

SPECIMEN

This Declaration Page is attached to and forms part of certificate provisions (Form SLC-3 USA).

Previous No. Authority Ref. No. Certificate No.
«PRIOR POLICY #» «Authority Ref #» «Policy #»

1 Name and Address
of the Assured

«Applicant Name»
«Address»
«City», «State» «Zip»

2 Effective from «Effective Date» to «Expiration Date»
both days at 12:01 a.m. Standard Time

3 Insurance is effective with certain companies Percentage
UNDERWRITERS AT LLOYD'S, LONDON 100%

4 Amount	Coverage	Rate	Premium
«Result Limit» (See Policy for any applicable sub-limits)	Special Mortgage Bankers Bond		«Result Premium»
		Policy Preparation Fee	«POLICY FEE»

5 Special Conditions

«ENDORSEMENTS»

6 Service of Suit may be made upon: (See Service of Suit Endorsement)

Dated Stateside Underwriting Agency, Inc.

«POL. ISSUE DATE» by _____
Correspondent

SPECIMEN

SPECIAL MORTGAGE BANKERS BOND

**STATESIDE UNDERWRITING AGENCY, INC.
5435 BULL VALLEY ROAD
SUITE 212
MCHENRY, IL 60050**

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SPECIAL MORTGAGE BANKERS BOND

WHEREAS the **Assured** named in the Schedule has submitted a written Application, which Application and any attachments thereto or any documents submitted in connection therewith it is agreed shall be the basis of this Insurance, and has paid the premium to the Underwriters (hereinafter called "the Underwriters"), all provisions of the written Application and its attachments or documents submitted in connection therewith being hereby incorporated in and forming part of this Bond,

NOW KNOW YE that We the Underwriters hereby bind ourselves each for the proportion set against his own name and not one for another to pay in respect of claims which shall be substantiated under this Bond to the extent and in the manner hereinafter provided.

SPECIAL MORTGAGE BANKERS BOND FORM

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SCHEDULE

Certificate No.: _____ «POLICY #» _____

ITEM 1: **Name of Assured:** _____ «Applicant Name» _____

Principal Address: _____ «Address» _____

_____ «City», «State» «Zip» _____

ITEM 2: **Bond Period:**

From: 12:01 A.M. _____ «EFFECTIVE DATE»

To: 12:01 A.M. _____ «EXPIRATION DATE»

ITEM 3: **Retroactive Date:** _____ «RETRO DATE»

ITEM 4: **Policy Limits:**

The Limit of Indemnity under this Bond, subject to Condition F, shall be:

(a) under Insuring Clauses 1, 2, 3, 4, 5, 6, 7, 8, 10, and 12 for an Aggregate Limit of Indemnity for all such Insuring Clauses combined of _____; and

(b) under Insuring Clauses 9 and 11 for a separate Aggregate Limit of Indemnity of _____;

provided, however, that if lesser amounts are inserted against any of the Insuring Clauses or subsections of Insuring Clauses shown in Item 5 below the liability of the Underwriters in respect of loss or losses falling within such Insuring Clauses or subsections, including court costs and attorneys' fees, is limited to such lesser amounts which are also in the aggregate (hereinafter called the "Sub-Limits") irrespective of the amount shown in either Item 4(a) or (b) above for such Insuring Clause. Said Sub-Limits are part of and not in addition to either of the above-mentioned Aggregate Limit(s) of Indemnity.

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ITEM 5

(a) SUB-LIMITS IN THE AGGREGATE APPLICABLE TO THE AGGREGATE LIMIT OF INDEMNITY STATED IN ITEM 4(a):

Insuring Clauses 1-4

Dishonesty Sub-Limit
Premises Sub-Limit
Transit Sub-Limit
Forged Checks Sub-Limit

Insuring Clause 5

Forged Documents Sub-Limit

Insuring Clause 6

Theft of Secondary Market Institution's
Money or Collateral Sub-Limit

Insuring Clause 7

Claims Expense Sub-Limit

Insuring Clause 8

Reimbursement to Assured for Legal Expense
of Directors, Officers and Partners Sub-Limit

Insuring Clause 10

Replacement Expenses Sub-Limit

Insuring Clause 12

Computer Crime Sub-Limit

ITEM 5

(b) SUB-LIMITS IN THE AGGREGATE APPLICABLE TO THE AGGREGATE LIMIT OF INDEMNITY STATED IN ITEM 4(b):

Insuring Clause 9

Mortgage Interest Sub-Limit
Liability to Mortgagor Sub-Limit
Liability to Investor Sub-Limit
Real Estate Taxes Sub-Limit

Insuring Clause 11

Extended Errors and Omissions Sub-Limit

ITEM 6

(a) DEDUCTIBLE EACH AND EVERY LOSS

Insuring Clauses 1-4

Dishonesty «DEDUCTIBLE»
Premises «DEDUCTIBLE»
Transit «DEDUCTIBLE»
Forged Checks «DEDUCTIBLE»

Insuring Clause 5

Forged Documents «DEDUCTIBLE»

Insuring Clause 6

Theft of Secondary Market Institution's
Money or Collateral «DEDUCTIBLE»

Insuring Clause 7

Claims Expense «DEDUCTIBLE»

Insuring Clause 8

Reimbursement to Assured for Legal Expense
of Directors, Officers and Partners «DEDUCTIBLE»

Insuring Clause 10

Replacement Expenses «DEDUCTIBLE»

Insuring Clause 12

Computer Crime «DEDUCTIBLE»

ITEM 6

(b) DEDUCTIBLES EACH AND EVERY LOSS

Insuring Clause 9

Mortgage Interest «DEDUCTIBLE»
Liability to Mortgagor «DEDUCTIBLE»
Liability to Investor «DEDUCTIBLE»
Real Estate Taxes «DEDUCTIBLE»

Insuring Clause 11

Extended Errors and Omissions «DEDUCTIBLE»

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ITEM 7: All notice to the Underwriters shall be made to:

Stateside Underwriting Agency, Inc.
5435 Bull Valley Road, Suite 212
McHenry, Illinois 60050.

ITEM 8: Persons nominated to accept Service of Suit:

ITEM 9: This Bond is subject to the terms of the following endorsements attached hereto at the effective date of this Bond.

«ENDORSEMENTS»

And to all other endorsements attached hereto after the effective date of this Bond.

ITEM 10: In accordance with the authorization granted under the contract to which this Bond attaches to Stateside Underwriting Agency, Inc. by certain Underwriters, whose names and the proportion underwritten by them, which will be supplied on application, can be ascertained by reference to the said Contract.

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INSURING CLAUSES

The Underwriters hereby undertake and agree, subject to the terms, definitions, exclusions, limitations, conditions and endorsements of this Bond, to indemnify the **Assured** for:

DISHONESTY

Insuring Clause 1

Direct financial loss sustained by the **Assured** subsequent to the Retroactive Date and discovered by the **Assured** during the **Bond Period** by reason of and directly caused by

- (a) dishonest acts by any **Employee** of the **Assured**, whether committed alone or in collusion with others, which dishonest acts were committed by said **Employee** with the manifest intent to obtain and resulted in the receipt of **Improper Personal Financial Gain** for said **Employee**, or for the person(s) acting in collusion with said **Employee**, or
- (b) dishonest acts by an **Attorney** of the **Assured**, whether committed alone or in collusion with others, while said **Attorney** is in the course of performing legal services for the **Assured** in connection with a **Real Estate Loan** and which dishonest acts were committed by said **Attorney** with the manifest intent to obtain and resulted in the receipt of **Improper Personal Financial Gain** for said **Attorney**.

PREMISES

Insuring Clause 2

- (a) Loss of **Property** or **Real Estate Documents** sustained by the **Assured** subsequent to the Retroactive Date and discovered by the **Assured** during the **Bond Period** by reason of and directly caused by
 - (i) burglary, robbery, hold-up or larceny committed by persons present on the **Premises**, or
 - (ii) mysterious unexplainable disappearance, or
 - (iii) being damaged, destroyed or misplaced howsoever or by whomsoever caused, while such **Property** or **Real Estate Documents** is or are upon the **Premises**.
- (b) Loss or damage sustained by the **Assured** subsequent to the Retroactive Date and discovered by the **Assured** during the **Bond Period**
 - (i) to all furnishings, fixtures, equipment, stationery, supplies or safes and vaults within any office of the **Assured** by reason of and directly caused by burglary, robbery, hold-up or larceny, or any attempt thereat, or by vandalism or malicious mischief, or
 - (ii) to any office of the **Assured** by reason of and directly caused by burglary, robbery, hold-up or larceny, or any attempt thereat, or to the interior of any such office by vandalism or malicious mischief provided that the **Assured** is the owner of such office, furnishings, fixtures, equipment, stationery, supplies or safes and vaults or is liable for such loss or damage.

All loss or damage upon the **Premises** caused by fire is excluded in any event.

TRANSIT

Insuring Clause 3

- (a) Loss of **Property** or **Real Estate Documents** sustained by the **Assured** subsequent to the Retroactive Date and discovered by the **Assured** during the **Bond Period** by reason of and directly caused by such **Property** or **Real Estate Documents** being lost, damaged, destroyed, stolen, mislaid, misplaced, misappropriated, or made away with, or having mysteriously disappeared, while in transit anywhere in the custody of any person or persons acting as messenger, except while in the mail or with a carrier for hire other than an armored motor vehicle company, such transit to begin immediately upon receipt of such **Property** or **Real Estate Documents** by the transporting person or persons from the **Assured** and to end immediately upon delivery to the designated recipient or its agent,
- (b) Loss of **Real Estate Documents** sustained by the **Assured** subsequent to the Retroactive Date and discovered by the **Assured** during the **Bond Period** by reason of and directly caused by such **Real Estate Documents** being lost, damaged, destroyed, stolen, mislaid, misappropriated or made away with, or having mysteriously disappeared, while in transit anywhere when in the custody of a carrier for hire including U.S. Postal Express Mail Next Day Service but excluding an armored motor vehicle company or the mail, such transit to begin immediately upon receipt of the **Real Estate Documents** by the transporting person or persons from the **Assured** and to end immediately upon delivery to the designated recipient or its agent.

FORGED CHECKS

Insuring Clause 4

Direct financial loss sustained by the **Assured** subsequent to the Retroactive Date and discovered by the **Assured** during the **Bond Period** by reason of and directly caused by a **Forged Signature** on or **Fraudulent Alteration** of any check, draft, promissory note or withdrawal order, made or drawn by or drawn upon the **Assured** or purporting to have been made or drawn as set forth above, including

- (a) any check or draft made or drawn in the name of the **Assured** payable to a fictitious payee and endorsed in the name of the fictitious payee, or
- (b) any check or draft procured in a face to face transaction with the **Assured** or with one acting as agent of the **Assured** by anyone impersonating another and made or drawn payable to the one impersonated and endorsed by anyone other than the one impersonated, or (c) any payroll check, payroll draft or payroll order made or drawn by the **Assured** payable to a named payee and endorsed by anyone other than the named payee without authority of the payee. For purposes of this Insuring Clause, mechanically reproduced facsimile signatures shall be treated the same as handwritten signatures. If, at the **Assured's** request, the Underwriters waive any rights they may have against the financial institution upon which the instrument was drawn, the **Assured** and the financial institution shall assign to the Underwriters all of their rights against any other person, firm or corporation.

