|  |
| --- |
| **4**  **Settlement Policies and Procedures** |

**Adopt standard real estate Settlement policies and procedures that help ensure compliance with: (i) federal and state consumer financial protection laws and regulations and (ii) contractual obligations as applicable to the Settlement process.**

# Purpose

Adopting appropriate policies and procedures, including conducting ongoing employee training, to help ensure Company can meet federal, state, and contractual obligations governing the Settlement. These policies and procedures must be appropriate to the locale because consumer financial protection laws may vary from state to state. Appropriate and effective training helps Settlement Companies safeguard Settlement documents. These procedures help maintain accuracy, minimize errors in completing the Settlement and provide a framework for a positive Consumer experience.

# Considerations

(Note: The language in *italics* are questions FNF has created to help you develop your Best Practices. These questions are not exhaustive, and you should develop your own questions to fit your title agency’s needs.)

* Train staff to provide a framework which will:
  + Minimize errors in completing the Settlement.
  + Enable a timely response to concerns raised by any of the parties following the Settlement, including addressing Consumer complaints in compliance with the requirements of the ALTA Best Practices.
* Establish and observe proper pricing procedures.
  + Establish and implement written procedures to charge the appropriate title insurance premium and other fees for services provided by the Company. These premiums and fees may be charged based on state and federal legal requirements, contractual obligations, or as set by Company.
    - Utilize rate manuals and online calculators, as appropriate, to ensure correct amounts are being charged for title insurance policy premiums, state or Company-specific fees, and endorsements.
      * *Do you ensure your staff is using the most up-to-date rate manual and online calculator?*
      * *Do you have a process for removing old rate manuals when a new one is issued by your Title Insurer?*
      * *Does your staff document the use of the rate manual or calculator by printing off or taking a screen shot of the calculation?*

## See Resources - Pricing

## FNF Rate Calculator | <https://ratecalculator.fnf.com/>

*See Resources - Samples - Written Settlement Policies and Procedures: Pricing Procedure*

* + - Ensure discounted premiums are calculated and charged when appropriate, including refinance or reissue premiums.
      * *Does your staff know what discounted premiums are available?*
      * *Does your staff know what questions to ask the Consumer to determine if a discount is available?*

*See Resources - Pricing*

FNF Rate Calculator | <https://ratecalculator.fnf.com/>

*See Resources - Samples - Written Settlement Policies and Procedures: Pricing Procedure*

* + - Quality-check the Settlement documents after Settlement to ensure Consumers were charged the correct premiums and fees. Issue timely refunds to Consumers when an overpayment is detected.
      * *Do you have an audit process for files to confirm the correct price was charged?*
      * *Who is in charge of the audit process?*
      * *Do you have a process for issuing timely refunds in the event of an overpayment?*
      * *Does the person in charge of the audit process provide training to appropriate staff to ensure the overpayment does not happen in the future?*

*See Resources - Samples - Written Settlement Policies and Procedures: Pricing Procedure*

* Disclose Affiliated Business Arrangements.
  + In compliance with state and federal laws and regulations, establish and implement procedures requiring proper disclosure of affiliated business arrangements in which Company participates.
    - *Is your title agency part of an affiliated business arrangement?*
    - *Do you have an affiliated business arrangement disclosure?*
    - *Do you have your disclosure regularly reviewed by counsel?*
    - *Do you have a process for providing the disclosure to the Consumer?*
    - *Do you have training with your staff regarding why and how the disclosure must be provided?*

*See Resources – Samples – Written Settlement Policies and Procedures: Affiliated Business Arrangement Disclosure*

* Prepare and execute documents accurately.
  + Establish and implement written procedures regarding the preparation and proper execution of Settlement documents. These procedures must comply with state law, federal law, contractual obligations with the Title Insurer, and as contractually agreed to by the Consumer or lender, and/or as directed by the Consumer or lender.
    - *Do you have written procedures for preparing and executing Settlement documents?*
    - *Does your Title Insurer have requirements for the preparation and execution of Settlement documents?*
    - *Closing instructions often contain instructions for preparing and executing Settlement documents. If there are two sets of contradicting closing instructions, (one general and one specific) what is your office procedure? Who is responsible for handling those conflicts?*

*See Resources – Samples – Real Estate Closing Checklist*

*See Resources – Samples – Customer Transaction Worksheet “Inquire Before You Wire”*

*See Resources – Samples – Consumer Wire Fraud Awareness Postcard*

*For Disbursement Procedures, see Pillar 2, Escrow Controls*.

