

# Registrar's requirements for paper conveyancing transactions

Section 106A *Transfer of Land Act 1958*

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# Registrar's Requirements

## 1. Preliminary

These Registrar's Requirements constitute the Registrar of Titles' requirements for paper Conveyancing Transactions determined by the Registrar pursuant to section 106A of the Transfer of Land Act 1958.

## 2. Definitions and Interpretation

### 2.1 Definitions

In these Registrar's Requirements capitalised terms have the meanings set out below:

**ADI or authorised deposit-taking institution** has the meaning given to it in the *Banking Act 1959* (Cth).

**Approved Identity Verifier** means a Person appointed by the Registrar to conduct verification of identity and witness the execution of Instruments and other Documents.

**Approved Insurer** means an insurer approved by APRA to offer general insurance in Australia.

**APRA** means the Australian Prudential Regulation Authority.

**Australian Credit Licence** has the meaning given to it in the NCCP Act.

**Australian Legal Practitioner** has the meaning given to it in the *Legal Profession Uniform Law (Victoria)*.

**Business Day** has the meaning given to it in the ECNL.

**Caveat** means an Instrument giving notice of a claim to an interest in land that may have the effect of an injunction to stop the registration of an Instrument in the Register.

**Certification Rules** means the rules set out in Schedule 4 of these Registrar's Requirements, as amended from time to time.

**Client** means a Person who has or Persons who have appointed an Australian Legal Practitioner, a Law Practice or a Licensed Conveyancer as their Representative.

**Client Agent** means a Person authorised to act as the Client's agent but does not include a Person acting solely as the Client's Representative.

**Client Authorisation** has the meaning given to it in the TLA.

**Client Authorisation Form** means the form set out in Schedule 5 of these Registrar's Requirements, as amended from time to time.

**Conveyancing Transaction** has the meaning given to it in the ECNL.

**Credit Representative** has the meaning given to it in the NCCP Act.

**Credit Service** has the meaning given to it in the NCCP Act and extends to a service with respect to credit secured or to be secured by real property whether or not it is regulated by that Act.

**Document** has the meaning given to it in the ECNL.

**Duty Authority** means the Commissioner of State Revenue of Victoria.

**ECNL** means the *Electronic Conveyancing National Law (Victoria)*, as amended from time to time.

**ELN or Electronic Lodgment Network** has the meaning given to it in the ECNL.

**Folio of the Register** has the meaning given to it in the TLA.

**Identifier Declaration** means the declaration set out in Verification of Identity Standard paragraph 4.

**Identity Agent** means a Person who is an agent of a Subscriber, a mortgagee represented by a Subscriber, or an Other Mortgagee, and who:

- (a) a Subscriber or mortgagee reasonably believes is reputable, competent and insured in compliance with Insurance Rule 2; and
- (b) is authorised by a Subscriber or mortgagee to conduct verification of identity on behalf of the Subscriber or mortgagee in accordance with the Verification of Identity Standard.

**Identity Agent Certification** means the certification set out in Schedule 2, as amended from time to time.

**Identity Declarant** means a Person providing an Identifier Declaration.

**Identity Verifier** means the Person conducting a verification of identity in accordance with the Verification of Identity Standard.

**Instrument** has the meaning given to it in the TLA.

**Insurance Rules** means the rules set out in Schedule 3 of these Registrar's Requirements, as amended from time to time.

**Law Practice** has the meaning given to it in the *Legal Profession Uniform Law (Victoria)*.

**Licensed Conveyancer** means a Person licensed or registered under the *Conveyancers Act 2006*.

**Lodge** has the meaning given to it in the ECNL.

**Mortgage Broker** means an individual who is:

- (a) the holder of an Australian Credit Licence; or
- (b) an employee or director of the holder of an Australian Credit Licence or of a related body corporate of a holder of an Australian Credit Licence engaging in the Credit Service on behalf of that licensee; or
- (c) a Credit Representative of the holder of an Australian Credit Licence;

who provides a Credit Service which relates to credit secured or to be secured by real property owned or to be owned by the person to whom the Credit Service is provided.

**NCCP Act** means the National Consumer Credit Protection Act 2009 (Cth).

**National Credit Code** has the meaning given to it in the NCCP Act.

**Other Mortgagee** means a mortgagee who is not a Subscriber and is not represented by a Subscriber.

**Participation Agreement** has the meaning given to it in the ECNL.

**Party** means each Person who is a party to an Instrument, but does not include a Representative or an agent.

**Person** has the meaning given to it in the ECNL.

**Person Being Identified** means any of the Persons required to be identified under Registrar's Requirement 3.1.2 or 3.1.8.

**Prescribed Requirement** means any Published requirement of the Registrar.

**Priority Notice** has the meaning given to it in the TLA.

**Publish** means, for any information, to publish the information on the Registrar's website.

**Registrar** has the meaning given to it in the TLA.

**Registrar's Requirements** means these requirements made under section 106A of the TLA, as amended from time to time.

**Register** has the meaning given to it in the TLA.

**Registry Instrument** means a paper Instrument.

**Representative** means an Australian Legal Practitioner, a Law Practice or a Licensed Conveyancer who acts on behalf of a Client.

**Signer** means a Person authorised by a Subscriber to sign and, where it is required, certify Instruments and other Documents on behalf of the Subscriber.

**Subscriber** means an ADI, an Australian Legal Practitioner, a Law Practice, a Licensed Conveyancer or a Person who has entered into a Participation Agreement to use an ELN.

**TLA** means the *Transfer of Land Act 1958*, as amended from time to time.

**Verification of Identity Standard** means the standard set out in Schedule 1 of these Registrar's Requirements, as amended from time to time.

## 2.2 Interpretation

In these Registrar's Requirements, unless a contrary intention is evident:

2.2.1 A reference to these Registrar's Requirements is a reference to these Registrar's Requirements as amended, varied or substituted from time to time.

2.2.2 A reference to any legislation or to any provision of any legislation includes:

- (a) all legislation, regulations, proclamations, ordinances, by-laws and instruments issued under that legislation or provision; and
- (b) any modification, consolidation, amendment, re-enactment or substitution of that legislation or provision.

2.2.3 A word importing:

- (a) the singular includes the plural; and
- (b) the plural includes the singular; and
- (c) a gender includes every other gender.