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FORGED DOCUMENTS

Insuring Clause 5

Direct financial loss sustained by the **Assured** subsequent to the Retroactive Date and discovered by the **Assured** during the **Bond Period** by reason of and directly caused by

- (a) the **Assured** having relied upon a **Forged Signature** on or **Fraudulent Alteration** of any original Mortgage, Trust Deed, Note or Title Policy received by the **Assured** in connection with a **Real Estate Loan**
 - (i) originated by the **Assured**, or
 - (ii) originated by a person other than the **Assured** and purchased by the **Assured**, or
 - (iii) prepared, directly funded and closed by a person other than the **Assured** in the name of the **Assured**, which **Real Estate Loan** is held by the **Assured** for its own account or
- (b) the **Assured** being legally liable to repurchase a **Real Estate Loan** from an **Investor** as the direct result of a **Forged Signature** on or **Fraudulent Alteration** of
 - (i) any original **Real Estate Documents** received by the **Assured** in connection with a **Real Estate Loan** originated by the **Assured**,
or
 - (ii) any original Mortgage, Trust Deed, Note or Title Policy received by the **Assured** in connection with a **Real Estate Loan** originated by a person other than the **Assured** and purchased by the **Assured** or prepared, directly funded and closed by a person other than the **Assured** in the name of the **Assured**.

Special Condition:

It is agreed that as a condition precedent to coverage under this Insuring Clause that the **Assured** made or purchased the **Real Estate Loan** and acquired the items stated above in good faith and in the ordinary course of its business and that there was actual physical possession of the said items by the person closing the **Real Estate Loan** at the time of the closing and by the **Assured** at the time of the acquisition of said **Real Estate Loan**.

THEFT OF SECONDARY MARKET INSTITUTION'S MONEY OR COLLATERAL

Insuring Clause 6

Loss by reason of any claim first made against the **Assured** during the **Bond Period** by any **Secondary Market Institution** (hereinafter referred to as "**Institution**") for the direct financial loss sustained by such **Institution** as the direct result of **Theft** subsequent to the Retroactive Date by any partner, **Sole Proprietor** or **Major Shareholder** of the **Assured**, whether committed alone or in collusion with others including an **Employee**, of

- (a) **Money** from a **Custodial Account** maintained for the **Institution** by the **Assured** which **Money**
 - (i) was deposited with or paid to the **Assured** by said **Institution** for the purpose of purchasing a **Real Estate Loan** for said **Institution**, or
 - (ii) was collected or received by the **Assured** for said **Institution** in connection with a **Real Estate Loan** which the **Assured** is servicing for said **Institution**, or
- (b) **Collateral** held for an **Institution** by the **Assured** in connection with a **Real Estate Loan** but which **Collateral** has been fraudulently pledged or sold to another person,

provided, however, that the **Assured** is held to be legally liable to said **Institution** for the loss of such **Money** or **Collateral**.

Special Condition:

It is agreed that as a condition precedent to coverage under this Insuring Clause that

- (a) the **Institution** shall require an annual audit by way of the Uniform Single Audit Program for Mortgage Bankers or otherwise of the **Custodial Account** by a firm of independent outside accountants and the **Institution** shall verify that said audit has been conducted, and
- (b) the **Institution** shall require that at the earliest practicable moment the **Assured** deliver the **Collateral** to either the **Institution** or a trustee nominated by the **Institution** or the **Assured** place upon said **Collateral** an appropriate designation of the **Institution's** interest in said **Collateral**.

Failure of the **Assured** to comply with these requirements by an **Institution** shall not void the coverage under this Insuring Clause provided that the **Institution** has exercised due diligence by making every reasonable effort to verify that the **Assured** is complying with said requirements.

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CLAIMS EXPENSE

Insuring Clause 7

Reasonable expenses incurred by the **Assured** subsequent to the Retroactive Date by reason of the **Assured** having retained, with the prior approval of the Underwriters, independent outside accountants or other non-legal experts to determine the amount and extent of loss covered and paid under any Insuring Clause of this Bond excepting, however, Insuring Clauses 6,8,9 and 11 of this Bond.

The Underwriters shall not be liable to reimburse the **Assured** for said expenses until payment for the covered loss is made.

REIMBURSEMENT TO ASSURED FOR LEGAL EXPENSE OF DIRECTORS, OFFICERS AND PARTNERS

Insuring Clause 8

Reasonable legal expenses and attorney's fees paid by the **Assured** by reason of any claim first made during the **Bond Period** against any present or former director, officer or partner of the **Assured**, which expenses and fees are necessarily incurred by said person in defending any suit or legal proceeding (including related suits or legal proceedings) to which said person shall have been made a party, alleging that said person is guilty of wrongful conduct committed in the capacity of a director, officer or partner of the **Assured** provided that

- (a) said person was a director, officer or partner during the **Bond Period**, and
- (b) such alleged wrongful conduct was committed subsequent to the Retroactive Date, and
- (c) such alleged wrongful conduct does not concern any loss covered under any Insuring Clauses of this Bond, and
- (d) said director, officer or partner is not guilty of any dishonest, fraudulent or criminal conduct, and
- (e) the **Assured** is legally required or permitted to indemnify said director, officer or partner, and
- (f) the total liability of the Underwriters for all such reasonable expenses and attorney's fees paid by the **Assured** regardless of the number of claims, suits or legal proceedings or number of directors, officers or partners shall not exceed the Sub-Limit stated in Item 5(a) of the Schedule which amount shall be a part of and not in addition to the Aggregate Limit of Indemnity stated in Item 4(a) of the Schedule.

ERRORS AND OMISSIONS

Insuring Clause 9

- (a) Mortgagee Interest

Loss to the **Assured's** mortgagee interest in real property or to an **Investor's** interest in real property on whose behalf the **Assured** is servicing a mortgage which loss is discovered by the **Assured** during the **Bond Period** provided that such loss is a direct result of an error or accidental omission on the part of the **Assured** taking place subsequent to the Retroactive Date in failing to obtain or maintain

- (i) Fire and Extended Coverage insurance, or
 - (ii) **Homeowner's Insurance**, or
 - (iii) Mortgage Redemption Life insurance, Accident and Health insurance, or Accidental Death and Dismemberment insurance, or
 - (iv) Flood insurance covering real property located in special flood hazard areas (where flood insurance has been made available under the provisions of the National Flood Insurance Reform Act of 1994 or any amendments thereto) if, by reason of such error or accidental omission, at the time of loss there is no such insurance in force or such insurance in force is inadequate as to amount or such insurance in force fails to contain a mortgagee clause. Mortgagee interest is further extended to include ownership interest in real property obtained through foreclosure or by receipt of deed in lieu of foreclosure but only for Insuring Clauses 9(a)(i), (ii) and (iv).
- (b) Liability to Mortgagor
Direct financial loss sustained by the **Assured** by reason of any claim first made against the **Assured** during the **Bond Period** by a mortgagor for direct financial loss sustained by said mortgagor as a direct result of an error or accidental omission on the part of the **Assured** taking place subsequent to the Retroactive Date while the **Assured** is acting as a mortgagee or while it is originating or servicing a mortgage and for which loss the **Assured** is legally liable in failing
 - (1) to obtain or maintain
 - (i) Fire and Extended Coverage insurance, or
 - (ii) **Homeowner's Insurance**, or
 - (iii) Mortgage Redemption Life insurance, Accident and Health insurance, or Accidental Death and Dismemberment insurance, or
 - (iv) Flood insurance covering property located in special flood hazard areas (where flood insurance has been made available under the provisions of the National Flood Insurance Reform Act of 1994 or any amendments thereto) if, by reason of such error or accidental omission, at the time of the loss there is no such insurance in force or such insurance in force is inadequate as to amount or such insurance in force fails to contain a mortgagee clause, or
 - (2) to make the determination as to whether a property is located in a special flood hazard area within the provisions of the National Flood Insurance Reform Act of 1994 or any amendments thereto.

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(c) Liability to **Investor**

Direct financial loss sustained by the **Assured** by reason of any claim first made against the **Assured** during the **Bond Period** by any **Investor** for direct financial loss sustained by such **Investor** as a direct result of an error or accidental omission on the part of the **Assured** taking place subsequent to the Retroactive Date and for which loss it is legally liable in failing to

- (i) notify the Federal Housing Administration or the Veterans Administration of the **Assured's** inability to obtain fire insurance, or
- (ii) notify the Federal Housing Administration or the Veterans Administration, within the prescribed notice period, that mortgage payments are in arrears or to follow or carry out instructions by either agency in connection with the liquidation of a loan by means of foreclosure, or
- (iii) notify any applicable private mortgage insurance company, within the notice period required by such company, that mortgage payments are in arrears or to follow or carry out private mortgage insurance company instructions in connection with the liquidation of a loan by means of foreclosure if, by reason of any such error or accidental omission with regard to (i), (ii) and (iii) above, insurance from the Federal Housing Administration or a private mortgage insurance company or a guarantee from the Veterans Administration is voided or rendered invalid
- (iv) obtain insurance on a residential or multi-family property loan from the Federal Housing Administration or maintain premium payments thereupon, or
- (v) obtain insurance on a residential property loan from a private mortgage insurance company or maintain premium payments thereupon, or
- (vi) obtain a guarantee on a residential property loan from the Veterans Administration, or
- (vii) make the determination as to whether a property is located in a special flood hazard area within the provisions of the National Flood Insurance Reform Act of 1994 or any amendments thereto.

(d) Real Estate Taxes

Loss sustained by the **Assured** by reason of any claim first made against the **Assured** during the **Bond Period** for

- (i) payment of interest, fines or penalties imposed by any county, municipal, or district tax authority, or
- (ii) cost of redemption in the event of a tax sale excluding, however, the tax which was due and owing, as a direct result of an error or accidental omission on the part of the **Assured**, taking place subsequent to the Retroactive Date and for which loss it is legally liable in failing to pay or verify that payment has been made by a mortgagor of real estate taxes or special assessment taxes on mortgaged real property, or
- (iii) as a direct result of an error or accidental omission on the part of the **Assured** taking place subsequent to the Retroactive Date and for which loss it is legally liable in failing to verify that payment has been made by a mortgagor of real estate taxes or special assessment taxes on mortgaged real property including the tax which was due and owing.

REPLACEMENT EXPENSES

Insuring Clause 10

Reasonable expenses not to exceed \$2,500 per mortgage loan necessarily incurred by the **Assured** to replace any **Real Estate Documents** arising out of a loss covered under other Insuring Clauses 2 or 3, or arising out of a loss which would have been covered under said Insuring Clauses but for the fact that the amount of the loss is within the Deductible applicable to the respective Insuring Clause.

