

YOUR ONLINE

PROPERTY EXCHANGE

# PEXA Service Charter

Version 4.1  
8 August 2016



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**Important Note:**

*PEXA will provide functionality on a staged roll out basis. PEXA will advise Subscribers when the following functionality is activated:*

- *Simultaneous Settlement capability*

*References in this Service Charter to capability not being currently available will be removed upon such notification.*

**PEXA Service Charter**

PEXA is an approved Electronic Lodgement Network Operator (ELNO) in the Active Jurisdictions.

PEXA provides services to facilitate the Lodgement of Lodgement Cases, and where applicable Financial Settlement, of Conveyancing Transactions electronically. PEXA does this by providing and operating an ELN including a shared Electronic Workspace for Subscribers to work collaboratively in a secure online environment.

PEXA facilitates the settlement of Conveyancing Transactions and is responsible, among other things, for ensuring that once the data is entered into the PEXA System by Subscribers or applicable third party providers (e.g. Land Registries or Duty Authorities) it will protect the integrity and accuracy of that data as provided.

This Service Charter describes the services PEXA provides and outlines PEXA's service commitments to Subscribers in accordance with the terms of a signed Participation Agreement.

**Defined Terms**

Capitalised terms used in this Service Charter indicate that the term is defined in, and has the meaning given in, either the ECNL, the Participation Agreement, the Participation Rules or the Operating Requirements (as the case may be), unless the context requires otherwise.

**1. Scope of PEXA Services**

This section provides an overview of the Active Jurisdictions in relation to which PEXA will provide the Services, the types of transactions supported by the PEXA System and specific conditions which apply to PEXA's provision of the Services.

Further details about the Services are set out in section 2 of this Service Charter.

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## 1.1 Active Jurisdictions

PEXA will provide Electronic Workspaces for Conveyancing Transactions in the following Active Jurisdictions:

- New South Wales;
- Queensland;
- South Australia
- Victoria; and
- Western Australia.

## 1.2 Supported Conveyancing Transaction types

The PEXA System will support the following types of transactions in relation to real property in the Active Jurisdictions:

### In all Active Jurisdictions:

- standalone discharges of mortgage;
- discharges of mortgage with Financial Settlement;
- standalone mortgages;
- mortgages with Financial Settlement;
- mortgages with caveat withdrawal;
- lodgement of caveats with Financial Settlement;
- withdrawals of caveat with Financial Settlement;
- standalone Lodgement of caveat/s;
- standalone withdrawal of caveat/s;
- settlement notice (QLD only); and
- transfer with Financial Settlement.

PEXA will provide the following Land Registry or Duty Authority **administrative notices or supporting documents** in the jurisdictions indicated:

- Nomination/ Withdrawal of Nomination for Land Titles (Victoria only);
- Notice of Acquisition (Victoria only);
- Consent (NSW only);
- Notice of Sale (NSW only);
- Form 24A (QLD only);
- Form 24B (QLD only); and
- Form 25 (QLD only)

## 1.3 Conditions

PEXA will provide the Services subject to the following conditions:

- the Conveyancing Transaction must be a type set out in section 1.2 of this Service Charter;
- the relevant titles must be eligible for electronic lodgement (as determined by the Land Registry in the relevant Active Jurisdiction);

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- the Conveyancing Transaction:
    - must relate to a fee simple interest only;
    - must not be a "T2 Transfer" in Victoria (ie a transaction involving additional covenants and/or encumbrances on title, and therefore requiring use of the "T2 Transfer Form" published by the Land Registry in Victoria); and
    - must not be a "T3 Transfer" in Victoria (ie a mortgagee sale which requires the use of the "T3" Transfer of Land form published by the Land Registry in Victoria);
  - for transfers, the transaction must be capable of being assessed by the relevant Duty Authority's online assessment system that enables an assessment to be provided to PEXA;
  - all documents in an Electronic Workspace must adhere to the related dealings rules set by the relevant Land Registry in the Active Jurisdiction;
  - a maximum of two Financial Settlements can be Linked for Simultaneous Lodgement or Settlement (*Simultaneous Settlement capability is not currently available*);
  - a maximum of three Financial Settlements can be Linked for Sequential Lodgement or Settlement;
  - Electronic Workspaces cannot be Linked for both settlement and Lodgement;
  - Sequential Electronic Workspaces cannot be Linked to simultaneous Electronic Workspaces;
  - each Electronic Workspace may contain up to twenty Land Title references; and
  - a transfer can only occur with Financial Settlement.

## 2. Services

This section provides a description of the core Services provided by PEXA. PEXA agrees to provide the Services in accordance with the service levels set out at the following [pexa.com.au/slc](https://pexa.com.au/slc).

### 2.1 PEXA set up

#### 2.1.1 Subscriber Profile

Following approval to participate as a Subscriber, PEXA will establish your profile as a Subscriber ("**Subscriber Profile**") and activate the Subscriber Manager to manage the Subscriber Profile within the PEXA System.

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### **2.1.2 Entity name variants**

PEXA will provide a maintenance screen in the Subscriber Profile for financial institutions to add prior legal entity names and variations of legal entity names, including names of the financial institution's acquisitions.

Once a name is attributed to a financial institution in its Subscriber Profile, other Subscribers will be prevented from transacting in these names unless acting as Panel Member for the financial institution.

### **2.1.3 Panel Master and Panel Member restrictions**

PEXA will restrict the ability of a Representative Subscriber to represent a Panel Master in an Electronic Workspace unless the Representative Subscriber is a Panel Member appointed by the Panel Master.

A Panel Master may authorise one or more of its Panel Members to create source Line Items in a Settlement Schedule which nominate the Panel Master as the Source FI. The Panel Member will be required to provide the relevant instruction/s regarding the Line Item (including creating the Line Item) and to Digitally Sign the Settlement Schedule including for and on behalf of the Panel Master.

If the Panel Master intends to authorise a Panel Member to nominate it as the Source FI, the Panel Master will be required to provide consent to such use and the consent must be in the form reasonably prescribed by PEXA.

## **2.2 Customer account maintenance**

PEXA will provide the relevant Land Registry with information to enable the creation of a new customer record or the variation of an existing customer record within the Land Registry's system. The creation of a customer record in the Land Registry system will enable the Subscriber to complete Conveyancing Transactions electronically in that Jurisdiction(s).

