

REAL ESTATE ELECTRONIC RECORDING RULES

FOR THE

STATE OF GEORGIA

TO fulfill the Georgia General Assembly’s directive to establish rules for eRecording of land instruments¹,

TO ensure that eRecording of land instruments results in reliable, authentic, adequately preserved records, and

TO provide clear requirements for Clerks in the process of eRecording²,

The Georgia Superior Court Clerks’ Cooperative Authority establishes these Rules.

1. **THE PROCESS**³

The process of eRecording of instruments is designed to closely mirror the recording of paper instruments.

Documents that are to be eRecorded land instruments are created by converting either ink-signed, paper-based original Documents, paper-based Authenticated Records, or Electronic Data Records into Electronic Documents. These Rules define those entities authorized to create such Electronic Documents as: Trusted Users, Submitters and Self-Fileers (the latter of which is intended for those who file Documents just on their own behalf).

Submitters and Trusted Users may (in most circumstances) transmit Electronic Documents directly to a Clerk Portal, or to other Submitters or Trusted Users, as their business practices dictate, for eventual Submission to a Clerk Portal for recording.

Self-Fileers are authorized by these Rules to only create Electronic Documents from Plats, or that to which they themselves are a party.

The entity that finally submits an Electronic Document to a Clerk Portal is defined herein as the “Final Submitter” of that Electronic Document. There will always be one Final Submitter for each Electronic Document.

The following table summarizes the functions authorized by these Rules that the various Participants defined herein can perform on Electronic Documents:

Participant (as defined herein)	Can only Create From:	Can Transmit / Forward when Received From	Can Transmit / Forward (only) to:
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¹ OCGA §44-2-39(a)

² OCGA §44-2-38(1)

³ Comment –The capitalized terms are defined in Section 2

		(only):	
Trusted User **	Ink-signed, paper-based originals Paper-based Authenticated Records Their own Electronic Data Records, or those of other Trusted Users	Trusted Users Submitters Self-Filers	Trusted Users Submitters Self-Filers Clerks
Submitter **	Electronic Data Records from Trusted Users	Trusted Users Submitters Self-Filers	Trusted Users Submitters Self-Filers Clerks
Self-Filer *	Ink-signed, paper-based originals Paper-based Authenticated Records	Trusted Users Submitters Self-Filers	Trusted Users Submitters Self-Filers Clerks

* Self-Filers must be a party to the document unless the Electronic Document is a Plat. Self-Filer assumes full responsibility for the content of the Electronic Document and compliance with the Technical Specifications herein. The source of Electronic Documents filed by Self-Filers is not governed by these Rules.

** If a Trusted User or Submitter is a party to an Electronic Document, then they are allowed the functions to create Electronic Documents like a Self-Filer as long as they are also the Final Submitter of any such Electronic Document that were not originated from a Trusted User.

Central to the eRecording process is the Clerk who performs the recording functions, but in regard to eRecording, with the exception of Plats, it is the Clerk’s option to accept Documents in Electronic format. The Clerk examines the Electronic Document to verify that it is a recordable instrument under Georgia Law. If recordable, the Clerk sends an Acceptance message and a receipt to the Final Submitter for delivery to the Participant who originated the Electronic Document. The Clerk then processes and indexes the Electronic Document as it would a paper-based Document under Georgia law.

2. **DEFINITIONS**

a) “Acceptance” or “Accepted” or “Accepts” means declaration by a Clerk that a Submission shall be filed and recorded in the official land records of the Clerk.

b) “Authenticated Record” means information authenticated or certified by a custodian that establishes a legal right, and is presented in a format authorized by Georgia Law for recording with a Clerk. (This term is used to differentiate Documents that are neither ink-signed, originals, nor Electronic Data Records.)