2.2.4 A reference to a party includes that party's administrators, successors and permitted assigns.

- 2.2.5 If any act pursuant to these Registrar's Requirements would otherwise be required to be done on a day which is not a Business Day then that act may be done on the next Business Day, and when an action is required by a party within a specified period of Business Days, the period will be deemed to commence on the Business Day immediately following the day on which the obligation is incurred.
- 2.2.6 Where a word or phrase is given a defined meaning, any other part of speech or grammatical form in respect of that word or phrase has a corresponding meaning.
- 2.2.7 A reference to two or more Persons is a reference to those Persons jointly and severally.
- 2.2.8 A reference to a requirement or schedule is a reference to a requirement of, or a schedule to, these Registrar's Requirements.
- 2.2.9 A reference to a Registrar's Requirement includes a reference to all of its sub-requirements.
- 2.2.10 Where general words are associated with specific words which define a class, the general words are not limited by reference to that class.
- 2.2.11 The requirement headings are for convenience only and they do not form part of these Registrar's Requirements.
- 2.2.12 The word "or" is not exclusive.

### 3. Verification of Identity and Authority

**106A(1) The Registrar may from time to time determine requirements for paper conveyancing transactions, which may include the following—**

- (a) the verification of identity and authority including any of the following—**
  - (i) the standards to which identity and authority are to be verified;**
  - (ii) the classes of person in respect of whom identity and authority are to be verified;**
  - (iii) the classes of document in relation to which verification of identity and authority requirements apply;**
  - (iv) the classes of person who can undertake verification of identity and authority;**
  - (v) any supporting evidence and retention requirements**

#### 3.1 Verification of Identity

- 3.1.1 Registrar's Requirements 3.1.2 to 3.1.7 take effect on 9 November 2015. Registrar's Requirements 3.1.8 and 3.1.9 take effect on 1 December 2015.
- 3.1.2 A Subscriber or an Other Mortgagee must take reasonable steps to verify the identity of:
  - (a) Clients:** each Client or each of their Client Agents; and
  - (b) Mortgagors:**
    - (i) for a mortgage or variation of mortgage, each mortgagor or each of their agents; and
    - (ii) for a mortgage or variation of mortgage, each mortgagor or each of their agents, where a Subscriber represents a mortgagee - however, the Subscriber need not take reasonable steps to verify the identity of each mortgagor or their agent if the Subscriber is reasonably satisfied that the mortgagee has taken reasonable steps to verify the identity of each mortgagor or their agent; and

- (iii) for a transfer of mortgage, where section 87B(2)(a) of the TLA is not relied on, each mortgagor or each of their agents who signed the mortgage sought to be transferred; and
    - (iv) for a transfer of mortgage, where a Subscriber represents the transferee mortgagee and section 87B(2)(a) of the TLA is not relied on, each mortgagor or each of their agents - however, the Subscriber need not take reasonable steps to verify the identity of each mortgagor or their agent if the transferee mortgagee has already taken reasonable steps to verify the identity of each mortgagor or their agent; and
  - (c) **Persons to whom certificates of title are provided:**
    - (i) any Client or Client Agent, prior to a Subscriber giving a (duplicate/paper) certificate of title to that Client or Client Agent; and
    - (ii) any existing mortgagor, former mortgagor or their agent, prior to a Subscriber or an Other Mortgagee giving a (duplicate/paper) certificate of title to that existing mortgagor, former mortgagor or their agent; and
  - (d) **Signers:** each of its Signers, prior to the initial allocation of their authority to act as a Signer.
- 3.1.3 For the purposes of complying with Registrar's Requirements 3.1.2, a Subscriber, or a mortgagee represented by a Subscriber, or an Other Mortgagee, can either:
- (a) apply the Verification of Identity Standard; or
  - (b) verify the identity of a Person in some other way that constitutes the taking of reasonable steps.
- 3.1.4 A Subscriber, or a mortgagee represented by a Subscriber, or an Other Mortgagee must undertake further steps to verify the identity of a Person Being Identified and/or any Identity Declarant where:
- (a) the Subscriber or mortgagee knows or ought reasonably to know that:
    - (i) any identity Document produced by the Person Being Identified and/or any Identity Declarant is not genuine; or
    - (ii) any photograph on an identity Document produced by the Person Being Identified and/or any Identity Declarant is not a reasonable likeness of the Person Being Identified or the Identity Declarant; or
    - (iii) the Person Being Identified and/or any Identity Declarant does not appear to be the Person to which the identity Document(s) relate; or
  - (b) it would otherwise be reasonable to do so.
- 3.1.5 A Subscriber need not re-verify the identity of the Person Being Identified if:
- (a) the Subscriber complied with Registrar's Requirements 3.1.2 within the previous 2 years; and
  - (b) the Subscriber takes reasonable steps to ensure that it is dealing with the Person Being Identified.
- 3.1.6 If the Verification of Identity Standard is used:
- (a) a Subscriber, or a mortgagee represented by a Subscriber, or an Other Mortgagee, may use an Identity Agent; and
  - (b) where an Identity Agent is used, the Subscriber or the mortgagee must direct the Identity Agent to use the Verification of Identity Standard; and



- (c) the Identity Verifier must be:
    - (i) the Subscriber and/or the Subscriber's Identity Agent; or
    - (ii) where a Subscriber represents a mortgagee, that mortgagee and/or that mortgagee's Identity Agent; or
    - (iii) an Other Mortgagee and/or that mortgagee's Identity Agent; and
  - (d) the Subscriber or the mortgagee must receive from any Identity Agent:
    - (i) copies of the Documents produced to verify the identity of the Person Being Identified and/or any Identity Declarant signed, dated and endorsed as a true copy of the original by the Identity Agent; and
    - (ii) an Identity Agent Certification.
- 3.1.7 Subject to Registrar's Requirement 3.1.4, compliance with the Verification of Identity Standard by:
- (a) a Subscriber and/or its Identity Agent; or
  - (b) where a Subscriber represents a mortgagee, that mortgagee and/or that mortgagee's Identity Agent; or
  - (c) an Other Mortgagee and/or that mortgagee's Identity Agent,
- will be deemed to constitute taking reasonable steps for the purposes of Registrar's Requirements 3.1.2.
- 3.1.8 A Party who is required to sign an Instrument(s) and who does not have a Representative must:
- (a) have their identity verified by an Approved Identity Verifier applying the Verification of Identity Standard; and
  - (b) at the same time, have their signing of the Instrument(s) or other Document(s) witnessed by the Approved Identity Verifier.
- 3.1.9 Registrar's Requirement 3.1.8 does not apply where the Party is:
- (a) a Subscriber; or
  - (b) a mortgagor and:
    - (i) the mortgagee is an ADI, or
    - (ii) the mortgagee is a Person who has entered into a Participation Agreement; or
    - (iii) the mortgagee has a Representative acting on behalf of the mortgagee.