* Oversee Signing professionals.
  + Establish and implement written procedures to monitor and verify that all signing professionals possess the appropriate state licensing and insurance to notarize documents (both in person and remotely, if applicable), conduct the Settlement (if applicable), and safeguard NPI. These requirements are determined by a mix of legal and contractual obligations, including state regulations and Title Insurer requirements and restrictions.
    - *What are your standards for approving signing professionals for your title agency? Are they written?*
    - *What are the standards your title agency must follow to be in compliance with state regulations and Title Insurer requirements and restrictions for signing professionals?*
  + For signing professionals who are employed by Company, establish, and implement written procedures to perform Background Check(s) for employees who conduct Settlements or who have access to Settlement documents and funds.
    - *Do you perform background checks for signing professionals in your company?*
    - *Is the policy written? Do your employees sign an acknowledgment of this policy?*
    - *Who conducts Settlements and has access to documents or funds so that they should undergo a background check?*
    - *Who is responsible for performing background checks?*
    - *How often must a background check be performed?*
    - *Besides state licensing under Pillar 1, do these employees have the appropriate appointment by the state official authorizing notaries if they are acting also as a notary?*
    - *Do they have an appropriate amount insurance or bond to satisfy your Title Insurer requirements?*
    - *Do you have a copy of their insurance or bond?*

*See Resources – Background Checks*

First Advantage | <https://CA.FADV.com/CA/FNF>

HireRight | <https://hireright.com/fntg>

*See Resources – Samples - Settlement Policies and Procedures: Employee Signing Professionals including Notary Log*

* + For signing professionals who are third parties, require demonstrable evidence of their current: state licensure, where required, or a recognized and verifiable industry designations, E&O insurance, and Notary surety bond, if required by state law and/or the Title Insurer.
    - *Who is responsible for approving third-party signing professionals?*
    - *Do you confirm their state license and insurance to notarize documents? Remote notarization? Settlement?*
    - *What are the requirements by your Title Insurer for insurance coverage by the signing professional?*
    - *How do you confirm their processes for safeguarding NPI?*
    - *How will you be contacted in the event of a breach of the signing professionals NPI safeguards?*

*See Resources – Samples – Settlement Policies and Procedures: Third-Party Signing Professionals*

* + Require a written acknowledgment of compliance with Company’s instructions and Company’s WISP as detailed in ALTA Best Practices.
    - *Do you have a written acknowledgment for employees to sign regarding your title agency’s written information security program (WISP)?*
    - *When your WISP is updated, who is responsible for gathering new WISP acknowledgments?*

*See Resources – Samples - Settlement Policies and Procedures: Employee Signing Professionals including Notary Log*

* + For a third-party signing professional contractually retained by anyone other than Company (e.g., the lender, Consumer, or an attorney representing any of these parties), the responsibility for verifying that the third-party signing professional meets applicable standards rests with that party.
    - *Do you have an acknowledgment signed by the party confirming they have the responsibility for verifying the signing professionals’ credentials?*
  + Company may engage a vendor who may assume the obligations to monitor and verify that the third-party signing professional complies with ALTA Best Practices requirements.
    - *Do you want to outsource reviewing these requirements for third-party signing professionals?*
    - *What will you do to verify this vendor is fulfilling this obligation?*

*See Resources – Reviewing Notaries Nationwide*

Bancserv | <https://www.bancserv.net>

Snapdocs | <https://www.snapdocs.com>

The Closing Exchange | <https://www.theclosingexchange.com/partners/FNF.asp>

*See Resources – Samples – Settlement Policies and Procedures: Third-Party Signing Professional*

* Selecting Remote Notarization Platforms.
  + If Company employees will be notarizing Settlement documents via remote notarization, select a remote notarization platform authorized by the state in which the notary public is located and that is approved by the Title Insurer, as applicable. Ensure that the software platform is capable of meeting the minimum requirements of the state, including retention of the video and safeguarding of NPI.
    - *Who is responsible for approving remote online notarization platforms?*
    - *What remote online notarization platforms are authorized by your state AND approved by your Title Insurer?*
    - *What are the minimum requirements for your state for RON platforms including the retention of video and safeguarding NPI?*
    - *How do you confirm their processes for safeguarding NPI?*
    - *How will you be contacted in the event of a breach of the remote online notarization platform’s NPI safeguards?*
    - *How will you determine which employees should be remote online notaries?*
    - *Do you have additional procedures and processes for remote online notaries in your company?*

