

BY HER EXCELLENCY
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PLANTATIONS

EFFECTIVE AS OF APRIL 3, 2020

**STANDARDS OF CONDUCT FOR NOTARIES PUBLIC IN THE
STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS**

Section 1: Applicability

- (a) All notaries public should adhere to these Standards of Conduct for Notaries Public in the State of Rhode Island and Providence Plantations (“Standards of Conduct”). These Standards of Conduct will be considered by the Governor in the appointment, reappointment and removal of notaries public from their commissions.
- (b) Nothing in these Standards of Conduct supersedes the provisions of any court rule, including court forms; the Rhode Island General Laws, including but not limited to Title 42, Chapter 30.1 (the “Uniform Law on Notarial Act”); any Federal statute; or any regulation adopted pursuant to the Rhode Island General Laws or Federal statute.
- (c) Section 8 of these Standards of Conduct shall be applicable as of the effective date first stated above until the termination of the state of emergency due to COVID-19 as declared by the Governor pursuant to Executive Order 20-02. The application of Section 2(j) shall be suspended while Section 8 is in effect.

Section 2: Definitions

Terms used but not otherwise defined below shall have the meanings ascribed to them in Section 42-30.1-2 of the Rhode Island General Laws.

- (a) “**Affirmation**” means a notarial act, or part thereof, that is legally equivalent to an oath in which an individual, at a single time and place:
 - (1) appears in person before the notary public;
 - (2) is personally known to the notary public or is identified by the notary through satisfactory evidence of the identity; and

- (3) makes a vow of truthfulness or fidelity under the pains and penalties of perjury based on personal honor and without invoking a deity or using any form of the word "swear."
- (b) **“Commission”** means both to empower to perform notarial acts and the written evidence of authority to perform those acts.
- (c) **“Copy certification”** means a notarial act in which a notary public:
 - (1) is presented with a document that is neither a vital record, a public record nor publicly recordable; and
 - (2) copies or supervises the copying of the document using a photographic or electronic copying process; or
 - (3) compares the document to the copy; and
 - (4) determines that the copy is accurate and complete; and
 - (5) applies an acknowledgment to the document owner's signature attesting to the above listed facts.
- (d) **“Credible witness”** means an honest, reliable, and impartial person who personally knows an individual appearing before a notary public and takes an oath or affirmation from the notary to vouch for that individual's identity.
- (e) **“Journal of notarial acts” or “journal”** means a permanently bound book that creates and preserves a chronological record of notarizations performed by a notary public.
- (f) **“Jurat”** means a notarial act in which an individual, at a single time and place:
 - (1) appears in person before the notary public and presents a document;
 - (2) is personally known to the notary public or is identified by the notary through satisfactory evidence of the identity;
 - (3) signs the document in the presence of the notary public; and
 - (4) takes an oath or affirmation before the notary public vouching for the truthfulness or accuracy of the signed document.
- (g) **“Notarization”** has the same meaning ascribed to “notarial act” in Section 42-30.1-2 of the Rhode Island General Laws.
- (h) **“Notarial Certificate” and “Certificate”** mean the part of, or an attachment to, a notarized document that is completed by the notary public, bears the notary's signature and seal and states the facts attested by the notary in a particular notarization.
- (i) **“Oath”** means a notarial act, or part thereof, which is legally equivalent to an affirmation, and in

which an individual, at a single time and place:

- (1) appears in person before the notary public;
 - (2) is personally known to the notary public or is identified by the notary through satisfactory evidence of the identity; and
 - (3) makes a vow of truthfulness or fidelity under the pains and penalties of perjury by invoking a deity or using any form of the word "swear."
- (j) **“Personal appearance”, “in person” or “appear personally”** means that the principal and the notary public are physically close enough to see, hear, communicate with and hand identification documents to each other.
- (k) **“Personal knowledge of the identity”** as used in the Uniform Law on Notarial Acts means familiarity with an individual resulting from interactions with that individual over a period of time sufficient to dispel any reasonable uncertainty that the individual has the identity claimed.
- (l) **“Principal”** means a person whose signature is notarized, or a person other than a credible witness, taking an oath or affirmation from the notary public.
- (m) **“Regular place of work or business”** means a stationary office or workspace where one spends most of one's working or business hours.
- (n) **“Satisfactory evidence of the identity”** has the meaning ascribed to it in Section 42-30.1-6(b) of the Rhode Island General Laws.
- (o) **“Signature witnessing”** means a notarial act in which an individual, at a single time and place:
- (1) appears in person before the notary public and presents a document;
 - (2) is personally known to the notary public or is identified by the notary through satisfactory evidence of the identity; and
 - (3) signs the document in the presence of the notary public.

