb. "Mortgage Broker" means the entity, if any, set out in the Mortgage Broker Contact Information Section of the SPECIFIC CLOSING INSTRUCTIONS.
- cc. "Mortgage Broker Certification" means the document attached to these GENERAL CLOSING INSTRUCTIONS as Required Form K.1.
- dd. "Non-Borrowers Acknowledgment" means the document attached to these GENERAL CLOSING INSTRUCTIONS as Required Form K.4.
- ee. "Person with Rights" as defined in Section C.9 (c). of these GENERAL CLOSING INSTRUCTIONS.
- ff. "POC" means paid outside of Closing.
- gg. "Procedure" or "Process" means the series of actions or steps necessary to perform a particular task or meet a particular requirement of these specifications.

Except where applicable law or the context requires otherwise, a Procedure 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 CLOSING INSTRUCTIONS**. Property is real property unless otherwise stated in the **Property Information Section** of the **SPECIFIC CLOSING INSTRUCTIONS**.
- ii. "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**.
- jj. "Security Instrument" means the Mortgage or Deed of Trust securing the Lender's Loan with a recordable lien against the Property.
- kk. "Seller" means the person or persons or entity set out in the **Seller Information Section** of the **SPECIFIC CLOSING INSTRUCTIONS**.
- ll. "Settlement Agent" means the entity set out in the **Settlement Agent Contact Information Section** of the **SPECIFIC CLOSING INSTRUCTIONS**.
- mm. "Settlement Statement" means the HUD-1 or HUD-1A form prepared in accordance with the Real Estate Settlement Procedures Act and Regulation X (24 CFR 3500) including Appendix A to Part 3500.
- nn. "Sign" or any capitalized derivative of the word means the act of the Borrower signing the Loan Documents.
- oo. "Signing Agent" means any person or entity, not an employee of the Lender, the Settlement Agent, or the Mortgage Broker, 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 all documents related to the Closing process.
- pp. "SMART Document" or "SMART Doc" means an electronic document created to conform to a specification standardized by MISMO. A SMART Document locks together data and presentation in such a way that it can be system-validated to guarantee the integrity of the document.
- qq. "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.

- rr. "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
- ss. "System Rules" mean the rules embedded in a System by the System Provider that must be agreed to by all parties using a particular System.
- tt. "Tamper-Evident" means a Tamper 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. "Tamper Seal" means to use an encryption key to authenticate the combination of an Electronic Record and existing Electronic Signatures associated with that Electronic Record, or to detect Alterations to the combination of the Electronic Record and the prior Electronic Signatures, or to authenticate or detect Alterations in a package of multiple Electronic Records. A Tamper Seal wraps 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.
- vv. "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.
- ww. "TRID" means the Truth in Lending disclosure required by federal law.
- xx. "Title Insurer" means the entity issuing the Title Policy required in the Title Insurance section of the SPECIFIC CLOSING INSTRUCTIONS.
- yy. "Title Commitment" means a preliminary report or binder to issue a Title Policy.
- zz. "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 Sub-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 the Signing Agent conducting the Closing to exist during any stage of this transaction, the Settlement Agent or the Signing Agent must immediately contact the Lender and postpone Closing or Disbursement of the Loan until the Settlement Agent receives permission to proceed from the Lender's Contact Person designated in the Lender Contact Information Section of the SPECIFIC CLOSING INSTRUCTIONS.

B.3 Agreement to Comply. Penalties for Noncompliance.

By conducting the Closing, the Settlement Agent affirms that the 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.

The Settlement Agent must not change, modify or waive any provisions of these GENERAL and SPECIFIC CLOSING INSTRUCTIONS without the Lender's prior written consent. The Lender instructs the Settlement Agent to select and direct and be responsible for the actions of any Signing Agent utilized in this transaction.

To the extent permissible under applicable law, the Settlement Agent agrees to indemnify the Lender from any losses resulting from the Settlement Agent's or the Signing Agent's failure to follow these GENERAL and SPECIFIC CLOSING INSTRUCTIONS, including, but not limited to all attorney's fees and court costs incurred by the Lender. The Settlement Agent may discharge this responsibility by providing the Lender with an acceptable Closing Protection Letter or an approved attorney letter, or errors and omission coverage and/or fidelity bond provided, equivalent coverages acceptable to the Lender.

Failure to comply with these GENERAL and SPECIFIC CLOSING INSTRUCTIONS may also result in the Settlement Agent being removed from the Lender's approved settlement agent list.

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 as otherwise provided in the Required Documentation Section of the SPECIFIC CLOSING INSTRUCTIONS after the Settlement Agent receives the 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, the 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 the Lender at the Lender's expense, unless otherwise instructed by the Lender. The Lender will make the Settlement Agent whole for its out of pocket expenses actually incurred for the canceled transaction.

B.6 Unauthorized Practice of Law (UPL).

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

B.7 Lender's Successors and Assigns.

The Settlement Agent agrees and understands that the Lender may sell the Loan in the secondary market and all of the Lender's rights and privileges under these GENERAL and SPECIFIC CLOSING INSTRUCTIONS inure to the benefit of the Lender's successors and assigns.

B.8 Incomplete Closing Instructions or Loan Documents.

The Settlement Agent agrees to contact and obtain from the 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 the Signing Agent shall provide a written report of suspicious activity to the Lender's designated senior management set forth in the Lender Contact Information Section of the SPECIFIC CLOSING INSTRUCTIONS, within one business day of the Settlement Agent or the Signing Agent discovering what it suspects may be unfair, deceptive, misleading or unlawful behavior by any Lender or Mortgage Broker employee in connection with the Loan being closed. The Lender and the Mortgage Broker shall indemnify the Settlement Agent and/or the Signing Agent against any legal claims brought by a Lender or Mortgage Broker employee who is the subject of any such suspicious activity report given in good faith. The Lender and the Mortgage Broker understand that any disciplinary action against a Lender or Mortgage Broker employee should only be taken after internal investigation and confirmation of the contents of such a suspicious activity report.

In the event employees of the Lender or the Mortgage Broker attend the Closings, the Lender or the Mortgage Broker employees may not overtly pressure or rush the Borrower, encourage the Borrower 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 the Signing Agent to perform his other duties.

C. TITLE INSURANCE. NOTE: Section C of these GENERAL CLOSING INSTRUCTIONS is applicable only to Settlement Agents who issue a Title Commitment and/or a Title Policy.

