

# Power of Attorney (POA) Checklist

**\_\_\_ Must be dated and approved PRIOR TO the loan application.**

Proof the Title company has approved the POA.

**\_\_\_ Must be “DURABLE”**

Proof that the POA is durable, meaning the agreement will survive the mental and/or physical incapacity of the Borrower.

**\_\_\_ Must have SPECIFIC POWERS**

Verification that the POA document states the Agent has the authority to encumber, pledge, mortgage or sell the real property.

**\_\_\_ Physician’s letters are required (Dated before POA date)**

A physician’s letter confirming Borrower was competent at time of execution of the Power of Attorney

## **Legally COMPETENT Borrower**

Confirm the borrower is currently competent and was competent at time of execution of POA.

*\* Multiple physician letters may be in the file confirming this requirement if the borrower had changed doctors.*

## **Legally INCOMPETENT Borrower**

Confirm the borrower was competent at time of execution and the date borrower became incompetent.

*\* Multiple physician letters may be in the file confirming this requirement if the borrower had changed doctors.*

**\_\_\_ Counseling is REQUIRED for POA if Borrower is Incompetent**

Competent borrower(s) must attend Counseling and sign the 1009

**\_\_\_ Completed US Patriot Act Form is required**

2 acceptable forms of ID for each individual as required per USA Patriot Act (includes POA Agent)

**\_\_\_ App and Docs usually signed as: John A. Smith by Jane Doe as attorney in fact.**

**Example:** If the borrower’s name is John A. Smith and the POA, guardian or conservator is Jane Doe, she signs the borrower signature line as “John A. Smith by Jane Doe as attorney in fact,” (or as “Guardian,” or “Conservator.”)

**Note:** Closing documents will show Jane Doe as “ATTORNEY IN FACT”

**Borrower Incompetency Prior to Start of Loan Process: 1)** Proof only the POA Agent signed the Initial 1009 **2)** Proof POA Agent attended HECM counseling and signed the Counseling Certificate, HECM Counseling Certificate must reflect both the Borrower’s name and the POA’s name but the POA must sign and date for the Borrower as Attorney in Fact **and** as himself/herself individually, . **3)** Physician letter confirming the date the Borrower became incompetent. **Competent Borrower Elects POA to Sign: 1)** Proof Borrower and POA attended counseling **2)** Proof Borrower signed/dated HECM Counseling Certificate **3)** Proof Borrower signed Initial 1009 **4)** Borrower letter stating why a POA is being used to sign.