EXTENDED ERRORS & OMISSIONS

Insuring Clause 11

Direct financial loss sustained by the **Assured** by reason of any claim first made against the **Assured** during the **Bond Period** by any **Investor** for direct financial loss sustained by such **Investor** as a direct result of an error or accidental omission on the part of the **Assured** taking place subsequent to the Retroactive Date and for which it is legally liable in failing to

- (a) obtain or maintain insurance required by the mortgagee under the terms of the mortgage, seller/servicer manual loan servicing agreement, loan servicing agreement and/or letter of commitment; or
- (b) determine that a certificate or other evidence of insurance has been maintained for fire and extended coverage insurance, flood insurance or comprehensive general liability for a planned unit development homeowner's association common area or condominium owner's association common elements provided, however, that a certificate of such insurance existed when the loan was closed; the **Assured** had possession of such certificate or other evidence of insurance; that said insurance was required by the **Investor** and the **Assured** has established procedures which provide a means to respond to notice of cancellation of non-renewal of said insurance.

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ELECTRONIC AND COMPUTER CRIME COVERAGE

Insuring Clause 12

Direct financial loss sustained by the **Assured** subsequent to the Retroactive Date and discovered by the **Assured** during the **Bond Period** by reason of and directly caused by

(a) Computer Systems

The **Assured** having transferred, paid or delivered any funds or property, established any credit, debited any account or given any value as the direct result of

- (i) the fraudulent input of Electronic Data directly into:
 - (1) the **Assured's Computer System**; or
 - (2) a **Service Bureau's Computer System**; or
- (ii) the fraudulent modification or the fraudulent destruction of **Electronic Data** stored within or being run within any of the above systems or during electronic transmission through data communication lines to the **Assured's Computer System** or a **Service Bureau's Computer System** which fraudulent acts were committed by a person with the manifest intent to obtain and resulted in the receipt of **Improper Personal Financial Gain** for said person or any other person acting in collusion with said person.

(b) **Assured's** Service Bureau Operations

The **Assured** having transferred, paid or delivered any funds or property, established any credit, debited any account or given any value as the direct result of the fraudulent input, the fraudulent modification or the fraudulent destruction of **Electronic Data** stored within or being run within the **Assured's Computer System** or during electronic transmission through data communication lines from the **Assured's Computer System** into another mortgage banker's **Computer System** while the **Assured** is acting as a **Service Bureau** for said mortgage banker which fraudulent acts were committed by a person with the manifest intent to obtain and resulted in the receipt of **Improper Personal Financial Gain** for said person or any other person acting in collusion with said person who intended to cause the **Assured** or said mortgage banker to sustain a loss and for which loss the **Assured** is held to be legally liable.

(c) Electronic Computer Instructions

The **Assured** having transferred, paid or delivered any funds or property, established any credit, debited any account or given any value as the direct result of the fraudulent preparation or the fraudulent modification of **Electronic Computer Instructions** which fraudulent acts were committed by a person with the manifest intent to obtain and resulted in the receipt of **Improper Personal Financial Gain** for said person or any other person acting in collusion with said person.

(d) **Electronic Data** and Media

- (i) The malicious destruction or attempt thereof of the **Assured's Electronic Data** by any person while the **Electronic Data** are stored within the **Assured's Computer System** or a **Service Bureau's Computer System** or while recorded upon **Electronic Data Processing Media** within the offices or premises of the **Assured**.
- (ii) **Electronic Data Processing Media** being lost, damaged or destroyed as the direct result of robbery, burglary, larceny, **Theft**, misplacement or mysterious unexplainable disappearance while the **Electronic Data Processing Media** is lodged or deposited within offices or **Premises** located anywhere, or in the custody of a person designated by the **Assured** to act as its messenger (or a person acting as a messenger or custodian during an emergency arising from the incapacity of such designated messenger) while the **Electronic Data Processing Media** is in transit anywhere, such transit to begin immediately upon receipt of such **Electronic Data Processing Media** by said messenger and to end immediately upon delivery to the designated recipient or its agent, provided that the **Assured** is the owner of such **Electronic Data Processing Media** or is legally liable for such loss or damage.

(e) Electronic Communications

The **Assured** having transferred, paid or delivered any funds or property, established any credit, debited any account or given any value on the faith of any electronic communications directed to the **Assured** authorizing or acknowledging the transfer, payment, delivery or receipt of funds or property which communications were transmitted or appear to have been transmitted

- (1) through an **Electronic Communication System**, or
- (2) by **Tested** telex, **Tested** TWX or similar means of **Tested** communication directly into the **Assured's Computer System** or to the **Assured's Communications Terminal** and fraudulently purport to have been sent by a mortgage banker or other financial Institution but which communications were either not sent by said person, or were fraudulently modified during physical transit of **Electronic Data Processing Media** to the **Assured** or during electronic transmission through data communication lines to the **Assured's Computer System** or to the **Assured's Communications Terminal**.

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(f) Electronic Transmissions

A mortgage banker or a financial institution having transferred, paid or delivered any funds or property, established any credit, debited any account or given any value on the faith of any electronic communications purporting to have been directed by the **Assured** to said person authorizing or acknowledging the transfer, payment, delivery or receipt of funds or property which communications were transmitted or appear to have been transmitted

(1) through an **Electronic Communications System**, or

(2) by **Tested** telex, **Tested** TWX or similar means of **Tested** communication directly into a **Computer System** or a **Communications Terminal** of said mortgage banker or financial institution and fraudulently purport to have been sent by the **Assured** but which communications were either not sent by the **Assured** or were fraudulently modified during physical transit of **Electronic Data Processing Media** from the **Assured** or during electronic transmission through data communication lines from the **Assured's Computer System** or the **Assured's Communications Terminal** and for which loss the **Assured** is held to be legally liable.

(g) The **Assured** having transferred, paid or delivered any funds or property, established any credit, debited any account or given any value as the direct result of the destruction or attempt thereof of the **Assured's Electronic Data** due to a **Computer Virus** caused by any person while such **Electronic Data** are stored within the **Assured's Computer System** or a **Service Bureau's Computer System**.
The destruction or attempt thereof of the **Assured's Electronic Data** as the result of a **Computer Virus** caused by any person while such **Electronic Data** are stored within the **Assured's Computer System** or a **Service Bureau's Computer System**.

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AGREEMENTS

A. COURT COSTS AND ATTORNEY'S FEES

1. INDEMNIFICATION

The Underwriters shall indemnify the **Assured** against court costs and reasonable attorneys' fees incurred and paid by the **Assured** in defending any suit or legal proceeding brought against the **Assured** which results in a loss to the **Assured** covered by Insuring Clauses 1,2,3,4,5,9,11 or 12 of this Bond in excess of any Deductible. Court costs and attorneys' fees indemnified to the **Assured** shall be part of and not in addition to the applicable Aggregate Limit of Indemnity or the applicable sub-limit and payments made under this Bond including payments of such court costs and attorneys' fees shall reduce the amount of the applicable Aggregate Limit of Indemnity or applicable sub-limit shown in the Schedule.

2. MULTIPLE CAUSES OF ACTION

If multiple causes of action are alleged in any such suit or legal proceeding some of which causes of action, if established against the **Assured**, would not constitute a collectible loss under the Bond then the **Assured** shall bear for its own expense the court costs and attorneys' fees incurred in the defense of such alleged causes of action.

3. PRORATION

If the amount of the **Assured's** loss is greater than the amount recoverable under this Bond, or if a Deductible is applicable, or both, the liability of the Underwriters to indemnify for court costs and attorneys' fees under paragraph 1 above is limited to that proportion of court costs and attorneys' fees incurred and paid by the **Assured** or by the Underwriters that the amount recoverable under this Bond bears to the total of such amount plus the amount which is not so recoverable.

4. PAYMENT AFTER JUDGMENT

The Underwriters shall not be liable to indemnify the **Assured** for court costs and attorneys' fees until after final judgment or settlement of any suitor legal proceeding.

5. ELECTION TO DEFEND

The Underwriters may but are not obligated to conduct the defense of such suit or legal proceeding referred to in paragraph 1 above. At the Underwriters' election the **Assured** shall permit the Underwriters to conduct the defense of such suit or legal proceeding referred to in paragraph 1 above, in the **Assured's** name, through attorneys of the Underwriters' selection. The **Assured** shall give all reasonable information and assistance that the Underwriters shall deem necessary to the defense of such suit or legal proceeding. Court costs and attorneys' fees paid by the Underwriters in defending such suit or legal proceeding shall be applied to the reduction of the Aggregate Limit of Indemnity and sub-limit for the applicable Insuring Clause. If having elected to defend the Underwriters pay court costs and attorneys' fees in excess of their proportionate share of such costs and fees the **Assured** shall promptly reimburse the Underwriters for such excess.

The **Assured** shall not unreasonably withhold consent to a settlement by the Underwriters of any suit or legal proceeding.

B. EMPLOYEE WELFARE OR PENSION BENEFIT PLAN PROVISIONS

It is agreed that it is the obligation of the **Assured** or the Plan Administrator(s) of Employee Welfare or Pension Benefit Plans, under Regulations published by the Secretary of Labor implementing Section 412 of the Employee Retirement Income Security Act of 1974, to obtain under one or more Bonds or Policies issued by one or more Insurers an amount of coverage for each such Plan at least equal to that which would be required if such Plans were insured separately.

It is further agreed that the **Assured** or if more than one then the first named **Assured** shall hold any payment for the use and benefit of any Employee Welfare or Pension Benefit Plan sustaining a loss covered under the Bond and to the extent that such payment is in excess of the amount of coverage required by such Regulations to be carried by said Plan sustaining such loss, such excess shall be held by said **Assured** for the use and benefit of any other such Plan also covered under this Bond in the event that such other Plan discovers that it has sustained loss covered hereunder.

If money or other property of two or more Employee Welfare or Pension Benefit Plans covered under this Bond is commingled, recovery under this Bond for loss of such money or other property through dishonest acts by any **Employee** pursuant to Insuring Clause 1 shall be shared by such Plans on a pro rata basis in accordance with the amount for which such Plan is required to carry bonding coverage in accordance with the applicable provisions of said Regulations.

Special Definition:

The term **Employee** as used in this agreement shall also include any natural person who is a director, partner or trustee of the **Assured** while such director, partner or trustee is engaged in handling funds or other property of any Employee Welfare or Pension Benefit Plan owned, controlled or operated by the **Assured** or any natural person who is a trustee, manager, officer or Employee of such Plan.

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C. NON-STATUTORY BOND

This Bond is not issued pursuant to, nor should it be construed as providing coverages in conformity with, any regulatory or statutory requirements whether state or federal for bonding or fidelity coverages.

This Bond shall not be read in conjunction with any regulatory or statutory requirements. It is solely the **Assured's** responsibility:

- (a) to determine whether the terms, conditions and other provisions contained in the Bond meet
 - (i) any regulatory or statutory obligation to maintain bonding or fidelity coverages, with which the **Assured** may be required to comply, or
 - (ii) the requirements of any other party which may have an interest in, or require the **Assured** to maintain bonding or fidelity coverages, whether as to amount or otherwise; and
- (b) to obtain from other insurers any additional or alternative coverages required by virtue of any such obligation or requirement.

Additional or alternative coverages may be available at the Underwriters' sole discretion by endorsement to this Bond subject to the Underwriters' prior approval and consent, and subject to the payment of any additional premium and any additional terms and conditions which the Underwriters may require.