C.1 Approved Settlement Agent.

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

- a. The 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. The Lender receives a Title Commitment from a different title insurer and the Lender receives a satisfactory closing protection letter from that title insurer.

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

C.2 Closing Protection; Loan Proceeds to Title Insurer

a. Unless prohibited by applicable state law, Settlement Agents who are not direct employees of the Title Insurer must provide the Lender with a valid and current Closing Protection Letter, or approved attorney letter or errors and omission coverage and fidelity bond, whichever is acceptable to the Lender. The Settlement Agent must be an approved agent of the title insurance company whose name appears on the Title Commitment. The Title Commitment must be issued by the same Title Insurer that issued the Closing Protection Letter to the Lender.

b. Settlement Agents who are exclusive agents of a Title Insurer may provide the Lender a Master Closing Protection Letter covering all transactions involving that Lender on an annual basis in lieu of individual Closing Protection Letters required in Subsection C.2 (a) of these **GENERAL CLOSING INSTRUCTIONS**.

C.3 Gap Coverage.

In states where GAP coverage is available, the Settlement Agent must direct the Title Insurer to issue applicable GAP coverage for the transaction.

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**.

C.6 Loan Number.

When provided by the Lender in the **Loan Information Section** of the **SPECIFIC CLOSING INSTRUCTIONS**, the MERS loan identification number must appear on the Title Policy for informational purposes only.

C.7 Lender's Title Policy.

A Title Policy must be issued as identified in 'type of Title Policy coverage(s) and endorsements requested' in the **Title Insurance Section** of the **SPECIFIC CLOSING INSTRUCTIONS**. If the Title Policy is sent without a complete lien description, the Settlement Agent must direct the Title Insurer to deliver to the Lender an endorsement to the Title Policy with the complete lien description within 10 days of the 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). The 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: The 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 the 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 the 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, the Settlement Agent must direct the Title Insurer to issue the Lender's Title Insurance Policy as required in the **Title Insurance Section** of the **SPECIFIC CLOSING INSTRUCTIONS**.

C.8 Ratings.

On the day of Closing, the Title Insurer must be on the "Title Insurance Underwriters approved for use pursuant to Government Sponsored Enterprises Standards" list maintained on the MBA website (www.mbaa.org/gse/title).

C.9 Lien Position.

a. Validity. Only subject to any applicable exceptions shown in Section C.10 a. of these **GENERAL CLOSING INSTRUCTIONS**, the 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 satisfied and an executed lien release recorded in the appropriate county records as a post closing item, except for a junior lien permitted by the **Title Insurance Section** of the **SPECIFIC CLOSING INSTRUCTIONS** or that is created after this Loan.

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

c. Persons with Rights. If the 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"), the Settlement Agent agrees to take all necessary actions to ensure that the 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. Only 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 the 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 without the Lender consent:

- i. Bond liens
- ii. HOA dues/assessments liens beyond State Law "Superlien" amounts which are due and payable
- iii. Judgment liens
- iv. Survey easements and encroachments
- v. Taxes and assessments due within 60 days after Closing (must be paid at Closing)

- vi. Prior lines of credit (See Section G.4 of these GENERAL CLOSING INSTRUCTIONS)
- vii. Junior liens

C.11 Restrictions.

Restrictions shown in the Title Policy are not permitted unless acceptable to the Lender as provided in the Title Insurance Section of the SPECIFIC CLOSING INSTRUCTIONS. If a particular restriction is acceptable to the 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.

The charge for the Title Policy charged to the Borrower and reflected on the Settlement Statement shall be the "reissue rate" or another best available rate whenever the Borrower is entitled to such rate.

D. PROPERTY INSURANCE.

D.1 Flood Insurance.

If Flood insurance is required for the property in the SPECIFIC CLOSING INSTRUCTIONS, the 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.

The Settlement Agent must forward evidence that the 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. The 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.

The Settlement Agent must prepare a Settlement Statement in accordance with the instructions set forth in the SPECIFIC CLOSING INSTRUCTIONS. The Settlement

Agent must also provide and deliver the Settlement Statement to the Borrower, the Seller and the Lender in accordance with 24 CFR 3500. Under these provisions, the Settlement Agent must permit the borrower to inspect such Settlement Statement, 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 Signing. Only items related to the Seller's transaction may be omitted. If the Lender has not provided the information required for the Settlement Agent to comply with this Section E.1 at least 48 hours prior to the scheduled Signing, the Settlement Agent shall postpone the scheduled Signing to a date and time at least 48 hours after receipt of required information from the Lender, unless the Lender and the Borrower both agree in writing to an expedited closing as the result of last minute changes to the Loan Documents due to changes in the Loan requested by or agreed to by the Borrower.

E.2 Lender Approval.

a. General Rule. The Settlement Agent must obtain the Lender's approval of the final Settlement Statement at least 24 hours prior to Signing (See Section E.1 of these GENERAL CLOSING INSTRUCTIONS when the Lender's information is not timely received). Once the Lender has approved the Settlement Statement, the Settlement Agent will not make any changes to the Settlement Statement without first securing the Lender's written approval of such changes. If the Lender returns the Settlement Statement to the Settlement Agent with corrections to be made, final approval has not been given and will not be given until the Lender receives a completely accurate Settlement Statement.

b. Escrow State Closings. The Settlement Agent must obtain the Lender's approval of an estimated Settlement Statement at least 24 hours prior to Signing (See Section E.1 of these GENERAL CLOSING INSTRUCTIONS when the Lender's information is not timely received). Once the Lender has approved the estimated Settlement Statement, the Settlement Agent will not change the estimated Settlement Statement without first securing the Lender's written approval of such changes. If the Lender returns the estimated Settlement Statement to the Settlement Agent with corrections to be made, the Settlement Agent will resubmit the estimated Settlement Statement consistent with the Lender's corrections. The Settlement Agent will deliver a certified copy of the final Settlement Statement to the Lender as soon as practicable. Notwithstanding the foregoing, date sensitive changes will not require the Lender's prior approval.

c. Required last minute changes. If changes occur in the Settlement Statement at the time of Signing, the Settlement Agent shall submit the proposed last minute changes to the Lender and the Lender will review and approve or make further changes within [REDACTED] of receiving the proposed changes.

E.3 FHA Loan Amount.

The Loan Amount is based on the 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 the Borrower's actual closing costs are LESS than this amount, the Settlement Agent must suspend the Closing and notify the Lender immediately. The Settlement Statement must accurately reflect any monies contributed on behalf of the Borrower or deposited with the Lender.