- c) “Authority” means the Georgia Superior Court Clerks’ Cooperative Authority.
- d) “Clerk” means a Clerk of Superior Court in the State of Georgia.
- e) “Document” means information that is: i) inscribed on a tangible medium or that is stored in an Electronic or paper medium and is retrievable in perceivable form; and ii) intended to be recorded in the official land records of a Clerk.
- f) “Electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.
- g) “Electronic Data Record” means Electronic data that is the source of Electronic Documents where there is no paper-based, original Document.
- h) “Electronic Document” means a Document in Electronic form that either has, or is intended to be, Submitted to a Clerk for filing in the official county land records.
- i) “Filing Date” means the date and time of a Submission that is subsequently Accepted⁴.
- j) “Final Submitter” means a Participant who Submits a particular Electronic Document to a Clerk’s Portal. The Final Submitter can be a Trusted User, a Submitter, or a Self-Filer. (An Electronic Document may be transmitted between certain, multiple, Participants, as allowed herein, but there is only one Final Submitter for each Submission.)
- k) “Legal Entity” means an association, corporation, partnership, proprietorship, trust, government unit or individual that has legal standing in the eyes of law. A legal entity has legal capacity to enter into agreements or contracts, assume obligations, incur and pay debts, sue and be sued in its own right, and to be held responsible for its actions.
- l) “Participant” means a Trusted User, Submitter, or Self-Filer; the entities authorized by these Rules to originate, create or transmit Electronic Documents to other Participants and to a Clerk’s Portal, as dictated by these Rules.
- m) “ParticipantID” means the unique identification number or value assigned to each Participant by the Authority and maintained in the Registry.
- n) “Plat” means a map or plat as defined in O.C.G.A. 15-6-67.
- o) “Portal” means the system implemented or designated by the Clerk to interface with Participants for the receipt, filing, and recording of Electronic Documents into the official land records of the Clerk.
- p) “Registry” means the official list of Participants and their associated contact information and ParticipantID as maintained by the Authority.
- q) “Rejection or Rejected” means declaration by a Clerk that a Submission shall NOT be filed or recorded in the official land records of the Clerk.

⁴ This value is intended to be used to fulfill legal requirements for reporting filing date and time in official land records.

r) “Self-Filer” means a Participant who is allowed (by these Rules) to create Electronic Documents from sources defined in paragraph 3.c; and may forward Electronic Documents (created by themselves or received from other Participants) to other Participants, or Submit them directly to a Clerk; but is restricted by only being allowed to perform such operations on Electronic Documents if they themselves are a party to the document, or if the Electronic Document is a Plat.

s) “Rules” shall mean these Real Estate Electronic Recording Rules for the State of Georgia, as amended from time to time.

t) “Submission” or “Submit” means the successful receipt by a Clerk (or their designated Portal or agent) of an Electronic Document from a Participant.

u) “Submission Time” means the date and time that a Submission is completed; as recorded by the Clerk’s Portal.

v) “Submitter” means a Participant who is allowed (by these Rules) to forward Electronic Documents which originate from Trusted Users or other Submitters or Self Filers for Plats, to or toward a Portal. Submitters may also create Electronic Documents from Electronic Data Records from Trusted Users. (A Submitter may also inherit the allowed functions and restrictions of a Self-Filer for Electronic Documents that they themselves are a party to and for Plats.)

w) “Technical Specifications” means the specifications in Appendix “A,” and are intended to specify (among other things) the allowed format, levels of recording supported, transmission protocols, and security requirements of the electronic records required by these Rules.

x) “Trusted User” means a Participant who is allowed (by these Rules) to create Electronic Documents from sources defined in paragraph 3.c; and may forward Electronic Documents (created by themselves or received from other Participants) to other Participants, or Submit them directly to a Clerk. “

3. **GENERAL**

The following rules apply to the process of eRecording:

- a) **Voluntary**. With the exception of Plats, eRecording is a recording process that is voluntary for both Clerks and public filers, and is an additional recording process to paper-based recording.
- b) **Participants**. Only Trusted Users, Submitters, and Self-Filers can create and/or Submit Electronic Documents as described and restricted per these Rules. All Participants are required to be a Legal Entity and to obtain a ParticipantID from the Authority and be included in the Registry. At a minimum, Participants must meet the following qualifications:

Trusted Users must be either:

- i) a Georgia licensed title insurance agent or agency,
- ii) a Georgia licensed attorney at law,
- iii) a federal or state chartered bank or other financial institution (as determined by the Authority),
- iv) a servicer of federally related mortgages as defined in 24 CFR §3500.2, or
- v) a Federal, state, county or local government or a department and/or agency thereof, or
- vi) a Land Surveyor with a Land Surveyor license in good standing with the “Georgia Board of Professional Engineers and Land Surveyors”.

Submitters must be verified and approved by the Authority.

Self Filers must be verified and approved by the Authority AND with the exception for Plats, are required to be a party to any Electronic Document they create or Submit. The source of Electronic Documents filed by Self-Filers is not governed by these Rules.

In addition, except for documents legislatively mandated to be electronically filed, individual Clerks have sole discretion as to which Participants from whom they choose to Accept Submissions. Clerks may only accept Submissions from Participants in good standing on the Authority Participant Registry. The Authority may revoke such good standing status of any Participant in the Registry, or require Participants to perform additional steps to maintain good standing status such as, but not limited to, the agreement to updated terms, or periodic expiration and renewals.

A person or entity is not allowed to have multiple ParticipantIDs, nor is a Participant allowed to be more than one Participant type (Self-Filer, Trusted User, or Submitter).