*See Resources – Digital Closings including Remote Online Notarization*

## Digital Closing Hub | <https://nationalagency.fnf.com/digitalclosinghub/>

DocuSign | <https://support.docusign.com/en/contactsupport>

*See Resources – Samples – Settlement Policies and Procedures: Remote Online Notarization*

* + Implement procedures to charge fees as authorized by the state regulations.
    - *Do you have written procedures to charge fees for RON?*
    - *What are your state’s regulations surrounding charging fees for RON?*
    - *Do you have a policy in place for charging fees in the event the Consumer changes their mind in regard to using RON?*

*See Resources – Digital Closings including Remote Online Notarization*

## Digital Closing Hub | <https://nationalagency.fnf.com/digitalclosinghub/>

DocuSign | <https://support.docusign.com/en/contactsupport>

*See Resources – Samples – Settlement Policies and Procedures: Remote Online Notarization*

* + If Company will engage a third-party to notarize documents via remote notarization, oversee the selection of the platform in compliance with ALTA Best Practices. If the state in which the property is located has a process to approve remote notarization platforms, then the selected software platform must be approved by the state, and the Title Insurer, as applicable.
    - *Who is responsible for vetting the remote online notarization platform along with how the platform vets its own notaries?*
    - *What remote online notarization platforms are authorized by your state AND approved by your Title Insurer?*
    - *What are the minimum requirements for your state for RON platforms including the retention of video and safeguarding NPI?*
    - *How do you confirm their processes for safeguarding NPI?*
    - *How will you be contacted in the event of a breach of the remote online notarization platform’s NPI safeguards?*

*See Resources – Digital Closings including Remote Online Notarization*

## Digital Closing Hub | <https://nationalagency.fnf.com/digitalclosinghub/>

DocuSign | <https://support.docusign.com/en/contactsupport>

*See Resources –Samples – Settlement Policies and Procedures: Remote Online Notarization*

* Establish and follow consistent and correct recording procedures.
  + Record documents pursuant to legal and contractual requirements and incorporate those requirements in Company’s written procedures.
    - Submit electronically or deliver documents for recording to the appropriate recording jurisdiction or the person or entity responsible for recording within two (2) business days of the later of: (i) the date of Settlement, or (ii) receipt by Company if the Settlement is not performed by Company.
      * *Do you have written procedures for recording requirements?*
      * *Do you incorporate your Title Insurer’s requirements for timely recording?*

*See Resources – Samples - Documents for Recording Checklist*

*See Resources – Samples – Settlement Policies and Procedures: Recording Procedure*

* + - If Company will be submitting documents for recording through an e-recording vendor, ensure Company complies with local laws and requirements, and has a contract or agreement in place with the e-recording vendor.
      * *What counties accept e-recordings?*
      * *What are the local laws and requirements for e-recording?*
      * *Who is responsible for determining these requirements? How often should they review requirements and update others as to procedures?*

## See Resources – Electronic Recording

Simplifile | <https://simplifile.com/services/e-recording/>

CSC | [www.cscglobal.com](http://www.cscglobal.com)

See Resources – Settlement Policies and Procedures: Recording Procedure

* + - Track delivery and receipt of documents for recording. Timely and appropriately address recording rejections.
      * *Do you have a written procedure for tracking recordings?*
      * *Do you differentiate between recordings for documents signed at your title agency versus those delivered to your company (i.e., bank closed)??*
      * *Who is responsible for tracking recordings?*
      * *Do you have procedures for addressing rejections?*
      * *Does your procedure have a specific time limit for addressing recording rejections?*
      * *How do you audit this process?*

*See Resources – Release Tracking and Recording*

reQuire | https://gorequire.com

*See Resources – Settlement Policies and Procedures: Recording Procedure*

* + - Verify proper recordation of the document(s) and maintain a record of the recording information.
      * *Who reviews recorded documents to verify proper recordation?*
      * *What constitutes a proper recording?* 
        + *Location of recording?*
        + *All transfer stamps applied?*
        + *All transfer taxes or mortgage taxes paid?*
        + *Legible document number, liber number, or Book and Page?*
        + *Order of documents recorded?*
      * *Where do you document recording information?*
      * *What steps must be taken if there is an improper recording?*
      * *What is the timeline for resolving improper recordings?*
      * *What training is done to review process errors with improper recording?*

