



**ASIC**

Australian Securities & Investments Commission

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# ASIC Email Lodgement Service: User Agreement for Corporations Team Documents

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30 November 2018

Version 1.1

## **About this agreement**

This agreement sets out the terms and conditions that apply to your use of ASIC's Email Lodgement Services for documents submitted electronically to the Corporations Team.

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## Recitals

### Purpose of this document

- A. ASIC (**we** or **us**) has created the email address of [Corporations.Lodgements@asic.gov.au](mailto:Corporations.Lodgements@asic.gov.au) (the **Email Address**) as a means of providing an electronic lodging service (**ELS**) for the people and entities we regulate (**Regulated Entity** or **you**) and for those acting on behalf of a Regulated Entity. The ELS is available to you if you are submitting any of the documents set out in Schedule A to this document or if you are confirming payment in relation to such a submission.
- B. The ELS will allow you to submit regulatory information to us, including documents that the *Corporations Act 2001* (**Corporations Act**) requires to be lodged with us or given to us. We refer to lodging, giving, providing or submitting documents, forms or information to ASIC through the ELS as **'submitting a document'**.
- C. This document is the ASIC Email Lodgement Service: User Agreement (**ELS User Agreement**). It contains important information. It sets out the terms and conditions of your use of the ELS.
- D. We must approve electronic lodgement for any document that is required to be 'lodged' with us under the Legislation. We have approved email lodgement of some of these documents for the purposes of paragraph 352(1)(b) of the Corporations Act and certain other documents that may be submitted to us under that Act in *ASIC Corporations (Email Lodgment Service) Instrument 2018/0577*. These documents are listed in Schedule A. This approval permits you to submit these documents that have been lodged in paper form (and in many cases, signed in accordance with s351 of the Corporations Act), to be lodged by email instead (and signed electronically).

## Part A – Email Lodgement Service Terms and Conditions

### Terms and conditions for using the ELS

1. We agree to provide the ELS to you on the terms and conditions contained in this ELS User Agreement.
2. You agree to comply with the terms and conditions contained in this ELS User Agreement. Each use of the ELS by you also constitutes acceptance of this ELS User Agreement.

### Your general obligations

3. You agree:
  - 3.1. to use only an email address that identifies you personally (and not a generic or group email address) to submit documents to us using the ELS;  

Note: For example: [bilbo.baggins@asic.gov.au](mailto:bilbo.baggins@asic.gov.au), and not admin@asic.gov.au.
  - 3.2. that you will only use the Email Address for the purposes of submitting a document for lodgement and confirming cheque delivery, and not for any other correspondence with us, whether it relates to a document submitted using the ELS or not;
  - 3.3. to take reasonable steps to prevent and detect both unlawful and unauthorised access to or use of your email address and your email account (including sent items showing your submissions to us using the ELS;
  - 3.4. to provide information that is complete, true and correct, to the best of your knowledge, when submitting documents using the ELS (see paragraph 4 below regarding providing false and misleading information);
  - 3.5. that ASIC may monitor your access to and use of the ELS;
  - 3.6. to supply your own compatible hardware, software and internet connection, at your own expense, to use the ELS and that you will not damage or compromise the ELS's operation in any way when doing so; and
  - 3.7. that you, and each Regulated Entity you act on behalf of, are responsible for ensuring that you comply, and the entity complies, with any applicable obligations about retaining records under the Legislation.

## **False and misleading information**

4. You understand that:
  - 4.1. giving false or misleading information or documents to ASIC is a serious offence;
  - 4.2. failure to give information, which renders the information or documents given to ASIC false or misleading, is also a serious offence; and
  - 4.3. giving false or misleading information or documents to ASIC could lead to a criminal prosecution of you personally and any Regulated Entity on whose behalf you are acting.