E.4 No Cash Out.

The Borrower must not receive any Loan proceeds other than those approved by the Lender in the SPECIFIC CLOSING INSTRUCTIONS. If the Lender approves a cash payment to the Borrower, those Loan Proceeds must be delivered to the Borrower only.

E.5 Payoffs.

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 the Lender's Loan Proceeds.

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 (as provided by the Lender in the SPECIFIC CLOSING INSTRUCTIONS) and the acknowledgment must state the date it was actually signed (i.e. at Closing).

E.8 Escrow Accounts.

The 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 Fees and Charges.

The exact charges shown on the Loan Fees, Charges, Reserves and Payoffs Section of the SPECIFIC CLOSING INSTRUCTIONS must be reflected and described on the appropriate line item in the Settlement Statement and paid as indicated. These payments cannot be changed from the amounts and payees shown on the Loan Fees, Charges, Reserves and Payoffs Section of the SPECIFIC CLOSING INSTRUCTIONS without the prior written consent of the Lender. Except as provided in Section E.11 of these GENERAL CLOSING INSTRUCTIONS, only charges actually paid outside of Closing may be marked POC. If the Closing consists of a first and junior lien and the 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.10. "Closing Cost Credit" Loans.

In cases where some or all of the Closing Costs are being paid with a credit from the Lender, the credit shall be disclosed on the Settlement Statement and an "Itemization of Amount Financed" shall be prepared by the Lender and presented to the Borrower showing which costs are to be considered finance charges and which are not.

E.11 Mortgage Broker Fees
When paid through Closing, the Lender paid Mortgage Broker compensation or other fees (sums) shall be disclosed on the Settlement Statement as a POC item and paid directly to the Mortgage Broker, as provided in the Fees, Charges, Reserves & Payout Section of the SPECIFIC CLOSING INSTRUCTIONS.

When paid through Closing, the Lender paid Mortgage Broker compensation or other fees (sums) shall be disclosed on the Settlement Statement as a POC item and paid directly to the Mortgage Broker, as provided in the Fees, Charges, Reserves & Payout Section of the SPECIFIC CLOSING INSTRUCTIONS.

All fees due to the Mortgage Broker shall be distributed only upon receipt of the Mortgage Broker Statement issued by the Mortgage Broker in accordance with the Required Form of the GENERAL CLOSING INSTRUCTIONS.

Required Form of the GENERAL CLOSING INSTRUCTIONS.

E.12 Settlement Agent Fees.
The dollar amounts specified for Settlement Agent Fees are based on information provided by the Settlement Agent. The Settlement Agent represents that all fees charged by the 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 Statement, the Settlement Agent will notify the Lender of the addition or change and not allow Signing until the 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 the Settlement Agent is not the Signing Agent, The 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 the Signing Agent has face-to-face contact with the Borrower and other signatories (as designated in the Borrower Information Section of the SPECIFIC

CLOSING INSTRUCTIONS), and the Lender may not, the Signing Agent must verify the identity of all parties signing as required by the USA Patriot Act. The 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 (See Required Form K.2 of these GENERAL CLOSING INSTRUCTIONS) 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 the 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 the Borrower to the notary public at Closing.
- d. **U.S. Residents.** 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.
- e. **Non-U.S. Residents.** 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. **Structured Organizations.** Review the government-issued business license, if available, and:
 - i. For corporations, a current (less than 90 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.

F 3 Loan Document Review.

The Lender shall provide the Borrower with copies of the Loan Documents and the Lender's contact information at least 24 hours prior to Signing.

F.4 Closing Process

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

F.5 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. The 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. the 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 completed and signed 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, the Borrower must sign the HELOC Credit Agreement, 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 if such a document is required in the Required Documentation Section of the SPECIFIC CLOSING INSTRUCTIONS, if allowed by applicable state law.

d. Rescission Date.

- i. The 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, the 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 the 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 the 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 ~~fill~~ 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. Right Of Rescission exercised.

If the Borrower provides written notice that he/she is rescinding the Loan to the Settlement Agent, the Settlement Agent must notify the Borrower that the Right Of Rescission can only be exercised by delivery to the Lender. The Settlement Agent must promptly fax the written notice of rescission to the Lender.

h. End of Rescission Period. If the Loan has been timely rescinded, the Lender must promptly notify the Settlement Agent. If the loan is not timely rescinded, the Settlement Agent must obtain the Lender's funding approval if required by the SPECIFIC CLOSING INSTRUCTIONS.

F.6 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 the Lender's lien, except as permitted by applicable State Law for HOA "Superliens".

F.7 Manufactured Housing.

If the Loan is designated as being secured by a manufactured home in the **Property Information Section** of the **SPECIFIC CLOSING INSTRUCTIONS**, the Settlement Agent must read and comply with all requirements in **Section I** of these **GENERAL CLOSING INSTRUCTIONS**

F.8 Power of Attorney.

If a Power of Attorney will be used to sign Loan Documents, the 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. The Settlement Agent must collect a recording fee, if necessary. Settlement Agent must not allow the Borrower's attorney-in-fact to sign Loan Documents on behalf of the Borrower until the Power of Attorney document has been reviewed and accepted by the Lender. *Unless approved in advance by the Lender, the Settlement Agent must not act as the attorney-in-fact or sign documents on behalf of any party to the transaction, except as provided in Section I.18 of these GENERAL CLOSING INSTRUCTIONS.* If the Lender accepts the Power of Attorney, the 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 to be provided by the attorney-in-fact.

F.9 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 Commitment** and Loan Documents.

F.10 Repair and Termite Clearance.

Proof of completion of all repairs required prior to closing in the **Required Documentation Section** of the **SPECIFIC CLOSING INSTRUCTIONS** as a result of findings in the appraisal or termite report must be obtained (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.). The 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 the Borrower.

F.11 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 the Lender must be given a copy of the results.

F.12 Document Collection
Prior to closing, the Settlement Agent must examine the Loan Documents and the General Closing Instructions.

All Loan Documents identified in the Required Documentation Section of the SPECIFIC CLOSING INSTRUCTIONS are completed in accordance with the terms provided in the Required Documentation Section of the SPECIFIC CLOSING INSTRUCTIONS.

Signatures and initials of all parties identified in the Required Documentation Section of the SPECIFIC CLOSING INSTRUCTIONS are present.