## 3.2 Authority

- 3.2.1 This requirement takes effect on 9 November 2015.
- 3.2.2 For each Conveyancing Transaction a Representative must take reasonable steps to verify that its Client is a legal Person and has the right to enter into the Conveyancing Transaction.
- 3.2.3 A mortgagee, or a Representative of a mortgagee, must, for each mortgage, variation of mortgage or transfer of mortgage, take reasonable steps to verify that the mortgagor is a legal Person and has the right to enter into the mortgage.

## 4. Supporting Evidence

**106A(1) The Registrar may from time to time determine requirements for paper conveyancing transactions, which may include the following—**

- (b) the retention of documents supporting or authenticating instruments generally, including periods of retention**

4.1 This requirement takes effect on 9 November 2015.

4.2 A Representative or, where there is no Representative, a Party must retain the evidence supporting an Instrument or other Document for at least seven years from the date of Lodgment of the Instrument or other Document that is registered or recorded including:

- (a) any evidence required by the Duty Authority; and
- (b) any Client Authorisation and any evidence supporting that Client Authorisation; and
- (c) any evidence supporting a Party's right to enter into the Conveyancing Transaction; and
- (d) any evidence supporting verification of identity; and
- (e) any other evidence demonstrating compliance with Prescribed Requirements.

## 5. Certifications

**106A(1) The Registrar may from time to time determine requirements for paper conveyancing transactions, which may include the following—**

- (c) setting out matters to be certified or relating to the certification of matters for the purposes of conveyancing transactions, including any of the following—**

- (i) the form of certifications;**
- (ii) the classes of person who may certify those matters;**
- (iii) any supporting evidence and retention requirements**

5.1 This requirement takes effect on 3 April 2017.

5.2 Only Subscribers can provide certifications.

5.3 A Subscriber must comply with the Certification Rules.

## 6. Electronic Instruments

**106A(1) The Registrar may from time to time determine requirements for paper conveyancing transactions, which may include the following—**

- (d) the classes of instrument that must be lodged using an ELN**

6.1 This requirement takes effect on 1 August 2016.

6.2 Where the mortgagee is an ADI:

- (a) a discharge of mortgage signed on or after 1 August 2016 must be Lodged using an ELN, except where the discharge of mortgage is to be Lodged with any transfer of land or mortgage for the same folio(s) of the Register; and
  - (b) a mortgage to which the National Credit Code applies signed on or after 1 August 2016 must be Lodged using an ELN, except where the mortgage is to be Lodged with any discharge of mortgage or transfer of land for the same folio(s) of the Register.
- 6.3 Registrar's Requirement 6.2 does not apply if an ELN is not available and has not been available for one clear Business Day.

## 7. Lodging Parties

**106A(1) The Registrar may from time to time determine requirements for paper conveyancing transactions, which may include the following—**

- (e) the classes of person who must lodge specified classes of instrument**

- 7.1 This requirement takes effect on 1 March 2016.
- 7.2 A discharging mortgagee or its Representative must Lodge a discharge of mortgage signed on or after 1 March 2016, except where the discharge of mortgage is to be Lodged with any transfer of land or mortgage for the same folio(s) of the Register.

## 8. Client Authorisations

**106A(1) The Registrar may from time to time determine requirements for paper conveyancing transactions, which may include the following—**

- (f) client authorisations, including any of the following—**
- (i) the form of a client authorisation;**
  - (ii) the classes of instrument to which a client authorisation applies;**
  - (iii) any supporting evidence and retention requirements**

- 8.1 This requirement takes effect on 3 April 2017.
- 8.2 Where a Client is a Party to an Instrument or other Document, and is required to sign that Instrument or other Document, the Client's Representative must sign that Instrument or other Document on behalf of the Client.
- 8.3 A Representative must:
- (a) use the Client Authorisation Form for any Client Authorisation it enters into; and
  - (b) except for Caveats and Priority Notices, for which a Client Authorisation is optional, enter into a Client Authorisation with its Client before the Representative signs any Instrument or other Document; and
  - (c) comply with the Client Authorisation and act in accordance with its terms; and

- (d) take reasonable steps to verify the authority of each Person entering into a Client Authorisation on behalf of a Client to both bind the Client to the Client Authorisation and to the Conveyancing Transaction(s) the subject of the Client Authorisation; and
- (e) take reasonable steps to ensure that the Client Authorisation is signed by the Representative's Client or their Client Agent.

## 9. Certifications under section 74(1A)

**106A(1) The Registrar may from time to time determine requirements for paper conveyancing transactions, which may include the following—**

**(g) the classes of mortgagee able to certify the matters specified under section 74(1A)**

**74(1A) The Registrar may register a mortgage if the mortgagee has—**

- (a) signed the mortgage; and**
- (b) certified that—**
  - (i) the mortgagee holds a mortgage granted by the mortgagor; and**
  - (ii) the mortgage held by the mortgagee is in the same terms as the mortgage lodged for registration.**

9.1 This requirement takes effect on 3 April 2017.

9.2 The classes of mortgagee able to certify the matters specified under section 74(1A) of the TLA are:

- (a) a mortgagee who is an ADI; or
- (b) a mortgagee who is a Person who has entered into a Participation Agreement to use an ELN; or
- (c) a mortgagee who has a Representative acting on behalf of the mortgagee.

9.3 Where a mortgagee satisfies Registrar's Requirement 9.2, that mortgagee or, where the mortgagee is represented, its Representative must:

- (a) sign any mortgage in which the mortgagee is a Party; and
- (b) ensure that the mortgagor grants a mortgage on the same terms as the mortgage signed by, or on behalf of, the mortgagee; and
- (c) ensure that it holds the mortgage granted by the mortgagor; and
- (d) provide Certification 5 of the Certification Rules.