## **Submitting documents using the ELS**

5. For the purposes of paragraph 352(1)(b) of the Corporations Act and for all other purposes, emailing a document to us using the ELS from your email address is the electronic equivalent of you:
  - 5.1. lodging a document with us, subject to our right to refuse to register or receive the document under the Legislation (see paragraph 15);
  - 5.2. giving a document to us under the Legislation; or
  - 5.3. submitting a document to us under the Legislation.
6. To submit a document using the ELS, you must:
  - 6.1. send an email to the Email Address;
  - 6.2. attach to your email the completed and signed document (or documents) you wish to submit, in a searchable Portable Document Format (**PDF**) (unless paragraph 21 applies in which case a standard PDF is acceptable);
  - 6.3. complete and electronically sign (either by inserting or applying your electronic signature into a searchable PDF or by scanning a signed paper copy) the Email Lodgement Form contained in Annexure B to this ELS User Agreement, and attach it to your email. When you complete and electronically sign the Email Lodgment Form, you will make certain declarations in that form which include but are not limited to the following:
    - 6.3.1. you are authorised to submit the document to ASIC by the relevant Regulated Entity (unless you are acting on your own behalf);
    - 6.3.2. if you have applied an individual's electronic signature (that is not your own) to any of the searchable PDF documents attached

to your submission email, you have done so on the express written authority of that individual;

6.3.3. you have read this ELS User Agreement and understand that each use of the ELS by you constitutes your acceptance of the terms and conditions in this agreement; and

6.3.4. you have read and understood [ASIC's Privacy Policy](#).

7. Where the relevant Legislation requires or permits a directors' resolution authorising the application to accompany a document submitted to us, attach to your email a signed copy of the directors' resolution in searchable PDF format (for example, [CO 13/521] permits approval of a notice to vary an off-market bid under subsection 650D(3) of the Corporations Act by way of directors' resolution rather than directors' signatures);

Note: a searchable PDF can be created from other document types by using the "print to PDF" or "save as PDF" feature.

7.1. where relevant, attach any other cover forms, including relevant Corporate Finance Forms or Offerlist Forms;

7.2. subject to paragraph 8 ensure that your email and attachments do not exceed 10MB (megabytes) in size; and

7.3. submit payment for the lodgement or submission under the Fees Legislation in accordance with paragraph 25.

8. If the total size of your email and attachments exceeds 10MB, you may send multiple emails using the ELS, provided that you:

8.1. identify, in the first email in the submission sequence, the total number of emails to be provided in the submission sequence;

8.2. attach the Electronic Lodgement Form to the first email;

8.3. clearly identify each other subsequent email that forms part of the submission and their sequence; and

8.4. ensure that no email in the submission sequence exceeds 10MB.

9. When you send a document to us using the ELS, we will email you a document receipt to acknowledge our receipt of your email through the ELS.

10. The email receipt is not our acceptance of any attachments for lodgement or confirmation that you, or the Regulated Entity you are acting on behalf of, have complied with the law.

*Time zone for submitting documents on a particular day*

11. The date and time of submission of the document, being Eastern Standard Time, or Eastern Standard Daylight Saving Time (whichever applies in the Australian

Capital Territory) at the time we receive your email to our Email Address, will be recorded on the document receipt.

12. If you are, or a Regulated Entity that you act on behalf of is, required to submit a document on a particular day, it is your responsibility to ensure that you submit the document on that day in the time zone referred to in paragraph 11, regardless of your physical location when using the ELS.

#### *Authority to submit and our reliance on submitted documents*

13. If you submit a document to us on behalf of a Regulated Entity you must be duly authorised to submit the document for that entity.
14. We will rely on your email for submission of a document unless you notify us that the email communication is not authorised.

#### *Our ability to refuse to receive some documents*

15. We may refuse to register or receive a document submitted for lodgement in accordance with subsection 1274(8) of the Corporations Act.
16. We may also require you to produce to us any other document, or give us any other information that we think necessary in order to form an opinion whether we may refuse to receive or register a document submitted for lodgement under subsection 1274(9) of the Corporations Act.

#### *What happens when you submit a document using the ELS*

17. After you have submitted a document using the ELS, we may check the document to ascertain whether we might refuse to receive or register it (for example, if it is incomplete because the attachments are illegible or it has not been electronically signed in accordance with paragraph 6.3 (if applicable) or it is not accompanied by the forms required under paragraphs 6.3 and 7.1). Nothing in this paragraph limits the circumstances in which ASIC may refuse to register or receive a document under s1274(8).

#### *Retaining copies of documents submitted*

18. You must keep a copy of your email and attachments submitted to us using the ELS for a period of not less than 7 years from the date of submission and you must make them available to us if we request them.