## **2.3 PEXA registered accounts**

### **2.3.1 Representative Subscriber's Trust Account(s)**

On request by a Representative Subscriber, PEXA will register a statutory trust account for that Representative Subscriber to use (subject to (or only after) validation of account details and payment authorisers by the relevant Financial Institution as set out below) as a Source Account to provide source funding for a Conveyancing Transaction or as a destination account to receive settlement funds in accordance with the relevant Subscriber's instructions. The statutory trust account must be held at a Financial Institution which is a Payment Integrated Financial Institution with PEXA. The process for doing so is further detailed below.

Upon receipt of a Trust Account Form completed by a Representative Subscriber, PEXA will send it to the relevant Payment Integrated Financial Institution. On receiving the completed Trust Account Form, the Payment Integrated Financial Institution will review the Trust Account Form and notify PEXA whether:



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- the account details are valid (or otherwise); and
  - the payment authorisers nominated by the Subscriber are authorised signatories on the account (or otherwise).

Upon receipt of such notification from the relevant Payment Integrated Financial Institution confirming validation, PEXA will add the Source Account to the Representative Subscriber's Subscriber Profile.

Once the statutory trust account has been added to the Subscriber Profile, the Representative Subscriber's Subscriber Manager must then access the Subscriber Profile and verify the account details, and set up and link payment authorisers to the registered Source Account.

Upon receipt of a PEXA System notification that payment authorisers have been linked to the registered statutory trust account, PEXA will verify the payment authorisers against the details in the validated Trust Account Form and enable payment authorisers to authorise the debit of funds from that statutory trust account using their Digital Signature in the PEXA System in accordance with the Representative Subscriber Participation Agreement.

In cases where the relevant Payment Integrated Financial Institution notifies PEXA of partial validation (for example, where the statutory trust account is validated, but one or more of the payment authorisers nominated by the Subscriber are not authorised signatories), PEXA will notify the Subscriber and will only add validated accounts and allow linking of validated payment authorisers to the Subscriber's Profile.

PEXA will repeat the above process each time it receives a Trust Account Form from a Subscriber to either register a new Source Account in the Subscriber's Profile or nominate additional payment authorisers.

### **2.3.2 Registering of accounts to Subscriber Profile**

PEXA will register an account(s) to your Subscriber Profile as required (and as described in this Service Charter), including a fee payment account, Settlement Account or other account required based on your activities within the PEXA System.

### **2.3.3 ESA for Financial Institutions completing Financial Settlement**

PEXA will register an ESA to your Subscriber Profile as required, based on your activities within the PEXA System. If the Financial Institution intends to use another financial institution's ESA, the Financial Institution will be required to provide consent to such use and the consent must be in the form reasonably prescribed by PEXA.

## **2.4 PEXA Source Account**

PEXA will provide a source account which will be available to eligible Subscribers for the purpose of their clients contributing funds to a Financial Settlement ("**PEXA Source Account**").

PEXA will only support electronic funds transfers or RTGS payments into the PEXA Source Account in preparation for funds being available at the date of Scheduled Settlement. Cleared funds must be

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available in the PEXA Source Account not less than 3 Business Days before the date of Scheduled Settlement.

PEXA will verify that funds are cleared and available for Financial Settlement prior to Financial Settlement. The Subscriber will be required to provide the relevant instruction/s regarding the Line Item (including creating the Line Item) and Digitally Sign the Settlement Schedule.

Funds held in the PEXA Source Account will only ever be held on trust for the purchaser of the property the subject of the Conveyancing Transaction.

Upon written instruction from the Subscriber responsible for the source Line Item that a Conveyancing Transaction will not proceed, PEXA will obtain instructions from the Subscriber to return the funds associated with the source Line Item, where possible, to the account from which the funds were originally transferred.

Subscribers will be required to manage or comply with any regulatory requirements they have in respect of funds contributed to a Financial Settlement from the PEXA Source Account.

## **2.5 Registry Instrument creation and Data Standards**

PEXA will provide Electronic Workspaces for Subscribers to complete electronic Conveyancing Transactions.

PEXA will use the Data Standard to create template electronic Registry Instruments in the Electronic Workspace.

Subscribers will be required to prepare and submit electronic Registry Instruments (including all component data items) for Lodgement by PEXA with the relevant Land Registry.

## **2.6 Land Title Reference Verification**

PEXA will send a request for validation by the Land Registry for each Land Title Reference entered into an Electronic Workspace to determine whether:

- the Land Title Reference corresponds to a valid and existing Land Title on that jurisdiction's register;
- the Land Title Reference is eligible for Electronic Lodgement; and
- the Land Title Reference has been superseded by a new Land Title Reference.

PEXA will provide notification to the Subscriber of a response from the Land Registry advising that the title cannot be transacted upon within PEXA.

PEXA will provide a notification to the Subscriber if it is unable to perform the Land Title Reference Verification at the relevant time.

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## 2.7 Registry Information Supply

PEXA will send a request for, or a refresh of, registry information to the Land Registry for each Land Title Reference entered into an Electronic Workspace. PEXA will initiate the request as follows:

- at Electronic Workspace creation – after successful verification by the Land Registry that the Land Title Reference is valid and eligible for Electronic Lodgement unless the Subscriber instructs PEXA otherwise;
- on the addition of a new Land Title Reference to an Electronic Workspace – after successful verification by the Land Registry that the Land Title Reference is valid, eligible for Electronic Lodgement and has not been superseded; or
- when manually initiated by a Subscriber User – at any time during the transaction prior to commencement of Financial Settlement (or Lodgement for Conveyancing Transactions for which there is no Financial Settlement).

PEXA will provide a notification to the Subscriber if it is unable to perform the Registry Information Supply service as outlined above.

PEXA has operating agreements in place in the Active Jurisdictions which enables PEXA to assist Subscribers to complete Conveyancing Transactions by populating Registry Instruments and associated documents in the Electronic Workspace with data provided by the Land Registries and Duty Authorities. Where such Land Registry or Duty Authority provides PEXA with commitments in relation to the accuracy or completeness of their data, PEXA makes the same commitments to you under this Service Charter. However, you acknowledge that typically, no guarantee is given to PEXA by the Land Registries and Duty Authorities as to the accuracy or completeness of the data provided.

It is for this reason that PEXA does not represent or warrant the accuracy or completeness of the data that is provided by the Land Registries and Duty Authorities to PEXA.