Section 3: Scope and Description of Duties

- (a) A notary public may perform the following notarial acts: acknowledgments, oaths and affirmations, jurats, signature witness, copy certifications, issuance of subpoenas and deposition of witnesses.
- (b) In completing a notarial act, a notary public should sign his or her name exactly as it appears on the notary's commission, write the title "Notary Public" after his or her signature, list his or her commission expiration date and list his or her notary identification number. Applicants must use their full first and last name (full middle name or middle initial is optional) or first initial, full middle and last name on the application. Neither initials alone nor a nickname will be accepted.

Whatever form the applicant's name is used on the application must be consistently used throughout the duration of the applicant's notary commission when performing notarial acts, e.g., a notary commissioned as John R. Doe may not perform notarial acts as John Roe Doe or J. Roe Doe.

- (c) A notary public may charge a fee not to exceed \$5 per document/notarization; travel fees must be equal to or less than the then effective federal mileage rate as issued by the Internal Revenue Service. All fees must be posted in a conspicuous place in the notary's place of business or upon request, fees must be disclosed to any person utilizing the services of the notary.
- (d) A notary public has neither the duty nor the authority to investigate, ascertain or attest to the lawfulness, propriety, accuracy or truthfulness of a document or transaction involving a notarial act.
- (e) The Rhode Island General Laws require the use of a notary stamp when notarizing documents. The stamp shall be in round (circular) or rectangular form with an edge border surrounding the required elements of the stamp.

The stamp **must** include the notary's name exactly as it appears on his or her commission and the words "NOTARY PUBLIC" and "RHODE ISLAND." The stamp **may** also include the notary's identification number and commission expiration date.

A notary's stamp is the exclusive property of the notary; it may not be used by any other person. This section shall not preclude a notary who is a member of the General Assembly in the State of Rhode Island from notarizing a document without the use of the stamp on the floor of the General Assembly during open session.

- (f) Each notary public should develop and adhere to his or her own "standard operating procedure" when notarizing instruments. This will benefit the notary if he or she is ever required to testify as how a particular instrument was notarized. A notary may find the use of a "journal of notarial acts" to be a beneficial tool. Notaries electing to use a "journal of notarial acts" should as a matter of good practice record the following:
 - (1) the date and time of the notarial act;
 - (2) the type and description of the notarial act and document notarized;
 - (3) the signature, printed name and address of each principal and witness;
 - (4) description of the satisfactory evidence of the identity of each person;
 - (5) the fee, if any, charged for the notarial act; and
 - (6) the circumstances for not completing a notarial act.

A notary public should not record a Social Security or credit card number in the journal.

The keeping of a journal is recommended as best practice but not required. These Standards of Conduct shall not be construed to impair or infringe in any way on the attorney-client privilege

or the attorney work product doctrine.

(g) Certificates for Notarial Acts

- (i) A notary public should take the acknowledgment of the signature or mark of persons acknowledging for themselves or in any representative capacity by using substantially the following form:

State of _____
County of _____

On this _____ day of _____, 20 __, before me, the undersigned notary public, personally appeared (name of document signer), and provided to me, through satisfactory evidence of the identification, which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged that s/he signed the document voluntarily for its stated purpose.

Notary Public
[Typed or Printed Notary Public Name]
[Notary ID Number]

My commission expires: _____

- (ii) A notary public should use a jurat certificate in substantially the following form in notarizing a signature or mark on an affidavit or other sworn or affirmed written declaration:

State of _____
County of _____

Subscribed to and sworn to (or affirmed) before me on this _____ day of _____, 20 __, by (name of document signer), who proved to me through satisfactory evidence of the identification to be the person who appeared before me.