The Property's legal description on the Title Commitment matches the legal description on the recordable Loan Documents.

F.13 Document Execution.

The Borrower must sign the Truth in Lending documents, including the Right Of Rescission, prior to signing the Note and other Loan Documents. The Borrower may Sign the Loan Documents on or after the date printed on the Loan Documents. The 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 the Borrower's signature is acknowledged on the Security Instrument. Any rescission period will begin to run on the later date. The Settlement Agent **MUST NOT** Disburse the Loan prior to the revised date, or the expiration of the Right Of Rescission, whichever is later.

F.14 Journal of Notarial Acts Required.

(1). Prior to January 1, 2008, even if not required by applicable state law, the Settlement Agent shall exercise a good faith attempt to require any notary who notarized Signers to a Loan Closing to keep, maintain, protect, and provide for lawful inspection by the Lender or any governmental agent a chronological official journal of notarial acts that is either:

- i. a permanently bound book with numbered pages; or
- ii. an electronic journal of notarial acts as defined in Section M.11 of these GENERAL CLOSING INSTRUCTIONS.

a(2). Effective January 1, 2008, even if not required by applicable state law, the Settlement Agent shall require any notary who notarized Signers to a Loan Closing to keep, maintain, protect, and provide for lawful inspection by the Lender or any governmental agent a chronological official journal of notarial acts that is either:

- i. a permanently bound book with numbered pages; or

- ii. an electronic journal of notarial acts as defined in Section M.11 of these GENERAL CLOSING INSTRUCTIONS.
- b. A record of electronic notarial acts and a record of nonelectronic notarial acts shall not be kept in separate journals.
- c. A notary shall keep no more than one active journal at the same time, except that a back-up record of an electronic journal may be kept to offset potential loss of the original journal.

F.15 Entries.

- a. For every notarial act, the notary shall record in the journal at the time of notarization at least the following:
 - i. the date and time of day of the notarial act;
 - ii. the type of notarial act;
 - iii. the type, title, or a description of the document or proceeding;
 - iv. the signature, printed name, and address of each principal;
 - v. the evidence of identity of each principal, in the form of either: a statement that the person is "personally known" to the notary; a notation of the type of identification document, issuing agency, its serial or identification number, and its date of issuance or expiration; or the signature, printed name and address of each credible witness swearing or affirming to the person's identity, and for credible witnesses who are not personally known to the notary, a description of identification documents relied on by the notary;
 - vi. the thumbprint of each principal Signing the Security Instrument(s), or in the case of an electronic journal, the thumbprint or other recognized biometric identifier of each principal Signing the Security Instrument(s), if the journal has the capability of capturing, storing, and removing the identifier;
 - vii. the fee, if any, charged for the notarial act;
 - viii. the address where the notarization was performed if not the notary's business address, and;
 - ix. in the case of an electronic notarization, the name of any authority issuing or registering the electronic device used to create the electronic signature that was notarized; the source of this authority's license, if any; and the expiration date of the device.
- b. A notary shall not record a Social Security or credit card number in the journal.
- c. A notary shall record in the journal the circumstances for not completing a notarial act.

F.16 Signatures and Thumbprints.

At the time of notarization, the notary's journal must be signed and a thumbprint or other recognized biometric identifier affixed, as applicable, by each principal Signing the Security Instrument(s).

F.17 Electronic Journal.

If the notary elects to keep an electronic journal pursuant to Section M.11 of these GENERAL CLOSING INSTRUCTIONS, the notary shall:

- a. provide to the commissioning official the password or access instructions described in Section M.11 of these GENERAL CLOSING INSTRUCTIONS that allow the journal to be viewed, printed out, and copied, but not altered; and
- b. notify the commissioning official when the password or access instructions are changed.

G. DISBURSEMENT CONDITIONS.

G.1 Compliance with GENERAL and SPECIFIC CLOSING INSTRUCTIONS.

The 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 or will be satisfied in the normal course of Closing prior to Completion of Closing (other than the issuance of the Title Policy). If the 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, the Settlement Agent is not relieved of its obligation to ensure compliance with these GENERAL and SPECIFIC CLOSING INSTRUCTIONS.

G.2 Document Completion.

Prior to the completion of Closing, all Loan Documents must be completed by the Settlement Agent or the 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 Approval Required.

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

G.4 Additional Funding Conditions.

See the Conditions to be Satisfied Prior to Disbursement of Loan Proceeds Section of the SPECIFIC CLOSING INSTRUCTIONS. If the Conditions to be Satisfied Prior to Disbursement of Loan Proceeds Section of the SPECIFIC CLOSING INSTRUCTIONS require payoff of credit card or collection accounts, the

- 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, the Borrower must sign as provided in the **Required Documentation Section of the SPECIFIC CLOSING INSTRUCTIONS.**
- f. **Hazard Insurance.** Evidence of paid premium and insurance binder or endorsement.
- g. **Survey.** The survey..
- h. **Flood.** If required in the **Required Documentation Section of the SPECIFIC CLOSING INSTRUCTIONS**, a copy of the executed application for a flood policy/NFIP or an executed NFIP "Certification of Purchase of Flood Insurance" and evidence of paid premium and insurance binder or endorsement.
- i. **Escrow Closing Instructions.** Where escrow closing are used, certified copy of escrow instructions and any escrow amendments necessary.
- j. **Builder's Warranty.**
- k. **Certificate of Occupancy (or similar local government approval).**
- m. **Well and Sepsic Certification.**
- n. **Conveyance Document.** A certified copy of the original document that transferred title to the Borrower.
- o. **Power of Attorney.**

G. 10 Loan Payment Instructions.

The Settlement Agent must provide the Borrower with instructions on when, where and how the Borrower is to make the Loan Payments by providing **Required Form K.5 First Payment Letter.**

H. POST-DISBURSEMENT CONDITIONS.

H.1 Loan Document Delivery.

The 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 order where possible, 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.

The Settlement Agent must forward the original recorded Loan Documents to the Lender promptly if the Settlement Agent receives the recorded Loan Documents from the land records.

H.4 Title Policy.

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

H.5 IRS Filings.

The Settlement Agent must file Form 1099 with the IRS if required by the 1986 Tax Reform Act.

H.6 Document Requests.

The Settlement Agent must provide the Lender with any and all documents subsequently requested by the Lender in relation to the Closing not later than seven business days from the request, if such request occurs within one year of the Closing.