### **Signing documents**

19. Subject to paragraphs 20 and 21, for the purposes of the relevant Legislation and all other purposes, the electronic method for signing a document submitted using the ELS, is applying or inserting the electronic signature into the searchable PDF document.
20. If a document you are submitting is required to be signed by a person in a particular capacity under the relevant Legislation (for example, an application under section 250P of the Corporations Act must be signed by a director), the

electronic method for signing that document submitted using the ELS, is the person in the required capacity applying or inserting their own electronic signature into the searchable PDF document.

21. If you or the required person are unable to apply an electronic signature to your document in accordance with paragraph 19:
  - 21.1. you or the required person must contact the Corporations Team at [Corporations.Queries@asic.gov.au](mailto:Corporations.Queries@asic.gov.au), who will contact you and provide instructions;
  - 21.2. if you or the required person are still unable to sign a document in this way, you can obtain prior written approval from a member of the Corporations Team to electronically sign by signing a paper document and scanning that document to create a non-searchable PDF document.

## Fees

22. You must nominate a Billing Contact in the Email Lodgement Form.
23. Each lodgement attracts a fee as set down in Schedule 1 of the *Corporations (Fees) Regulations 2001*.

Note: Also see Information Sheet 30 about fees for commonly lodged documents - <https://asic.gov.au/for-business/payments-fees-and-invoices/asic-fees/fees-for-commonly-lodged-documents/>

24. A document submitted by email must comply with all the requirements of the Legislation, including payment of any fees associated with that document.
25. To pay fees for documents submitted using the ELS, subject to paragraph 26, you must:
  - 25.1. send by post or deliver to the Brisbane Office a cheque for the amount of the relevant fee made payable to the Australian Securities and Investments Commission, within 1 business day of your submission;
  - 25.2. attach to the cheque a copy of the Email Lodgement Form;
  - 25.3. once you have posted or delivered the cheque in accordance with paragraph 25.1, notify us that this has occurred and the postal or delivery method used (for example, hand delivered, courier, express post or standard post) by sending an email to the Email Address.
26. If you are unable to pay by cheque in accordance with paragraph 25:
  - 26.1. you must contact the Corporations Team on [Corporations.Queries@asic.gov.au](mailto:Corporations.Queries@asic.gov.au) who will respond to your query;
  - 26.2. if, after engagement with the Corporations Team, you are still unable to provide a cheque, we will invoice the person or entity who submits the document to us using the ELS.



27. If your submission is genuinely urgent, you must complete the relevant section of the Email Lodgement Form.
28. Where a fee is payable under the Fees Legislation for us doing an act, we may refuse to do that act until the fee is paid.
29. If you submit a document on behalf of a Regulated Entity, you acknowledge that you have an arrangement in place with the Regulated Entity that will ensure payment of the fee to us by the time it is required to be paid.
30. If you submit a document on your own behalf, you will pay that fee to us within the required time.

### **Privacy**

31. Information provided to us using the ELS may include personal information. We will collect and use personal information in accordance with ASIC's Privacy Policy. This collection notice also contains information about how we handle personal information, rights to seek access to and correct personal information, and to complain about breaches of privacy by us.

### **Security**

32. You agree to tell us immediately by calling ASIC's Customer Contact Centre (on 1300 300 630 in Australia or +61 3 5177 3988 from outside Australia) if you believe or suspect that:
  - 32.1. your email address has been accessed or used by someone other than you; or
  - 32.2. someone is acting outside their authority to act on behalf of a Regulated Entity using the ELS; or
  - 32.3. if you detect some other fault, error or problem in your access to the ELS.

### **Prohibited uses of the ELS**

33. You must not use the ELS:
  - 33.1. to disclose information for any purpose unconnected to the purpose for which it is made available;
  - 33.2. to participate in any illegal or fraudulent activity;
  - 33.3. to cause disruption or adverse effects to our review processes (for example, by submitting multiple versions of a document);
  - 33.4. to infringe a person's rights;
  - 33.5. to harass, cause distress or inconvenience others;

- 33.6. to send unlawful, defamatory, offensive or scandalous material or material that breaks or encourages breaking the law;
- 33.7. to provide false and misleading information to us and you acknowledge that doing so may result in prosecution, administrative action and civil or criminal penalties; or
- 33.8. in any other unauthorised manner.