D. SMALL ADDITIONAL OR RETURN PREMIUMS

Notwithstanding anything to the contrary contained herein and in consideration of the premium for which this insurance is written, it is understood and agreed that whenever an additional or return premium of \$5.00 or less becomes due from or to the **Assured** on account of the adjustment of a deposit premium, or of an alteration in coverage or rate during the term or for any other reason, the collection of such premium from the **Assured** will be waived or the return of such premium to the **Assured** will not be made, as the case may be.

DEFINITIONS

For the purposes of this Bond:

- (a) **Appraisal** means an original written valuation, purporting to represent the fair market value of a residential, multi-family, or an income property which written valuation is performed by an **Employee** of the **Assured** or by an **Approved Outside Appraiser** on behalf of the **Assured** and which written valuation is provided directly to the **Assured** in respect of a **Real Estate Loan**.
- (b) **Approved Outside Appraiser** means only those persons, other than an **Employee**, who are members of the American Institute of Real Estate Appraisers or other similar organizations and who the **Assured** has appointed to its approved appraisers list to perform **Appraisals** for the **Assured**.
- (c) **Assured** means the **Assured** named in the Schedule and any subsidiary companies which are also named therein.
- (d) **Assured's Computer System** means those **Computer Systems** operated by the **Assured** and which are either owned or leased by the **Assured**.
- (e) **Attorney** means a person, other than a director, **Employee**, partner, **Sole Proprietor**, **Major Shareholder** or internal corporate attorney of the **Assured**, who is specifically retained and paid by the **Assured** to perform legal services for the **Assured** in connection with a **Real Estate Loan** which is the subject matter of Insuring Clause 1(b) and the employees of such **Attorney** while such **Attorney**, or the employees of such **Attorney**, are performing such services for the **Assured**.
- (f) **Bond Period** means the period of Bond coverage for the **Assured** which is stated in the Schedule, or if the period between the effective date of this Bond and the termination of this Bond is less, such lesser period.
- (g) **Collateral** means a note, mortgage or Deed of Trust upon real property.
- (h) **Communications Terminal** means any teletype, teleprinter or video display terminal or similar device capable of sending and/or receiving information and electronically equipped with a keyboard.
- (i) **Computer System** includes a computer and all input, output, processing, storage and communication facilities which are connected to such a device. Off-line media libraries are deemed to be part of said **Computer System**.
- (j) **Computer Virus** means a set of unauthorized instructions, programmatic or otherwise, that propagate themselves through the **Assured's Computer System** and/or networks which instructions were maliciously introduced by a person other than by an identifiable employee.
- (k) **Custodial Account**, as referred to in the Special Condition of Insuring Clause 6, means a trust, custodial or escrow account designated by the **Assured** for the sole benefit of the **Institution** and maintained by the **Assured** at a federally insured depository institution.
- (l) **Electronic Communication System** means electronic communication operations both proprietary and Public Switched Networks as declared in the written proposal to Underwriters which
 - (1) provide electronic access to the **Assured Computer System**
 - (2) provide the **Assured** with electronic access to the **Computer Systems of Service Bureaus**, other mortgage bankers or financial institutions.

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- (m) **Electronic Computer Instructions** means computer programs, i.e., facts or statements converted to a form usable in a **Computer System** to act upon **Electronic Data**.
- (n) **Electronic Data** means facts or information converted to a form usable in a **Computer System** and which is stored on **Electronic Data Processing Media** for use by computer programs.
- (o) **Electronic Data Processing Media** means the punched cards, magnetic tapes, punched tapes or magnetic discs or other bulk media on which **Electronic Data** are recorded.
- (p) **Employee** means
 - (i) one or more of the **Assured's** officers, clerks and other natural persons while employed in the regular service of the **Assured** in the ordinary course of the **Assured's** business and whom the **Assured** compensates by salary, wages or commissions and student interns whether compensated by salary, wages or commissions or not, and who the **Assured** has the right to govern and direct in the performance of such service, and
 - (ii) any director of the **Assured** who is also an officer of the **Assured**, while acting in the capacity of an officer of the **Assured** and
 - (iii) a natural person provided to the **Assured** by an employment agency furnishing temporary personnel to perform **Employee** duties for the **Assured** within the **Assured's Premises** on a temporary or part-time basis, and
 - (iv) a natural person, partnership or corporation appointed by written agreement with the **Assured** to act as its agent in the capacity of data processor of checks or other accounting records of the **Assured**, while so acting in such capacity on behalf of the **Assured**. Each such data processor and the partners, officers and employees of such data processor shall be, collectively, one **Employee** for all the purposes of this Bond, excepting, however, paragraph (3) of Condition M.
It is understood, however, that the term **Employee** does not include any **Attorney**, partner, **Sole Proprietor** or **Major Shareholder** of the **Assured**, nor, except as provided above, any director of the **Assured**.
- (q) **Forged Signature** means the handwritten signing or endorsing of the name of another genuine person with intent to deceive; it does not include the signing or endorsing in whole or in part of one's own name, with or without authority, in any capacity, for any purpose.
- (r) **Fraudulent Alteration** means a material alteration to an instrument for a fraudulent purpose by a person other than the person who prepared the instrument.
- (s) **Homeowner's Insurance** means a multi-peril policy of insurance combining property and liability insurance on 1 to 4 family residential property excluding, however, any coverage directly or indirectly arising out of the ownership, maintenance, operation, use, loading or unloading of
 - (i) motor vehicles, or
 - (ii) aircraft, or
 - (iii) watercraft to the extent said watercraft is excluded from coverage under said homeowner's policy,
- (t) **Improper Personal Financial Gain** as used in Insuring Clauses 1 and 12 does not include salary, fees, commissions, bonuses, salary increases, promotions, profit sharing and other emoluments or similar benefits.
- (u) **Investor** means a corporation, association, partnership or natural person purchasing **Real Estate Loans** sold or originated by the **Assured** and including but not limited to life insurance companies, pension funds, commercial banks, savings banks, savings and loan associations, state housing finance agencies, and any **Secondary Market Institution**.
- (v) **Major Shareholder** means a natural person who has or had directly, indirectly or beneficially 25% or more of the outstanding voting shares of the **Assured**.
- (w) **Money** means only currency, coin, bank notes and Federal Reserve notes, checks, money orders, and funds deposited by the **Assured** in a federally insured depository institution.
- (x) **Premises** means
 - (i) the **Assured's** main office stated in the Schedule, and
 - (ii) any branch office or other office from which the **Assured** carries on its business, and
 - (iii) any office of any commercial bank, savings bank, savings and loan association, transfer agent or registration agent having custody of **Property** for the purpose of safekeeping, exchange, conversion, registration or transfer in the ordinary course of business.
- (y) **Property** means the following tangible items: currency, coin, bank notes, Federal Reserve notes, certificates of stock, Bonds, Bond coupons and similar forms of securities, checks, drafts, mortgage backed securities, negotiable and non-negotiable instruments or contracts representing money or other property (real or personal), books of account and other records including tapes, disks and similar recording media used by the **Assured** in the conduct of its business, which items are held by the **Assured** for any purpose or in any capacity and whether so held gratuitously or otherwise and whether the **Assured** is legally liable therefor or not, and other tangible items of personal property not hereinbefore enumerated for which the **Assured** is legally liable.
- (z) **Real Estate Documents** mean any original
 - (i) Mortgage, Trust Deed, Note, Title Policy, Deed, Application for Mortgage Loan, Verification of Employment, Verification of Deposit, documents evidencing private mortgage insurance, Federal Housing Administration insurance or Veteran's Administration guarantee, and
 - (ii) Underwriting documents including financial statements, rent rolls, operating statements on the asset (if an existing property), specifications for the real property, surveys, or leases in connection with a loan on commercial real property including a real estate construction loan, and
 - (iii) **Appraisal**, mortgage commitment, or borrower's acceptance of commitment, and
 - (iv) Uniform Commercial Code financing statement pursuant to U.C.C. 9-402 to perfect a security interest in real property excluding a security agreement, and
 - (v) Letter of credit, assignment of a certificate of deposit or bank account, and any similar instrument pledged to the **Assured** as collateral for a **Real Estate Loan**, and
 - (vi) Land trust documents, and
 - (vii) Owner's sworn statement, architect's certificate, inspecting engineer's report, lien waiver, soil test report, and draw request, provided that said items are obtained by the **Assured** in connection with a construction loan.

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- (aa) **Real Estate Loan** means a loan or transaction in the nature of a loan or extension of credit secured by a note and a mortgage or Deed of Trust on a 1 to 4 family residential property or on multi-family property or commercial real property, including a real estate construction loan,
- (bb) **Secondary Market Institution** means the Federal National Mortgage Association, Federal Home Loan Mortgage Corporation or Government National Mortgage Association.
- (cc) **Service Bureau** means a natural person, partnership or corporation authorized by written agreement to perform data processing services using **Computer Systems**.
- (dd) **Service Bureau's Computer System** means those **Computer Systems** operated by a **Service Bureau** and which are either owned by or leased to a **Service Bureau**.
- (ee) **Sole Proprietor** means a natural person who directly or beneficially solely owns or owned the **Assured**.
- (ff) **Tested** means a method of authenticating the contents of a communication by affixing thereto a valid test key which has been exchanged between the **Assured**, another financial institution or between offices of the **Assured** for the purpose of protecting the integrity of the communication in the ordinary course of business.
- (gg) **Theft** as used in Insuring Clause 6 means only
 - (i) the wrongful taking of **Money** deposited in a **Custodial Account** for the sole benefit of the **Institution** which **Money** has been deposited with or paid to the **Assured** for the purpose of purchasing a **Real Estate Loan** for said **Institution** or collected or received by the **Assured** for said **Institution** in connection with a **Real Estate Loan** which the **Assured** is servicing for said **Institution**, or
 - (ii) the wrongful appropriation and fraudulent sale or pledging to others of **Collateral** in which an **Institution** has an interest, which acts were committed with the intent to deprive said **Institution** of its rights to said **Money** or **Collateral**.
- (hh) **Trading** means trading or other dealings whether actual or fictitious in securities, commodities, futures, options, foreign or federal funds, currencies, foreign exchange and the like but shall be deemed not to include the purchase and sale of mortgages to or for an **Investor** or another mortgage banker nor the sale or purchase of mortgage backed securities

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CONDITIONS

A. JOINT ASSURED

If more than one **Assured** is covered under this Bond, the first named **Assured** shall act for all **Assureds** for all the purposes of this Bond. Knowledge possessed by any partner, director, officer or **Major Shareholder** of any **Assured** shall for all the purposes of this Bond constitute knowledge by all the **Assureds**. The liability of the Underwriters for loss or losses sustained by any or all **Assureds** shall not exceed the amount for which the Underwriters would be liable had all such loss or losses been sustained by any one **Assured**. Payment by the Underwriters to the first named **Assured** of loss sustained by any **Assured** shall fully release the Underwriters on account of such loss. If the first named **Assured** ceases for any reason to be covered under this Bond, then the **Assured** next named shall thereafter be considered as the first named **Assured** for all the purposes of this Bond.

