



# Remote Signing Protocol

## Requirements

### 1. Video Conferencing Capability<sup>1</sup>

Lawyer or notary will need to utilize a video conferencing capability ("VC") that is easily accessible by their clients.

In light of the fact that some clients may not have video cameras on their computers the VC should be useable by the client on their cell phone (which will in all likelihood have a camera).

LLD has a recommended VC for lawyers and notaries who do not otherwise have a VC they are familiar with and would prefer to use. Please ensure that the video and sound quality of your VC are good and all of the parties can use it.

### 2. Document Scanning and Transmission

Clients will need to have access to a reliable document scanning capability in order to upload documents (via mobile phone) and transmit them to the lawyer or notary. Lawyers and notaries should also ensure that documents can be couriered to clients if necessary.

**Adobe Scan** can be downloaded by the client to their mobile phone in order facilitate the scanning of documents and may be downloaded through the [Apple App Store](#) for IOS devices or the [Google Play Store](#) for Android devices. Documents scanned through Adobe Scan will be saved by Adobe as customer data<sup>2</sup>. Please note that LDD makes no representation or warranty as to Adobe's assurance of data storage or retention. Lawyers and notaries should consider recommending that the client delete all copies of the scanned documentation after the lawyer or notary confirms they have a copy.

### 3. Virtual Commissioning and Execution of Land Title documents

The closing protocol discussed in this document relies on contents of BC Land Titles and Surveys' Practice Bulletin No. 01-20 attached as **Schedule A1**.

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<sup>1</sup> This video service is owned and operated by an independent, third-party service provider (the "Service") and is provided "As Is". LDD disclaims all warranties of any kind, express or implied, and makes no representations whatsoever as to your use of the Service. You are solely responsible for your and each end user's use of the Service and shall abide by and ensure compliance with all laws in connection with your and each end user's use of the Service including, but not limited to, laws related to recording (if and when available), intellectual property, privacy and export control.

<sup>2</sup> **Adobe: Where does customer data reside?**

Customer data is stored in Amazon S3 and Adobe designates which physical region individual customers' data and servers will be located. Data replication for Amazon S3 data objects is done within the regional cluster where the data is stored and is not replicated to data center clusters in other regions. Adobe operates Creative Cloud out of three regions: United States, EU, and Asia Pacific. Example: By default, all data from Creative Cloud customers in the EU will have their cloud data stored in the AWS data center in the EU and that data will not be transferred to data centers outside the EU.



#### 4. Electronic Signatures

The process described in item 5 below contemplates clients affixing wet signatures to paper documents. This process may evolve to the use of electronic signatures once this type of functionality can be factored into the procedure below.

#### 5. Virtual Closing Procedure

Establish time for video conference with client at least 48 hours before closing to allow for time to courier documents if necessary.

Client to provide scanned copies of identification before scheduled video conference for lawyer's or notary's review.

Send electronic copies of documents to be reviewed with and/or signed by client in advance of the video conferencing meeting.

If Land Title Documents are being signed remotely (not in the presence of an officer) one or more affidavits of execution under section 49 of the *Land Title Act* will be required. RealtiWeb British Columbia currently has two versions of this affidavit. Section 49 Affidavit - Execution by a Corporation and Section 49 Affidavit - Execution by an Individual. These are set up to deal with transferors remotely signing transfers and mortgagors remotely signing mortgages. Each of these two versions have a remote jurat type and a non-remote jurat type. Affidavits with a remote witnessing jurat are identified by the (Remote) wording at the end of the affidavit's name. The Affidavits of Execution are available under the **Land Registration Documents** category on the **Docs** page.

All other documents should contain a jurat or a paragraph at the end of the body describing that the deponent was not physically present before the commissioner, but was linked with the commissioner utilizing video technology and the process described in the [British Columbia Court of Appeal Notice dated March 27, 2020](#) for remote commissioning of affidavits was used.

If execution by an individual of a document for registration is to be proven by way of an affidavit of execution under s. 49, *Land Title Act*, an additional staff member (who will swear the required affidavit) will need to be acquainted with the client's signature over a video conference or comparing the client's signature against another one of their known signatures.

Lawyer or notary meeting with client is required to have printed copies of affidavits and statutory declarations.

LLD will allow subscribers to post closing documents to client portal and client will click link to portal and answer 2 authentication questions to gain access to documents in portal.

Client downloads and prints paper copies of documents.

Lawyer/notary reviews documents with client during video conference, ensuring that documents in possession of lawyer/notary and client are the same, and both lawyer/notary and client initial each page of their printed documents.

Lawyer or notary witnesses/commissions wet signature of documents by client (see attached **Schedule B** for Video Conferencing check list).



Client scans signed documents and emails them to lawyer or notary.

Lawyer/notary compares scanned copy with copy lawyer/notary reviewed affixes wet signature to applicable scanned and/or original copies of documents from client.