Notary Public
[Typed or Printed Notary Public Name]
[Notary ID Number]

My commission expires: _____

- (iii) A notary public should witness a signature in substantially the following form in notarizing a signature or mark to confirm that it was affixed in the notary's presence without administration of an oath or affirmation:

State of _____
County of _____

On this _____ day of _____, 20 __, before me, the undersigned notary public, personally

appeared (name of document signer), and proved through satisfactory evidence of identification, to be the person whose name is signed on document in my presence.

Notary Public
[Typed or Printed Notary Public Name]
[Notary ID Number]

My Commission expires: _____

(iv) A notary public should certify a copy by using substantially the following form:

State of _____
County of _____

On this ___ day of _____, 20___, I certify that the document is a true, exact, complete, and unaltered copy made by me of _____ (description of the document), presented to me by _____, and to the best of my knowledge the copied document is neither a vital record nor a publicly recordable document that may be available as a certified copy from an official source other than a notary public.

Notary Public
[Typed or Printed Notary Public Name]
[Notary ID Number]

My Commission expires: _____

(h) A notary public may certify the affixation of a signature by mark on a document presented for notarization if:

- (1) the principal affixes the mark in the presence of the notary public and of 2 witnesses unaffected by the document;
- (2) both witnesses sign their own names beside the mark;
- (3) the notary public writes below the mark: "Mark affixed by (name of signer by mark) in the presence of (names and addresses of witnesses) and undersigned notary; and
- (4) the notary public notarizes the signature by mark through an acknowledgment, jurat or signature witnessing.

(i) The notary public may sign the name of a principal who is physically unable to sign or make a mark on a document presented for notarization if:

- (1) the principal directs the notary public to do so in the presence of 2 witnesses who are unaffected by the document;
- (2) the principal does not have a demeanor that causes the notary public to have a

compelling doubt about whether the principal knows the consequences of the transaction requiring the notarial act;

- (3) in the notary public's judgment, the principal is acting of his or her own free will;
 - (4) the notary public signs the principal's name in the presence of the principal and the witnesses;
 - (5) both witnesses sign their own names beside the signature;
 - (6) the notary public writes below the signature: "Signature affixed by notary public in the presence of (names and addresses of principal and 2 witnesses);" and
 - (7) the notary public notarizes the signature through an acknowledgment, jurat or signature witnessing.
- (j) This section does not require a notary public to use the forms set forth above if the form of acknowledgment, jurat, signature witnessing or copy certification of a document contains an alternative form from another State if the document is to be filed or recorded in, or governed by the laws of that other State.
- (k) This section does not require a notary public to use the forms set forth above if the form of acknowledgment, jurat, signature witnessing or copy certification appears on a printed form that contains an express prohibition against altering that form.
- (l) The forms of certificates for notarial acts set forth in this section are not intended to replace or supersede the existing forms commonly used in conveyances of real estate or in other legal documents within the State of Rhode Island, and in particular, those forms of certificates for notarial acts approved by any committee of the Rhode Island Bar Association.
- (m) Requirements for electronic notarizations:
- (1) A notary public may perform electronic notarizations with software approved by the Rhode Island Department of State pursuant to Section 42-30.1-14 of the Rhode Island General Laws. The notary must register and provide a sample of the notary's signature and official electronic stamp in addition to the eNotary capability they intend to use with the Rhode Island Department of State before performing any notary act.
 - (2) All requirements and elements of paper-based notarization apply to electronic notarizations.
 - (3) The liability, sanctions, and remedies for the improper performance of electronic notarial acts are the same as described and provided by law for the improper performance of non-electronic notarial acts.