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 The Settlement Agent must verify that this is a manufactured housing transaction. If the Settlement Agent is unable to verify that this is a manufactured housing unit or verifies that it is not a manufactured housing unit, the Settlement Agent must contact the Lender immediately.

I.2 The Settlement Agent is responsible to ensure that any delinquent personal property taxes on the manufactured home 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.

I.4 **Manufactured Home Transaction Requirements.** The Settlement Agent must take all steps prior to the Completion of Closing which are 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;
- b. filing a UCC-1 Financing Statement or UCC-3 Termination Statement provided by the Lender;
- b. obtaining the Manufacturer's Statement of Origin; and/or
- c. filing an Affidavit of Affirmation or similar instrument.

I.5 The land on which the manufactured home is situated must be owned by the Borrower in fee simple. Interests in a cooperative or condominium project, leasehold estates or investment properties are allowed with the consent of the Lender. The Settlement Agent must provide documentation to verify the acquisition and transfer of ownership of the land to the Borrower.

I.6 The 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.7 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 the 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.

I.8 The Settlement Agent must provide proof of the elimination of the vehicle/chattel title to the Lender at the address provided in the Lender Contact Section of the SPECIFIC CLOSING INSTRUCTIONS within 90 days of the closing, or as soon as possible thereafter.

I.9 Two powers of attorney executed by each Borrower naming the Lender as attorney-in-fact for completion of any documentation relating to the manufactured home must be notarized and returned with the Loan Documents. In addition to the forgoing, the Settlement Agent may also obtain a Power of Attorney from both Buyer and Seller for Settlement Agent's use in completing the Closing.

I.10 State Specific Requirements: If the property is located in a state with special requirements for manufactured housing, the Settlement Agent must adhere to such additional requirements.

J. FRAUD PREVENTION

The 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 the Lender and a bad reputation for the mortgage lending industry. Such acts include altering Title Commitments, back-dating 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 Sub-Section B.9 of these GENERAL CLOSING INSTRUCTIONS for the Settlement Agent's responsibilities in the event such actions are committed or encouraged by an employee of the Lender or the Mortgage Broker.

If anyone 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 the Signing Agent actually conducting the Closing to exist during any stage of this transaction, the Settlement Agent must immediately contact the Lender and postpone Closing or Disbursement of the Loan until Settlement Agent receives written permission to proceed from the 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 the Lender;

- ii. the Property was acquired through inheritance;
- iii. the Property is a single-family residence and the 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 CLOSING 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 Commitment 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 before the Completion of Closing, except for the transfer to the Borrower by the vested owner.

d. The Loan is for purchase money and the Borrower has acquired record title to the Property prior to the Closing Date.

e. The Loan is for a refinance and the Borrower has not acquired record title to the Property prior to the Closing Date.

J.2 Material Facts.

Any material fact may have an impact on the 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 the 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.

Still Marked to 2/23 version with MBA draft reaction to AEA changes proposed April 10, 17 and 21, May 8 and June 5

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 Signing Agent who handles the transaction has a conflict of interest, is a party to the transaction, or is a Close Relative of any party to the transaction. "Close Relative" includes spouse, parent, child, brother, sister, grandparent, fiancé or life partner.

J.6 Incomplete Loan Documents.

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

PHIA Allowable costs
The 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 (including prepaid interest and tax and insurance in initial account)

J.8 Title Commitment.

a. If the Title Commitment does not conform with the Title Policy requested by the Lender, or the Title Commitment conflicts with the Title Policy requested by the Lender.

b. The title owner shown on the Title Commitment 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 Settlement Agent's closing file for this Loan.

J.10 Identity.

The Signing Agent cannot verify 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 Settlement agent is aware that one will be placed on the Property.

J.12 Source of Borrower Funds.

The Borrower's funds are paid by a third party without Lender's approval.

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 Coercion, Undue Influence, Incapacity, Incompetency.

The Borrower appears to be coerced, under undue influence, incapacitated or incompetent.

J.15 Seller.

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

J.16 Sales Price.

There are any changes to the sales price or the escrow opening instructions.

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 the Settlement Agent are incorrect.

J.18 Non-Occupied.

The Signing Agent has actual knowledge that the Borrower 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.

K. REQUIRED FORMS

K.1 Mortgage Broker Acknowledgement

Whenever the Mortgage Broker is eligible to receive funds from the Settlement Agent as a part of the Closing, the following form must be signed by the Mortgage Broker and collected by the Settlement Agent prior to the disbursement of such funds:

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

- a. properly licensed, as required by applicable law, and properly authorized by the Borrower and the Lender to originate this Loan;
- b. unaware of any unfair, deceptive, misleading or unlawful behavior by me or any other Mortgage Broker employee in connection with the Loan being Closed;

c. unaware of any of the circumstances set out in Section J of these GENERAL CLOSING INSTRUCTIONS; and

d. in full compliance with the National Association of Mortgage Brokers' Code of Ethics.

K.2 Borrower Certification

[TO COME]

K.3 Borrower Compliance Agreement

[TO COME]

K.4 Non-Borrower Acknowledgement

I am signing below solely to acknowledge receipt of this Disclosure Statement, which contains disclosures required to be given to me under federal and state law. I understand that I am not a borrower under the Loan Agreement and have no rights to draw against the account established by the Loan Agreement. Further, by signing this Acknowledgement, I am not undertaking a contractual obligation to make payments under the Loan Agreement. By signing the Security Instrument that accompanies the Loan Agreement, 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 Agreement.

K.5 First Payment Letter

[TO COME]

K.6 Electronic Consumer Consent Form

[TO COME]

L. ELECTRONIC ORIGINATION REQUIREMENTS.

L.1 The Borrower Consent.

The Borrower's consent must be obtained on an electronic consent form (See Required Form K.6 of these GENERAL CLOSING INSTRUCTIONS) that is electronically signed by the Borrower whenever any disclosure is provided electronically that would otherwise be required by law to be provided in writing, including but not limited to Notes with disclosures, HUD 1 statements, and Truth-In-Lending disclosure statements. After the Borrower has electronically signed the Consumer Consent Form, the Consumer Consent Form must be securely stored with the other electronic Loan Document documents.