When PEXA receives information from the Land Registry in relation to a Land Title Reference with multiple registered mortgages, PEXA will order those mortgages first by dealing number, then by registration date. PEXA's ordering on a Land Title Reference of registered mortgages may not reflect the Land Registry ranking.

Information received from the Land Registry does not constitute a title search, and comprises only the information required to effect an electronic Conveyancing Transaction.

## 2.8 Title Activity Check

The first Title Activity Check will identify any activity on the Land Title Reference in the 60 days prior to the Land Title Reference being received into the Electronic Workspace.

Subsequent Title Activity Checks will identify any activity on the Land Title Reference since the last Title Activity Check was completed. In Western Australia, except on the day of Scheduled Settlement, subsequent Title Activity Checks will identify any activity on the Land Title Reference in the 60 days prior to the Land Title Reference being received into the Electronic Workspace. In Western Australia, on the day of Scheduled Settlement, the Title Activity Check will identify any activity on the Land Title Reference in the fourteen days prior to Scheduled Settlement, or if there had been no successful Title Activity Check in that period, since the last successful Title Activity Check.

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### **2.8.1 Title Activity Check– Lodgement Only**

Where a Conveyancing Transaction does not include Financial Settlement, PEXA will only automatically initiate a Title Activity Check upon a Land Title Reference being received into the Electronic Workspace if the Electronic Workspace includes preparation of a new mortgage. Subscribers who are, or who are acting for, the incoming mortgagee can initiate manual Title Activity Checks at any time prior to Lodgement.

### **2.8.2 Title Activity Check– Lodgement with Financial Settlement**

Where a Conveyancing Transaction involves Lodgement with Financial Settlement, PEXA will automatically initiate Title Activity Checks at the following pre-determined intervals during the Conveyancing Transaction:

1. at the time an Electronic Workspace for a Conveyancing Transaction is created (following successful Land Title Reference Verification), unless the Subscriber instructs PEXA otherwise;
2. at the time a new Land Title Reference is added to an existing Electronic Workspace;
3. from four weeks prior to the Scheduled Settlement, weekly up to one week before the date of the Scheduled Settlement;
4. on each of the 7 days prior to the day of Scheduled Settlement; and
5. one hour prior to the time of Scheduled Settlement.

Participating Subscribers can initiate manual Title Activity Checks at any time prior to the Electronic Workspace being Locked.

PEXA will promptly provide a notification to the Subscriber if the Title Activity Check indicates activity on the Land Title Reference. Notification will include details of the document type and dealing number of any new activity on the Land Title Reference.

If PEXA has initiated a request for the Title Activity Check on the day of Scheduled Settlement but the Title Activity Check:

- is not performed (because, for example, PEXA is unable to establish communications with the relevant Land Registry); or
- indicates title activity on the Land Title Reference,

PEXA will not allow a Conveyancing Transaction to proceed to Financial Settlement unless the Subscribers who are, or who are acting for, any purchaser, incoming mortgagee or incoming caveator have all elected within the Electronic Workspace to continue with the transaction by selecting the 'Proceed with Settlement' option. Subscribers can complete this election immediately after receiving notification from PEXA that the final Title Activity Check could not be completed, or there has been activity on the Land Title Reference.

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## 2.9 Lodgement Verification

PEXA will automatically initiate a Lodgement Verification at the following pre-determined intervals during a Conveyancing Transaction:

1. when the Registry Instruments (including any Lodgement Instructions or relevant administrative notices have reached "prepared status" (i.e. the document and all data fields have been populated but not yet signed));
2. when there is a change to the Scheduled Settlement date;
3. when all Registry Instruments in the Lodgement Case have been Digitally Signed by the relevant Subscribers in accordance with the Certification Rules;
4. when a Title Activity Check indicates there has been activity on a Land Title Reference in the Electronic Workspace; and
5. in relation to Simultaneous Settlement, immediately prior to the Lodgement of Registry Instruments within the settlement process. (*Simultaneous Settlement capability is not currently available*)

If the Lodgement Verification indicates that the Registry Instruments are not acceptable for Lodgement then PEXA will Unsign the affected documents (if previously signed) and notify relevant Subscribers.

## 2.10 Digital Signing validation

PEXA supports Digital Signing within the Electronic Workspace in accordance with the ECNL and the Operating Requirements.

Where PEXA is the Certification Authority, PEXA will validate Digital Signatures in accordance with the Operating Requirements. PEXA's liability as the Certification Authority will be determined in accordance with the PEXA DSC Subscriber Agreement.

Where PEXA is not the Certification Authority, PEXA will, in accordance with the Operating Requirements, initiate a validation request to the relevant Certification Authority to validate Digital Signatures. PEXA will not be responsible for any incorrect validation by the Certification Authority or any delay or inability of the Certification Authority to validate a Digital Signature which results in a delay to a Scheduled Settlement or any other loss.

## 2.11 Lodgement - Non Financial Settlement

Upon request by the relevant Subscriber through the PEXA System, PEXA will initiate lodgement of the Registry Instruments and any related instruments and instructions with the relevant Land Registry, provided all documents in the Lodgement Case have been Digitally Signed and PEXA has successfully completed Lodgement Verification following that Digital Signing.

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## 2.12 Duty Verification

PEXA cannot commence the settlement process detailed in sections 2.15.1 to 2.15.6 without evidence of assessment\* of stamp duty from the relevant Duty Authority.

\*In Victoria, Duty Verification is carried out before settlement is commenced, but assessment from the Duty Authority occurs during the settlement process.

PEXA provides Representative Subscribers with the option to pay stamp duty within the PEXA System as part of a Financial Settlement.

In New South Wales, Queensland, Victoria and Western Australia, PEXA will display the stamp duty payment advice status provided by the relevant Duty Authority in the Electronic Workspace.

PEXA will initiate a Duty Verification in order to verify that stamp duty information in the Electronic Workspace is consistent with stamp duty information held by the Duty Authority for the relevant Conveyancing Transaction.

PEXA will initiate Duty Verification at the following pre-determined intervals during a Conveyancing Transaction:

- in all Active Jurisdictions:
  - when manually requested by the Subscriber acting for the Purchaser; and
  - when there is a change to relevant stamp duty information in the Electronic Workspace;
- in New South Wales, South Australia, Queensland and Western Australia:
  - 2 days prior; and
  - 1 hour prior to the Scheduled Settlement.