## 10. Paper quality and size

**106A(1) The Registrar may from time to time determine requirements for paper conveyancing transactions**

10.1 This requirement takes effect on the day these Registrar's Requirements are published.

10.2 Any Instrument lodged with the Registrar must be:

- (a) printed on;

- (i) white;
    - (ii) A4 size paper;
    - (iii) with a minimum weight of 80 grams per square metre; and
  - (b) have clear margins of not less than 10 millimetres and not more than 15 millimetres on all borders.
- 10.3 Printing must be:
- (a) single-sided; and
  - (b) in black text; and
  - (c) have a font size equivalent to Arial 10 point or Times New Roman 12 point; and
  - (d) in portrait orientation; and
  - (e) have all pages numbered and total pages specified.
- 10.4 Handwriting must be:
- (a) in block letters; and
  - (b) clear and legible; and
  - (c) in black ink or blue ink.
- 10.5 Signatures must be in black ink or blue ink.
- 10.6 Erasures, correction products, over-typing or over-printing must not be used on Instruments

## 11. Applications to the Registrar to act

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| <b>106A(1) The Registrar may from time to time determine requirements for paper conveyancing transactions</b> |
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- 11.1 This requirement takes effect on the day these Registrar's Requirements are published.
- 11.2 If a Person requests the Registrar to do an act or perform a duty that Person must apply to the Registrar.
- 11.3 If no form of application is prescribed by any regulations made under the TLA or any other legislation, or is approved by the Registrar, the applicant must apply to the Registrar in writing:
- (a) stating what the Registrar is requested to do and the relevant section of the TLA or any other legislation; and
  - (b) describing the land by reference to a folio of the Register and, if only part of the land is affected, define that part; and
  - (c) stating the name and address of the applicant; and
  - (d) setting out the registered number of any Instrument or plan affected by the application ; and
  - (e) setting out any other particulars that are required by the relevant section of the TLA or any other legislation; and
  - (f) signed by the applicant or the applicant's Representative.

## Schedule 1 – Verification of Identity

This definition replaces that in the following Verification of Identity Standard for the purposes of a paper Conveyancing Transaction:

**Person Being Identified** means any of the Persons required to be identified under Registrar’s Requirement 3.1.2 or 3.1.8.

# Verification of Identity Standard

## 1 Definitions

In this Verification of Identity Standard capitalised terms have the meanings set out below:

**ADI or authorised deposit-taking institution** has the meaning given to it in the *Banking Act 1959* (Cth).

**Adult** has the meaning given to it in the ECNL.

**Application Law** has the meaning given to it in the ECNL.

**Australian Legal Practitioner** has the meaning given to it in the relevant legislation of the Jurisdiction in which the land the subject of the Conveyancing Transaction is situated and in South Australia is a legal practitioner for the purposes of the *Legal Practitioners Act 1981* (SA).

**Australian Passport** means a passport issued by the Australian Commonwealth government.

**Bank Manager** means a Person appointed to be in charge of the head office or any branch office of an ADI carrying on business in Australia under the *Banking Act 1959* (Cth).

**Category** means the categories of identification Documents set out in the table in Verification of Identity Standard paragraph 3, as amended from time to time.

**Commonwealth** has the meaning given to it in the ECNL.

**Community Leader** means, in relation to an Aboriginal or Torres Strait Islander community:

- (a) a Person who is recognised by the members of the community to be a community elder; or
- (b) if there is an Aboriginal council that represents the community, an elected member of the council; or
- (c) a member, or a member of staff, of a Torres Strait Regional Authority established under the *Aboriginal and Torres Strait Islander Commission Act 2005* (Cth); or
- (d) a member of the board, or a member of staff, of Indigenous Business Australia established under the *Aboriginal and Torres Strait Islander Commission Act 2005* (Cth); or
- (e) a member of the board, or a member of staff, of an Indigenous Land Corporation established under the *Aboriginal and Torres Strait Islander Commission Act 2005* (Cth); or
- (f) a member, or a member of staff, of an Aboriginal Land Council established under the *Aboriginal Land Rights (Northern Territory) Act 1976* (Cth).

**Court Officer** means a judge, master, magistrate, registrar, clerk or the chief executive officer of any court in Australia.

**Doctor** means a Person who is registered under any Commonwealth, State or Territory law as a practitioner in the medical profession.

**ECNL** means the Electronic Conveyancing National Law as adopted or implemented in a Jurisdiction by the Application Law, as amended from time to time.

**Identifier Declaration** means the declaration set out in Verification of Identity Standard paragraph 4.

**Identity Declarant** means a Person providing an Identifier Declaration.

**Identity Verifier** means the Person conducting the verification of identity in accordance with this Verification of Identity Standard.

**Individual** has the meaning given to it in the ECNL.

**Land Council Officeholder** means a chairperson or deputy chairperson of an Australian land council or land and sea council established under any Commonwealth, State or Territory law.

**Land Titles Legislation** has the meaning given to it in the ECNL.

**Licensed Conveyancer** means a Person licensed or registered under the relevant legislation of the Jurisdiction in which the land the subject of the Conveyancing Transaction is situated and in Western Australia is a real estate settlement agent for the purposes of the *Settlement Agents Act 1981* (WA).

**Local Government Officeholder** means a chief executive officer or deputy chief executive officer of a local government organisation.

**Nurse** means a Person registered under any Commonwealth, State or Territory law as a practitioner in the nursing and midwifery profession.

**Person** has the meaning given to it in the ECNL.

**Person Being Identified** means any of the Persons required to be identified under Participation Rule 6.5.1.

**Photo Card** is a card issued by the Commonwealth or any State or Territory showing a photograph of the holder and enabling the holder to evidence their age and/or their identity.

**Police Officer** means an officer of any Commonwealth, State or Territory police service.

**Priority/Settlement Notice** has the meaning given to it in the Land Titles Legislation of the Jurisdiction in which the land the subject of the Conveyancing Transaction is situated.