Section 4: Prohibited Acts

- (a) A notary public should not perform a notarial act if:
- (1) the document presented for a certification is a vital record, a public record or a publicly

recorded document that is available as a certified copy from an official source other than a notary public;

(2) the notary public is a party to or is named in the document that is to be notarized, except that a notary may notarize a document if the notary is named in the document for the sole purpose of receiving notices relating to the document and except that a notary who is licensed as an attorney in the State of Rhode Island and is named as an executor, trustee or in any fiduciary capacity in a document, or employees of such attorney, may perform notarial acts concerning such document;

(3) the notary public will receive as a direct result of the notarial act any commission, fee, advantage, right, title, interest, cash, property or other consideration exceeding in value the fees set forth in these Standards of Conduct or has any financial interest in the subject matter of the document. This section shall not preclude a notary who is licensed as an attorney in the State of Rhode Island or any employee of such attorney where the attorney receives a legal fee for professional legal services rendered in connection with such document; the notary public is a spouse, domestic partner, parent, guardian, child or sibling of the principal, including in-law, step, or half relatives, except where such persons witness a will or other legal document prepared by the notary who is an attorney licensed in the State of Rhode Island.

(b) A notary public should not refuse to perform a notarial act solely based on the principal's race, advanced age, gender, sexual orientation, religion, national origin, health or disability.

(c) A notary public should not influence a person either to enter into or avoid a transaction involving a notarial act by the notary, except that the notary may provide advice relating to that transaction if the notary is duly qualified, trained or experienced in a particular industry or professional field.

(d) A notary public should not execute a certificate containing information known or believed by the notary to be false.

(e) A notary public should not affix an official signature or stamp on a notarial certificate that is incomplete.

(f) A notary public should not provide or send a signed or stamped notarial certificate to another person with the understanding that it will be completed or attached to a document outside of the notary's presence.

(1) in connection with a commercial, non-consumer transaction, a notary public may deliver a signed, stamped or signed and stamped notarial certificate to an attorney with the understanding that:

(i) the attorney will attach the certificate to a document outside of the notary's presence; and

(ii) the attorney will hold such notarial certificate in escrow; and

(iii) the attorney informs the notary that the attorney will obtain the approval of the principal, or principals, involved before attaching the certificate to the document.

- (g) A notary public should not notarize a signature on a blank or incomplete document, except in connection with a commercial, non-consumer transaction, a notary may deliver a signed, stamped, or signed and stamped notarial certificate to an attorney with the understanding that:
 - (1) the attorney will attach the certificate to a document outside of the notary's presence; and
 - (2) the attorney will hold such notarial certificate in escrow; and
 - (3) the attorney informs the notary that the attorney will obtain the approval of the principal or principals involved before attaching the certificate to the document.
- (h) A notary public should not perform any official act with the intent to deceive or defraud.
- (i) A notary public should not influence a person either to enter into or avoid a transaction involving a notarial act by the notary, except that the notary may advise against a transaction if the notary knows or has good reason to believe that the associated transaction is unlawful.

Section 5: Change of Name or Address and Loss of Stamp.

Within 10 days after the change of a notary public's residence or name, the notary should file with the Rhode Island Department of State, Notary Public Section, a Change of Address or Change of Name form. The required forms can be obtained from the Notary Public Section, 148 W. River Street, Providence, RI 02904 or www.sos.ri.gov).

Any notary public whose stamp is lost, misplaced, destroyed, broken, damaged, stolen or otherwise unworkable should immediately deliver written notice of that fact to the Rhode Island Department of State. If and when the notary's stamp is recovered or replaced, written notice of the recovery or replacement should also be delivered immediately to the Rhode Island Department of State, Notary Division, 148 West River Street, Providence, RI 02904.

Section 6: Notification of Resignation or Death

- (a) A notary public who ceases to meet the statutory qualifications or who becomes permanently unable to perform his or her notarial duties, should resign his or her commission.
- (b) A notary public who resigns his or her commission should send to the Rhode Island Department of State by any means that provides a tangible receipt or acknowledgment, including certified mail and electronic transmission, a signed notice indicating the effective date of the resignation.
- (c) If a notary public dies during the term of his or her commission, the notary's personal representative, as soon as reasonably practicable after death, should notify the Rhode Island Department of State of the death in writing by any means that provides a tangible receipt or acknowledgment, including certified mail and electronic transmission. The notary's personal representative should also comply with Section 7 of this document.