### **Disclaimer and liability**

- 34. You understand and agree that email is not a secure form of communication and we will not be liable to you or any other person in respect of any loss or damage that might be suffered that is directly or indirectly related to submitting a document with us using the ELS.
- 35. You agree that:
  - 35.1. we do not guarantee the availability of the ELS at any given time; and
  - 35.2. your use of the ELS depends on external factors such as internet service providers.
- 36. You acknowledge that the ELS may not be available from time to time and you may experience technical issues with the ELS.
- 37. We will endeavour to, but may not in every instance, provide reasonable notice of unavailability of, interruptions to and other technical issues with the ELS. We may post such notice on our website.
- 38. We will not be liable to you or any other person or Regulated Entity for any loss, damage, costs or expenses of any kind arising out of or in connection with any delay, omission, default, negligence or error by us in relation to the availability, functionality or performance of the ELS.

### **Changes to this ELS User Agreement**

- 39. We may vary the terms and conditions in this ELS User Agreement at any time by publishing notice of the variation on our website.

### **Miscellaneous**

- 40. The law in force in the Australian Capital Territory governs this ELS User Agreement.
- 41. Except where the legislation provides otherwise, we may notify you of any matter relating to the ELS on our website, by telephone, SMS, email or mail to any relevant address you have provided.

42. If any provision of this ELS User Agreement is found to be invalid or unenforceable by a Court of law, that provision is severed from the ELS User Agreement and the remainder of the ELS User Agreement will continue in force and effect.

## Part B—Definitions and interpretation

### Interpretation

43. In this ELS User Agreement, unless the contrary intention appears:
- 43.1. the singular includes the plural and vice versa;
  - 43.2. another grammatical form of a defined word or expression has a corresponding meaning;
  - 43.3. a reference to this Agreement, or another agreement, instrument or transaction includes any variation or replacement of any of them; and
  - 43.4. a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.

### Definitions

44. In this ELS User Agreement, the following terms have the following meaning, unless the context in this Agreement indicates otherwise.

<b>ASIC</b>	The Australian Securities and Investments Commission.
<b>Billing Contact</b>	An individual nominated to receive invoices on behalf of a Regulated Entity.
<b>Corporate Finance Form</b>	A series of ASIC forms for lodging documents in respect of corporate finance transactions.
<b>Corporations Act</b>	<i>Corporations Act 2001</i> .
<b>Corporations Legislation</b>	The <i>Australian Securities and Investments Commission Act 2001</i> , <i>Corporations Act</i> , <i>Corporations Regulations 2001</i> , and any instruments made under that legislation
<b>ELS User Agreement</b>	This document titled " <i>ASIC Electronic Lodgement Service: User Agreement</i> ", as it exists from time to time.
<b>Email Lodgement Form</b>	The form set out at Annexure B to this document and which must be attached to email submissions using the ELS in accordance with paragraph 6.3.
<b>Fees Legislation</b>	The <i>Corporations (Fees) Act 2001</i> , <i>Corporations (Fees) Regulations 2001</i> , <i>Corporations (Review Fees) Act 2003</i> , <i>Corporations (Review Fees)</i>

	<p><i>Regulations 2003</i>, and any instruments made for the purposes of those Acts.</p>
<b>Legislation</b>	<p>Corporations Legislation or Fees Legislation (as the case may be).</p>
<b>Offerlist Form</b>	<p>The summary sheet which provides the details you have submitted through the OFFERlist portal in respect of your offer.</p>
<b>Regulated Entity</b>	<p>A person or an entity that is, or is applying to be, subject to the legislation we administer (whether they are acting in their own capacity or on behalf of another person or entity that is subject to the legislation we administer).</p>
<b>Brisbane Office</b>	<p>FE Registration The Australian Securities and Investments Commission Brisbane Office GPO Box 9827 Brisbane QLD 4001 DX 322, QLD 4001</p>

## Schedule A – Documents that may be submitted using the ELS

This table references the documents that can be lodged using the ELS, and provides links to the cover forms required to be lodged with the Electronic lodgement form, and the principle documents being lodged. Where no ASIC cover form is available this is noted.