B. ADDITIONAL OFFICES, CONSOLIDATION, MERGER OR PURCHASE OF ANOTHER INSTITUTION

If the **Assured** shall, during the **Bond Period**, establish any new branch offices, other than by consolidation or merger with, or purchase of assets of another institution, such branch offices shall be automatically covered hereunder from the dates of their establishment, without the requirement of notice to the Underwriters or the payment of additional premium for the remainder of the **Bond Period**.

If the **Assured** shall, during the **Bond Period**, merge or consolidate with, or purchase, another institution, with or without occasioning any change in ownership or control of the **Assured**, the **Assured** shall not have any coverage under this Bond for loss which

- (a) has occurred or may subsequently occur in offices or premises, or
- (b) has been caused or may subsequently be caused by any partner, director or employee of said institution, or
- (c) has arisen or may subsequently arise out of the assets or liabilities, acquired by the **Assured** as a result of such consolidation, merger, or purchase of assets unless the **Assured** shall
 - (i) obtain the written consent of the Underwriters to extend some or all of the coverage provided by this Bond, and
 - (ii) give written notice to the Underwriters of its agreement to the terms required for said coverage, and
 - (iii) pay to the Underwriters any additional premium.

C. NOTICE OF CHANGE OF CONTROL

1. CHANGE IN STOCK OWNERSHIP

Upon the **Assured's** obtaining knowledge of a transfer of its outstanding voting stock which results in a change in control of the **Assured**, the **Assured** shall as soon as practicable and in any event within thirty (30) days of such knowledge give written notice to the Underwriters setting forth full particulars of the transaction including the identity of the transferors and transferees (or the identity of the beneficial owners if the shares are registered in another name),

As used in this Condition, control means the power to determine the management or policy of the **Assured** by virtue of voting stock ownership. A change in ownership of voting stock which results in director indirect ownership by a stockholder or an affiliated group of stockholders of ten percent (10%) or more of the outstanding voting stock of the **Assured** shall be presumed to result in a change of control for the purpose of the required notice.

2. CHANGE IN PARTNERSHIP OR SOLE PROPRIETOR STATUS

The **Assured** shall give notice of a change in partnership or **Sole Proprietor** status resulting in a change of control as soon as practicable and in any event within thirty (30) days of such change give written notice to the Underwriters setting forth the full particulars of such change including the identity of the new partners or owners.

3. CONTINUATION OF COVERAGE

The **Assured** shall not have any coverage under this Bond for any loss sustained after the date of such ownership change or change in control, unless the **Assured** shall

- (a) give written notice in the time and manner aforementioned, and
- (b) obtain the written consent of the Underwriters to continue some or all the coverage provided by this Bond, and
- (c) give written notice to the Underwriters of its agreement to the terms required for said coverage, and
- (d) pay to the Underwriters any additional premium.

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D. SERVICE OF SUIT

It is agreed that in the event of the failure of the Underwriters to pay any amount claimed to be due hereunder, the Underwriters, at the request of the **Assured**, will submit to the jurisdiction of a Court of competent jurisdiction within the United States. Nothing herein shall constitute or should be understood to constitute a waiver of the Underwriters' rights to commence an action in any Court of competent jurisdiction in the United States to remove an action to a United States District Court or to seek a transfer of a case to another Court as permitted by the laws of the United States or of any State in the United States.

It is further agreed that service of process in such suit may be made upon the persons named in the Schedule, and that in any suit instituted against any one of them upon this Bond, the Underwriters will abide by the final decision of such Court or any Appellate Court in the event of an appeal.

The persons named in the Schedule are authorized and directed to accept service of process on behalf of the Underwriters in any such suit and or upon the request of the **Assured** to give a written undertaking to the **Assured** that they will enter a general appearance upon the Underwriters' behalf in the event that such a suit shall be instituted.

Further, pursuant to any statute of any state, territory or district of the United States which makes provision therefor, the Underwriters hereby designate the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the statute or his successor or successors in office, as their true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by the **Assured** and hereby designate the persons named in the Schedule as the persons to whom the said officer is authorized to mail such process or a true copy thereof.

E. RIGHT OF ACTION BY ASSURED OR INSTITUTION

1. ASSURED

It is agreed that the insurance granted herein shall be for the exclusive benefit only of the **Assured** named herein, and that in no event, except with regard to Insuring Clause 6 as stated below, shall anyone other than the first named **Assured** have any right of action under this Bond.

2. INSTITUTION

With regard to Insuring Clause 6, if an **Institution** makes a claim against the **Assured** during the **Bond Period** and the **Assured** fails to give written notice pursuant to Condition I(2) then the **Institution** as a condition precedent to coverage under the Bond is required to give written notice of such claim at the earliest practicable moment but in no event later than ninety (90) days following the date such claim was made against the **Assured** and said **Institution** shall furnish to the Underwriters proof of loss as provided in Condition I(3) of this Bond and shall comply with Conditions J and K of this Bond.

If the **Assured** makes a claim under Insuring Clause 6 whether before or after the **Institution** has made a claim, then the **Institution's** right to pursue such claim shall accrue only if the **Assured** fails to pursue such claim.

If the **Assured** fails to make or pursue such claim and it is ultimately determined by the Underwriters that any loss or losses are recoverable under Insuring Clause 6 then payment of said claim by the Underwriters to the **Institution** shall discharge the Underwriters' obligation to the **Assured** under this Bond and reduce any Aggregate Limit of Indemnity remaining available to pay any further loss under this Bond.

The total liability of the Underwriters for all loss or losses is limited to the Aggregate Limit of Indemnity remaining available pursuant to Condition F irrespective of the total amount of such loss or losses sustained by one or more **Institutions**.

In the event of multiple claims under this Bond one or more of which affect the interest of an **Institution** and which claims are alleged to or appear to exceed the Aggregate Limit of Indemnity remaining available for the payment of loss under this Bond then payment of any claim in the sole discretion of the Underwriters may be held in abeyance until the final determination of all such claims. Should the loss or losses recoverable under this Bond exceed the Aggregate Limit of Indemnity remaining available for the payment of such loss or losses then payment shall be made pro rata up to said remaining Aggregate Limit of Indemnity to said **Institutions** and the **Assured** according to their respective interests.

F. LIMIT OF LIABILITY

The total liability of the Underwriters for all loss or losses and including court costs and **Attorneys'** fees is limited with regard to

- (a) Insuring Clauses 1,2,3,4,5,6,7,8, 10 and 12 to the Aggregate Limit of Indemnity for said Insuring Clauses stated in Item 4(a) of the Schedule, irrespective of the total amount of such loss or losses, and
- (b) Insuring Clauses 9 and 11 to the Aggregate Limit of Indemnity for said Insuring Clause stated in Item 4(a) of the Schedule, irrespective of the total amount of such loss or losses.

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The Single Loss Limit of Indemnity of any Insuring Clause stated in Item 5 of the Schedule is part of and not in addition to the applicable Aggregate Limit(s) of Indemnity stated in Item 4 of the Schedule and the total liability of the Underwriters for all loss or losses, including court costs and attorneys' fees, concerning any coverage under any Insuring Clause with a sub-limit is limited to the amount of the sub-limit, irrespective of the total amount of such loss or losses.

Any payment made under Insuring Clauses 1,2,3,4,5,6,7,8, 10 and 12 shall reduce the Aggregate Limit of Indemnity for said Insuring Clauses stated in Item 4(a) of the Schedule. Any payments made under Insuring Clauses 9 and 11 shall reduce the Aggregate Limit of Indemnity for said Insuring Clause stated in Item 4(b) of the Schedule.

If by reason of such payments the Aggregate Limit of Indemnity for Insuring Clauses 1,2,3,4,5,6,7, 8, 10 and 12 is exhausted the Underwriters shall have no further liability

- (a) to indemnify the **Assured** under any of said Insuring Clauses for any loss or losses, and
- (b) to indemnify the **Assured** for any court costs and attorneys' fees incurred in connection with said Insuring Clauses, and
- (c) to continue the defense of the **Assured** in the event of the Underwriters' election to conduct the defense of any suit or legal proceeding. Upon notice by the Underwriters to the **Assured** that said Aggregate Limit of Indemnity has been exhausted, the **Assured** shall assume all responsibility for its defense at its own cost.

If by reason of such payments the Aggregate Limit of Indemnity for Insuring Clauses 9 and 11 is exhausted the Underwriters shall have no further liability

- (a) to indemnify the **Assured** under said Insuring Clause for any loss or losses, and
- (b) to indemnify the **Assured** for any court costs and attorneys' fees incurred in connection with said Insuring Clause, and
- (c) to continue the defense of the **Assured** in the event of the Underwriters' election to conduct the defense of any suit or legal proceeding. Upon notice by the Underwriters to the **Assured** that said Aggregate Limit of Indemnity has been exhausted, the **Assured** shall assume all responsibility for its defense at its own cost.

Any payment made under an Insuring Clause or a subsection of an Insuring Clause of this Bond shall also reduce any sub-limit stated in the Schedule applicable to said Insuring Clause or subsection of said Insuring Clause. Upon exhaustion of such sub-limit applicable to said Insuring Clause or to a subsection of said Insuring Clause by such payments the Underwriters shall have no further liability

- (a) to indemnify the **Assured** under said Insuring Clause or said subsection of said Insuring Clause for any loss or losses, and
- (b) to indemnify the **Assured** for any court costs and attorneys' fees incurred in connection with said Insuring Clause or said subsection of said Insuring Clause, and
- (c) to continue the defense of the **Assured** in the event of the Underwriters' election to conduct the defense of any suit or legal proceeding. Upon notice by the Underwriters to the **Assured** that the Sub-Limit has been exhausted, the **Assured** shall assume all responsibility for its defense at its own cost.

If by reason of payments made under this Bond the Aggregate Limit of Indemnity stated in Item 5(a) of the Schedule is reduced to an amount less than the amount stated for any sub-limit in Item 6(a) of the Schedule then the amount of the sub-limits shall be reduced accordingly so that the total amount available under any sub-limit for any loss or losses, including court costs and attorneys' fees, does not exceed the reduced amount remaining available under said Aggregate Limit of Indemnity.

If by reason of payments made under this Bond the Aggregate Limit of Indemnity stated in Item 4(b) of the Schedule is reduced to an amount less than the amount stated for any sub-limit in Item 5(b) of the Schedule then the amount of the sub-limits shall be reduced accordingly so that the total amount available under any sub-limit for any loss or losses, including court costs and attorneys' fees, does not exceed the reduced amount remaining available under said Aggregate Limit of Indemnity.

The Aggregate Limit(s) of Indemnity, and any sub-limit, shall not be reinstated in whole or in part by any recovery effected subsequent to any payment made under this Bond.

If a loss or losses is or are covered under more than one Insuring Clause or subsection of said Insuring Clause the maximum amount payable with respect to such loss or losses shall not exceed the largest amount available under any one Insuring Clause or subsection of any one Insuring Clause applicable to the loss or losses.

In the event that the loss of an instrument is settled through the use of a lost instrument bond or indemnity agreement pursuant to Condition R, such loss, to the extent that the Underwriters are not called upon to pay such loss whether or not under said lost instrument bond or indemnity agreement, shall not reduce an Aggregate Limit of Indemnity or a sub-limit remaining for the payment of any loss or losses. However, any payment by the Underwriters of such loss or under such lost instrument bond or indemnity agreement shall be deemed to be a payment under this Bond.