The Process used to permit the Borrower to electronically sign the Consumer Consent Form must ensure the same level of integrity as the Electronic Signature Process used to permit the Borrower to electronically sign the eNote. The Process must employ one of the approved electronic signature methods outlined in Section L.3, and the signed document must be Tamper-Sealed. The Consumer Consent Form must (i) be voluntary and (ii) comply with E-SIGN and other applicable laws and regulations.

a. **Who Must Give their Express Consent.** Express consent must be obtained electronically from the Borrower immediately preceding the electronic Closing. At a minimum, all Borrowers, co-Borrowers and persons with Rights that must sign the Note, Security Instrument or deed of conveyance must consent electronically by electronically signing an electronic Consumer Consent Form that the Lender has provided to the Settlement Agent.

b. **Requirements for Consumer Pre-Consent Disclosure.** Each Borrower or attorney-in-fact for the Borrower, must be provided a pre-consent "conspicuous disclosure" by electronic means. Procedures for consumer pre-consent disclosure must comply with E-SIGN and any other applicable laws and regulations.

c. **Use of Power of Attorney for Consent.** In a hardship or emergency situation, the Lender will permit the Note, Security Instrument, and other closing documents to be executed by a person acting as attorney-in-fact pursuant to authority granted by a Borrower under a power of attorney. The person acting as attorney-in-fact should have a familial, personal or fiduciary relationship with the Borrower.

The Settlement Agent may permit an attorney-in-fact to consent on behalf of the Consumer granting the power under a power of attorney provided that:

- (i) it is permitted by applicable law; and
- (ii) The Settlement Agent is responsible for determining that the terms of the power of attorney are sufficient to establish a delegation of the authority to the attorney-in-fact to consent on behalf of the Borrower.

d. **Manner of Consent for Parties Other than the Borrowers.** Each person (other than the Borrower) who participates in an electronic residential mortgage loan transaction must give their consent to conduct the transaction electronically, although such consent may be implied. The Settlement Agent represents and warrants to the Lender that each person that has participated in an electronic residential mortgage loan transaction has consented to conduct the transaction electronically.

e. **Timing of Consent.** Even though the Borrower has given his or her consent before on a date preceding the loan closing date, the Lender must obtain the Borrower's express consent on the loan closing date preceding the eMortgage Closing Process.

L.2 Title Insurance Requirements for eMortgages.

Each Mortgage Closed for the Lender must comply with the title insurance requirements set forth in these GENERAL CLOSING INSTRUCTIONS. In particular, the Title Insurance Loan Policy Form used must not take exception for any matters related to the fact that the promissory Note secured by the Security Instrument is an electronic Note.

In addition, regardless of which eligible loan policy form that the Settlement Agent uses, the loan policy must provide affirmative coverage insuring that the lien status of the Security Instrument is not adversely affected in any way due to the fact that the promissory Note secured by the Security Instrument is an electronic Note and that the Security Instrument is valid, effective and enforceable lien with the appropriate priority.

L.3 Electronic Signatures (eSignatures).

The Borrowers must give their express consent to conduct an electronic residential mortgage transaction by executing an electronic consent form provided by the Lender 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 a person with the intent to sign the Electronic Record. The Settlement Agent must assure that necessary parties to the electronic residential mortgage loan transaction adopt secure and enforceable Electronic Signatures. Systems that create or accommodate Electronic Signatures must be designed to comply with the requirements set forth in this section.

The Procedure used to create an Electronic Signature must address all of the following:

- a. The signer's authority to sign the Electronic Record
- b. The 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 the signer.
- f. Ensuring that each Electronic Record has been individually reviewed, electronically signed, and has had the Electronic Signatures attached to or associated with the Electronic Record before moving on to the next Electronic Record.

L.4 Authority to Sign.

- a. When the Settlement Agent obtains Electronic Signatures it must comply with all substantive legal requirements with respect to establishing the authority of the person signing to sign: (i) on their own behalf; (ii) on behalf of others (such as an attorney-in-fact); or (iii) in a representative capacity (such as a corporate

officer or trustee), as applicable under the circumstances. If a person is signing in a representative capacity, the Electronic Signature must be structured to reflect the name of the person actually signing, the represented person, and the signer's title or capacity. If permitted under applicable law, documents establishing authority to sign on behalf of others may be:

- i. In the form of an Electronic Record, and
- ii. Signed using an Electronic Signature.

b. In addition to complying with any other legal or Lender requirements, establishing the authority to sign must include the following:

- i. For individuals signing on their own behalf:
 - A. A Procedure for establishing the signer's identity, and
 - B. A Procedure for establishing the signer's capacity to contract under applicable law, including a commercially reasonable effort to determine that the signer is not a minor or legally incompetent.
- ii. For individuals signing on behalf of another or in a representative capacity:
 - A. A Procedure for establishing the signer's identity,
 - B. A Procedure for establishing the signer's capacity to contract, and
 - C. A Procedure for establishing the appropriate delegation of authority by the represented person and the represented person's capacity to delegate. In the case of a power of attorney, the power of attorney should clearly establish, as appropriate, whether the attorney in fact is empowered to sign on behalf of the represented person, or whether the attorney in fact is empowered to attach the represented person's Electronic Signature to or logically associate the represented person's Electronic Signature with the Electronic Record on behalf of the represented person.

L.5 Evidence of the Intent to Sign.

The Process for obtaining an Electronic Signature must be designed to demonstrate that the signer intended to sign the document. Establishing intent includes a number of elements, including:

- a. Establishing the intent to use an Electronic Signature
- b. Identifying the reason the signer is signing the Electronic Record
- c. Assuring that the signer knows which Electronic Record is being signed.

L.6 Intent to Use an Electronic Signature.

In an electronic environment, care should be taken to provide reasonable certainty that a signer is aware of the signature Process and its legal consequences. This may be particularly significant with transactions during the initial stages of the conversion to Electronic Records, since many Procedures may not be as familiar to the Borrower as the traditional Procedures associated with paper documents and written signatures.

Therefore, the signature Process must be designed to provide:

- a. Notice to the signer that an Electronic Signature is about to be (or has just been) attached to or logically associated with the Electronic Record.
- b. Evidence of the signer's intent to have the signer's Electronic Signature attached to or logically associated with the Electronic Record.

Because the signature Process may involve introductory or explanatory material, or information dialog boxes and other notices that may change over time, the Settlement Agent must maintain these materials for archival purposes and later reference.

L.7 Establishing the Reason for the Electronic Signature.