Cover Form	Document Name	Corporations Act provision requiring lodgement
<b>Documents relating to Fundraising</b>		
<a href="#">OFFERlist</a>	Prospectus for equities	s718
<a href="#">OFFERlist</a>	Offer information statement	s718
<a href="#">OFFERlist</a>	Profile statement	s718
<a href="#">OFFERlist</a>	Short form prospectus for equities	s718
<a href="#">OFFERlist</a>	Product Disclosure Statement	s1015B
<a href="#">CF07</a>	Replacement prospectus for equities	s719
<a href="#">CF07</a>	Replacement offer information statement	s719
<a href="#">CF07</a>	Replacement profile statement	s719
<a href="#">CF07</a>	Replacement short form prospectus for equities	s719
	Replacement Product Disclosure Statement	s1014L
<a href="#">CF07</a>	Supplementary statement for equities	s719
	Supplementary PDS Statement	s1015B(?)
<a href="#">CF07</a>	Documents lodged in relation to a short form prospectus	s712
No form	Document lodged as a condition of section 741 relief	s741
No form	Offer document – Mutual Recognition Scheme	s1200C(5)
No form	Supplementary or replacement document – Mutual Recognition Scheme	s1200G(9)
No form	Change to offer document – Mutual Recognition Scheme	s1200G(9)
No form	Notice of Australian offer under Foreign Recognition Scheme	s1200C(5)
<b>Documents relating to Schemes of Arrangement</b>		
<a href="#">CF10</a>	Court order re scheme of arrangement	s411(10)
<a href="#">CF10</a>	Notice of hearing for scheme of arrangement	s411(2)
<a href="#">CF10</a>	Application for abridgement of time to provide notice of hearing for scheme of arrangement	s411(2)(a)
<a href="#">CF10</a>	Draft explanatory statement regarding compromise or arrangement	s411(2)(b)
<a href="#">105</a>	Court order facilitating reconstruction	s413(3)
<a href="#">CF10</a>	Application for para. 411(17)(b) statement of no objection to compromise or arrangement	s411(17)(b)

Cover Form	Document Name	Corporations Act provision requiring lodgement
<a href="#">CF10</a>	Registration copy of explanatory statement	s412(6)
<a href="#">105</a>	Court Orders for meeting concerning compromise or arrangement	Court Rules (var.)
<b>Documents relating to Takeovers</b>		
<a href="#">CF09</a>	Bidder's statement and offer - off market	s633(1) – item 2
<a href="#">CF09</a>	Target's statement and reports - off market	s633(1) – item 13
<a href="#">CF09</a>	Notice of status of defeating condition – off market - unquoted bid class securities	s630 (2), (3), (4) and(5)
<a href="#">CF09</a>	Notice of service of bidder's statement - off market - s633 Step 4	s633(1) – item 4
<a href="#">CF09</a>	Notice that takeover offers have been sent - off market - s633 Step 9	s633(1) – item 9
<a href="#">CF09</a>	Takeover bidder's statement and documents sent to ASX - on market	s635 – item 5
<a href="#">CF09</a>	Document accompanying bidder's statement - on market bid - s635 Step 7	s635 – item 7
<a href="#">CF09</a>	Target's statement and reports - on market - s635 Step 12	s635 – item 12
<a href="#">CF09</a>	Bidder's supplementary statement	s647(3)(a)
<a href="#">CF09</a>	Target's supplementary statement	s647(3)(a)
<a href="#">CF09</a>	Replacement bidder's statement - Class Order 13/528	s633A(2) and s635A(2) (Class Order 13/528)
<a href="#">CF09</a>	Replacement bidder's statement marked up - Class Order 13/528	s633A(2) and s635A(2) (Class Order 13/528)
<a href="#">CF09</a>	Court order regarding proportional takeover provisions in constitution	s648G
<a href="#">CF09</a>	Notice of variation in takeover offer – on market	s649C
<a href="#">CF09</a>	Notice of variation in takeover offer – off market	s650D
<a href="#">CF09</a>	Notice offers free of defeating condition - off market bid	s650F
<a href="#">CF09</a>	Notice of record date for determining who is to be sent bidder's statement	633(4)
<a href="#">CF09</a>	Notice of disclosure regarding substantial holding in bid period	s654C(3)
<a href="#">CF09</a>	Notice of objection regarding compulsory acquisition/buy out	s664E(2)
<a href="#">CF09</a>	List of members objecting to compulsory acquisition/buy-out	s664E(3)(b)
<b>Documents relating to Compulsory Acquisition</b>		
<a href="#">6021</a>	Notice of compulsory acquisition following takeover bid	s661B
<a href="#">6022</a>	Notice of right of buy out to remaining holder of securities following a takeover bid	s662B
<a href="#">6023</a>	Notice of right of buy out to holders of convertible securities following a takeover bid	s663B
<a href="#">6024</a>	Notice of compulsory acquisition	s664C(2)(A)
<a href="#">6025</a>	Notice of right of buy out to holders of convertible securities by 100% holder	s665B(1)(b)