# *See Resources – Samples – Documents for Recording Checklist*

*See Resources – Samples – Recording Checklist*

*See Resources – Samples – Settlement Policies and Procedures: Recording Procedure*

* + Comply with written procedures and controls for Escrow Trust Accounts, including e-recording accounts, containing recording fees and/or any applicable tax that may be imposed by the state or municipality on the recording of documents.
    - *Do you have written procedures and controls for Escrow Trust Accounts specifically for e-recording, recording fees, and/or applicable taxes or transfer fees?*
    - *Do you follow your Best Practices for Escrow Trust Accounts for these accounts also?*

*See Pillar 2, Escrow Controls.*

# Resources

## Pricing

FNF Rate Calculator | <https://ratecalculator.fnf.com/>

## Reviewing Notaries Nationwide

Bancserv | <https://www.bancserv.net>

Snapdocs | <https://www.snapdocs.com>

The Closing Exchange | <https://www.theclosingexchange.com/partners/FNF.asp>

## Background Checks

First Advantage | <https://CA.FADV.com/CA/FNF>

HireRight | <https://hireright.com/fntg>

## Digital Closings including Remote Online Notarization

## Digital Closing Hub | <https://nationalagency.fnf.com/digitalclosinghub/>

DocuSign | <https://support.docusign.com/en/contactsupport>

## Electronic Recording

Simplifile | <https://simplifile.com/services/e-recording/>

CSC | [www.cscglobal.com](http://www.cscglobal.com)

*Release Tracking and Recording*

reQuire | https://gorequire.com

## Training overview on the process and forms

CFPB – Know Before You Owe Rule | <https://fntg.com/cfpb/>

## Training on Settlement Procedures and Wire Fraud Prevention

FNF LEAD | On Demand Virtual Education Center <https://lead.fnf.com/>

*Samples*

Settlement Policies and Procedures: Pricing Procedure

Settlement Policies and Procedures: Affiliated Business Disclosure

Real Estate Closing Checklist

Customer Transaction Worksheet – “Inquire Before You Wire”

Consumer Wire Fraud Postcard

Settlement Policies and Procedures: Employee Signing Professionals including Notary Log

Settlement Policies and Procedures: Third-Party Signing Professionals

Recording Checklist

Settlement Policies and Procedures: Recording Procedure

|  |
| --- |
| Your Steps  1. Use your underwriter’s rate calculator. Print the calculation provided and maintain in the file. 2. Review remote online notary and electronic recording resources to determine availability and benefits. 3. Ensure compliance with affiliated business arrangement laws. 4. Review the sample checklists and customize them to meet your agency and county’s specific situation. 5. Create written policies and procedures regarding pricing, recording, document signing, and settlement. 6. Maintain a separate Training Binder to document ongoing employee training. 7. Create an internal audit process to ensure compliance with all written procedures. |

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# Sample - Written Settlement Policies and Procedures: Pricing Procedure

1. On a semi-annual basis, the “Rates and Remittances” language in the Issuing Agency Contract is reviewed with all personnel responsible for rate and split calculations, policy issuance and policy reporting. When rate change bulletins are issued, the reviews are immediate in order to ensure that proper rate changes are made. All outdated rate manuals are to be discontinued from use when the updated rates become effective.
2. When rate change bulletins are issued, the software provider (Softpro Corp., Ramquest, etc.) is contacted to confirm that they have been notified by the underwriter and will have the proper updates made to the software.
3. On each title order, rate manuals and online calculators (as appropriate) are used to ensure correct amounts are being charged for policy premiums, state specific fees, and endorsements.
4. Applicable rate discounts, such as Simultaneous Issue, Reissue, and Refinance Rates (if applicable in state) are calculated and charged when appropriate.
5. A record of all rate calculations is kept in the file, whether in paper or electronic.
6. On a quarterly basis, a quality check audit of 5% of all files is made to verify compliance with rate calculations and recording procedures. The audit shall be conducted by (insert name or position).
7. If there are an inadvertent overpayments found post-closing or in the quality control audit process, uniform and timely refunds shall be made.
8. Training on overpayments or other issues found within the quality control audit process will be conducted with appropriate personnel.

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**Sample - Written Settlement Policies and Procedures: Affiliated Business Arrangement Disclosure**

Our Title Agency is part of an Affiliated Business Arrangement.