The exhaustion or reduction of an Aggregate Limit of Indemnity or a sub-limit does not affect the Underwriters' obligations in connection with any lost instrument bond or indemnity agreement issued prior to the exhaustion or reduction of an Aggregate Limit of Indemnity or a sub-limit. Notwithstanding anything stated in this Section F, the **Assured** shall be entitled to one reinstatement of the limit available under this bond for a second loss. No additional premium shall apply.

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G. NON-CUMULATIVE COVER

Regardless of the number of years this Bond or any succeeding Bond of like nature with the Underwriters shall continue in force and in number of premiums which shall be payable or paid, the liability of the Underwriters shall not be cumulative in amounts from year to year or from period to period.

H. DUE DILIGENCE

It is agreed that as a condition precedent to the **Assured's** right to recover under this Bond, the **Assured** shall exercise due diligence by making every reasonable effort to mitigate any actual or potential loss for which insurance is or may be afforded under this Bond.

It is further agreed that with respect to Insuring Clauses 9 and 11 of this Bond, due diligence shall include but not necessarily be limited to making every reasonable effort to effect and maintain insurance against those perils and in such amounts, which are customarily required in mortgage banking transactions covered under this Bond.

It is further agreed that upon the discovery of any error or accidental omission in failing to obtain insurance or guarantee or which has caused or is likely to cause such insurance or guarantee to be voided or rendered invalid the **Assured** shall make diligent effort to obtain, reinstate or replace such insurance coverage or guarantee.

It is agreed that as a condition precedent to the **Institution's** right to make claim under Insuring Clause 6, the **Institution** shall exercise due diligence by making every reasonable effort to prevent or mitigate any actual or potential loss hereunder and by making any claim which it may have against the **Assured** as soon as reasonably practicable.

I. DISCOVERY/NOTICE/PROOF OF LOSS

1. DISCOVERY

With respect to Insuring Clauses 1,2,3,4,5,9(a), 10 or 12, discovery occurs when the **Assured** first

- (a) becomes aware of facts which would cause a reasonable person to believe that a loss covered by the Bond has been or will be incurred, or
- (b) receives notice of an actual or potential claim by a third party which alleges that the **Assured** is liable under circumstances which, if successfully proven, would result in a loss covered by the Bond, even though the exact amount or details of loss may not then be known.

2. NOTICE

- (a) Insuring Clauses 1,2,3,4, 5,9(a), 10 or 12

It is agreed that, as a condition precedent to its rights to recover under Insuring Clauses 1,2,3,4, 5, 9(a), 10 or 12, the **Assured** shall give written notice of the discovery of the loss at the earliest practicable moment and in no event later than sixty (60) days after discovery. The written notice shall provide full particulars including the identity of the person(s) responsible for the loss, the circumstances surrounding the loss, the amount of the loss and any other information which the **Assured** may so possess.

- (b) Insuring Clauses 6,9(b), 9(c), 9(d) and 11

It is agreed that, as a condition precedent to its right to recover under Insuring Clauses 6, 9(b), 9(c), 9(d) or 11 of this Bond, the **Assured** shall give written notice of any claim made against the **Assured** at the earliest practicable moment but in no event later than sixty (60) days following the date such claim is made. The written notice shall provide full particulars including the identity of the person(s) responsible for the loss, the circumstances surrounding the loss, the amount of the loss and any other information which the **Assured** may so possess.

If during the **Bond Period** or any Discovery Option Period the **Assured** becomes first aware of any error, accidental omission or **Theft** under Insuring Clauses 6,9(b), 9(c), 9(d) or 11 before any claim is made against the **Assured** but which could be reasonably anticipated to result in a claim against the **Assured**, then the **Assured** shall give written notice at the earliest practicable moment but in no event later than sixty (60) days following the date the **Assured** becomes first aware of such error, accidental omission, or such **Theft**. The written notice shall include information on any loss or damage which has or may result therefrom and how the **Assured** became first aware of such error, accidental omission or **Theft**. Any claim subsequently made against the **Assured** as a direct result of such error, accidental omission or **Theft** shall be deemed to have been a claim made at the time the **Assured** becomes first aware of such error or accidental omission.

- (c) Insuring Clause 8

It is agreed that, as a condition precedent to its right to recover under Insuring Clause 8 of this Bond, the **Assured** shall give written notice of any claim made or suit or legal proceeding brought against any present or former director, officer or partner of the **Assured** by a third party alleging wrongful conduct at the earliest practicable moment but in no event later than sixty (60) days following the date such claim is made or suit or legal proceeding is brought.

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If during the **Bond Period** or any Discovery Option Period the **Assured** becomes first aware of any circumstance before any claim is made or suit or legal proceeding is brought but which could be reasonably anticipated to result in a claim against any present or former director, officer or partner of the **Assured**, then the **Assured** shall give written notice at the earliest practicable moment but in no event later than sixty (60) days following the date the **Assured** becomes first aware of such circumstance. The written notice shall provide full particulars including information about the circumstance and how the **Assured** became first aware of such circumstance, identity of person bringing the claim, and the identity of the present or former director, officer or partner of the **Assured**. Any claim subsequently made or suit or legal proceeding brought against such director, officer or partner shall be deemed to have been a claim made at the time the **Assured** becomes first aware of such circumstance.

3. PROOF OF LOSS

Within six (6) months after (i) discovery, or (ii) a claim is made or the **Assured** becomes aware of an error, accidental omission or **Theft** (whichever event occurs first), or (iii) the **Assured** has paid the reasonable expenses and attorneys' fees recoverable under Insuring Clause 8, or (iv) the **Assured** has paid expenses to replace **Real Estate Documents** recoverable under Insuring Clause

10, the **Assured** shall furnish to the Underwriters proof of loss duly sworn to by the chief financial officer of the **Assured** which shall be a narrative with full particulars including but not limited to

- (a) as to Insuring Clauses 1,2,3,4,5,6 and 12: the Insuring Clause under which the claim is being made; the alleged dishonest or fraudulent conduct committed by the **Employee**; the date the **Assured** discovered the loss and the circumstances surrounding how it was discovered; the amount of the loss; an itemization of the amounts paid out, advanced, withdrawn, taken or otherwise lost; an itemization of the funds or property received from any source whatsoever; the date the loss was sustained; and the circumstances surrounding how it was sustained; and the value of the property lost,
- (b) as to Insuring Clause 8: the alleged wrongful conduct committed by a director, officer or partner or the **Assured**; the date the **Assured** received notice of the claim or became first aware that a claim would be made; the date the alleged wrongful conduct occurred and the disposition of the suit or legal proceeding,
- (c) as to Insuring Clauses 9 and 11: the identity of the persons making the claim; the identity of the **Employee** who has committed the error or accidental omission and the circumstances surrounding it; the date the error or accidental omission occurred; the date the **Assured** received notice of the claim or became first aware that a claim would be made and the amount of the loss claimed,
- (d) as to Insuring Clause 10: the date the **Assured** discovered the loss and the circumstances surrounding how it was discovered; the amount of the loss; an itemization of the amounts paid out; the date the loss was sustained; and the circumstances surrounding how it was sustained.

The proof of loss shall contain evidence to establish that a covered loss has been sustained and shall state whether any other insurance or indemnity is applicable.

J. LEGAL PROCEEDINGS

Legal proceedings for the recovery of any loss shall not be brought prior to the expiration of ninety (90) days after the original proof of loss is filed with the Underwriters or after the expiration of twenty-four (24) months from the date of discovery or date a claim is made against the **Assured** or against a director, officer or partner of the **Assured** whichever is applicable.

If the **Assured** or an **Institution** requests an extension of time to file a proof of loss under Condition I(3) and the Underwriters consent thereto then said legal proceedings for the recovery of any loss shall not be brought for an equal period of time thereafter plus ninety (90) days.

K. COOPERATION

Upon the Underwriters' request and at reasonable times and places designated by the Underwriters the **Assured** shall

- (a) submit to examination by the Underwriters and subscribe to the same under oath, and
- (b) produce for the Underwriters' examination all pertinent records including the audit records of its accountants, and
- (c) cooperate with the Underwriters in all matters pertaining to the loss.

The **Assured** shall execute all papers and render all assistance as requested by the Underwriters.

The **Assured** shall do nothing after discovery of loss or after a claim has been made to prejudice the Underwriters' rights.

Subject to Insuring Clause 6 and Condition E(2) should an **Institution** make claim under this Bond said **Institution** shall as a condition precedent to any recovery under this Bond cooperate by providing the documents and information above set forth.

L. DEDUCTIBLE

The Underwriters shall be liable hereunder, subject to Condition F, only for the amount by which each and every loss exceeds the applicable Deductible stated in Item 6(a) for or 6(b) of the Schedule for the Insuring Clause or subsection of said Insuring Clause applicable to such loss.

It is agreed that the Deductible stated in item 6(a) for Insuring Clause 1 shall not apply to loss sustained by any Employee Welfare or Pension Benefit Plan covered under Insuring Clause 1 of this Bond through dishonest acts committed by any **Employee** of any such plan.

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M. TERMINATION

1. This Bond shall terminate as an entirety upon the earliest occurrence of any of the following:
 - (a) sixty (60) days after the receipt by the **Assured** of a written notice from the Underwriters of their decision to terminate this Bond; or
 - (b) immediately upon the receipt by the Underwriters of a written notice from the **Assured** of its decision to terminate this Bond, provided however that as to:
 - (i) Insuring Clauses 5(b), 6, 9(c) and 11 and
 - (ii) an **Investor**'s interest in real property covered under Insuring Clause 9(a), and
 - (iii) claims first made against the **Assured** by an Investor covered under Insuring Clause 9(d), coverage shall terminate twenty-one (21) days after receipt of said notice. Such additional period of time shall not increase the Aggregate Limit of Indemnity under Item 4(a) or 4(b); or
 - (c) immediately upon the appointment of a receiver, liquidator, conservator or rehabilitator or any similar official for or with respect to the **Assured**; or
 - (d) immediately upon the taking over of the **Assured** by another institution or by State or Federal officials; or
 - (e) immediately upon exhaustion of the Aggregate Limits of Indemnity stated in Item 4 of the Schedule; or
 - (f) at 12:01 a.m. on the expiration date stated in Item 2 of the Schedule; or
 - (g) immediately upon failure to pay the premium within thirty (30) days of inception of the Bond.