- c) Recordable Electronic Documents. **At this current time, and until further rules are developed, the only Electronic Documents that may be filed with Clerks must be either:**
- i) Scanned images of ink-signed, paper-based originals,**
 - ii) Scanned images of paper-based Authenticated Records, or,**
 - iii) Electronic Data Records that have been converted into image representations of simulated paper/paged Documents (as determined and allowed by the Authority).**

All eRecorded Maps and Plats are to be prepared in conformance with OCGA §15-6-67.

- d) Representative. All Participants shall have one individual for the purposes of communication, problem resolution and other matters. For human Participants, the Representative shall be the Participant his/herself. Non-human Participants shall appoint a Representative who can legally represent the Participant. All Participants shall designate one official street address, telephone number and email address of the Representative for the purposes of official notices. This information is required to be kept current by each Participant in the Authority Registry and as such, available to all Clerks.
- e) Support. Each Participant shall operate and maintain at its cost its own eRecording hardware and software.
- f) Security. Each Participant shall ensure that all security measures and credentials implemented are protected and not disclosed. Each Participant shall immediately notify other Participants and Clerks of any adverse incident affecting the security of Electronic Documents that they received from or transmitted to.
- g) Records. Each Participant shall maintain a record audit trail of all activity, available to other Participants who originated, created, or received an Electronic Document, at their request, to resolve issues or investigate potential fraudulent activity. The record audit trail must contain at least the following: identification of the Participants, submitted content at point of receipt from source, submitted content at point of transmission to another Participant or Clerk, dates and times of receipts and transmissions, and amounts for any filing fees paid to Clerks. Each Participant shall make its records regarding Submissions available at no cost to the Clerk or Authority.

- h) Hold Harmless. All Participants shall hold the Authority and all Clerks harmless from any and all liability in connection with these Rules or eRecording.
- i) Other Laws. These Rules do not change or diminish existing laws. All parties shall comply with all other applicable federal, state and local laws.
- j) Technical Specifications. All Participants and Clerks shall comply with the technical standards outlined in Appendix “A,” which constitute the Technical Specifications, as amended from time to time.
- k) Governance. All agreements made regarding electronic recording of county land records in Georgia will be governed by Georgia Law and subject to these Rules, which may be changed from time to time with or without notice.
- l) Agreement. Participants shall be required to agree to the terms identified in Appendix “B” (as may change from time to time) upon application of for a ParticipantID.
- m) Technical Requirements. Participants will transmit Electronic Documents to other Participants or Clerks in compliance with the Technical Specifications.
- n) Payment. Final Submitter will pay all recording fees, transfer taxes and/or intangible taxes as may be ultimately required by the Clerk to Accept a Submission.
- o) Participant Identification. Upon approval by the Authority, Participants will be assigned a ParticipantID by the Authority which shall be included in all Submissions of Electronic Documents that a Participant has either originated, created, forwarded to other Participants or Submitted to a Clerk. ParticipantIDs shall be recorded by the Clerk on all Electronic Documents Accepted by the Clerk.

4. **THE AUTHORITY**

- a) Portal Services. The Authority may, but is not required to, operate an electronic Portal service for use by Clerks in the State of Georgia. In regard to Plats, the Authority is required to operate an electronic Portal service for use by Clerks in the State of Georgia.
- b) Assignment of ParticipantIDs. The Authority, and only the Authority or its agent, shall assign one and only one ParticipantID (a unique single identifier) to each Participant, and each Participant must be a Legal Entity. Once a ParticipantID has been assigned it can never be assigned to another entity. Only Trusted Users, Self-Filers, and Submitters with an Authority issued ParticipantID in good standing may Participate in eRecording of land records.
- c) Registry. The Authority will maintain and make available a Registry containing names, ParticipantIDs, addresses, phone numbers and email addresses of approved Participants.
- d) Verification. The Authority shall verify eligibility and identity of applicants to become Participants in eRecording.

5. **CLERKS**

- a) Clerks may only Accept Submissions containing Electronic Documents that were:
- i. Submitted to them by Trusted Users, Submitters, and Self-Filers (if the Self-Filer is a party to the Document or if the Document is a Plat) who are in good standing in the Authority Registry, with an assigned ParticipantID.
 - ii. Identified to have been originated by a Trusted User (or by a Self-Filer or Submitter if they are a party to the document, or the Document is a Plat) who is in good standing in the Authority Registry, with an assigned ParticipantID.
 - iii. Identified to have been transmitted only to (through) Participants who are in good standing in the Authority Registry, with an assigned ParticipantID.

Accordingly, if a Participant is a Self-Filer, the Clerk must confirm that the Self-Filer is a party to the Electronic Document, unless the Electronic Document is a Plat.