1. An affiliated business arrangement disclosure has been drafted to disclose the relationship to the Consumer. It is attached to this policy.
2. This disclosure shall be reviewed periodically by counsel.
3. This disclosure shall be provided to the Consumer in every transaction. The Consumer shall execute receipt of the form for our records.
4. The importance of this disclosure and why it is provided to the consumer shall be detailed in training to all staff annually.

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# Sample - Real Estate Closing Checklist

* Title Commitment
* Check Title exceptions and review with examiner if needed
* Survey ordered, received and reviewed prior to closing
* Mortgage payoffs ordered and received, or Releases acquired for old mortgages on title
* Home Equity payoffs ordered and received, if applicable. Instructions and forms for closing account received.
* Check transfer tax guide for your municipalities’ requirements for transfer stamps
* Check on real estate tax payments
* Tax proration’s computed for closing, real estate taxes, insurance, association fees, water, sewer
* Real estate broker commission and splits
* Amount of earnest money; brought to closing or retained by broker
* Power of Attorney
* Seller’s documents for closing:
* Drivers’ license or acceptable form of I.D. from each seller
* Deed (check vesting, spelling of names)
* Affidavit of Title
* IRS Certification, 1099 Docs
* Buyers Documents for Closing
  + Drivers’ license or acceptable form of I.D. from each buyer
  + Homeowners Insurance with paid receipt
  + Settlement Statement from sale of previous home, if applicable
* Check for any municipality liens and permit issues
* If Condominium
  + Right of First Refusal
  + Paid Assessment Letter
* If in HOA
  + Confirm Dues Current
  + Obtain Paid Assessment Letter
* If Investment
  + Copies of Leases
  + Security Deposit Log
  + Letters to Tenants
  + Prorations of Rents and Security Deposits
* If in a Land Trust
  + Letter of Direction signed
  + Trustee’s Deed and ALTA from Trust
* Wiring Information provided to buyer with information on prevention of wire fraud
* Closing confirmed with all parties
  + Buyer(s) – Borrower(s)
  + Seller(s)
  + Lender
  + Seller’s attorney (if applicable)
  + Buyer’s attorney (if applicable)
  + Listing Broker
  + Selling Broker
* Closing Instructions from parties received and reviewed for conflict between them and with Underwriter Standards
* Confirm receipt of funding authorization
* Confirm and verify all incoming wires by phone with both parties – sending and receiving
* Confirm and verify all outgoing wires by phone with both parties – sending and receiving

# Sample - Customer Transaction Worksheet

This Customer Transaction Worksheet can be distributed to customers and Consumers to aid in the settlement process including the prevention of Wire Fraud.

## Macintosh HD:Users:lindagrahovec 1:Desktop:2020-01-26_12-54-07.png

## Resource:

FNF Marketing Print Shop | Free Downloads or can order high quality printed materials though the FNF.Corefact.com storefront.

You can access the storefront to order the above postcard and other collateral through the National Agency Website – click Agency Success Tools tab, click Marketing widget or through the AgentTRAX system – click Applications dropdown, click Marketing Library.

Contact your FNF Agency Account Manager for assistance or additional tools and resources for consumer awareness.

# Sample – Consumer Wire Fraud Awareness Postcard

# This postcard may be distributed to customers and consumers.

## Macintosh HD:private:var:folders:yz:gl1l0n3j3h31srsssgwtxtg80000gp:T:2020-01-26_12-28-52.png

## Resource:

FNF Marketing Print Shop | Free Downloads or can order high quality printed materials though the FNF.Corefact.com storefront.

You can access the storefront to order the above postcard and other collateral through the National Agency Website – click Agency Success Tools tab, click Marketing widget or through the AgentTRAX system – click Applications dropdown, click Marketing Library.

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# Sample - Settlement Policies and Procedures: Employee Signing Professionals including Notary Log

* + 1. Background checks are to be performed on employees who will be signing professionals (notaries and closers) for our company. A background check shall be completed at hiring and every three years thereafter.
    2. Background checks shall be obtained by \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Upon review, if there is a concern it shall be brought to the attention of the owner or manager of the title company.
    3. Confirmation shall be obtained concerning appointment by appropriate state agency for all notaries who are also employees of title agency. A notary licensing log with this information, as shown below, shall be maintained by \_\_\_\_\_\_\_\_\_\_\_\_\_\_.
    4. Confirm state requirements for insurance and bonds for notaries has been met. Obtain copies of insurance declaration pages or bond for title agency files.
    5. All employees acting as signing professionals shall also adhere to the title agency’s written information security program (WISP).
    6. All employees will acknowledge this policy in writing.