In cases where Duty Verification cannot be completed 1 hour prior to the Scheduled Settlement, but the Duty Verification completed 2 days prior to the Scheduled Settlement (or, if applicable, the Duty Verification since that time resulting from a manual request or a change in relevant Electronic Workspace information) was successful, PEXA will notify Subscribers that the Duty Verification cannot be completed and will proceed with Financial Settlement; and

- in Victoria, 7 days and 2 days prior to the Scheduled Settlement, on the morning of the Scheduled Settlement and 1 hour prior to the Scheduled Settlement.

If the Representative Subscriber has chosen to pay stamp duty as part of Financial Settlement and the Duty Verification fails because the duty information is inconsistent with information provided by the Duty Authority, PEXA will Unsign the relevant documents in the Lodgement Case and remove the disbursement Line Item for stamp duty from the Settlement Schedule.

PEXA will send a notification to all participants if PEXA is unable to perform the Duty Verification prior to settlement because PEXA is unable to establish communications with the Duty Authority.

For Victoria, further Duty Verification is required as part of the settlement process. See section 2.15 of this Service Charter.

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### 2.13 Unsigning by PEXA

PEXA will automatically Unsign a Registry Instrument or a Settlement Schedule (as applicable) in the following circumstances:

- where Electronic Workspace data referenced in a Digitally Signed document has changed;
- where Lodgement Verification fails; or
- where Duty Verification fails or identifies an error.

### 2.14 Election to proceed with Financial Settlement without Lodgement

PEXA will not allow a Conveyancing Transaction to proceed with Financial Settlement where PEXA cannot establish communications with the relevant Land Registry unless the Subscribers who are, or who are acting for:

- a purchaser;
- an incoming mortgagee or incoming caveator; or
- a provider of Source Funds,

have all elected within the Electronic Workspace to continue with the Financial Settlement without Lodgement by selecting 'Lodgement Override'. Subscribers can complete this election at any time prior to the Electronic Workspace being Locked.

### 2.15 Settlement

PEXA will not commence the settlement process detailed in sections 2.15.1 to 2.15.6 unless the Electronic Workspace is in Ready Status at the date and time of Scheduled Settlement.

PEXA will notify all Subscribers if an Electronic Workspace is not in Ready Status one hour prior to the date and time of Scheduled Settlement.

If the Electronic Workspace is not Linked to another Electronic Workspace for the purposes of Sequential Settlement, PEXA will only Lock the Electronic Workspace at the date and time of Scheduled Settlement if the Electronic Workspace is in Ready Status.

Where Electronic Workspaces are Linked for the purposes of Sequential Settlement, PEXA will only Lock the first and second Electronic Workspaces at the date and time of the Scheduled Settlement of the preceding Electronic Workspace if both Linked Electronic Workspaces are in Ready Status. Where there is a third Linked Electronic Workspace, PEXA will Lock the third Linked Electronic Workspace at the date and time of the Scheduled Settlement of the second Electronic Workspace but only if the third Electronic Workspace is in Ready Status.

Where Electronic Workspaces are Linked for the purposes of either Simultaneous Lodgement or Simultaneous Settlement (*Simultaneous Settlement capability is not currently available*), PEXA will only Lock the Electronic Workspaces at the date and time of the Scheduled Settlement if both Linked Electronic Workspaces are in Ready Status.

PEXA will commence execution of the settlement process described in this section 2.15 (Settlement) upon the Electronic Workspace being Locked.

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Settlement of a Conveyancing Transaction will commence at the point of the Electronic Workspace being Locked and will be completed once settlement, lodgement and disbursement of funds is completed. Once Financial Settlement occurs, the Conveyancing Transaction cannot be "unwound" or undone (even if Financial Settlement occurs but Lodgement is delayed).

In Victoria, after the Electronic Workspace is Locked, PEXA will notify the Victorian Duty Authority of the Subscriber's commitment to pay stamp duty and will receive an assessment notice from the Duty Authority which PEXA will provide to the Land Registry to enable Lodgement of the relevant transfer of land. Under the Operating Requirements, PEXA cannot complete Lodgement of Registry Instruments unless the Registry Instruments have been assessed for stamp duty. PEXA will continue to request the required evidence of assessment of stamp duty from the Victorian Duty Authority (see section 2.16.2 of this Service Charter). Conveyancing Transactions may be stopped by a Subscriber prior to the Rebooking Cut Off Time if the Victorian Duty Authority continues to be unable to provide evidence of assessment of stamp duty and the Electronic Workspace is in Settlement Held Status. Conveyancing Transactions which do not complete by this time will be required to be rescheduled for a subsequent Business Day.

PEXA will not be liable to any person or Subscriber for a failure to provide Services in accordance with this Service Charter, to the extent that the failure is attributable to the act or omission of a third party involved in an Electronic Workspace (being any combination of financial institution(s), the Reserve Bank of Australia, a Duty Authority or Land Registry).

PEXA will perform the following activities to facilitate the settlement between the parties.

#### **2.15.1 PEXA will send Payment Integrated Financial Institution(s) Payment Instruction File(s)**

Once the Electronic Workspace is Locked, where funds are being provided from a Source Account, PEXA will prepare and send a Payment Instruction File to the relevant Payment Integrated Financial Institution to initiate a movement of funds from that Source Account in accordance with the authorisations and instructions in the Electronic Workspace.

Where a Subscriber provides payment instructions via a Line Item within the PEXA System, PEXA receives those payment instructions as the relevant Financial Institution's agent. The agency arrangement for this purpose is limited to receiving payment instructions from the Representative Subscriber.

In the case of insufficient funds in a Subscriber's registered Source Account being cleared and becoming available at the time of the Payment Integrated Financial Institution debiting the account, PEXA will notify the relevant Participating Subscribers of a delay in settlement to allow resolution of the issue whilst the Electronic Workspace remains in Locked status and will continue to send the source Payment Instruction File at pre-determined intervals until sufficient funds are available, unless a Subscriber elects to stop settlement.