Good standing status with the Authority Registry must be verified by the Authority, upon request by the Clerk (via method determined by the Authority), of each Participant identified to have been associated with an Electronic Document. To account for changes in a Participant's good standing status, such request from the Clerk, and verification by the Authority, must be made between the Submission Time of the Electronic Document, and any Acceptance of it by the Clerk. Clerk shall not Accept an Electronic Document if they are made aware that any Participant associated with it fails to have such good standing status.

The identification of Participants associated with an Electronic Document is to be done in accordance with specifications determined by the Clerk (or their Portal). But in all cases, the Clerk (or their Portal) specifications must allow for the identification of all Participants that have received or transmitted the Electronic Document, and the order or path of the Electronic Document as transmitted among the Participants.

- b) Identification. The Clerk shall employ a "filed" stamp or marking to be electronically placed on each recorded Electronic Document containing the ParticipantID of the Final Submitter of the Electronic Document and the ParticipantID of *every* Participant identified in the Submission to have originated or created the Electronic Document, or forwarded it to another Participant.
- c) Notice. For each Acceptance made by Clerk, the Clerk shall promptly provide the Final Submitter of each Electronic Document with (at a minimum): notice of the Acceptance, identification of the Submission, a receipt for monies paid, the Filing Date, and the specific location where the Electronic Document is recorded in the official county land records (typically a docket, book, and page.)

For each Rejection made by Clerk, the Clerk shall promptly provide the Final Submitter with (at a minimum): notice of the Rejection, identification of the Submission, and an enumeration of the reasons for such Rejection.

Such notice may be performed via the Clerk's Portal.

d) Processing Submissions.

- i. For every Submission, the Clerk shall be responsible for performing either an Acceptance or Rejection, unless the Final Submitter has revoked their Submission before any such Acceptance or Rejection via a method provided for and approved by the Clerk. The Clerk shall assure that all Accepted Electronic Documents are filed and recorded in, and shall be considered part of, the official land records of the county of the Clerk.
- ii. As with recorded paper-based Documents, Electronic Documents shall be merged and accounted for in the “valid date range” or “good through date” of the Clerk’s official records and indexes based on their Filing Date. As such, a Clerk may not publically specify a “good from / good through date” range for their official records until all Submissions transmitted to the Clerk in that time period are Accepted or Rejected, and the Acceptances included in the records.
- iii. Clerks shall be required to index paper and Electronic documents in accordance with the Authority’s “Indexing Standards for Real and Personal Property Records for the State of Georgia”, and for transmitting paper and Electronic Documents and index data to the Authority for participation in the state-wide uniform automated information system for real and personal property records per OCGA § 15-6-61(15). The Clerk shall be responsible for transmitting such Electronic Documents in the form and specifications specified by the Authority.
- iv. Clerks shall have the same requirement to protect and preserve any and all Electronic Documents as may exist for paper-based records.

e) Fees. The Clerk will charge for eRecording the applicable recording fees and taxes that are provided by Georgia law to record such instruments and will provide a means for such fees and taxes to be paid electronically.

f) System. The Clerk shall use an Electronic Recording System and Portal to receive and process Submissions that together have the following capabilities:

- i. Uniquely identify (for tracking purposes) every Submission, and record the Submission Time of every Submission (for future use as the Filing Date if the Submission is subsequently Accepted.)
- ii. Identify the Participants associated with every Submission.
- iii. Mark electronically each Electronic Document in an accepted Submission with the following information: Filing Date, ParticipantID of the Final Submitter, the ParticipantID of all other Participants of the Electronic Document, Recording Fees paid, location of the Electronic Document as recorded in the official county records (typically a docket, book, and page), Clerk’s Name, and County Name.
- iv. Clearly indicate to the Final Submitter (before they initiate the Submission process) that the contents of any Submission are irrevocably subject to being filed and recorded as public record in the official land records of the county of the Clerk.

- v. Provide notice to the Final Submitter of the receipt, Acceptance, and Rejection of each of their Submissions. Such notice is to uniquely identify the Submission and its Submission Time.
 - vi. Provide Final Submitters a method to associate Submissions that have not yet been Accepted or Rejected into a group or package; and ensure that the Rejection of any Submission within a group results in the automatic Rejection of all Submissions of the group⁵.
- g) Other Agreements. The Clerk may enter into any agreement not in conflict with these Rules with third parties which provide services related to the processing of Submissions.
 - h) Portal Selection. The Clerk must use the Portal provided by the Authority for Plats and may choose to use additional Portal(s) for Plats. The Clerk may choose the Portal provided by the Authority and/or other Portal(s) for other types of documents. With the exception of the Authority Portal to be used for Plats, any Portal must comply with all the requirements of these Rules. The entity providing Portal services may charge reasonable fees associated with its use.