## Schedule A1 – LTSA April 6 Practice Bulletin 01-20<sup>3</sup>

The requirements for the commissioning of affidavits are set out in section 1 of Appendix A of the Code of Professional Conduct for British Columbia.

With the approval of the Law Society of British Columbia and the Society of Notaries Public of British Columbia, until further notice, the following accommodations will be made for affidavits to be used in support of land title applications.

Only BC lawyers and BC notaries public who are acting for one of the parties to the land title transaction may remotely witness affidavits for use in land title applications. The lawyer or notary must retain copies of all documentation he or she relied on to ascertain the deponent's identity and produce the documentation to the registrar if requested under section 168.57 of the *Land Title Act*.

1. Any affidavit to be sworn using video technology must incorporate a statement into the jurat describing that the deponent was not physically present before the lawyer or notary public, but was linked with the lawyer or notary public utilizing video technology, that the process described below for remote commissioning of affidavits was utilized and that the lawyer or notary complied with the Law Society of British Columbia best practices for using video-conferencing when providing legal advice or services issued by the Law Society of BC, reproduced below in Schedule A. See Schedule B below for an example of the required jurat language.
2. While connected via video technology, the deponent must show the lawyer or notary public the front and back of the deponent's current provincial or federal government-issued photo identification. The lawyer or notary public must compare the video image of the deponent and information in the deponent's government-issued photo identity document to be reasonably satisfied that it is the same person and that the document is valid and current. The lawyer or notary public must also take a screenshot of the front and back of the deponent's government-issued photo identity document and retain it.
3. The lawyer or notary public and the deponent are both required to have a copy of the affidavit, including all exhibits, before each of them while connected via video technology.
4. The lawyer or notary public and the deponent must review each page of the affidavit and exhibits to verify that the pages are identical and if so, must initial each page in the lower right corner.
5. At the conclusion of the review, the lawyer or notary public will administer the oath, the deponent will state what needs to be said to swear or affirm the truth of the facts, and the lawyer or notary public must watch the deponent sign his or her name to the affidavit.
6. The deponent will then send the signed affidavit with exhibits electronically to the lawyer or notary public.
7. Before completing the affidavit, the lawyer or notary public must compare each page of the copy received from the deponent against the initialed copy that was before him or her in the video conference and may affix his or her name to the jurat only upon being satisfied that the two copies are identical.
8. The two copies of the affidavit may then be submitted to the land title office with the rest of the land title package. An affidavit is a supporting document under section 168.43 of the *Land Title Act* and

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<sup>3</sup> <https://ltsa.ca/sites/default/files/PB%2001-20%20Process%20for%20Remote%20Witnessing%20of%20Affidavits%20for%20use%20in%20Land%20Title%20Applications.pdf>



must be attached to a Declaration form. See [Supporting Documents for Electronic Applications](#) for more guidance

### **Schedule A: Law Society of British Columbia best practices for using video-conferencing when providing legal advice or services**

When using video conferencing for the provision of legal advice or services, lawyers should:

- Confirm the client's consent to proceed in this manner.
- Ask that all individuals in the remote location introduce themselves.
- Ensure there is no one else at the remote location who may be improperly influencing the client.
- Make sure that audio and video feeds are stable and that you can hear and see all parties.
- Where identification is produced to support verification of identity, ensure that a copy of the document (front and back) is sent to you in advance of the online meeting and that when it is produced that the entire document is visible and legible.
- Determine how to provide the client with copies of the document executed remotely.
- Confirm your client's understanding about the documents they are executing and provide adequate opportunity for them to ask questions during the video conference.
- Maintain detailed records including: date, start and end time, method of communication, identity of all present, and minutes of content of meeting.

### **Schedule B: Preferred form of jurat**

Sworn before me at the city of Victoria, in the Province of British Columbia, this 31st day of March, 2020. The deponent was not physically present before me because *< it is medically unsafe to meet him in person due to Covid-19 >* but was linked with me using video technology. I followed the process described in Practice Bulletin 01-20 Process for Remote Witnessing of Affidavits for use in Land Title Applications and complied with the Law Society of British Columbia best practices for using video-conferencing when providing legal advice or services.

*Last updated: April 6, 2020*

### **Recommended jurat based on the British Columbia Court of Appeal Notice dated March 27, 2020<sup>4</sup>**

Sworn before me at the City of Victoria, in the Province of British Columbia, this 31st day of March, 2020. The deponent was not physically present before me because it is medically unsafe to meet in person due to Covid-19 but was linked with me using video technology. I followed the procedure described in British Columbia Court of Appeal Notice dated March 27, 2020 and complied with the Law Society of British Columbia best practises for using video-conferencing when providing legal advice or services.