The System or Process must be designed to provide notice to the signer of the purpose the Electronic Signature will serve. Purposes an Electronic Signature may serve include, but are not limited to, evidencing:

- a. The signer's consent to participate in an electronic transaction.
- b. The signer's agreement to the terms of the Electronic Record.
- c. The signer's receipt of the Electronic Record.
- d. That the signer had a chance to review the Electronic Record.
- e. That the signer is the person sending the Electronic Record.

There are a wide variety of ways in which a signer may be made aware of the purpose a signature will serve. In many cases, the purpose is apparent from the surrounding circumstances. In other cases, current practice includes a statement in the written documents, above the signature line or elsewhere, giving notice of the legal effect the signature will have.

L.8 Identifying the Electronic Record to Be Signed.

The System or Process must be designed so that each Electronic Record, that is required to be signed by the Borrower by law or by another party to the transaction, is separately presented to the signer for signature. Attaching the Electronic Signature to or logically associating the Electronic Signature with each Electronic Record shall require a separate affirmative act by the signer.

L.9 Signature Attached to or Logically Associated with Electronic Record.

The System or Process must be designed so that an Electronic Signature is attached to or logically associated with the Electronic Record intended to be signed to the extent necessary to comply with E-SIGN and/or UETA enacted by the applicable jurisdiction or other applicable state law. In addition, when an authorized party to an electronic transaction is reviewing an electronically signed Electronic Record, the party must be able to promptly and reasonably determine:

- a. the signer's Electronic Signature has been attached to or logically associated with the Electronic Record,
- b. the type of Electronic Signature symbol or Process used, and
- c. the identity of the signer.

Where a signature Process has been used instead of a symbol (as, for example, with a password and PIN used to access a Record), the Electronic Records within the System should contain, incorporate, or be clearly associated with, the identity of the signer and a description of the signature Process that was employed.

L.10 Symbol or Process Used As an Electronic Signature

The Lender requires the Settlement Agent to represent and warrant that the type of Electronic Signature used by the Borrower to sign the eNote, and any other Electronic Record associated with the transaction, is legally enforceable under applicable law and is not effected by means of the following:

- a. Audio or video recording
- b. Object signatures such as biometrics or specialized signing pads and/or applets.

Both E-SIGN and UETA permit the use of symbols and identification Processes as Electronic Signatures. The type of signature being used in any particular instance, may be dictated by the technology choices made by the software vendor, or the circumstances of the transaction, or the preferences of the participating parties. In addition, with respect to documents to be filed of record with government authorities, the regulations established by the authority may dictate the choice of signature methodology.

L.11 Attribution

"Attribution" is the Process of associating the identity of a signer with the signature. In order to be enforceable, the Electronic Signature must be attributable to the person who has purportedly signed the Electronic Record. The person obtaining a signature must establish a high level of confidence, appropriate to the gravity of the transaction, that the signer will not be able to effectively deny signing the Electronic Record at a later date.

The Lender requires the following stipulations to be implemented by all systems Processing eSignature requests that the signing Process must, at a minimum, implement the following:

- a. Individually authenticate each signer
- b. Notify the signer when he or she initiates an eSignature request.
- c. Clearly explain the implications that result from signing the document

- d. Prompt the signer to confirm his or her eSignature request.
- e. Each document must be individually reviewed, signed, and modified by affixing all required signatures prior to moving on to the next document.
- f. When reviewing the signed Electronic Record, it must be possible to determine the existence of the associated eSignature, the type of eSignature, the Process employed, and the identity of the signer.
- g. Signature must include signer's name, date, and timestamp.

L.12 eNote Signatures

For eNote signatures, the Lender requires the following in addition to the eSignature requirements stated in Section L.3:

- a. All signing parties must be physically present in the electronic closing location for the electronic Signing Process.
- b. Signers must validate their credentials in the Closing System by entering their user IDs and passwords at the outset of the Signature Process to indicate their desire to electronically sign the documents and again before they sign the documents.
- c. The Settlement Agent represents and warrants that the map section of the eNote MISMO Category 1 SMAR Document that contains the relationships and links between the data section and the view section, including information on the related conversions, if any, is accurate.

L.13 Other Electronic Documents

The Lender requires the Consumer Consent Form and all electronic legal documents to follow the same signature requirements as eNotes, while non-legal documents must follow the eSignature requirements in Section M.3.

L.14 Borrower Access to eNote

By law, the Borrower must have access to the eNote. This requirement can be met by providing a paper copy or, if the Consumer agrees, providing an electronic copy.

SECTION M. ELECTRONIC RECORDS MAINTENANCE

M.1 Maintaining Electronic Documents with Electronic Signatures

For all eMortgage loan documents for which an Electronic Signature is obtained; the Lender requires that these documents be maintained in a manner that preserves the integrity of the Electronic Record and Electronic Signature. These documents must follow the guidelines indicated in Section M.3 of these GENERAL CLOSING

INSTRUCTIONS.

M.2 Additional Requirements for Specific Electronic Documents.

The following electronic Loan documents must be created in a manner that provides assurance that (i) the document is digitally signed and secured by Tamper-Seals, and (ii) the view and data portions of the document are inextricably linked.

(At present, MISMO Category 1 SMART Documents are the only document formats approved by the Lender that provide this level of assurance.)

- a. Promissory note (authoritative copy), addenda, and the primary back-up copy
- b. Security Instrument and riders, if applicable
- c. Modifying instruments, if applicable
- d. Assumption instruments, if applicable
- e. Settlement Statement
- f. Title Insurance Policy— Short Form

The following electronic Loan Document documents must include a view, digital signature, data, and tamper-evident seal. These components must follow MISMO data standards. For these documents, the view and data portions do not need to be inextricably linked.

- a. Appraisal
- b. Uniform Residential Loan Application (URLA)
- c. Title Insurance Policy — Long Form
- d. Title Insurance Binder
- e. Credit documents, including credit reports and Loan Prospector Feedback Certificate
- f. Completed Uniform Underwriting Transmittal Summary Form 1077

M.3 Tamper-Evident Seals

The Lender requires that all Tamper-Evident Seals on loan documents comply with the following rules:

- a. The Lender will only accept Tamper-Evident Seals utilizing industry standard, recognized, W3C compliant, and MISMO -approved digital signature algorithms with *X.509* certificates issued by a SISAC-accredited Issuing Authority (for eNotes, exceptions to the SISAC-accredited Issuing Authority requirement may be negotiated on a case-by-case basis).