6. **SUBMITTERS**

- a) Required Verification. The Submitter shall not forward any Submission from another Participant without first verifying the ParticipantID of the source.
- b) Communications. The Submitter shall forward to the Participant from whom it has received an Electronic Document, all communications it receives from the Clerk regarding the Submission of that Electronic Document.
- c) Other. Submitter shall abide by other requirements specified of Submitters in these Rules.

7. **TRUSTED USERS**

- a) Trusted User. The fidelity of the Trusted User is essential to maintaining the integrity of the land records kept under the care of the Clerk. With the exception of Plats, only original ink-signed, paper-based Documents, Authenticated Records, or Electronic Data Records in the custody of a Trusted User, shall be used to create Electronic Documents. The Trusted User shall be diligent to ensure that ink-signed, paper-based Documents, Authenticated Records or Electronic Data Records offered to be included in Submissions have been checked for errors, omissions, scanning defects, illegible areas, and other deficiencies that would affect the Clerk's ability to record such Documents and the public notice to be created thereby.
- b) Marking Filing Information. Upon receipt of notification of the Clerk's Acceptance of an Electronic Document created or originated by a Trusted User, the Trusted User shall mark the filing information on the original paper Document, or incorporate it into its Electronic Data Record (as the case may be) used to originate the Electronic Document.

⁵ Comment. This requirement is intended to help prevent situations where an instrument is Accepted while a related instrument(s) on which it depends is rejected – such as the warranty deed and security deed of a single ‘closing package’, or the assignment and cancellation of the same security deed.

Such entering or incorporating should be done with the intent of making the filing information a permanent part of the paper-based original Document or Electronic Data Record.

The filing information is to clearly identify the county of recording, the location of the recorded Document within Clerk's records (typically the docket, book and page) and the Filed Date.

- c) Re-recording. In the event an Electronic Document that was created from a paper original is re-recorded because of error or omission, the re-recorded Electronic Document must be re-created from the paper original previously recorded in accordance with Georgia law.
- d) Communications. If a Trusted User has received an Electronic Document from another Participant, the Trusted User shall forward to the Participant from whom it has received the Electronic Document, all communications it receives from the Clerk regarding the Submission of that Electronic Document.
- e) Other. Trusted User shall abide by other requirements specified of Trusted Users in these Rules.

8. SELF FILERS

- a) Party to Document. Self-Filers may only perform the functions allowed of them per these Rules to Electronic Documents if they themselves are a party to the Electronic Document or if the Electronic Document is a Plat.
- b) Other. Self-Filers shall abide by other requirements specified of Self-Filers in these Rules.

These Rules together with appendices adopted and approved this ____ day of _____, 2016.

Georgia Superior Court Clerks' Cooperative Authority

By : _____
Honorable F Barry Wilkes, Clerk of Superior Court of Liberty County,
Chairman

Attest: _____
John E. Earle, Executive Director, GSCCCA

Appendix “A”

Technical Specification

Georgia Real Estate eRecording

Technical Specifications

1. Purpose

eRecording implementations may vary substantially from one another and leverage various different technologies. The purpose of these technical specifications is not to debate the merits of using one technology over another, but rather to establish a set of baseline technical principals that any particular implementation of a Real Estate eRecording system in the state of Georgia must address. Unless otherwise stated, these principals apply to any computer system or transport involved in an eFiling transaction.

2. Applicability

Unless noted otherwise, these technical specifications apply to any computer or transport system involved in an eRecording transaction. This includes any system that initiates an eRecording submission, any system traversed during the electronic filing act, as well as the Clerk's land record management system.

3. Required Technical Principals

- a) Authentication - eRecording systems must provide a mechanism for authenticating parties such that parties can be positively identified with a high degree of confidence. Ideally, such authentication should be mutual, providing the ability for an eRecording system to assess its identity to a user and vice versa. Common types of authentication include, but are not limited to, login strings, passwords, and digital certificates. Essentially, systems that implement appropriate authentication methods ensure that each party involved in an electronic transaction are positively identified.
- b) Authorization – eRecording systems must provide a mechanism for granting and/or restricting various levels of access to parties based on the positive identity established by the systems authentication method. Essentially, this principal ensures that the traditional roles of the traditional filing process are modeled in electronic filing. As an example, it is not appropriate for the document submitter to also be allowed to record the document – a function that is strictly restricted to the Clerk and Clerk's staff.
- c) Confidentiality and Privacy – eRecording systems must protect information from being accessed or disclosed by unauthorized parties during the filing process. This requirement extends to protecting personal privacy and proprietary information as it moves through and/or is stored by an eRecording system. This is often achieved through the use of strong authentication schemes and encryption. Encryption of data is strongly recommended for all data in motion.
- d) Integrity of Data – eRecording systems must ensure that documents are verifiably unaltered during the eRecording process and that the delivery of such documents occurs in a timely fashion. The use of hashing algorithms and digital signatures are technologies frequently used for guaranteeing integrity of data. Each document should be assigned a unique tracking number. Essentially, this

principal safeguards that a document is identifiable, is tamper proof / evident throughout the process, and that the system can ensure parties that the data being sent is the precise data being received.