In the event of termination the Underwriters shall, on request, refund to the **Assured** the unearned premium, computed as follows:

- (i) termination as stated in (a) -- return premium computed at pro rata; or
 - (ii) termination as stated in (b), (c) or (d) — return premium computed at short rate.
2. This Bond shall terminate as to any **Employee** or any partner, **Sole Proprietor**, **Major Shareholder** or director, or any **Attorney**, fifteen (15) days after the receipt by the **Assured** of a written notice from the Underwriters of their desire to terminate this Bond as to such person.
 3. This Bond shall terminate as to any **Employee** or any partner, director, **Sole Proprietor** or **Major Shareholder** of the **Assured** or any **Attorney**, or any partner, officer or **Employee** of any data processor as soon as any partner, **Major Shareholder**, **Sole Proprietor**, director or officer, not in collusion therewith, shall learn of any dishonest or fraudulent act committed by such person at any time against the **Assured** or any other person.
 4. This Bond shall terminate as to Insuring Clauses 1,2,3,4, 5,6,7,8, 10 and 12 upon exhaustion of the Aggregate Limit of Indemnity stated in Item 4(a) of the Schedule and the premium shall be deemed fully earned.
 5. Termination of the Bond as the result of the exhaustion of the Aggregate Limit of Indemnity stated in Item 4(a) of the Schedule terminates liability for any loss under Insuring Clauses 1,2,3,4,5, 6,7,8, 10 and 12 regardless of when sustained, when discovered or when a claim is made, and for payment of any court costs and attorneys' fees or for the continued defense of the **Assured**.
 6. This Bond shall terminate as to Insuring Clauses 9 and 11 upon exhaustion of the Aggregate Limit of Indemnity stated in Item 4(b) of the Schedule and the premium shall be deemed fully earned.
 7. Termination of this Bond as the result of exhaustion of the Aggregate Limit of Indemnity stated in Item 4(b) of the Schedule terminates liability for any loss under Insuring Clauses 9 and 11 regardless of when sustained, when discovered or when a claim is made, and for payment of any court costs and attorneys' fees or for the continued defense of the **Assured**.
 8. If, prior to the termination of this Bond in its entirety, this Bond is terminated as to any **Assured**, there shall be no liability for any loss concerning such **Assured** unless written notice regarding such loss is given to the Underwriters before the time such termination as to such **Assured** becomes effective.

N. BANKRUPTCY

1. If a petition is filed involuntarily or voluntarily pursuant to Title 11 of the United States Bankruptcy Code during the **Bond Period**, then this Bond shall terminate in its entirety thirty (30) days after the filing of such petition.
2. The Underwriters shall on request refund the unearned premium computed at short rate.
3. Upon written notice to the Underwriters within said thirty (30) days and the payment of an additional premium which is calculated at sixty percent (60%) of the full annual expiring premium, the **Assured** may elect to avail itself of an additional period not to exceed ninety (90) days from the effective date of such termination within which to
 - (a) discover loss sustained by the **Assured**, or
 - (b) receive notice of any claim made against the **Assured** on account of acts, errors, or accidental omissions or **Theft**, or
 - (c) receive notice of any claims made or suit or legal proceeding brought against any present or former director, officer or partner but only in respect of
 - (i) a loss sustained, or
 - (ii) an error, accidental omission or **Theft** taking place, or
 - (iii) wrongful conduct committed

subsequent to the Retroactive Date and prior to the date upon which such termination of the Bond becomes effective.

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4. Such additional period of time for the discovery of losses or the receiving of notice of claims made shall terminate immediately on the effective date of any other insurance obtained by the **Assured**, its successor in business or any other party, replacing in whole or in part the coverage afforded by this Bond, whether or not such other insurance provides coverage for loss sustained prior to its effective date. In the event that such additional period of time is so terminated, earned premium for the expired time shall be computed pro rata and the Underwriters shall refund any unearned premium.

5. Such additional period of time for the discovery of losses or the receiving of notice of claims made against the **Assured** shall not increase the Aggregate Limit of Indemnity under either Item 4(a) or (b) of the Schedule remaining available for the payment of losses.

O. DISCOVERY OPTION PERIOD

If the Underwriters shall terminate this Bond in its entirety pursuant to Condition M 1(a) or if the Underwriters fail to offer any renewal terms prior to the expiration date stated in Item 2 of the Schedule then at any time prior to the effective date of such termination or the date of such expiration of the Bond the **Assured**, upon written notice to the Underwriters and the payment of an additional premium which is calculated at sixty percent (60%) of the full annual expiring premium, may elect to avail itself of an additional period not to exceed ninety (90) days from the effective date of such termination or the date of such expiration of the Bond within which to

- (a) discover loss sustained by the **Assured**, or
- (b) receive notice of any claim made against the **Assured** on account of acts, errors, or accidental omissions or **Theft**, or
- (c) receive notice of any claims made or suit or legal proceeding brought against any present or former director, officer or partner but only in respect of
 - (i) a loss sustained, or
 - (ii) an error, accidental omission or **Theft** taking place, or
 - (iii) wrongful conduct committed

subsequent to the Retroactive Date and prior to the date on which such termination or such expiration of the Bond became effective.

Such additional period of time for the discovery of losses or the receiving of notice of claims shall terminate immediately

- (a) on the effective date of any other insurance obtained by the **Assured**, its successor in business or any other party, replacing in whole or in part the coverage afforded by this Bond, whether or not such other insurance provides coverage for loss sustained prior to its effective date, or
- (b) upon the appointment of a receiver, liquidator, conservator or rehabilitator or any similar person acting or appointed for this purpose or upon the taking over of the **Assured** by another institution or by state or federal officials, without the necessity of the Underwriters giving notice of such termination.

In the event that such additional period of time is so terminated, earned premium for the expired time shall be computed pro rata and the Underwriters shall refund any unearned premium.

The right to elect such additional period of time may not be exercised by any State or Federal official or agency, or by any receiver or liquidator, acting or appointed to take over the **Assured's** business for the operation or the liquidation thereof or for any other purpose.

Such additional period of time for the discovery of losses or the receiving of notice of claims made against the **Assured** shall not increase the Aggregate Limit of Indemnity under either Item 4(a) or (b) of the Schedule remaining available for the payment of losses.

P. OTHER INSURANCE OR INDEMNITY

It is agreed that in the event of loss, this Bond, insofar as it covers loss also covered by other insurance or indemnity, shall only pay claims (not exceeding the applicable Aggregate Limit[s] of Indemnity or any applicable sub-limit) for the excess of the amount of such other insurance or indemnity. As excess insurance this Bond shall not apply of contribute to the payment of any loss until the amount of such other insurance or indemnity shall have been exhausted.

Q. VALUATION

1. SECURITIES AND FOREIGN CURRENCIES

The value of any securities or foreign funds or currencies for the loss of which a claim shall be made, shall be determined by their closing market price or value on the day of the discovery of the loss and if there be no market price or value for the same on that day then the value thereof shall be the value as agreed between the respective parties or in the event of difference as ascertained by arbitration. It is agreed, however, that should such securities, foreign funds or currencies be replaced by the **Assured**, with the approval of the Underwriters, the value thereof then shall be the actual cost of such replacement.

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If this Bond is subject to a Deductible or the Aggregate Limit(s) of Indemnity or the sub-limit remaining available for the payment of any loss or losses is not sufficient in amount to indemnify the **Assured** in full for the loss of securities for which claim is made hereunder, the liability of the Underwriters under this Bond is limited to the payment for, or the duplication of, so much of such securities as has a value equal to the amount remaining available and collectible under the Bond.

2. BOOKS OF ACCOUNTS AND RECORDS

In case of loss of or damage to Property consisting of books of account or other similar records used by the **Assured** in the conduct of its business the Underwriters shall be liable under this Bond only if such books and records are actually reproduced and then for not more than the cost of blank books, blank pages or other materials plus the cost of labor for the actual transcription or copying of data which shall have been furnished by the **Assured** in order to reproduce such books and other records.

3. ELECTRONIC OR PHOTOGRAPHIC RECORDS

In case of loss of or damage to **Property** consisting of Electronic or Photographic Records the Underwriters shall be liable under this Bond only if such records are actually reproduced and then for not more than the cost of replacing such records with blank media of the same or similar type plus the cost of labor for the actual transcription or copying of data which shall have been provided by the **Assured** for the reproduction of such records.

4. ELECTRONIC DATA PROCESSING MEDIA

In case of loss of, or damage to, **Electronic Data Processing Media** used by the **Assured** in its business, Underwriters shall be liable under this Bond only if such items are actually reproduced by other **Electronic Data Processing Media** of the same kind or quality and then for not more than the cost of the blank media plus the cost of labor for the actual transcription or copying of data which shall have been furnished by the **Assured** in order to reproduce such **Electronic Data Processing Media**, subject, of course, to the applicable Limit of Indemnity.

5. ELECTRONIC DATA

In case of loss of Electronic Data Underwriters shall be liable under this Bond only if such data is actually reproduced by other **Electronic Data** of the same kind or quality and then for not more than the cost of labor for the actual transcription or copying of data which shall have been furnished by the **Assured** in order to reproduce such **Electronic Data** subject, of course, to the applicable Limit of Indemnity.

R. LOST INSTRUMENTS OR REAL ESTATE DOCUMENTS

In the event of a claim in respect of a loss covered under this Bond of an instrument or **Real Estate Document**, the **Assured** shall, subject to the conditions stated below, first attempt to secure the replacement of the lost instrument or **Real Estate Document** by use of a letter of indemnity issued by it. In the event that it is unable to secure the replacement of a lost **Real Estate Document** by a letter of indemnity, the **Assured** shall attempt to replace the lost **Real Estate Document** in accordance with the coverage for replacement expenses under Insuring Clause 10. If the **Assured** is unable to replace said lost instrument or **Real Estate Document**, the **Assured** shall, subject to the Underwriters' prior consent being obtained, secure a lost instrument bond for the purpose of obtaining the issuance of a duplicate instrument or **Real Estate Document**.

It is further agreed that Underwriters will indemnify the **Assured** for such sum or sums, in excess of the applicable Deductible as stated in Item 6(a) of the Schedule, not exceeding the amount of the Aggregate Limit of Indemnity stated in item 4(a) of the Schedule, or any applicable sub-limit thereof with respect to such loss, remaining available for the payment of any loss at the time of the execution by the **Assured** of a letter of indemnity or the securing of the lost instrument bond, which the **Assured** may be required to pay either during the **Bond Period** or any time thereafter by reason of any indemnifying agreement executed by the **Assured** or delivered by the **Assured** to the company issuing the lost instrument bond.

It is further agreed that the **Assured** shall bear for its own account the cost of obtaining such indemnity agreement or lost instrument bond for that portion of the loss which falls within the applicable Deductible as stated in Item 6(a) of the Schedule or which is in excess of the Aggregate Limit of Indemnity remaining available for the payment of said loss or in excess of any applicable sub-limit remaining available for the payment of said loss. The Underwriters shall bear for their own account the cost of obtaining such indemnity agreement or lost instrument bond for that loss which would be covered and which exceeds that Deductible and is within the Aggregate Limit of Indemnity or applicable sub-limit remaining available for the payment of any loss.

S. COMPUTATION OF LOSS

In determining the amount collectible under this Bond for any loss, all money received from any source whatsoever subsequent to the first act, error or accidental omission or circumstance causing or contributing to a loss hereunder, including payments and receipts of principal, interest, dividends, commissions and the like whenever received shall be deducted from the amount actually paid out, advanced, withdrawn, taken or otherwise lost. The value of all property received from any source whatsoever and whenever received shall likewise be deducted from the **Assured's** claimed loss.

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Additionally, the premiums which should have been paid for any insurance which the **Assured** failed to provide are to be deducted from the amount of the loss. In determining the amount of any loss the **Assured** shall be required at its own expense to foreclose on any mortgage or lien against any property in question.