NOTE: For a third-party signing professional contractually retained by anyone other than Company (e.g., the lender, Consumer, or an attorney representing any of these parties), the responsibility for verifying that the third-party signing professional meets applicable standards rests with that party.

|  |  |  |  |
| --- | --- | --- | --- |
| LIST OF AGENCY EMPLOYEES WHO ARE NOTARIES | NOTARY NUMBER | NOTARY  EXPIRATION DATE | INSURED/BONDED?  Carrier, Policy # |
|  |  |  |  |
|  |  |  |  |

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# Sample - Settlement Policies and Procedures:

# Third-Party Signing Professionals

1. Verify that the third-party signing professional is covered by Errors and Omissions insurance and a Notary surety bond, if required by state law.
2. Require that third-party signing professionals furnish evidence of their state licensure, where required, or evidence that they have attained a recognized and verifiable industry designation.
3. Require that third-party signing professionals provide an acknowledgment of compliance with Company’s instructions and Company’s information security policies.
4. These steps may be performed by a vendor. Title agency shall vet vendor by ensuring compliance with Best Practices.

NOTE: If a third-party signing professional is directly employed by a title or settlement agent or underwriter that provides evidence of compliance with the Best Practices, Company does not need to perform the due diligence requirements detailed above.

NOTE: For a third-party signing professional contractually retained by anyone other than Company (e.g., the lender, Consumer, or an attorney representing any of these parties), the responsibility for verifying that the third-party signing professional meets applicable standards rests with that party.

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**Sample – Settlement Policies and Procedures: Remote Online Notarization**

1. Our title agency uses remote online notarization in some closings.
2. Remote online notary platforms used by our title agency have been authorized by our state and approved by our title underwriters because they comply with minimum RON standards for retention of video and safeguarding NPI.
3. The RON vendor also has procedures in place to notify our title agency in case of data breach.
4. The fees charged for using RON are in compliance with state regulations. In the event a Consumer decides not to use RON after the documents have been prepared for closing a fee will/will not be charged to the Consumer.
5. The vetting of RON platforms will be performed by \_\_\_\_\_\_\_\_.

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# Sample – Requirements for Documents to be Recorded Checklist

**DEEDS – INDIVIDUAL**

* Address of party that prepared document
* Address of where to return document after recording
* Address of property
* Name and address of the Grantee for tax billing purposes
* Deed dated
* Legal description same as the commitment and survey
* Consideration recited (actual consideration should be used on an administrator's, executor's or guardian's deed)
* Notarized

**GRANTOR - INDIVIDUALS**

* Does the grantor have the capacity to convey? i.e., minor, incapacitated due to disability or inebriation
* Marital status stated?
* If titleholder is married and the property is their primary residence; spouse must sign to due to homestead rights/dower rights/tenancy by the entirety/joint tenancy
* If the property is not the primary residence, deed should recite "Grantor hereby states that subject property is neither his/her homestead nor of his/her spouse” if applicable in your state

**GRANTOR - PARTNERSHIPS**

* Deed must recite the state in which the partnership was formed
* Do you know who has the authority to sign the Deed per Partnership Agreement?
* Terms of the Partnership Agreement – is it limited or general?
* Copy of the Agreement and any Amendments

**GRANTOR – CORPORATIONS**

* Deed must state the state of incorporation
* Certified copy of the Corporate Resolution authorizing the conveyance of the property or the mortgage
* Corporate By-laws
* Certificate of Good Standing

**GRANTOR - RELIGIOUS ENTITIES**

* Do you know who is authorized to sign the Deed?
* Do you know the specific rules for the denomination of religious entity in title?
* If within a corporation, follow Corporate By-laws and corporation requirements
* If Trustees, Names of all persons elected members of the Board of Trustees at the last election

**GRANTOR - LIMITED LIABILITY COMPANY**

* Deed must recite the state in which the company was formed
* Underwriting Conditions: [insert underwriting conditions]
* Certificate from Secretary of State that it has filed its Articles of Organization (where applicable)
* Copy of the Articles of Organization
* List of managers or members
* Certification that no event of dissolution has occurred

**GRANTOR – TRUSTEE**

* Who may sign on behalf of the trust? (i.e. can the trustee sign in their sole capacity or must beneficiaries join)
* Has a copy of the trust instrument or a certification of trust been obtained?
* Will the trustee certify in writing at closing that the trust agreement obtained has not been amended, modified or revoked via a Certificate of Trust?