- e) Non-Repudiation – When submitting documents or a filing package to an eFiling system, the system must provide evidence that the document or filing package was properly received. In the event that such evidence is not provided, the document should be assumed to have been NOT received. Similarly, eRecording systems must provide demonstrable evidence that actions performed by the clerk to electronically record a document completed successfully (or not). This principal essentially requires that receipt/recognition of all electronic functions involved with an eRecording process are provided and can be audited.
- f) Data Transmission Standards – When information is electronically transmitted between different systems, each endpoint in that transaction must be able to interpret the data being sent and/or received. Data transmission standards are standards that define and describe the format of the data that can be communicated between different systems. Such standards not only define the methods in which data is transported but also the format and allowable file types accepted by eRecording systems. These technical specifications do not require the use of a specific set of data transmission standards, however, it is required that each system involved in an eRecording process adopt and communicate a data transmission standard to govern the electronic communication. It is highly recommended that careful consideration be given to the PRIA transmission standard which is already widely adopted on a national level.
- g) PCI Compliance – eRecording systems that are directly involved with processing credit card or EFT transactions must demonstrate PCI Compliance. This compliance level ensures that financial transactions are secured to the high degree of confidence established by the payment card industry.
- h) eRecording Registry Verification – the eRecording Rules require that all participants in an eRecording process be registered with the GSCCCA and be assigned unique participant ID numbers. The Rules also mandate that the set of ID numbers for all participants be supplied as part of the filing package. Systems that are involved with eRecording processes must have the ability to identify and validate participant ID numbers against the GSCCCA eRecording Registration system through the GSCCCA’s verification API or website. Systems must also be able to deny submissions from Trusted Users, Submitters, and Self Filers that do not supply valid participant ID numbers.

4. Evidence of Specifications

Any system that implements eRecording must create and make available a document that details how the system addresses the set of technical specifications indicated in items 3(a) thru 3(h) above. Such document should be completed before use of the system and updated before affected system changes actually take place. History of the document along with date ranges for which it is to affect the related system shall be maintained.

GEORGIA REAL ESTATE ELECTRONIC RECORDING PARTICIPANT REGISTRATION AGREEMENT

WHEREAS Applicant desires to originate, create, transmit, or Submit to a Clerk for recording into official land records ("Participate"), real property documents in electronic format ("eRecording").

WHEREAS the Official Code of Georgia Annotated (O.C.G.A.) dictates that such electronic recording of land records is subject to Rules produced by the Authority ("Rules").

WHEREAS said Rules require those wishing to Participate in eRecording of electronic land records to be approved by, and included in a Participant Registry maintained by the Authority.

WHEREAS said Registry shall categorize Participants as either a Trusted User, a Submitter, or a Self-Filer (each subject to specific regulations per the Rules) based upon a Participant's qualifications.

WHEREAS eRecording mandates a close working relationship as well as mutual trust between the Participants and the desire to operate and maintain a secure recording system that safeguards parties to recordation from deceit, fraud and forgery; and

WHEREAS eRecorded Documents shall be considered as the "original" record of the transaction in substitution for, and with the same intended effect as, ink-signed paper Documents; and

NOW THEREFORE, for and in consideration of being considered for inclusion into the Authority eRecording Participant Registry, Applicant agrees to be bound to the Authority and any Georgia Clerk of Superior Court, to the following ("Agreement"):

1. **DEFINITIONS**

Unless specifically defined in this Agreement, the definitions of capitalized terms are the same as the definitions as found in the Real Estate Electronic Recording Rules for the State of Georgia adopted by the Authority, as amended from time to time (the "Rules").

2. SPECIFIC OBLIGATIONS OF APPLICANT

- a) Electronic Document Creation. Applicant warrants, covenants and agrees that any Electronic Document originated by Applicant will originate only from ink-signed, paper-based original Documents, paper-based Authenticated Records, or Electronic Data Records (if allowed by Rules) in the custody of Applicant.

Applicant shall be diligent in ensuring that any Electronic Documents that they originate, and the paper Document or Authenticated Records that it may be created from, will be checked by Applicant for errors, omissions, scanning defects, illegible areas, and other deficiencies that would affect the Clerk's ability to record the Electronic Document or the public notice to be created thereby.