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### **2.15.2 PEXA will send the RBA a Funds Reservation request**

Once PEXA has received confirmation that Source Funds have been processed in accordance with the procedures agreed with the relevant Financial Institution, PEXA, as the agent for the relevant Financial Institution, will prepare an ESA Settlement Instruction which includes the net settlement position arising out of a Final Settlement Schedule for all relevant Financial Institutions including where a financial institution acts as a Financial Settlement Agent and will send a request to the RBA to place a reservation of the net value of funds on the ESA of the relevant Financial Institution(s) for that Conveyancing Transaction \*

In the case of insufficient funds being available for reservation at the ESA of the relevant ESA Holder at the time of the sending the Funds Reservation request, PEXA will notify the relevant Participating Subscribers of a delay in settlement to allow resolution of the issue whilst the Electronic Workspace remains in Locked status and will continue to send the Funds Reservation request at pre-determined intervals until sufficient funds are available, unless a Subscriber elects to stop settlement.

\*For Victoria only, after the RBA has confirmed reservation and prior to Lodgement, PEXA will perform Duty Verification to obtain evidence of stamp duty assessment to enable Lodgement of Registry Instruments.

### **2.15.3 PEXA will provide the Lodgement Case to the Land Registry**

Once the PEXA System has received a successful reservation response from the RBA (and the PEXA System receives the assessment notice from the Duty Authority in Victoria), subject to the Land Registry's availability, PEXA will submit the Lodgement Case to the relevant Land Registry for Lodgement.

Where PEXA cannot establish communications with the relevant Land Registry for the purposes of the Land Registry receiving the lodgement request, PEXA will only continue with Financial Settlement if it has received instructions to proceed without Lodgement from the relevant participants in the Electronic Workspace in accordance with paragraph 2.14 of this Service Charter. PEXA will complete the Lodgement of Registry Instruments as soon as practicable once communications with the Land Registry are re-established.

### **2.15.4 PEXA will send the RBA a funds Financial Settlement request**

Once PEXA receives confirmation that the Lodgement Case has been received by the relevant Land Registry, or PEXA has received an instruction from the relevant Subscriber(s) to proceed with Financial Settlement without Lodgement, PEXA, as the agent for the relevant Financial Institution, will send a request to the RBA to exchange funds value between the ESAs of the relevant Financial Institution(s). For clarity, PEXA will only act as agent for the Financial Institution under the limited circumstances discussed in sections 2.15.1, 2.15.2 and 2.15.4 of this Service Charter

(a) If Lodgement is not accepted by the Land Registry and:

(i) Source Funds have already been debited from a registered Source Account, PEXA will:

- 
- instruct the RBA to recall the relevant Funds Reservation;
  - notify the Participating Subscribers of the failure to Lodge;
  - Unsign any document causing the Lodgement to fail;
  - require the Subscribers to reschedule the settlement (for a subsequent Business Day); and
  - roll back funds to the Subscriber's registered Source Account; and

(ii) no Source Funds have been debited from a registered Source Account, PEXA will:

- instruct the RBA to recall the relevant Funds Reservation;
- notify the participants of the failure to Lodge;
- Unsign any document causing the Lodgement to fail;
- if there is sufficient time to enable a Title Activity Check to occur prior to the Rebooking Cut Off Time, automatically reschedule to the next available time for that day;
- if there is insufficient time to enable a Title Activity Check to occur prior to the Rebooking Cut Off Time, require the Subscribers to reschedule the settlement (for a subsequent Business Day).

(b) If no response is received from the Land Registry, and PEXA has not received an instruction from the relevant Subscriber(s) to proceed with Financial Settlement without Lodgement, PEXA will:

- instruct the RBA to recall the relevant Funds Reservation;
- notify the participants of the failure to settle;
- Unsign any document causing the Lodgement to fail;
- require the Subscribers to reschedule the settlement; and
- roll back funds to the Subscriber's registered Source Account (if applicable).

### **2.15.5 Notification**

Upon confirmation from the RBA that funds have been exchanged between the ESA(s) of the relevant Financial Institution(s), PEXA will notify all Participating Subscribers that Financial Settlement has occurred.

PEXA will also notify the estate agent where the Subscribers who are, or who are acting for a vendor have entered the estate agent's email address in the Electronic Workspace prior to the Electronic Workspace being Locked.

### **2.15.6 PEXA will send Payment Integrated Financial Institution(s) Payment Instruction File(s) for disbursement processing**

Upon confirmation from the RBA that funds have been exchanged between the ESA(s) of the relevant Financial Institution(s), PEXA will provide a Payment Instruction File containing all disbursement instructions from the Electronic Workspace to the relevant Financial Institutions to process the funds to the relevant Australian accounts.

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## **2.16 Handling delays in settlements**

PEXA will endeavour to settle transactions on the day of Scheduled Settlement.

### **2.16.1 Business delays**

Where there is a business delay, PEXA will continue to attempt to settle a transaction until the Rebooking Cut Off Time, unless a Subscriber elects to stop settlement. This will apply in cases where:

- there are insufficient funds in a Subscriber's registered Source Account (see section 2.15.1);
- there are insufficient funds in the ESA of a Financial Institution for Funds Reservation request (see section 2.15.2);
- there is a Duty Verification failure (see section 2.15); or
- the Lodgement Case is not accepted by Land Registry (see section 2.15.4)

### **2.16.2 Technical Delays**

Where there is a technical delay PEXA will continue to attempt to settle a transaction until the Rebooking Cut Off Time. This will apply in cases where:

- PEXA is unable to establish communications with the Land Registry to complete a Title Activity Check one hour prior to the Scheduled Settlement, in which case PEXA will continue to reschedule until the Rebooking Cut Off Time or until the relevant Subscriber(s) elect to proceed with Financial Settlement without the Title Activity Check (see section 2.8.2);
- PEXA is unable to establish communications with the Land Registry and the relevant Subscriber/s have not elected to continue to proceed without Lodgement, in which case PEXA will continue trying to reach the Land Registry system at pre-determined intervals up until the Rebooking Cut Off Time;
- PEXA is unable to establish communications with the Duty Authority in Victoria, in which case PEXA will continue trying to reach the Duty Authority system at pre-determined intervals up until the Rebooking Cut Off Time or the relevant Subscriber elects to stop the transaction (see section 2.15);
- PEXA is unable to generate a source Payment Instruction File or the relevant Subscriber elects to stop the transaction; or
- PEXA is unable to generate the RITS Funds Reservation Request or the relevant Subscriber elects to stop the transaction.

