**LEGAL GUIDANCE NOTE FOR CONTROLLED ENTITIES**

**SIGNING DOCUMENTS**

**DURING SOCIAL DISTANCING**

7 May 2020

**Note:** This document has been prepared to provide staff members of Macquarie University’s controlled entities (Controlled Entities) with guidance on how to sign legal documents on behalf of a Controlled Entity during the current social distancing restrictions.

If you have any issues or queries in implementing the below guidance, please contact Legal Services.

<table>
<thead>
<tr>
<th>SIMPLE AGREEMENTS</th>
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<tr>
<td><strong>What is a simple agreement?</strong></td>
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| **Who can sign a simple agreement on behalf of a Controlled Entity?** | A simple agreement (which is not expressed to be a deed) may be signed on behalf of a Controlled Entity by one or more authorised representatives as follows:

- (a) as set out in the Controlled Entity’s Delegations of Authority;
- (b) as set out in the Controlled Entity’s the Constitution;
- (c) as authorised by the Board of the Controlled Entity pursuant to a circular resolution of the Board;
- (d) by two directors or a director and the Company secretary in accordance with s 127 of the Corporations Act 2001 (Cth)*. |
| **Can simple agreements be signed electronically?** | Yes. Simple agreements (which are not expressed to be a deed) can be signed electronically by authorised representatives of the Controlled Entity. During the COVID-19 pandemic (until 6 November 2020), it is also possible for company directors and secretaries to sign an agreement under s 127 of the Corporations Act electronically, provided the requirements set out below are followed. |
| **Special requirements when signing under s 127 of the Corporations Act** | Ordinarily, if a document is signed under s 127 of the Corporations Act, all officers signing on behalf of the Controlled Entity must physically sign the same document. However, the Federal Government recently issued a determination to allow directors and secretaries of companies to sign agreements under s 127 of the Corporations Act on separate paper or electronic copies during the COVID-19 pandemic (until 6 November 2020). To validly rely on this determination:

- (a) the agreement should include a clause stating that a party may sign the document in multiple counterparts;
- (b) the copy, counterpart or electronic communication must include the entire contents of the document; and
- (c) the method used for electronic signing should identify the person, indicate their intention to be bound and be as reliable as appropriate. |
| **What if a simple agreement refers to s 127 of the Corporations Act?** | If a Controlled Entity intends for a simple agreement to be signed by an authorised representative and the signature block refers to s 127 of the |

*Please speak to Legal Services for further assistance with the above.*
Act in the signature block but the agreement is to be signed by an authorised representative?

Corporations Act, it is acceptable to cross out the reference to s 127 as shown in mark-up below.

Executed by MQ Health Pty Ltd by its authorised representatives in accordance with s 127 of the Corporations Act 2001 (Cth)

<table>
<thead>
<tr>
<th>Name of Director/Authorised Representative</th>
<th>Name of Authorised Representative/Director/Secretary</th>
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**Signature**

**Signature**

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**DEEDS**

**What is a deed?**

A deed is a special type of binding commitment to carry out an act. To be valid, documents described as deeds must comply with specific requirements. A deed must be in writing and signed in wet ink by all parties.

**Who can sign a deed on behalf of a Controlled Entity?**

A deed can be signed on behalf of a Controlled Entity as follows:

(a) by an authorised representative under power of attorney; or
(b) by 2 directors or a director and a company secretary in accordance with s 127 of the Corporations Act (see below).

**Can a deed be signed electronically?**

No. Deeds must be signed in wet ink.

**Is a witness required for deeds?**

It depends. If a deed is signed under power of attorney, it must be signed in the presence of a witness. During the CONVID-19 social distancing restrictions, it is possible for an individual to witness a signature via electronic means such as zoom or skype or to insert an electronic or digital signature. If a document is witnessed electronically, the execution block should be amended as indicated in mark-up below.

**SIGNED, SEALED AND DELIVERED**

by [INSERT NAME] in counterparts and witnessed over audio visual link in accordance with clause 2 of Schedule 1 to the Electronic Transactions Regulation 2017 in the presence of:

**What are my options during social distancing?**

The requirements for signing deeds are strict. If you are unable to comply with the requirements set out above, please contact Legal Services for assistance.

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**PROPERTY DOCUMENTS**

**What is a property document?**

Property documents are any documents dealing with land. This includes leases and other real estate documents. Property transactions are
subject to specific signing requirements. These are generally imposed by statute and are required for the purpose of registration.

| Who can sign property documents? | Property documents can be signed on behalf of a Controlled Entity as follows:  
|                                | (a) by an authorised representative under a power of attorney; or  
|                                | (b) by 2 directors or a director and company secretary in accordance with s 127 of the Corporations Act. |

| Can property documents be signed electronically? | No. Property documents must not be signed electronically. |

| What are my options during social distancing? | The requirements for signing property documents are strict. If you are unable to comply with the requirements set out above, please contact Legal Services for assistance. |

**OTHER**

| Are there special requirements for foreign entities? | Yes. Foreign entities must sign documents in accordance with the laws in which the company is incorporated. Please speak to Legal Services for further information. |