**Public Servant** means an employee or officer of the Commonwealth, a State or a Territory.

**Record** has the meaning given to it in the ECNL.

**Relative** means a Person's spouse or domestic partner or a child, grandchild, sibling, parent or grandparent of the Person or of the Person's spouse or domestic partner.

**State** means New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia.

**Statutory Declaration** has the meaning given to it in the ECNL.

**Territory** has the meaning given to it in the ECNL.

**Verification of Identity Standard** means this verification of identity standard, as amended from time to time.

## **2 Face-to-face regime**

2.1 The verification of identity must be conducted during a face-to-face in-person interview between the Identity Verifier and the Person Being Identified.

2.2 Where Documents containing photographs are produced by the Person Being Identified, the Identity Verifier must be satisfied that the Person Being Identified is a reasonable likeness (for example the shape of his or her mouth, nose, eyes and the position of his or her cheek bones) to the Person depicted in those photographs.

## **3 Categories of identification Documents and evidence retention**

3.1 At the face-to-face in-person interview described in paragraph 2.1, the Identity Verifier must ensure that the Person Being Identified produces original Documents in one of the Categories in the following table, starting with Category 1.

3.2 The Identity Verifier must be reasonably satisfied that a prior Category cannot be met before using a subsequent Category.



3.3 The Identity Verifier must:

- (a) sight the originals of all Documents from Categories 1, 2, 3, 4, 5 or 6 produced by the Person Being Identified; and
- (b) retain copies of all Documents produced by the Person Being Identified and any Identity Declarant.

3.4 The Documents produced must be current, except for an expired Australian Passport which has not been cancelled and was current within the preceding 2 years.

| Category   | Minimum Document Requirements  |
|--|--|
| <b>For Persons who are Australian citizens or residents:</b>     |  |
| <b>1</b>   | Australian Passport or foreign passport<br><u>plus</u> Australian drivers licence or Photo Card<br><u>plus</u> change of name or marriage certificate if necessary   |
| <b>2</b>   | Australian Passport or foreign passport<br><u>plus</u> full birth certificate or citizenship certificate or descent certificate<br><u>plus</u> Medicare or Centrelink or Department of Veterans' Affairs card<br><u>plus</u> change of name or marriage certificate if necessary   |
| <b>3</b>   | Australian drivers licence or Photo Card<br><u>plus</u> full birth certificate or citizenship certificate or descent certificate<br><u>plus</u> Medicare or Centrelink or Department of Veterans' Affairs card<br><u>plus</u> change of name or marriage certificate if necessary  |
| <b>4</b>   | (a) Australian Passport or foreign passport<br><u>plus</u> another form of government issued photographic identity Document<br><u>plus</u> change of name or marriage certificate if necessary<br><br>(b) Australian Passport or foreign passport<br><u>plus</u> full birth certificate<br><u>plus</u> another form of government issued identity Document<br><u>plus</u> change of name or marriage certificate if necessary  |
| <b>5</b>   | (a) Identifier Declaration<br><u>plus</u> full birth certificate or citizenship certificate or descent certificate<br><u>plus</u> Medicare or Centrelink or Department of Veterans' Affairs card<br><u>plus</u> change of name or marriage certificate if necessary.<br><br>(b) Identifier Declaration by a Person specified in Verification of Identity Standard paragraph 4.4(e)<br><u>plus</u> Medicare or Centrelink or Department of Veterans' Affairs card<br><u>plus</u> change of name or marriage certificate if necessary.<br><br><i>Note: Refer to Verification of Identity Standard paragraph 4.</i> |
| <b>For Persons who are not Australian citizens or residents:</b> |  |
| <b>6</b>   | (a) Foreign passport<br><u>plus</u> another form of government issued photographic identity Document<br><u>plus</u> change of name or marriage certificate if necessary<br><br>(b) Foreign passport<br><u>plus</u> full birth certificate<br><u>plus</u> another form of government issued identity Document<br><u>plus</u> change of name or marriage certificate if necessary.   |

## **4 The Identifier Declaration**

- 4.1 Where the requirements of:
- (a) Categories 1 to 4 cannot be met, Category 5(a) may be used; and
  - (b) Category 5(a) cannot be met, Category 5(b) may be used,
- including the provision of an Identifier Declaration in accordance with this paragraph.
- 4.2 The Identity Verifier must ensure that both the Person Being Identified and the Identity Declarant attend the same face-to-face in-person interview described in paragraph 2.1.
- 4.3 The Identity Verifier must verify the identity of the Identity Declarant in accordance with this Verification of Identity Standard except that the Identity Verifier cannot utilise Category 5.
- 4.4 The Identity Verifier must undertake reasonable enquiries to satisfy themselves that the Identity Declarant is:
- (a) an Adult; and
  - (b) an Individual who has known the Person Being Identified for more than 12 months; and
  - (c) not a Relative of the Person Being Identified; and
  - (d) not a party to the Conveyancing Transaction(s) the Person Being Identified has or is entering into; and
  - (e) where Category 5(b) is used, an Australian Legal Practitioner, a Bank Manager, Community Leader, Court Officer, Doctor, Land Council Officeholder, Licensed Conveyancer, Local Government Officeholder, Nurse, Public Servant or Police Officer.
- 4.5 The Identity Verifier must ensure that the Identity Declarant provides a Statutory Declaration detailing the following:
- (a) the Identity Declarant's name and address; and
  - (b) the Identity Declarant's occupation; and
  - (c) the Identity Declarant's date of birth; and
  - (d) the nature of the Identity Declarant's relationship with the Person Being Identified; and
  - (e) that the Identity Declarant is not a relative of the Person Being Identified; and
  - (f) that the Identity Declarant is not a party to the Conveyancing Transaction(s) the Person Being Identified has or is entering into; and
  - (g) the length of time that the Identity Declarant has known the Person Being Identified; and
  - (h) that to the Identity Declarant's knowledge, information and belief the Person Being Identified is who they purport to be; and
  - (i) where Category 5(b) is used, that the Identity Declarant is an Australian Legal Practitioner, a Bank Manager, Community Leader, Court Officer, Doctor, Land Council Officeholder, Licensed Conveyancer, Local Government Officeholder, Nurse, Public Servant or Police Officer.