- b. For eNotes: Tamper-Evident Seals must comply with specifications for tamper-evident signatures with authentication as defined in the *MISMO SMART Document Implementation Guide*.
- c. Other Documents that require Tamper-Evident Seals and eLoan Documents: Because the authenticity of the Tamper-Evident Seals cannot be validated with MERS, authentication is required and must comply with specifications in the *MISMO SMART Document Implementation Guide*.

The Lender requires eNote Tamper-Evident Seals to be stored in the MERS® eRegistry. This digital signature will be the primary means the Lender uses to authenticate an eNote's Tamper-Evident Seal. Because an equivalent MERS functionality does not exist for other Tamper-Evident Seals Loan Documents, the Lender will rely on certificates issued by a SISAC-accredited Issuing Authority as the primary means to authenticate the Tamper-Evident Seals.

M.4 Additional Display and Formatting Rules.

Electronic records that are used to provide information and obtain signatures in lieu of paper documents must include all of the substantive terms and conditions contained in the written documents. In addition, all applicable formatting rules must be observed.

Any legal requirements concerning the content, display, or format of information if it were in writing must be observed both with respect to electronic display of the Electronic Record and printing of the Electronic Record. Neither UETA nor E-SIGN eliminates any existing display or formatting requirements. As an illustration only, some of the formatting and display requirements that must be observed are:

- a. Use of specific fonts, specific type sizes, minimum type sizes, and boldface or italic styling
- b. Physical location of particular information, such as disclosures that are required to appear just above the place for signature
- c. Requirements that information be boxed, or segregated, or separately displayed.

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.

M.5 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 either through means of proprietary programs developed by the Settlement Agent or through open data formatting standards, provided the 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 the Lender from using these documents for any reason whatsoever.

M.6 No Limitations on Usage.

For all documents, regardless of format, the Settlement Agent represents and warrants that the documents must be maintainable, reproducible, and have no licensing conditions that would limit the Lender from using these documents for any reason whatsoever.

M.7 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
- c. The person or persons signing the Electronic Record and the capacity in which they signed.

M.8 Document Resolution.

For delivered images, should the Lender deem that document image quality is below standards, the Lender reserves the right to require paper equivalents. If a pattern of poor quality is identified, the Lender reserves the right to dictate minimum standards to which the Settlement Agent must adhere. If a document is deemed to be unreadable, the Settlement Agent must produce the original or the document is considered missing.

M.9 Hybrid Transaction and Documentation.

The Lender defines a hybrid loan transaction as any such Mortgage loan transaction where the loan documents (see Section M.2 of these GENERAL CLOSING INSTRUCTIONS) are a combination of paper and electronic records. Likewise, a hybrid loan file is any loan file where the loan documents are a combination of paper and electronic records.

The Lender will allow the Settlement Agent to maintain their requisite loan file documentation in a combination of paper and electronic formats, as long as appropriate cross-references are maintained. However, where business Processes dictate a specific format, parties will be expected to deliver the required document format in accordance with the Lender's requirements permitted by the SPECIFIC LOAN CLOSING INSTRUCTIONS.

M.10 Electronic Records Management of Loan Documents.

This section describes electronic records management requirements for all Loan Documents while in the possession of the Settlement Agent.

The Settlement Agents who hold Loan Documents on the Lender's behalf for any period of time after Completion of Closing can use either an *in-* house-built or third-party-vendor electronic records storage and management system for Loan Document retention.

a. **Retention of Electronic Format.** All documents in the electronic file must either retain their original electronic file format, or if created in paper form and permitted by the SPECIFIC LOAN CLOSING INSTRUCTIONS, be imaged based on the Lender approved imaging standards. The Settlement Agent is required to conduct periodical system and information security reviews based on, but not limited to E-SIGN, UETA, and SPeRS provisions, standards, and procedures affecting Electronic Record retention.

b. **Electronic Document Integrity.** The Settlement Agent, at a minimum, must establish a request and approval Process to grant role -based access rights to electronic Loan Document records in their systems. The records management 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 records management system must detect and block unauthorized access and alteration of eLoan Documents, and to alert the Settlement Agent if unauthorized attempts exceed pre-configured thresholds.

c. **Electronic Data Privacy Protection.** The Settlement Agent must follow data privacy protection standards as outlined in these GENERAL CLOSING INSTRUCTIONS. The Settlement Agent is also required to follow federal and state privacy protection laws and regulations, as well as regulatory agencies' (i.e., Federal Reserve Bank, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, and Office of Thrift Supervision, as applicable) continued guidance and advisories on privacy protection of consumer data, and the best practices on the safety and soundness of their systems.

d. **Maintenance of Loan Documents.** In addition to providing controls and identification features as specified in these GENERAL CLOSING INSTRUCTIONS, The 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 and system-to-system interfaces to Loan Documents as required by the 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.
- 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.

e. **Damage or Loss.** The Settlement Agent must bear the entire cost of restoring electronic Loan Documents damaged or lost for any reason while in the Settlement Agent's custody.

f. **Ownership of Loan Documents.** All Loan Documents and all other documents and records of whatever kind or description, whether prepared or originated, held, or maintained by the Settlement Agent or others, including all current and historical computerized data files, which are reasonably required to Close Loans for the Lender will be and will remain at all times, the property of the Lender. All records whether in paper or electronic format, in the possession of the Settlement Agents are retained by the Settlement Agents in a custodial capacity only.

M.11 Electronic Journal of Notarial Acts.

"Electronic journal of notarial acts" means an electronic device for creating and preserving a chronological record of notarizations performed by a notary that:

- a. allows a journal entry to be made by the notary only after a biometric scan of a particular physical feature or quality of the notary produces data that match with biometric data of the notary stored in the device;
- b. does not allow a journal entry to be altered in content or sequence by the notary or any other person after a record of the notarization is entered and stored;
- c. allows entries to be viewed, printed out, and copied electronically by any person using a password or another non-biometric access method designated by the notary;
- d. has a back-up system in place to provide a duplicate record in the event of loss of the original record;
- e. has the capability of capturing and storing the images of a handwritten signature and a thumbprint as they are made, or of capturing and storing in retrievable form, in lieu of a thumbprint, another recognized biometric identifier; and

f. has the capability of printing out on paper and of providing electronic copies of any entry, any combination of entries, or all entries, including the images of related handwritten signatures and thumbprints, providing that if another type of biometric identifier is used in lieu of thumbprints, these identifiers will be included in any electronic copy.

END

DRAFT