If automatic rescheduling on the Scheduled Settlement day is not possible, Subscribers will be required to rebook settlement for a subsequent Business Day.

### **2.16.3 Rebooking**

Where a Conveyancing Transaction with Financial Settlement has been scheduled to settle prior to 4pm (AEST or AEDT, as applicable) on a particular Business Day but has not been completed by 4pm (AEST or AEDT, as applicable) on that day, Subscribers will be required to rebook the settlement for a subsequent Business Day.

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For Conveyancing Transactions with Financial Settlements scheduled after 4pm (AEST or AEDT, as applicable) on a particular Business Day and which fail, are cancelled or are stopped by a Subscriber, Subscribers will be required to rebook the settlement for a subsequent Business Day.

Note that in WA this will mean the Rebooking Cut Off Time is 1 pm during periods where AEDT applies in New South Wales, Victoria, South Australia, Tasmania and the Australian Capital Territory, and 2 pm during all other periods in the year.

### **2.17 Unsuccessful settlement completion**

Where funds have moved from a Subscriber's registered Source Account but the Scheduled Settlement is not successfully completed on the Scheduled Settlement date, PEXA will provide the relevant Financial Institution with a Payment Instruction File on the same day to enable the Financial Institution to return the funds to the registered Source Account.

### **2.18 PEXA will support linked Lodgements**

PEXA will provide capability to enable Subscribers who are, or who are acting for, an incoming mortgagee or a mortgagee on title to complete Sequential Lodgements or Simultaneous Lodgements.

Electronic Workspaces are linked via the Settlement Schedules of the relevant Electronic Workspaces.

PEXA will make the link request available to be accepted by the same Subscriber within the Electronic Workspace to be linked. Once the link request is accepted by the relevant Subscriber, PEXA will Link the Electronic Workspaces.

#### **2.18.1 Sequential Lodgement**

PEXA will not commence settlement of a Trailing Electronic Workspace(s) unless:

- the Lodgement and Financial Settlement in the first (or Preceding) Electronic Workspace has completed successfully; or
- where applicable, the relevant Subscribers have selected Lodgement Override in the Preceding Electronic Workspace.

PEXA will only facilitate linked Sequential Lodgement under the following conditions:

- the initiating Subscriber must be, or must be acting for, an incoming mortgagee or a mortgagee on title;
- the initiating Subscriber must be a participant in the relevant Electronic Workspaces;
- the settlements must not already be linked for a Simultaneous Lodgement, Sequential Settlement or Simultaneous Settlement;
- Financial Settlement can only be executed for a Trailing Electronic Workspace if the Lodgement and Financial Settlement in the Preceding Electronic Workspace have been completed successfully; and
- Sequential Lodgements must have at least an hour between the preceding and Trailing Electronic Workspaces on the same date of settlement.

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### **2.18.2 Simultaneous Lodgement**

PEXA will only facilitate linked Simultaneous Lodgements under the following conditions:

- the initiating Subscriber must be, or must be acting for, an incoming mortgagee or a mortgagee on title;
- the initiating Subscriber must be a participant in both Electronic Workspaces;
- the settlement in both Electronic Workspaces must be scheduled for the same settlement date and time;
- the settlement in both Electronic Workspaces must be a Financial Settlement; and
- the settlements must not already be linked for a Sequential Lodgement, Sequential Settlement or Simultaneous Settlement.

After Locking the Electronic Workspaces simultaneously, PEXA will Lodge and settle the Electronic Workspaces independently.

### **2.19 PEXA will support linked settlements**

PEXA will provide capability to enable Subscribers to complete Sequential Settlements or Simultaneous Settlements (*Simultaneous Settlement capability is not currently available*).

Electronic Workspaces are linked via a linked financial Line Item in the Settlement Schedule of the relevant Electronic Workspaces.

Once a Line Item is completed by the relevant Participating Subscriber PEXA will create a request for the selected linked Electronic Workspaces. PEXA will make the link request available to be accepted by the same Subscriber within the Electronic Workspace to be linked. Once the link request is accepted by the relevant Subscriber, PEXA will automatically create a linked financial Line Item.

#### **2.19.1 Sequential Settlement**

PEXA will identify the funds required from the first settlement to the second and third (as applicable) settlement (each a Trailing Electronic Workspace), and ensure these funds are included in the next trailing settlement by means of the reservation request, in accordance with the instructions entered by Subscribers within the Settlement Schedule.

PEXA will not commence settlement of the Trailing Electronic Workspace(s) unless the first (or Preceding Electronic Workspace) settlement has completed successfully. PEXA will not commence settlement of a Preceding Electronic Workspace unless the Trailing Electronic Workspace is in Ready Status.

Subscribers in the Trailing Electronic Workspace will have the option to stop settlement at any time prior to the Scheduled Settlement of the Trailing Electronic Workspace.

PEXA will only facilitate linked Sequential Settlement under the following conditions:

- the initiating Subscriber must be a participant in the relevant Electronic Workspaces;

- 
- the settlements must not already be linked for a Simultaneous Settlement;
  - the linked financial Line Item in the Settlement Schedule must have an amount greater than \$0;
  - Financial Settlement can only be executed for a Trailing Electronic Workspace if the Preceding Electronic Workspace has been completed successfully;
  - The initiating Subscriber must have a Source Account registered in their Subscriber Profile to create a linked financial Line Item;
  - Sequential Settlements must have at least an hour between the preceding and Trailing Electronic Workspaces on the same date of settlement for Financial Settlement to proceed; and
  - Sequential Settlements must have an Interim Sequential Settlement Disbursement Account defined in the linked destination financial Line Item. This is the account to which funds will be directed in the event of Lodgement or settlement failure of the Trailing Electronic Workspace.

### **2.19.2 Simultaneous Settlement (*Simultaneous Settlement capability is not currently available*)**

PEXA will only facilitate linked Simultaneous Settlements under the following conditions:

- the initiating Subscriber must be a participant in both Electronic Workspaces;
- the settlement in both Electronic Workspaces must be scheduled for the same settlement date and time;
- the settlement in both Electronic Workspaces must be a Financial Settlement;
- the linked financial Line Item in the Settlement Schedule must have an amount greater than \$0;
- both settlements must be in the same Active Jurisdiction; and
- the settlements must not already be linked for a Sequential Settlement.

