

# SIGNING DOCUMENTS DIGITALLY

Telelink Business Services is committed to emphasize the need of adopting a fully digital, paperless contract management lifecycle for its clients, vendors and partners in order to accelerate the process of doing business and to simplify all stakeholders' day-to-day contract lifecycle tasks.

Therefore, we are opting for one of the leading service providers in the field – DocuSign. With its presence to more than 180 countries around the world and with hundreds of millions of users worldwide, DocuSign provides its services to 7 of the top 10 global technology companies, 18 of the top 20 global pharmaceutical companies and 10 of the 15 global financial services companies.

## Why adopting this method now?

The requirements for more online collaboration tools are not only imposed by the strict social distancing measures all businesses around the world are currently facing due to the situation with the COVID-19 pandemic. Certainly, it is a situation we took into consideration, but our goal is to always achieve greater efficiency. The advantages of using an electronic signature platform over other methods of electronic signature and the traditional handwritten signature are evident – the workflow is faster than a conventional signing, scanning and email process and, as a result, it is more efficient and can save costs.

Furthermore, assessing old school distance signing methodologies where parties typically sign the signature page and their lawyers exchange a scanned copy by email to complete the transaction. The drawbacks are obvious – the scanned signatures represented less security and less authenticity than an electronic signature platform developed by a distinguished service provider.

## Regulatory framework:

The electronic signature platforms are regulated by the EU Regulation on Electronic Identification and Trust Services in the Internal Market (910/2014/EU) (the Regulation). It came into force on 1 July 2016 with the main goal to help businesses, consumers and public sector bodies to carry out convenient and secure electronic transactions across the EU. The Regulation defines three types of electronic signature: electronic, advanced and qualified. The difference between the types lies within the verification level and the authenticity the signature provides. Although all three types of electronic signature are admissible as evidence in legal proceedings before an EU court, national law still determines the legal effect of electronic signatures.

Article 25(1) of the Regulation provides that an electronic signature shall not be denied legal effect and admissibility as evidence in legal proceedings solely on the grounds that it is in an electronic form or does not meet the requirements of a qualified electronic signature (the highest level of verification and authenticity). Recital 49 allows national law to set requirements regarding which type of electronic signature may be required in which circumstances.

For instance, in Bulgaria, all three types are considered legally binding. However, the law provides a possibility for the use of electronic and advanced signatures to be agreed in advance by the parties (art. 13 p.4 of the Law on electronic document and electronic verification services). This is not a mandatory requirement, but it provides greater certainty in terms of signature recognition in a court proceedings.

On the other hand, under German law, a written signature is not necessarily required for a valid contract – contracts are generally valid if legally competent parties reach an agreement, whether

they agree verbally, electronically or in a physical paper document (Sec. 125 and Sec. 126 German Civil Code). Companies as DocuSign can provide electronic records that are - where presented on a data carrier or transmitted by email or otherwise- admissible in evidence under Section Sec. 371 para. 1 sent. 2 German Code of Civil Procedures, to support the existence, authenticity and valid acceptance of a contract.

We are aware that each jurisdiction might have additional requirements to admit digitally signed documents as valid contractual documents and express our readiness to comply where necessary with those. That is why we will keep the paper-based signatures for public sector agencies that give validity to only such forms of contractual documentation but our overall impression is that within the European Union and in major Anglo-Saxon legal systems, the digital signing of contractual documents is largely accepted and legally binding for the parties.

## **How does it work and why an electronic signature platform is more secured with greater authenticity?**

An electronic signature platform typically allows the signatory to write his/her signature directly on the document (with a stylus or mouse) or to select a computer-generated signature from a variety of fonts and styles. It keeps track (audit trail) of every interaction with the uploaded on the platform document and keeps a copy of the signed document. The signatory party is not required to have an account with DocuSign, the only condition to use the service is to provide a valid email address and a phone number where necessary. We, at Telelink Business Services will guarantee to our clients, vendors and partners that an electronic copy of the signed document will be downloaded and kept on our internal servers as well.

What is more, we have also opted to use two-factor authentication for all new clients, vendors or partners we would work with, by requiring the platform to send an SMS in order to double-check each signatory's identity.

One of the most significant advantages from a legal perspective is the digital audit trail generated for each transaction, recording who signed the document, including their email and IP address, when and, sometimes, where the document was signed. In all European Union jurisdictions and under specific local requirements, this audit trail is admissible in legal proceedings and carries substantial evidential weight in proving the authenticity or integrity of a disputed document.

### **Conclusion:**

We believe that an electronic signature procedure through the platform of DocuSign will ensure greater security, authenticity and traceability of the contractual documents, Telelink Business Services is signing. Our main drive is to strive for more transparent and globally recognised methods of doing business in a digital world where paper-based documents are constantly replaced by digital formats. We will of course continue to provide paper-based signatures where the local legal systems or public sector bodies impose such requirement.

### **Useful links:**

Consult the DocuSign legal guide - [here](#)  
For more information on eSignatures - [here](#)  
To See a video of the product - [here](#)

## **TBS Legal Office**