



# Remote Signing Protocol

## Requirements

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

Lawyer 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 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. Lawyers 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 should consider recommending that the client delete all copies of the scanned documentation after the lawyer confirms they have a copy.

### 3. Virtual Commissioning

The closing protocol discussed in this document relies on contents of the following documents (reproduced in **Schedule A**)

- OC 127/2020 - The Land Titles (Public Emergencies) Amendment Regulations, 2020
- Law Society of Saskatchewan Practice Directive, Number 1, Remote Execution of Certain Documents Via Electronic Means, March 26, 2020

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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 review.

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

Ensure that jurats for all sworn documents include the words "via electronic means" or other appropriate details to ensure that users of the signed document are fully aware of the manner in which the document was signed.

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 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.

Lawyer prints documents and signs witness statements and/or jurats.

Lawyer to complete the following forms (as required):

- Certificate of Lawyer ([as per the Registrar of Titles](#))
- Form PD1 – Declaration of Lawyer ([as per the Law Society of Saskatchewan](#))



## Schedule A

### **Law Society of Saskatchewan Practice Directive**

#### **Remote Execution of Certain Documents Via Electronic Means**

WHEREAS the Government of Saskatchewan may, from time to time, implement and extend emergency measures that modify the requirements of how the execution of certain documents may be witnessed by lawyers to allow for the witnessing of signatures via electronic means;

AND WHEREAS 'electronic means' is defined as being an electronic method of communication that includes both audio and visual aspects, such that the lawyer and the signator can both hear and see each other during the course of the meeting and execution of the document

AND WHEREAS the Law Society of Saskatchewan is entitled to impose additional regulatory requirements in relation to the manner in which lawyers avail themselves of these emergency measures;

AND WHEREAS the Law Society of Saskatchewan is authorized to issue directives pursuant to Law Society of Saskatchewan Rule 1143;

THE LAW SOCIETY OF SASKATCHEWAN HEREBY DIRECTS that lawyers who avail themselves of these emergency measures shall:

- require that a signator(s) display photo identification, and ensure that they obtain a screen capture (or alternatively a photo of their screen) showing the face of the signator(s) of the documents alongside their photo identification;
- manage risks associated with fraud, identity theft, undue influence, duress and potential lack of capacity by:
  - o Considering whether there are red flags of fraud in the matter;
  - o Assessing whether there is a risk that the client may be subject to undue influence or duress, including observing who else is physically in the room with the client during the execution of documents. If there is such a risk, consider if you are able to assist the client at this time without meeting in person;
  - o Confirming your client's understanding about the documents they are executing and provide adequate opportunity for them to ask questions during the meeting carried out by electronic means.
  - o Being alert to the fact that persons may attempt to use the execution of documents by electronic means as an opportunity to commit fraud or other illegal acts.
- amend any jurats as required to include the words "via electronic means" or other appropriate details to ensure that users of the signed document are fully aware of the manner in which the document was signed.
- prepare a written record, in Form PD1 prescribed by the Law Society of Saskatchewan for placement on the client file, detailing how the above noted risks associated with the execution of documents by electronic means were addressed.

Lawyers continue to be required to adhere to all Law Society of Saskatchewan Rules governing client identification and verification.

*Last updated: March 26, 2020*

<https://www.lawsociety.sk.ca/media/395848/remote-signing-practice-directive-march-26-2020.docx>



## **OC 127/2020 - The Land Titles (Public Emergencies) Amendment Regulations, 2020 (part)**

### **Witness process**

**27.2(1)** Subject to subsection (2), if a lawyer acts as a witness for the purposes of clause 27.1(1)(b), the lawyer must do all of the following:

- (a) confirm that the person executing the application:
  - (i) is personally known to the lawyer or be satisfied that the person is who the person purports to be;
  - (ii) is the person named in the application and whose name is subscribed to the application; and
  - (iii) is 18 years of age or more;
- (b) observe the person signing the application;
- (c) require the person signing the application to immediately transmit to the lawyer, by electronic means, an image of the authorization signed by the person;
- (d) print the signed authorization and sign the authorization as the witness;
- (e) identify under the lawyer's signature the lawyer's:
  - (i) name; and
  - (ii) status as a lawyer in Saskatchewan.

(2) The acts done pursuant to subsection (1) must all be done in a single session during which the lawyer is able, at all times, to see and hear the person signing the application either:

- (a) in person; or
- (b) by any electronic means.

(3) On completion of the acts mentioned in subsection (1), the lawyer must electronically transmit a copy of the witnessed authorization to the registered owner or interest holder.

### **Compliance with Law Society requirements**

**27.3** A lawyer performing the responsibilities set out in clause 27.1(1)(b) and section 27.2 must also comply with any requirement established by the Law Society of Saskatchewan with respect to this type of witnessing.

### **Certificate of lawyer**

**27.4** An application authorized and witnessed pursuant to clause 27.1(1)(b) and sections 27.2 and 27.3 must include a certificate of the lawyer who witnessed the application certifying that:

- (a) clause 27.1(1)(b) and sections 27.2 and 27.3 have been complied with; and
- (b) the lawyer:
  - (i) has maintained in the lawyer's files the signed authorization with the signature of the lawyer as witness; and
  - (ii) has requested that the registered owner or interest holder provide to the lawyer the authorization containing the owner's or interest holder's original signature.

*Filed: March 26, 2020*

<https://publications.saskatchewan.ca/api/v1/products/104559/formats/116445/download>



## 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 showing the face of the signator(s) of the documents alongside their photo identification and save the file.

### **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.
- 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 witnessed.



- 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.
- Lawyer to print documents and sign any jurats or witness attestations.
- Electronically transmit a copy of any witnessed authorization to the registered owner or interest holder.
- Complete the following forms
  - Certificate of Lawyer (as per the Registrar of Titles).
  - Form PD1 – Declaration of Lawyer (as per the Law Society of Saskatchewan).

#### **END OF MEETING**

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

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