If Applicant is a Trusted User, they may only create Electronic Documents from ink-signed, paper-based originals, Authenticated Records, or Electronic Data Records that are either from other Trusted Users or that they are the custodian thereof.

If Applicant is a Submitter, they may only create Electronic Documents from Electronic Data Records from Trusted Users.

If Applicant is a Self-Filer, they may only create Electronic Documents from paper-based originals if they themselves are a party to the Electronic Document or if the Electronic Document is a Plat.

- b) Re-Recording. In the event an Electronic Document created from a paper-based original is to be re-recorded because of error or omission, the re-recorded Electronic Document must be re-created from the ink-signed, paper-based original instrument previously recorded in accordance with Georgia law.
- c) Technical Requirements. Applicant agrees that all Electronic Documents it creates, transmits to other Participants, or Submits to a Clerk for filing; along with all internal procedures and processes used in doing so, will be in compliance with the Technical Specifications.
- d) Marking Filing Information. Upon receipt of notification of the Clerk's Acceptance of an Electronic Document originated by Applicant, Applicant agrees to mark the filing information on the original paper Document, or incorporate it into the Electronic Data Record (as the case may be) used to originate the Electronic Document.

Such entering or incorporating should be done with the intent of making the filing information a permanent part of the paper-based original Document or Electronic Data Record.

The filing information is to clearly identify the county of recording, the location of the recorded Document within Clerk's records (typically the docket, book and page) and the filed date and time.

- e) Payment. Applicant agrees to pay all applicable eRecording charges as may be ultimately required by the Clerk, for each Electronic Document that Applicant Submits to a Clerk.

- f) Records. Applicant shall maintain a record audit trail of all activity, available to Clerk and other Participants involved with an Electronic Document, at their request, without cost, to resolve issues or investigate potential improper activity. The record audit trail must contain, at a minimum, content of Electronic Documents received, content of Electronic Documents as transmitted to another Participant or Clerk, any filing fees paid to Clerks, and the dates, times, and identities of those transmitted to or received from.
- g) Security. Applicant agrees to implement and continuously maintain and monitor appropriate and conforming security procedures according to the Technical Specifications.
- h) Facilities. Applicant agrees to provide and maintain compatible software systems and all necessary computer hardware and equipment, including communications equipment, for the creation and transmission for filing of Electronic Document in conformance with the Technical Specifications. Neither the Authority nor any Clerk shall have any obligation for any cost or expenses relating to such system or its maintenance.
- i) Submissions. Applicant agrees that any Electronic Documents or Electronic Data Records that they receive from other Participants and either Submit to a Clerk's Portal or transmit to other Participants, will be done so without alteration of the Electronic Document or Electronic Data Records by Applicant except in a manner allowed or required by the Rules.
- j) Recording Information. Applicant agrees to forward to the Participant from whom it received an Electronic Document or Electronic Data Record, all notices, information and communications from a Clerk that it receives relating to a Submission or attempted Submission of the Electronic Document.
- k) Notices. Applicant will appoint an individual person or persons responsible for the communication of matters required by this Agreement. Notice shall be deemed given by one party to the other party by means of communication to the responsible party at the address maintained in the Authority Participant Registry. Applicant agrees to notify the Authority immediately, via method specified by Authority, in the event any of the information maintained in the Authority Registry regarding the Applicant changes.
- l) Security Breach. Applicant shall immediately notify the Authority and the Clerk of any potentially Submitted, affected Electronic Documents; of any security incident which could compromise or otherwise adversely affect Electronic Documents or associated data maintained by the Applicant. Such security breaches include, but are not limited to, attempts to obtain or actual unauthorized access to Applicant's data systems.
- m) Security. Applicant shall ensure that all applicable security measures and credentials implemented are protected. Applicant agrees to assume full responsibility for Submissions made by all persons or entities using security credentials obtained (either directly or indirectly; intentionally or unintentionally) from Applicant. Such Security credentials include login information and passwords, etc. provided by Clerks for access to a Clerk's Portal.
- n) Support. Each party is responsible for supporting their technical issues associated with Electronic Recording. Applicant shall work in good faith with Clerks and other Participants to resolve problems with the Electronic Recording process.