After reservation of funds confirmation has been received from the RBA:

- (a) in Victoria, PEXA will complete a further Duty Verification for both Electronic Workspaces prior to notifying the Victorian Duty Authority of the Subscriber's commitment to pay; and
- (b) in all Active Jurisdictions, PEXA will perform a Lodgement Verification if Electronic Workspaces are linked for Simultaneous Settlement.

PEXA will continue the settlement transaction on the following conditions:

- if both Lodgement Verifications are successful, PEXA will proceed to Lodge both Lodgement Cases;
- if one or both Lodgement Verifications fail, PEXA will treat this as a Lodgement process failure, in which case the Funds Reservation will be released and settlement will be required to be rescheduled to a subsequent Business Day (where applicable, PEXA will send a rollback file to the relevant Payment Integrated Financial Institution if funds were to be moved from the Source Account prior to Funds Reservation (see section 2.17 above);
- if both Lodgement Verifications are successful, and the first Lodgement is rejected, PEXA will treat this as a Lodgement process failure in which case the Funds Reservation will be released and settlement will be required to be rescheduled; and

- 
- if both Lodgement Verifications are successful, and the first Lodgement is accepted and the second Lodgement fails, PEXA will continue with Financial Settlement, and the resolution of the failed Lodgement will be managed directly between the Subscribers and/or relevant Land Registry outside of PEXA.

### **3. Notifications**

PEXA will provide to all Electronic Workspace Participants system generated notifications of events (including key events listed in section 3.1 below) that occur during a Conveyancing Transaction.

#### **3.1 Key event notifications**

PEXA will notify the Subscriber when any of the following key events occur:

- a Lodgement Verification result indicates that documents cannot be Lodged;
- a Title Activity Check result indicates there has been activity on the Land Title Reference;
- there are changes to Electronic Workspace data which result in documents or the Settlement Schedule being Unsigned;
- PEXA is unable to establish communications with the relevant Land Registry for the purposes of conducting a Final Title Activity Check;
- PEXA is unable to establish communications with the relevant Land Registry for the purposes of conducting a final Lodgement Verification;
- PEXA is unable to establish communications with the relevant Duty Authority for the purposes of conducting a final Duty Verification;
- there is successful completion of Financial Settlement completion; and
- if there are any service issues in connection with the Land Registry and Duty Authority.

#### **3.2 Other notifications**

In addition, other examples of notifications PEXA must provide to Subscribers in the course of completing Conveyancing Transactions in PEXA include:

##### **3.2.1 Pre-settlement**

- The finalisation of a date and time of settlement;
- A change to the status of an Electronic Workspace; and
- Where an Electronic Workspace is not in Ready Status one hour prior to the time of Scheduled Settlement.

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### **3.2.2 Settlement**

- Where Financial Settlement has been stopped;
- Where Financial Settlement has been removed from the Electronic Workspace;
- Where a Line Item relating to a third party beneficiary has been created, modified or removed; and
- Updates regarding the status of linked settlements (e.g. delays, the status of dependent linked settlements etc.)

### **3.2.3 Settlement execution**

- Any delays in settlement due to business or technical reasons; and
- Any payment processing errors for technical reasons.

### **3.2.4 Duty Verification**

- Response from Duty Authority verification (e.g. errors, warnings);
- Changes to the Duty Authority system; and
- Creation of the stamp duty Line Item.

### **3.2.5 Title Activity Check (1 hour prior)**

- There is a technical error (1 hour prior);
- the Title Activity Check returns a positive response on the day of settlement; and
- not all relevant parties have selected to proceed with settlement.

### **3.2.6 Financial accounts**

- PEXA Administrator has verified an Authorised User linked to a trust account; and
- PEXA Administrator removes an Authorised User linked to a trust account.

## **3.3 Operational notifications**

PEXA will notify the relevant Subscriber's nominated contact in circumstances including, but not limited to, the following:

- there are service issues with integrated government agencies (e.g. Land Registries and Duty Authorities);
- incident management;
- where PEXA has invoked its Business Continuity or Disaster Recovery Plan;
- Scheduled Maintenance; and
- technology release management.



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## **4. Assisting with payment errors**

### **4.1 Assistance in dealing with Unapplied Funds**

Where a Financial Institution cannot credit an amount to the account of a customer of that Financial Institution in accordance with the Payment Instruction File received from PEXA, upon notification by the Financial Institution, PEXA will:

- contact the Subscriber that created the Line Item in the Settlement Schedule that contained the details of the account; and
- provide any corrected or amended account details in relation to the Unapplied Funds to the relevant Financial Institution as soon as they are received from the Subscriber.

### **4.2 Assistance in dealing with Misapplied Funds**

Where PEXA is notified by a Financial Institution or another Subscriber that a payment has been made to an incorrect account, PEXA will:

- contact the Subscriber that created the Line Item in the Settlement Schedule that contained the details of the misapplied payment; and
- provide any relevant details in relation to the misapplied payment to the relevant Financial Institution as soon as those details are received from the Subscriber.

## **5. Reports**

PEXA will, and will continue to, provide Subscribers with the capability to create the following user reports to assist Subscribers with day to day operational management:

- settlement payments - ESA report;
- settlement payments - financial operations report (source and destination);
- settlement payments - mortgage operations report (source and destination);
- failed settlement reports; and
- settlement payments source account and trust account reports.

Subscribers can create view and save reports (e.g. csv or pdf) with a maximum duration between the report start and end date of 60 days.

Subscribers can access reports 24 hours per day, 7 days per week (excluding periods of Scheduled Maintenance) as required in order to retrieve real time data for both historical Electronic Workspaces and Electronic Workspaces pending settlement.

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## **6. Paying fees and stamp duty**

### **6.1 Land Registry Lodgement fees**

PEXA collects Land Registry Lodgement Fees as agent for the relevant Land Registry.

PEXA will provide an invoice for the relevant Land Registry Lodgement Fees:

- for a Conveyancing Transaction involving multiple parties – to the Responsible Subscriber in respect of the Conveyancing Transaction; or
- for a Conveyancing Transaction involving a single Subscriber – to that Subscriber.

### **6.2 Payment of PEXA fees**

For payment of PEXA fees, PEXA will include a system generated Line Item in the Settlement Schedule in accordance with the Subscriber's role and where otherwise applicable. This amount will be processed to PEXA as part of Financial Settlement.