T. SALVAGE AND RECOVERY

In case of recovery on account of any loss paid under this Bond, any amount recovered, after deducting the reasonable cost of obtaining or making such recovery (excluding, however, the **Assured's** own employee costs), shall be applied, first, to reimburse the **Assured** in full for that part, if any, of such loss which exceeds the amount of coverage provided by this Bond, secondly, the balance, if any, or the entire net recovery if no part of such loss exceeds that amount of coverage provided by this Bond, shall be applied to the Underwriters in reduction of that part of such loss covered by this Bond or, if payment thereof shall have been made, to the reimbursement of the Underwriters and finally, to that part of such loss sustained by the **Assured** by reason of any Deductible in this Bond and or to that part of such loss covered by any policy of insurance of which this Bond is excess.

U. LOSS PAYEE

It is agreed that in connection with any loss recoverable under Insuring Clause 9(a), 9(c) or 9(d) of this Bond which involves the interest of an **Institution** for whom the **Assured** originates or services mortgages under a written agreement or according to the provisions of a seller/servicer manual such an **Institution** shall be named as a Loss Payee on the applicable Loss Payee draft provided, however, that the amount of said draft is greater than \$10,000 excess of the applicable Deductible.

V. SUBROGATION

It is agreed that the Underwriters upon the payment of any loss hereunder shall become subrogated to all the rights and remedies of the **Assured** in respect of such loss. At the request of the Underwriters the **Assured** shall execute such documents as are necessary to transfer the **Assured's** rights, title and interest as against any person or entity and suit may be brought in the **Assured's** name. The **Assured** shall cooperate with the Underwriters in all matters pertaining to Underwriters' efforts to effect any recoveries.

W. WARRANTY

If the **Assured** shall make any claim knowing the same to be false or fraudulent, as regards amount or otherwise, this Bond shall become void and all claim hereunder shall be forfeited.

The **Assured** must promptly notify Stateside Underwriting Agency, Inc. of any change in any fact which materially affects the risk assumed by the Underwriters under this Bond.

X. ACTION AGAINST SERVICE BUREAU OR OTHER MORTGAGE BANKER, ETC.

This Bond does not afford coverage in favor of any **Service Bureau** or other mortgage banker or financial institution as aforesaid, and upon payment to the **Assured** by the Underwriters on account of any loss through fraudulent or dishonest acts committed by any of the partners, directors, officers or **Employees** of such **Service Bureau** or other mortgage banker or financial institution whether acting alone or in collusion with others, an assignment of such of the **Assured's** rights and causes of action as they may have against such **Service Bureau** or other mortgage banker or financial institution by reason of such acts so committed shall, to the extent of such payment, be given by the **Assured** to the Underwriters, or to one of the Underwriters designated by Underwriters, and the **Assured** shall execute all papers necessary to secure to the Underwriters, or to one of the Underwriters designated by Underwriters, the rights herein provided for.

EXCLUSIONS

THIS BOND DOES NOT COVER:

1. (a) Any loss involving any dishonest, fraudulent or malicious act or **Theft** by any **Employee** of the **Assured**, except when covered under Insuring Clauses 1 or 6.
- (b) Any loss involving any dishonest or fraudulent act of any **Attorney** performing legal services for the **Assured**, except when covered under Insuring Clause 1(b).
- (c) Any loss involving any act of any director of the **Assured** other than one who is an **Employee**, except while performing the duties of an **Employee** of the **Assured** or except when covered under Insuring Clause 8.
- (d) Any loss involving any act of the **Sole Proprietor** of the **Assured**, except when covered under Insuring Clauses 6, 8,9 or 11.
- (e) Any loss involving any act of any partner or **Major Shareholder** of the **Assured**, except when acting in the capacity of an **Employee**.
2. Any loss resulting directly or indirectly from any act of any mortgage broker or agent or originator except when covered under Insuring Clauses 4, 5 or 6 or when said loss has been caused by the dishonest acts of an **Employee** and is covered under Insuring Clause 1.
3. Any loss involving forgery or alteration, except when covered under Insuring Clauses 1, 4, 5 or 6.
4. Any loss involving the complete or partial non-payment of, or default upon
 - (a) any loans or transactions in the nature of, or amounting to, loans made by or obtained from the **Assured**, including all extensions of credit and all debtor-creditor relationships, whether procured in good faith or through trick, artifice, fraud or false pretenses, or

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- (b) any note, account, agreement or other evidence of debt assigned or sold to, or discounted or otherwise acquired by the **Assured**, whether procured in good faith or through trick, artifice, fraud or false pretenses, except a **Real Estate Loan** when covered under Insuring Clauses 1,5 or 6.
5. (a) For loss or damage resulting directly or indirectly from War, Civil War, Insurrection, Military, Naval or Usurped Power, in the United States of America or elsewhere; and, in addition, for any loss or damage resulting directly or indirectly from Riot or Civil Commotion in countries other than the United States of America or Canada. However, subject always to the exclusion of War or Civil War, if any **Property** insured hereunder be lost or damaged by reason of Riot, Civil Commotion, Insurrection, Military, Naval or Usurped Power, while in transit in the circumstances recited in Insuring Clause 3, such loss shall not be excluded from the protection of this Bond by reason of this exclusion, provided that when such transit was initiated there was no knowledge of such Riot, Civil Commotion, Insurrection, Military, Naval or Usurped Power on the part of any person who acted for the **Assured** in initiating such transit.
- (b) For loss or damage resulting directly or indirectly from Subterranean Fire, Earthquake, Volcanic Eruption or such like disturbance of nature in the United States of America or elsewhere.
6. Any loss or damage in time of peace or war arising directly or indirectly from nuclear reaction, nuclear fission or fusion, radiation or radioactive or toxic waste, seepage, pollution or contamination, howsoever caused.
7. Any loss resulting directly or indirectly from **Trading** with or without the knowledge of the **Assured** and whether in the name of the **Assured** or otherwise and whether or not committed by an **Employee**, unless covered by Insuring Clause 1.
8. Any loss or deprivation of actual or potential income or profit, including but not limited to interest and dividends, whether payable to an **Investor** or otherwise.
9. Any and all damages of any type whether punitive, exemplary or other for which the **Assured** is legally liable, including damages awarded pursuant to Racketeer Influenced Corrupt Organizations Act or similar State or Federal statutes except direct compensatory damages (but not multiples thereof) representing reimbursement for direct loss covered by this Bond.
10. Any loss involving payments made by the **Assured** against negotiable instruments received by the **Assured** which are not finally paid for any reason, whether such payments were procured in good faith or through forgery, trick, artifice, fraud or false pretenses or any other means, except when covered under Insuring Clauses 1, 5, or 6.
11. Any loss involving the surrender of **Property** as a result of a threat to do bodily harm to any person, or to do damage to any premises or any property whatsoever of the **Assured** or otherwise, except when
- (a) such threat is perpetrated by or in collusion with an **Employee** and such loss of **Property** is covered under Insuring Clause 1, or
- (b) such loss is covered under Insuring Clause 2 by reason of the surrender of **Property** taking place on the **Premises** as a direct result of a threat to do bodily harm to a person actually present on the **Premises**, or
- (c) such loss is covered under Insuring Clause 3 by reason of the surrender of **Property** taking place in transit as a direct result of a threat to do bodily harm to the transporting person or persons provided that when the transit was initiated, there was no knowledge by the **Assured** of any such threat.
12. Costs, fees and other expenses incurred by the **Assured** in establishing, or attempting to establish, the existence of or amount of loss covered by this Bond, except when covered under Insuring Clause 7.
13. Any loss sustained prior to the Retroactive Date or any loss involving any act, error, accidental omission, transaction, occurrence, wrongful conduct, casualty or event which occurred or commenced prior to the Retroactive Date.
14. Any loss where the **Assured** has been unable to acquire insurance or guarantee coverage because said coverage is unavailable or involving the negligence of the **Assured** concerning the appropriate form, security, terms, conditions or provisions of insurance or guarantee except with respect to the provision of a mortgagee clause as provided in Insuring Clause 9(b).
15. Any loss arising out of the bankruptcy or failure of any insurance company, including the loss of or unavailability of insurance coverage due to said bankruptcy or failure.
16. Any loss arising from the **Assured's** activities as an insurance agent or otherwise where the **Assured's** interest or involvement in the subject insurance is other than that of mortgagee or mortgage servicing agent.
17. Any loss involving any forgery, trick, artifice, fraud or false pretenses except when covered under Insuring Clauses 1,4,5, or 6.
18. Any loss resulting from the **Assured** having repurchased or having been required to repurchase a Real Estate Loan from an **Investor** or **Secondary Market Institution** except when covered under Insuring Clause 5(b), 6, 9(c) or 11.
19. Any loss directly or indirectly involving the ownership, maintenance, operation, use, loading or unloading of
- (i) motor vehicles,
- (ii) aircraft or
- (ci) watercraft to the extent said watercraft is excluded from coverage under **Homeowner's Insurance**.
20. Any loss arising out of the failure to obtain or maintain Title Insurance.
21. Any loss of **Electronic Data Processing Media** or **Electronic Data** while in the mail or with a carrier for hire other than an armored motor vehicle company or Federal Express or similar common carriers.
22. Any loss of **Electronic Data** or **Electronic Data Processing Media** except as provided for under General Condition Q.
23. With respect to Insuring Clause 12 any loss caused by an identifiable employee of the **Assured** or by a person or persons in collusion with any employee of the **Assured**.

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Prior knowledge by any employee that a fraudulent act by a person or persons, not in the employ of the **Assured**, has been or will be perpetrated, shall for the intent and purpose of this Bond be deemed to be collusion should said employee willfully or deliberately withhold this knowledge from the **Assured**. The withholding of knowledge from the **Assured** by an employee because of a threat to do bodily harm to any person or to do damage to the premises or property of the **Assured** shall not be deemed to be or to constitute collusion.

24. With respect to Insuring Clause 12 any loss resulting directly or indirectly from
 - (a) written instructions or advices, or
 - (b) telegraphic or cable instructions or advices, or
 - (c) instructions or advices by voice over telephone

25. Any loss resulting directly or indirectly from the accessing of any confidential information including but not limited to trade secret information computer programs or customer information
26. Any loss resulting from mechanical failure, faulty construction, error in design, latent defect, wear or tear, gradual deterioration, electrical disturbances, **Electronic Data Processing Media** failure or breakdown or any malfunction or error in programming or errors or omissions in processing.
27. Any loss resulting directly or indirectly from the fraudulent preparation, fraudulent modification or destruction of **Electronic Computer Instructions** unless covered under Insuring Agreement 12(c). Any loss as a result of a threat
 - (a) to do bodily harm to any person, except loss of **Electronic Data Processing Media** in transit in the custody of any person acting as messenger provided that when such transit was initiated there was no knowledge by the **Assured** of any such threat, or
 - (b) to do damage to the premises or property of the **Assured**.

29. Any loss resulting from fraudulent features contained in **Electronic Computer Instructions** developed for sale to or that are sold to multiple customers at the time of their acquisition from a vendor or consultant,
30. Any loss resulting directly or indirectly from any **Computer Virus** unless covered under Insuring Agreement 12(g).