- o) Cooperation. Applicant shall provide an effective mechanism through which problems or issues can be reported and addressed.
- p) Limitation of Liability. Under no circumstances shall the Authority or the State of Georgia including, but not limited to its general fund and its self-insurance programs, or any of its agencies or political subdivisions or clerks of superior court or any of their employees or officers (collectively the “Released Parties”) be responsible or liable as a result of this Agreement or any liability created hereby or arising hereunder, nor shall the Released Parties be liable for incidental, consequential, lost profits, special or indirect damages of any kind or nature. Applicant agrees to and hereby does release all Released Parties from any and all liability in connection with the performance of this Agreement including, but not limited to, the electronic filing and recordation of Documents under this Agreement.
- q) Compliance. Applicant understands that submission, acceptance and recording of any Document must comply with all other applicable federal, state and local laws.
- r) Assignment. This Agreement, and any Authority approval of Applicant’s application, and assignment of a ParticipantID and Registry inclusion thereof, is not assignable by any party either in whole or part, without the written consent of the Authority.
- s) Amendment. No alteration or variation of the terms of this Agreement shall be valid unless agreed to in writing by the Authority, or replaced by a subsequent agreement from the Authority that is duly agreed to by Applicant.
- t) Governing Law. This Agreement is entered into in the State of Georgia and is governed by the laws of the State of Georgia, without regard to the conflict of laws rules of such state.
- u) Parts Severable. If any provision of this Agreement, or the application thereof, is for any reason and to any extent found to be invalid or unenforceable, the remainder of the Agreement shall not be affected by such finding of invalidity or unenforceability, and shall be interpreted in a manner that shall reasonably carry out the intent of the Agreement.
- v) Conformance with Rules. Applicant acknowledges that this Agreement is subject to the Rules of the Authority, as subsequently amended from time to time. This Agreement shall be construed and interpreted to be consistent with and in conformance to those Rules.
- w) Termination. This Agreement may be terminated by the Applicant by written notice to the Authority. Such notice shall terminate Applicant's status in the Authority Registry, however, Applicant's obligation under this Agreement shall continue for a period of six months after receipt of such written notice to the Authority.
- x) Submission Confirmation. For every Electronic Document Applicant Submits to a Clerk, Applicant assumes the affirmative obligation to confirm receipt by the Clerk of Submission, and notice of any resulting notification of Acceptance or Rejection by the Clerk of the Submission.
- y) Use of Portals. Any use or access of a Clerk’s Portal by Applicant shall:
 - i) adhere to any rules specified by Clerk for use of Portal.
 - ii) not be for any purpose that is unlawful or prohibited by these this Agreement, or the Rules.

- iii) Intentionally attempt to damage or disable the Portal, or improperly access or alter any records or data of the Clerk that is not intended for Applicant.
- z) Expenses. Neither the Authority, nor any Clerk, nor any Georgia county governing authority shall be responsible for any costs or expenses incurred by Applicant related to this Agreement under any circumstances.
- aa) Compliance. Applicant understands that Submission, Acceptance and recording of any Document by any Clerk must comply with all other applicable federal, state and local laws.
- bb) Electronic Document Forwarding. Applicant shall only forward Electronic Documents to other Participants, or Submit them to any Clerk, if:
 - i. The Electronic Document was created or originated by Applicant.
 - ii. The Electronic Document was received from another Participant.
 - iii. The Electronic Document is a Plat, or Applicant is a party to a Document.

In all cases, if Applicant receives an Electronic Document or Electronic Data Record from another Participant, Applicant shall not alter it except in a manner allowed or required by the Rules or this Agreement.

- cc) Registry Inclusion. Applicant agrees that inclusion in the Authority Participant Registry:
 - i. May be revoked or removed from good standing status, at any time, by the Authority, for any reason as determined by the Authority in its sole discretion.
 - ii. May be subject to periodic, automatic expirations, as deemed by the Authority.
 - iii. May require Applicant to agree to future or revised terms as dictated by the Authority.
 - iv. Requires Applicant to refrain from attempting to initiate a subsequent, separate application for the Registry.
 - v. Entails Applicant to be assigned a unique ParticipantID from the Authority for the purposes of identifying Applicant. The ParticipantID is to be used per the Rules and this Agreement; including the Clerk's requirement to stamp Applicant's ParticipantID on various Electronic Documents. (The purpose of such stamp is intended to identify Applicant in public records as an entity purported to the Clerk to have been associated with the Electronic Document.)
 - vi. Entails Applicant to be categorized by the Authority to a single Participant type (currently either Self-Filer, Submitter, or Trusted User, as defined in the Rules) based on their qualifications, and that such Participant type has certain allowed functions and restrictions as defined in the Rules and this Agreement that Applicant must adhere to.
 - vii. Applicant agrees to have their Registry contact information, as provided to the Authority, made public.
 - viii. Requires Applicant to maintain their Registry contact information with updated information at all times; using the specific method(s) dictated by the Authority.
 - ix. Requires Applicant to cease creating, forwarding to other Participants, or Submitting Electronic Documents once their inclusion in the Registry has been revoked, or no longer deemed to be in good standing, by the Authority.