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<sup>4</sup>[https://www.bccourts.ca/Court\\_of\\_Appeal/documents/Notice%20to%20the%20Public%20Re%20Affidavits%20-%20CA%20-%20March%2027%202020.pdf](https://www.bccourts.ca/Court_of_Appeal/documents/Notice%20to%20the%20Public%20Re%20Affidavits%20-%20CA%20-%20March%2027%202020.pdf)



## Schedule A2

### Affidavits of Execution under Section 49, *Land Title Act*<sup>5</sup>

Where signing in the presence of an officer is not possible due to COVID related health and safety concerns, the Registrar will accept an affidavit of execution sworn under section 49 of the Act.

- Preferred forms of affidavits are guidelines only and customers can submit variations in content and format.
- Preferred forms of affidavit listed on Help Site at <https://help.ltsa.ca/list-preferred-forms-affidavits>
- Examples of preferred forms of affidavits in light of Covid-19 can also be found at <https://ltsa.ca/news/update-preferred-forms-affidavits>
- See paragraphs 5.88 to 5.101 of the Land Title Practice Manual

### Video conferencing to facilitate swearing of a section 49 affidavit

- Include another staff member from the firm in the initial video conference to verify the client's identity and signature on camera.
- Client then sends picture of signature to the practitioner and staff member.
- Staff member is in a position to swear that he/she is acquainted with the transferor's signature.
- Client could subsequently sign land title documents without an officer witness and send them to the firm's staff member who would then swear an affidavit of execution.

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<sup>5</sup> Carlos MacDonald, "LTSA Response to Covid 19 Pandemic", CBABC webinar, April 9, 2020  
[https://cbabc.org/CBAMediaLibrary/cba\\_bc/pdf/PD/Materials/BC20S0L05W\\_LTSA-Response-to-Covid-19-Pandemic.pdf](https://cbabc.org/CBAMediaLibrary/cba_bc/pdf/PD/Materials/BC20S0L05W_LTSA-Response-to-Covid-19-Pandemic.pdf)



## Schedule B Video Conference Checklist

**DATE AND TIME OF MEETING:** \_\_\_\_\_

**MEDIUM FOR MEETING:** \_\_\_\_\_

**FILE NUMBER:** \_\_\_\_\_

### **START OF MEETING**

- Test video and sound quality.
- Have the client scan the entire room they are in to ensure no one else is in the room.

Any other parties present, and reason for presence: \_\_\_\_\_

- Have all parties introduce/identify themselves

Clients present: \_\_\_\_\_

Ask of clients:

- not to mute their audio at any time during the call.
- hold to camera ID that was previously provided and confirm that it is the client.
- Take a screenshot of the front and back of each client's ID and save the file.

### **ACQUAINTANCE WITH SIGNATURE OF CLIENT (if requiring an affidavit of execution by an individual under s. 49)**

- Include another staff member from the firm in a video conference to verify the client's identity and signature on camera.
- Have client angle camera, if required, when signing so signing of signature can be observed by staff member.
- Client then sends image of signature to the practitioner and staff member.

### **DOCUMENTS**

- Confirm the client has received and printed the following documents, including any exhibits to affidavits or statutory declarations.  
[INCLUDE LIST OF DOCUMENTS SENT TO CLIENTS]
- Confirm that you have printed copies of all documents listed above.



- Review and explain each document, ensuring that:
  - the paper copies you and client have are the same
  - client has initialed the bottom right hand corner of each page of their copy
  - you have initialed the bottom right hand corner of each page of your copy
- Confirm client's understanding of the documents and provide sufficient opportunity for client to ask questions.
- Have client angle camera, if required, when signing so signing of documents can be observed.
- Have client hold documents to camera after signing to ensure signed correctly.

After all clients have signed any affidavits ask them (and obtain an affirmative response from all signatories):

- If sworn: "Do you swear that the contents of this affidavit as subscribed by you are true, so help you God?" or
- If affirmed: "Do you solemnly affirm and declare that the contents of this affidavit as subscribed by you are true?"
- After all clients have signed any statutory declaration ask them (and obtain an affirmative response from all signatories):

"Do you make this solemn declaration conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath?"

  - Client to scan and e-mail signed documents to lawyer or notary.
  - Compare each page of the copy received from the deponent against the initialed copy that was before him or her in the video conference and may affix his or her name to the jurat only upon being satisfied that the two copies are identical.
  - For commissioned documents,
    - Compare each page of the copy received from the deponent against the initialed copy that was before him or her in the video conference and may affix his or her name to the jurat only upon being satisfied that the two copies are identical; and
    - Combine your copy of the commissioned documents with client's scanned copy.



### **END OF MEETING**

Confirm how client will be returning documents with wet ink signature.

- Courier
- Mail
- Other: \_\_\_\_\_

  

- For registration documents signed by the client, secure s. 49 affidavit of execution.  
Affidavits of Execution to be uploaded or attached to a Declaration for registration.