## **5 Body Corporate**

The Identity Verifier must:

- (a) confirm the existence and identity of the body corporate by conducting a search of the Records of the Australian Securities and Investments Commission or other regulatory body with whom the body corporate is required to be registered; and

- (b) take reasonable steps to establish who is authorised to sign or witness the affixing of the seal on behalf of the body corporate; and
- (c) verify the identity of the Individual or Individuals signing or witnessing the affixing of the seal on behalf of the body corporate in accordance with the Verification of Identity Standard.

[Note: *body corporate* includes an incorporated association.]

## **6 Individual as attorney**

The Identity Verifier must:

- (a) confirm from the [registered] power of attorney the details of the attorney and the donor; and
- (b) take reasonable steps to establish that the Conveyancing Transaction(s) is authorised by the power of attorney; and
- (c) verify the identity of the attorney in accordance with the Verification of Identity Standard.

## **7 Body Corporate as attorney**

The Identity Verifier must:

- (a) confirm from the [registered] power of attorney the details of the attorney and the donor; and
- (b) take reasonable steps to establish that the Conveyancing Transaction(s) is authorised by the power of attorney; and
- (c) comply with Verification of Identity Standard paragraph 5.

[Note: *body corporate* includes an incorporated association.]

## **8 (Deleted)**

## **9 (Deleted)**

## **10 Further checks**

The Identity Verifier must undertake further steps to verify the identity of the Person Being Identified and/or the Identity Declarant where:

- (a) the Identity Verifier knows or ought reasonably to know that:
  - (i) any identity Document produced by the Person Being Identified and/or the Identity Declarant is not genuine; or
  - (ii) any photograph on an identity Document produced by the Person Being Identified and/or the Identity Declarant is not a reasonable likeness of the Person Being Identified or the Identity Declarant; or
  - (iii) the Person Being Identified and/or the Identity Declarant does not appear to be the Person to which the identity Document(s) relate; or
- (b) it would otherwise be reasonable to do so.

## Schedule 2 – Identity Agent Certification

"I, [full name of the Identity Agent], of [address of the Identity Agent] being a [occupation of the Identity Agent] and having been directed to use the Verification of Identity Standard by [Subscriber name] hereby certify that:

- (a) the identification relates to [full name of the Person Being Identified or the Identity Declarant]; and
- (b) the identification was carried out on [date]; and
- (c) the original current identification Documents as listed below were produced to me and copies of these Documents signed, dated and endorsed by me as true copies are attached to this certificate; and
- (d) the verification of identity was conducted in accordance with the Verification of Identity Standard[; and
- (e) I witnessed [full name of the Person Being Identified] execute the completed Client Authorisation or grant the mortgage].\*"

.....  
Date:

.....  
Signature of Identity Agent

List of identification Documents produced (see (c) above):

| Description of identity Documents produced and endorsed | Page number in set of copies |
|---|------------------------------|
| e.g. Australian Passport                                | 1                            |
|   |                              |
|   |                              |
|   |                              |

\*Delete where Identity Agent not requested to witness or is not legally entitled to witness the document.

## Schedule 3 – Insurance Rules

**1** [not used]

**2 Identity Agent insurance**

**2.1** Each Identity Agent must maintain professional indemnity insurance:

- (a) with an Approved Insurer; and
- (b) for an insured amount of at least \$1.5 million per claim (including legal Costs); and
- (c) having an excess per claim of no greater than \$20,000; and
- (d) having an annual aggregate amount of not less than \$20,000,000; and
- (e) which includes coverage for verification of identity for the purposes of these Registrar's Requirements; and
- (f) the terms of which do not limit compliance with Insurance Rules 2.1(a) to (e).

**2.2** Each Identity Agent must maintain fidelity insurance:

- (a) with an Approved Insurer; and
- (b) for an insured amount of at least \$1.5 million per claim (including legal Costs); and
- (c) having an excess per claim of no greater than \$20,000; and
- (d) having an annual aggregate amount of not less than \$20,000,000; and
- (e) which provides coverage for third party claims arising from dishonest and fraudulent acts; and
- (f) which includes coverage for verification of identity for the purposes of these Registrar's Requirements; and
- (g) the terms of which do not limit compliance with Insurance Rules 2.2(a) to (f).

**2.3** If an Identity Agent does not comply with Insurance Rules 2.1 and 2.2, the Identity Agent must maintain professional indemnity insurance:

- (a) with an Approved Insurer; and
- (b) for an insured amount of at least \$1.5 million per claim (including legal Costs); and
- (c) having an excess per claim of no greater than \$20,000; and
- (d) having an annual aggregate amount of not less than \$20,000,000; and
- (e) which provides coverage for third party claims arising from dishonest and fraudulent acts; and
- (f) which includes coverage for verification of identity for the purposes of these Registrar's Requirements; and
- (g) the terms of which do not limit compliance with Insurance Rules 2.3(a) to (f).

- 2.4 An Identity Agent may maintain fidelity insurance held through a mutual fund by paying a levy or contribution rather than an annual insurance premium. The insurance must otherwise comply with Insurance Rule 2.2.

### **3 Self-insuring Identity Agents**

Despite Insurance Rule 2, the following Persons need not take out any insurance to become or remain an Identity Agent:

- (a) an ADI; or
- (b) the Crown in right of the Commonwealth, a State or a Territory.

### **4 Deemed compliance with these Insurance Rules**

4.1 The following are deemed to comply with Insurance Rules 2:

- (a) an Australian Legal Practitioner or a Law Practice who holds or is covered by professional indemnity insurance and either holds fidelity insurance or contributes to, or on whose behalf a contribution is made to, a fidelity fund operated pursuant to legislative requirements; and
- (b) a Licensed Conveyancer who holds or is covered by professional indemnity insurance and either holds fidelity insurance or contributes to, or on whose behalf a contribution is made to, a fidelity fund operated pursuant to legislative requirements.

4.2 A Mortgage Broker, when acting as agent of a mortgagee for the purposes of verifying the identity of a mortgagor, is deemed to comply with Insurance Rule 2 if:

- (a) pursuant to legislative requirements, either it holds or is covered by:
  - (i) professional indemnity insurance and fidelity insurance, or
  - (ii) professional indemnity insurance which provides cover for third party claims arising from dishonest and fraudulent acts, and
- (b) that insurance covers the verification of identity.