For Subscribers being billed by direct debit, PEXA will provide an invoice at the end of each Business Day, setting out details of that Business Day's transactions.

For transactions for which there is no Financial Settlement, PEXA will collect fees from each Subscriber in accordance with the Subscriber's role and where otherwise applicable by way of direct debit from the relevant Subscriber's nominated fee account.

Where Subscribers have manually requested a resupply of Registry Information Supply, the fee for resupply will be direct debited from the relevant Subscriber's fee account.

### **6.3 Stamp duty**

Where the Representative Subscriber has elected to pay stamp duty within the PEXA System as part of a Financial Settlement, PEXA will include a system generated Line Item in the Settlement Schedule for the amount advised to PEXA by the relevant Duty Authority. In New South Wales and Victoria, this amount will be processed to the relevant Duty Authority account as part of Financial Settlement. In Queensland, South Australia and Western Australia, this amount will be processed to the Representative Subscriber's nominated duty disbursement account. In Western Australia, the Representative Subscriber's nominated duty disbursement account must be a registered Subscriber Trust Account.

## **7. Enhanced and new additional services**

From time to time, PEXA may offer to provide additional services to Subscribers.

PEXA will notify Subscribers of enhanced or new services that come available, which may be made available as part of PEXA's core services or may be made available to relevant Subscribers in accordance with the nature of the Subscriber's arrangement with PEXA.

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These arrangements may be included in a revised Service Charter or documented separately between PEXA and the relevant Subscriber(s), as applicable.

## **8. PEXA System**

### **8.1 System Availability**

PEXA will make the PEXA System available 365 days a year (excluding periods of Scheduled Maintenance).

The PEXA System will be available during Service Availability hours for:

- not less than 99.8% during core hours; and
- not less than 99% during non-core hours, as assessed each month.

“Core hours” mean the time from 6:00am to 10:00pm on each Business Day.

For operational hours for core services, please refer to the table in section 8.2 below.

PEXA can only provide the Services contemplated under this Service Charter where the Subscriber has met and continues to meet the SOE Requirements (as set out [www.pexa.com.au/soe](http://www.pexa.com.au/soe)), as amended from time to time.

### **8.2 Hours of Operation**

Please refer to the Hours of Operation for further information at [pexa.com.au/service-charter](http://pexa.com.au/service-charter).

## **9. Business Continuity/Disaster Recovery**

PEXA has established and implemented a detailed and comprehensive Business Continuity and Disaster Recovery Management Plan to ensure that PEXA can continue to provide and operate the ELN in the event of an incident or disruption, so that the operational impacts to Subscribers will be minimised.

In accordance with its obligations under the Operating Requirements, PEXA operates, monitors, reviews, maintains, tests and keeps current its Business Continuity and Disaster Recovery Management Plan to ensure that in the event of an incident, PEXA can continue to provide and operate the PEXA System, or so that disruption to the provision of or operation of the PEXA System will be minimised.

## **10. PEXA Support Services**

### **10.1 PEXA Support Centre**

The PEXA Support Centre will operate during the hours of 7:00am to 10:00pm AEST and will be closed on national public holidays and weekends. Support centre hours will be extended by 1 hour during daylight savings period.

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Please refer to the PEXA Support Information document for further details [pexa.com.au/pexa-support-information](https://pexa.com.au/pexa-support-information).

## 10.2 PEXA Incident Management

In the event of an incident within the PEXA System, PEXA will:

- immediately assess and classify the incident and take appropriate action in accordance with the incident resolution framework;
- promptly provide notification to relevant Subscribers; and
- once services are restored, promptly provide notification to relevant Subscribers.

An incident may be declared a security incident if the Services and/or the confidentiality or integrity of data is impacted. Security incidents typically involve unauthorised and/or malicious activity such as an unauthorised access to PEXA's Services, facilities or information, or the compromise of the Services or data. On detection of a security incident, PEXA will provide notification to the relevant Subscribers. For any such security incidents within the PEXA System, the enquiry/incident resolution timeframe is outlined below:

Severity 1 – Enquiry/Incident	Timeframe
Acknowledgement of receipt within the PEXA Support Centre	30 minutes
Enquiry/Incident to be resolved within:	40 minutes
Severity 2 – Enquiry/Incident	Timeframe
Acknowledgement of receipt within the PEXA Support Centre	30 minutes
Enquiry/Incident to be resolved within:	40 minutes
Severity 3 – Enquiry/Incident	Timeframe
Acknowledgement of receipt within the PEXA Support Centre	1 hour
Enquiry/Incident to be resolved within:	5 days
Severity 4 – Enquiry/Incident	Timeframe
Acknowledgement of receipt within the PEXA Support Centre	1 hour
Enquiry/Incident to be resolved within:	30 days

**Severity 1** means an incident which causes the Services (set out in sections 2.1 to 2.19 of this Service Charter) to not be available or working correctly, resulting in an ELN service disruption.

**Severity 2** means an incident which causes services to not be available or working correctly which results in limited ELN functionality.

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**Severity 3** means an incident which causes services to not be available or working correctly and there is a workaround available.

**Severity 4** means an incident that is determined by PEXA not to be of severity 1, 2, or 3 (general request).

### **10.3 PEXA Monthly Performance Reporting**

PEXA will provide monthly reporting in respect of the performance of the PEXA System and includes:

- Operational Performance;
- Scheduled Maintenance;
- Complaint Management; and
- Management Performance.

Please refer to [www.pexa.com.au/pexa-dashboard](http://www.pexa.com.au/pexa-dashboard) for the "PEXA Monthly Dashboard".

### **11. Security**

Please refer to the PEXA Subscriber Security Policy [www.pexa.com.au/security-policy](http://www.pexa.com.au/security-policy) for details of Subscriber obligations.

### **12. Privacy**

Please refer to our Privacy Policy for further information on how PEXA handles Personal Information at [www.pexa.com.au/privacy-policy](http://www.pexa.com.au/privacy-policy)

### **13. Our Pricing**

PEXA's Pricing Policy provides an overview of the principles and processes utilised in determining and varying the fees for usage of the PEXA System.

To view the Pricing Policy please visit [www.pexa.com.au/pricing-policy](http://www.pexa.com.au/pricing-policy)

### **14. Contact PEXA**

If you require further assistance please contact PEXA at

Telephone: 1300 084 515

Email: [support@pexa.com.au](mailto:support@pexa.com.au)