Section 7: Duties at the End of the Commission

When a notary public commission expires, is resigned, or is revoked, the notary should:

- (a) As soon as reasonably practicable, destroy or deface all notary stamps so that they may not be used: and

- (b) If the notary public elected to use a "journal of notarial acts" as a matter of good practice, the notary should retain the journal and records for seven years after the date of expiration, resignation or revocation.

Section 8: Authority to Perform Secure Remote Online Notarization

(a) Supplemental Definitions

- (1) **“Identity proofing”** means a process or service by which a third party provides a notary public with a means to verify the identity of a remotely located individual by a review of personal information from public or private data sources
- (2) **“Personal appearance”, “in person” or “appear personally”** means that the principal and the notary public can communicate simultaneously by sight and sound through an electronic device or process at the time of the notarization; or that the principal and notary public are physically close enough to see, hear, communicate with each other at the time of notarization.
- (3) **“Remotely Located Individual”** means an individual who is not in the physical presence of the notary public.

- (b) In order to provide Rhode Island citizens and businesses with a secure and safe method by which to execute important legal documents, and to promote and secure the safety and protection of the people of Rhode Island, a notary public commissioned under Rhode Island laws may perform a notarization for a remotely located individual not in the physical presence of the notary if:

- (1) the remotely located individual and the notary public can communicate simultaneously by sight and sound through an electronic device or process at the time of the notarization; and
- (2) the notary public-
 - (i) has reasonably identified the remotely located individual by one or more of the following-
 - (a) has obtained satisfactory evidence of identity of the remotely located individual by using at least two different types of identity proofing; or
 - (b) by oath or affirmation from a credible witness who (I) is in the physical presence of either the notary public or the remotely located individual or (II) is able to communicate with the notary public and the remotely located individual simultaneously by sight and sound through an electronic device or process at the time of the notarization, if the credible witness has personal knowledge of the remotely located individual and has been identified by the notary public under Section 8(b)(2)(i)(a) or Section 8(b)(2)(i)(c) of these Standards and Conduct; or
 - (c) the notary public has personal knowledge under R.I. Gen. Laws § 42-30.1-6(a) of the identity of the remotely located individual; and
 - (ii) either directly or through an agent:
 - (a) creates an audio and visual recording of the performance of the notarization; and

- (b) shall retain the audio-visual recording or cause the recording to be retained by a repository designated by or on behalf of the notary public. Unless Rhode Island law requires a different period of retention, the recording must be retained for a period of at least ten (10) years after the recording is made; and
- (iii) for an individual physically located outside the geographic boundaries of the State of Rhode Island-
 - (a) the record-
 - is intended for filing with or relates to a matter before a court, governmental entity, public official, or other entity subject to the jurisdiction of the United States; or
 - involves property located in the territorial jurisdiction of the United States or a transaction substantially connected to the United States; and
 - (b) the notary public has no actual knowledge that the act of making the statement or signing the record is prohibited by the laws of the jurisdiction in which the remotely located individual is physically located.
- (c) Nothing in these Standards of Conduct shall require a notary public commissioned under the laws of the State of Rhode Island to perform a notarization-
 - (1) with respect to an electronic record;
 - (2) for an individual not in the physical presence of the notary public; or
 - (3) using a technology that the notary public has not selected.
- (d) Once signed, the requesting person shall mail the signed copy of the documents to the notary public for certification and execution with the notary's signature and the official stamp.
- (e) The official date and time of the notarization shall be the date and time when the notary public witnesses the signature via the electronic devices that provide the audio/video presence.
- (f) Prior to commencing remote online notarization, a duly commissioned Rhode Island notary public must register with the commissioning agency. The notary must register the capability to notarize remotely before performing any remote online notarial act. When registering, the notary must provide the name of the approved solution provider, an exemplar of the notary's electronic signature and official electronic stamp.

History of Document: Originally endorsed for issuance pursuant to Executive Order 09-08 dated 4/9/09; supplemented pursuant to Executive Order 09-25 dated 10/1/09; amended on 11/18/2009; amended and restated on 1/1/2019; amended and restated on 4/3/2020. All amendments were made pursuant to Executive Order 09-25 dated 10/1/09.