### **5 Compliance**

An Identity Agent must comply with any requirements set by its insurer.

### **6 Proof of insurance**

An Identity Agent must provide evidence of insurance to the Registrar as required by the Registrar.

## Schedule 4 – Certification Rules

The Subscriber must provide those of the following certifications that are required when signing each Instrument or Document:

- 1 The Subscriber has taken reasonable steps to verify the identity of the [transferor/transferee/ mortgagee/ mortgagor/caveator/applicant].
- 2 The Subscriber holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
- 3 The Subscriber has retained the evidence supporting this Registry Instrument or Document.
- 4 The Subscriber has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.
- 5 The Subscriber, or the Subscriber is reasonably satisfied that the mortgagee it represents,:
  - (a) has taken reasonable steps to verify the identity of the mortgagor; and
  - (b) holds a mortgage granted by the mortgagor on the same terms as this Registry Instrument.
- 6 The Subscriber has:
  - (a) retrieved; and
  - (b) either securely destroyed or made invalidthe (duplicate) certificate(s) of title for the folio(s) of the Register listed in this Registry Instrument or Document.

## Schedule 5 – Client Authorisation Form

These definitions replace those in the following Client Authorisation Form for the purposes of a paper Conveyancing Transaction:

**Insurance Rules** means the rules set out in Schedule 3 of these Registrar's Requirements, as amended from time to time.

**Registry Instrument** means a paper Instrument.

**Subscriber** means an Australian Legal Practitioner, a Law Practice, or a Licensed Conveyancer who acts on behalf of a Client.

### CLIENT AUTHORISATION

When this form is signed, the Subscriber is authorised to act for the Client in a Conveyancing Transaction(s).

**Privacy Collection Statement:** The information in this form is collected under statutory authority and used for the purpose of maintaining publicly searchable registers and indexes.

Subscriber Reference: \_\_\_\_\_

| CLIENT DETAILS | CLIENT 1 | CLIENT 2 |
|----------------|----------|----------|
| NAME           | _____    | _____    |
| ACN/ARBN       | _____    | _____    |
| ADDRESS        | _____    | _____    |

| TRANSACTION DETAILS                                      | AUTHORITY TYPE   |  |  |
|--|--|--|--|
|  | <input type="checkbox"/> SPECIFIC AUTHORITY<br>(transaction details below)   | <input type="checkbox"/> STANDING AUTHORITY<br>ends on revocation or expiration date:...../...../.....   | <input type="checkbox"/> BATCH AUTHORITY<br>(attach details) |
|  | <b>CONVEYANCING TRANSACTION(S) 1</b>   | <b>CONVEYANCING TRANSACTION(S) 2</b>   |  |
| PROPERTY ADDRESS   | _____  | _____  |  |
| LAND TITLE REFERENCE(S)<br>(and/or property description) | _____  | _____  |  |
| CONVEYANCING TRANSACTION(S)                              | <input type="checkbox"/> TRANSFER <input type="checkbox"/> MORTGAGE <input type="checkbox"/> CAVEAT<br><input type="checkbox"/> PRIORITY/ SETTLEMENT NOTICE <input type="checkbox"/> DISCHARGE/ RELEASE OF MORTGAGE <input type="checkbox"/> WITHDRAW CAVEAT<br><input type="checkbox"/> OTHER | <input type="checkbox"/> TRANSFER <input type="checkbox"/> MORTGAGE <input type="checkbox"/> CAVEAT<br><input type="checkbox"/> PRIORITY/ SETTLEMENT NOTICE <input type="checkbox"/> DISCHARGE/ RELEASE OF MORTGAGE <input type="checkbox"/> WITHDRAW CAVEAT<br><input type="checkbox"/> OTHER |  |
| ADDITIONAL INSTRUCTIONS                                  | _____  |  |  |

| CLIENT AUTHORISATION AND SIGNING | CLIENT 1 / CLIENT AGENT 1   | CLIENT 2 / CLIENT AGENT 2 |
|----------------------------------|---|---------------------------|
|                                  | <b>I CERTIFY that:</b><br>(a) I am the Client or Client Agent; and<br>(b) I have the legal authority to instruct the Subscriber in relation to the Conveyancing Transaction(s); and<br>(c) If I am acting as a Client Agent that I have no notice of the revocation of my authority to act on behalf of the Client. |                           |



**I AUTHORISE** the Subscriber to act on my behalf, or where I am a Client Agent to act on behalf of the Client, in accordance with the terms of this Client Authorisation and any Participation Rules and any Prescribed Requirement to:

- (a) sign Documents on my behalf as required for the Conveyancing Transaction(s); and
- (b) submit or authorise submission of Documents for lodgment with the relevant Land Registry; and
- (c) authorise any financial settlement involved in the Conveyancing Transaction(s); and
- (d) do anything else necessary to complete the Conveyancing Transaction(s).

|   |                  |  |                  |
|---|------------------|--|------------------|
| <div style="text-align: right; margin-bottom: 10px;">DATE    /    /</div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> CLIENT /<br>CLIENT<br>AGENT<br>NAME:<br><br>CAPACITY: | <b>SIGN HERE</b> | <div style="text-align: right; margin-bottom: 10px;">DATE    /    /</div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> CLIENT /<br>CLIENT AGENT<br>NAME:<br><br>CAPACITY: | <b>SIGN HERE</b> |
|---|------------------|--|------------------|

|                                |  |                              |   |                  |
|--------------------------------|--|------------------------------|---|------------------|
| SUBSCRIBED DETAILS AND SIGNING | <b>SUBSCRIBER</b>  | <b>AGENT (if applicable)</b> |   |                  |
|                                | NAME   |                              |   |                  |
|                                | ACN/ARBN   |                              |   |                  |
|                                | ADDRESS  |                              |   |                  |
|                                | <p><b>I/We CERTIFY</b> that reasonable steps have been taken to ensure that this Client Authorisation was signed by each of the Persons named above as Client or Client Agent.</p> <p>SIGNATURE OF SUBSCRIBER <b>OR</b> AGENT IF APPLICABLE:</p> |                              |   |                  |
|                                | <div style="text-align: right; margin-bottom: 10px;">DATE    /    /</div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> SIGNATORY<br>NAME:<br>CAPACITY:  | <b>SIGN HERE</b>             | <div style="text-align: right; margin-bottom: 10px;">DATE    /    /</div> <div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> SIGNATORY<br>NAME:<br>CAPACITY: | <b>SIGN HERE</b> |

## Terms of this Client Authorisation

### 1. What is Authorised

The Client authorises the Subscriber to act on behalf of the Client in accordance with the terms of this Client Authorisation and any Participation Rules and any Prescribed Requirement to:

- (a) sign Documents on the Client's behalf as required for the Conveyancing Transaction(s); and
- (b) submit or authorise submission of Documents for lodgment with the relevant Land Registry; and
- (c) authorise any financial settlement involved in the Conveyancing Transaction(s); and
- (d) do anything else necessary to complete the Conveyancing Transaction(s).