**ATTORNEY-IN-FACT**

* Has an original of the executed power of attorney been obtained and recorded?
* Does the power of attorney contain durable language?
* Is the power of attorney limited to this real estate transaction?
* Do circumstances surrounding the use of the power of attorney seem reasonable?
* Has the principal been contacted and an “Alive and Well” statement obtained on the day of closing?

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# Sample - Recording Checklist

File Number: (add your ALTA Universal ID onto all documents)

|  |  |  |
| --- | --- | --- |
| TASK | NOTES | DATE COMPLETED |
| **Grantor Name/Address/All Owners are Conveying (consistent on all docs)** |  |  |
| **Grantee Name/Address** |  |  |
| **Mortgagee/Assignee/Borrower Name Address** |  |  |
| **Marital Status/Homestead Verbiage** |  |  |
| **Legal Description (proofed against title commitment and vesting deed)** |  |  |
| **Property tax ID number** |  |  |
| **Signature(s) – match typed/printed names beneath** |  |  |
| **Light ink or blurry notary stamp (will get kicked back unrecorded)** |  |  |
| **Notarized; Notary acknowledgment properly completed;** |  |  |
| **Printed Notary Name with county of residence and date of expiration** |  |  |
| **RON: Acknowledgment and seal correct** |  |  |
| **Drafted By Name/Address** |  |  |
| **Return To Name/Address** |  |  |
| **Margins Sizes – meet state requirements – all blank** |  |  |
| **a/k/a or f/k/a verbiage, if needed** |  |  |
| **POA/Trust/Probate/Death Certificate/Entity Verbiage, if needed** |  |  |
| **Document Dated date** |  |  |
| **Printed ink color – black (Recorder Requirements? Lender Requirements?)** |  |  |
| **If consideration/$ are not recited on deed – Real Estate Transfer Valuation Affidavit listing consideration & attached to deed** |  |  |
| **Exemption clauses for revenue stamps, transfer taxes, mortgage taxes, if applicable** |  |  |
| **Document identified by name with reference information on page 2 (deed)** |  |  |
| **Exhibit/Rider indicated and/or attached** |  |  |
| **Capacity/marital status in Acknowledgement** |  |  |
| **Print size in accordance with your state/local requirements** |  |  |
| **DOUBLE CHECK sending to correct property County/Counties** |  |  |

Closer’s Initials \_\_\_\_\_\_\_\_\_\_\_\_\_\_

***The information provided in this SAMPLE Policy Document is for your reference only and is not intended to represent the only approach to any particular issue. These guidelines should not be construed as legal, financial or business advice, and you should consult legal counsel and subject-matter experts to determine the appropriate policies, procedures and strategies applicable to your office or organization.***

# Sample - Written Settlement Policies and Procedures:

# Recording Procedure

1. Documents are submitted or shipped for recording to the proper recording office within 2 business days of the later of (i) the date of Settlement, or (ii) receipt by the agency if the Settlement is not performed by the agency.
2. Where available, electronic recording is used.
3. For counties where we do not have an office and electronic recording is not available, we use a third-party recording service\_\_\_\_\_\_\_\_\_\_.
4. Shipments of documents for recording are tracked and a log is kept. We notate which documents were signed at our title agency as opposed to provided to use for recording (i.e. bank closed).
5. We verify that recording actually took place and maintain recording information for each document in each file, as well as a separate log of all recordings.
6. When notice is received that a document has been rejected, the document is treated as a ‘new closing’ and all effort is made to resolve the problem and submit for re-recording within two days. If a solution is not forthcoming, we consult with our underwriter and develop a strategy to mitigate immediately.
7. A proper recording contains evidence of the Recorder’s Office, all transfer stamps, all transfer taxes or mortgage taxes paid, legible information concerning the document number (or liber number, Book and Page), and proper recording order in the case of multiple documents.
8. When it appears a recorded document was not recorded properly or is missing information, the document is treated as a ‘new closing’ and all effort is made to resolve the problem and re-record within two days. If a simple re-recording will not resolve the issue, we consult with our underwriter and develop a strategy to mitigate the issue immediately.
9. Our recording process is audited by \_\_\_\_\_\_\_\_\_\_\_\_. A review of audit findings will be shared with employees to reduce recording issues.