Cover Form	Document Name	Corporations Act provision requiring lodgement
<b>Documents and applications relating to meetings (including related party transactions)</b>		
No form	Document lodged under item 7 of section 611	RG74
<a href="#">2501</a>	Application for extension of time to hold Annual General Meeting	s250P
<a href="#">5057A</a>	Related party benefits - proposed notice, explanatory statement & accompanying documents	s218(1)
<a href="#">CF11</a>	Application for reduction of lodgement period under s218(1)	s218(2)



## Schedule B – Email Lodgement Form

### EMAIL LODGEMENT FORM

**For submissions to ASIC under the ASIC Email Lodgement Service: User Agreement for Corporations Team Documents**

Date:	
Document(s) being submitted to ASIC: (See list of forms in Schedule A of the User Agreement. You can submit multiple documents in the one email and include each of them in the one Electronic Lodgement Form, or use separate Electronic Lodgement Forms for each document if you wish)	<i>Cover form:</i> (eg: CF07)  <i>Attached documents (if any):</i> (eg: Prospectus, notice of meeting, etc)
Whose signature appears on the cover form and any attached document? (Please give the full name of the person(s) whose electronic signature is affixed to the form(s) and document(s))	
Who affixed the electronic signature on the document(s)? (Please give the full name of the person(s) who affixed the electronic signature(s) to the document. If the document is a scanned copy of a signed paper document, please state “Not applicable”)	
Name and contact details of person submitting this form and any attached document(s) (Please name the individual who is emailing these document(s) documents to ASIC, and the full name, email address, postal address and contact telephone number for that individual)	
Which Regulated Entity is this form being submitted for? (Please enter the full name and ACN or ARBN of the relevant Regulated Entity)	
Who is the Billing Contact for this Regulated Entity? (Please provide the full name, email address, postal address and contact telephone number for the individual who is the Billing Contact for the Regulated Entity)	
What is the fee for submitting the form to ASIC: (See Schedule 1 of the <i>Corporations (Fees) Act 2001</i> ):	
Have you already posted or delivered the cheque to the Brisbane office and what method did you use?	

## Declarations

(Please make the following declarations by completing your name and address details and ticking the relevant boxes below. If you are not able to make the declarations, we will not accept your submission)

Declaration		
I, _____ [ <i>insert full name of the individual submitting the document</i> ], of _____ [ <i>insert address of the individual submitting the document</i> ], declare that:		
1.	I am authorised to submit the document(s) named above to ASIC by the relevant Regulated Entity (unless you are acting on your own behalf).	<input type="checkbox"/>
2.	(a) I am authorised to electronically sign the document(s) and cover form(s) named above myself.  OR  (b) The electronic signature of _____ [ <i>insert name of relevant individual</i> ] has been applied to the document(s) including any cover form(s) named above on their express prior written authority.	<input type="checkbox"/>  OR  <input type="checkbox"/>
3.	The Corporations Act requires me to sign the attached form(s) and/or document(s):  (a) Yes, and I have inserted or applied my own electronic signature to those form(s) and/or document(s):  OR  (b) No	<input type="checkbox"/>  OR  <input type="checkbox"/>
4.	I have read the ELS User Agreement and understand that each use of the ELS by me constitutes my acceptance of its terms and conditions.	<input type="checkbox"/>
5.	I have read and understood ASIC's Privacy Policy and ASIC's Privacy Collection Notice.	<input type="checkbox"/>

**Signed by:**

Full Name: \_\_\_\_\_

Signature: \_\_\_\_\_