The Client acknowledges that the Client is bound by any Documents required in connection with a Conveyancing Transaction that the Subscriber signs on the Client's behalf in accordance with this Client Authorisation.

## 2. Mortgagees

Where:

- (a) the Subscriber represents the Client in the Client's capacity as mortgagee; and
- (b) the Client represents to the Subscriber that the Client has taken reasonable steps to verify the identity of the mortgagor

the Client indemnifies the Subscriber for any loss resulting from the Client's failure to take reasonable steps to verify the identity of the mortgagor.

## 3. Revocation

This Client Authorisation may be revoked by either the Client or the Subscriber giving notice in writing to the other that they wish to end this Client Authorisation.

## 4. Privacy and Client Information

The Client acknowledges that information relating to the Client that is required to complete a Conveyancing Transaction, including the Client's Personal Information, may be collected by and disclosed to the Duty Authority, the ELNO, the Land Registry, the Registrar and third parties (who may be located overseas) involved in the completion of the Conveyancing Transaction or the processing of it, and consents to the collection and disclosure of that information to any of those recipients, including to those who are overseas. For further information about the collection and disclosure of your Personal Information, refer to the relevant party's privacy policy.

## 5. Applicable Law

This Client Authorisation is governed by the law in force in the Jurisdiction in which the Property is situated. The Client and the Subscriber submit to the non-exclusive jurisdiction of the courts of that place.

## 6. Meaning of Words Used in this Client Authorisation

In this Client Authorisation, capitalised terms have the meaning set out below:

**Agent** means a Person authorised by a Subscriber to act as the Subscriber's agent. For the avoidance of doubt this can include an Identity Agent.

**Australian Legal Practitioner** has the meaning given to it in the relevant legislation of the Jurisdiction in which the property is situated and in South Australia is a legal practitioner for the purposes of the *Legal Practitioners Act 1981* (SA).

**Batch Authority** means an authority for the Subscriber to act for the Client in a batch of Conveyancing Transactions details of which are attached to this Client Authorisation.

**Capacity** means the role of the signatory (for example an attorney or a director of a company).

**Caveat** means a Document giving notice of a claim to an interest in land that may have the effect of an injunction to stop the registration of a Registry Instrument in the Titles Register.

**Client** means the Person or Persons named in this Client Authorisation.

**Client Agent** means a Person authorised to act as the Client's agent but does not include the Subscriber acting solely as the Client's Representative.

**Conveyancing Transaction** has the meaning given to it in the ECNL.

**Discharge/Release of Mortgage** means a Registry Instrument that discharges or releases a Mortgage.

**Document** has the meaning given to it in the ECNL.

**Duty Authority** means the State Revenue Office of the Jurisdiction in which the property is situated.

**ECNL** means the Electronic Conveyancing National Law as adopted or implemented in a Jurisdiction by the application law, as amended from time to time.

**ELNO** means Electronic Lodgment Network Operator and has the meaning given to it in the ECNL.

**Identity Agent** means a Person who is an agent of either a Subscriber, or a mortgagee represented by a Subscriber, and who:

- (a) the Subscriber or mortgagee reasonably believes is reputable, competent and insured in compliance with Insurance Rule 2; and
- (b) is authorised by the Subscriber or mortgagee to conduct verification of identity on behalf of the Subscriber or mortgagee in accordance with the Verification of Identity Standard.

**Insurance Rules** has the meaning given to it in the Participation Rules.

**Jurisdiction** means an Australian State or Territory.

**Land Registry** means the agency of a State or Territory responsible for maintaining the Jurisdiction's Titles Register.

**Land Title Reference** means the relevant Land Registry's unique identifier(s) for the property.

**Licensed Conveyancer** means a Person licensed or registered under the relevant legislation of the Jurisdiction in which the property is situated and in Western Australia is a real estate settlement agent for the purposes of the *Settlement Agents Act 1981* (WA).

**Mortgage** means a Registry Instrument by which a Person charges an estate or interest in land as security.

**Participation Rules**, as amended from time to time, has the meaning given to it in the ECNL.

**Person** has the meaning given to it in the ECNL.

**Personal Information** has the meaning given to it in the *Privacy Act 1988* (Cth).

**Prescribed Requirement** means any Published requirement of the Registrar that Subscribers are required to comply with.

**Priority/Settlement Notice** means a notice (other than a Caveat) which prevents (subject to specified exceptions) registration or recording in the Titles Register of a Registry Instrument or other Document affecting land or an interest in land until the notice lapses or is withdrawn, removed or cancelled.

**Publish** means, for any information, to publish the information on the Registrar's website.

**Registrar** has the meaning given to it in the ECNL.

**Registry Instrument** has the meaning given to it in the ECNL.

**Representative** means a Subscriber who acts on behalf of a Client.

**Specific Authority** means an authority for the Subscriber to act for the Client in completing the Conveyancing Transactions described in this Client Authorisation.

**Standing Authority** means an authority for the Subscriber to act for the Client for a period of time set out in this Client Authorisation.

**Subscriber** is the Person named in this Client Authorisation and has the meaning given to it in the ECNL or for a paper Conveyancing Transaction is an Australian Legal Practitioner or a Licensed Conveyancer.

**Titles Register** has the meaning given to it in the ECNL.

**Transfer** includes the preparation of all documents required to effect a purchase or sale of land or any other transfer of land, and the liaison with, where relevant, any mortgagee or proposed mortgagee.

**Withdrawal of Caveat** means a Document which removes a Caveat

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