

LOST IN SPACE:

THE BENEFITS OF AUTOMATION IN NEW WORLDS OF
CONTRACT MANAGEMENT AND E-SIGNATURE

AGENDA

- The evolution of electronic signatures and documents
- How best to utilize e-signatures throughout your institution
- Addressing regulatory compliance for e-signature
- The intersection of e-signature and contract management
- Contract management challenges
- Best practices in the evolution of the contract
- The Benefits of Automation

THE EVOLUTION OF ELECTRONIC SIGNATURES AND DOCUMENTS

Electronic Signatures (e-signatures) are transforming the way companies do business. Not only do they eliminate the hassle of manually routing paper agreements, but they also dramatically speed up the signature and approval process.



Name:

Position:

THE EVOLUTION OF ELECTRONIC SIGNATURES AND DOCUMENTS

<1860s – Morse code

1869 – New Hampshire Supreme Court

1980s – Fax machines

1990s – Email, ATM PINs, Debit/Credit Card slips, software licensing agreements within packaging

1998 – United States and Ireland

1999 – Uniform Electronic Transactions Act (UETA) / E-Sign Act

THE EVOLUTION OF ELECTRONIC SIGNATURES AND DOCUMENTS

- **Australia** - Electronic Transactions Act 1999
- **Canada** - PIPEDA and the Canada Evidence Act
- **China** - Law of the People's Republic of China on Electronic Signature (eff April 1, 2005)
- **Costa Rica** - Digital Signature Law 8454 (2005)
- **Czech Republic** – Zákon o elektronickém podpisu 227/2000 Sb.
- **European Union** - eIDAS regulation on implementation within the EU is set out in the Digital Signatures and the Law
- **India** - Information Technology Act
- **Iraq** - Electronic Transactions and Electronic Signature Act No 78 in 2012
- **Ireland** - Electronic Commerce Act 2000
- **Japan** - Law Concerning Electronic Signatures and Certification Services, 2000
- **Mexico** - E-Commerce Act 2000
- **Malaysia** - Digital Signature Act 1997 and Digital Signature Regulation 1998
- **Moldova** - Privind semnătura electronică și documentul electronic
- **New Zealand** - Electronic Transactions Act 2002
- **Paraguay** - Ley 4017: De validez jurídica de la Firma Electrónica, la Firma Digital, los Mensajes de Datos y el Expediente Electrónico (12/23/2010)
- **Peru** - Ley N° 27269. Ley de Firmas y Certificados Digitales (28MAY2000)
- **Philippines** - Electronic Commerce Act of 2000
- **Poland** - Ustawa o podpisie elektronicznym (Dziennik Ustaw z 2001 r. Nr 130 poz. 1450)
- **Romania** - Legea nr. 455 din 18 iulie 2001 privind semnătura electronică
- **Russian Federation** - Federal Law of Russian Federation about Electronic Signature (06.04.2011)
- **Singapore** - Singapore Electronic Transactions Act (1998, 2010)
- **Slovakia** - Zákon č.215/2002 o elektronickom podpise
- **Slovenia** - Slovene Electronic Commerce and Electronic Signature Act
- **South Africa** - The Electronic Communications and Transactions Act 25, 2002
- **Spain** - Ley 59/2003, de 19 de diciembre, de firma electrónica
- **Switzerland** - ZertES
- **Turkey** - Electronic Signature Law
- **Ukraine** - Electronic Signature Law, 2003
- **UK** - s.7 Electronic Communications Act 2000

UETA AND E-SIGN

UETA and E-Sign

Electronic signature - *"an electronic sound, symbol, or process, attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record."*



UETA AND E-SIGN

UETA

- Uniform Electronic Transactions Act
- UETA does not attempt to create a whole new system of legal rules for the electronic marketplace.
- **The objective of UETA is to make sure that transactions in the electronic marketplace are as enforceable as transactions memorialized on paper and with manual signatures, but without changing any of the substantive rules of law that apply.**
- This is a very limited objective—
- That an electronic record of a transaction is the equivalent of a paper record, and that an electronic signature will be given the same legal effect, whatever that might be, as a manual signature. The basic rules in UETA serve this single purpose.

UETA AND E-SIGN

E-Sign

- The Electronic Signatures in Global and National Commerce, provides a general rule of validity for electronic records and signatures for transactions in or affecting interstate or foreign commerce.
- The E-Sign Act allows the use of electronic records to satisfy any statute, regulation, or rule of law requiring that such information be provided in writing, if the consumer has affirmatively consented to such use and has not withdrawn such consent.



UETA AND E-SIGN - DIFFERENCES

- **Federal vs State Law**

- E-SIGN is a federal law enacted by the federal government and it applies to the entire country including all the states.
- UETA is a state law and is in force in several states--but not all states enforce it. UETA is thought to be more comprehensive.
- The differences between the two laws are very small.
 - E-SIGN is the only law in some states. And in other states, both laws apply; however E-SIGN law is given preference.

- **Limited Exclusion**

- There are certain areas in which both laws do not accept the validity of electronic signatures.

UETA AND E-SIGN - DIFFERENCES

- **Key Differences**

- There are several clauses that appear in E-SIGN but do not appear in UETA. These include:
 - Oral communications are not considered to be electronic records for the purpose of electronic signatures
 - It expressly limits regulatory authority
 - Transferable records are limited
 - Default rules are omitted

- **Procedural Provisions**

- There are several procedural provisions in UETA that are not mentioned in E-SIGN. These include:
 - Attribution of records
 - The time of sending or receiving messages
 - Mistakes in contract documents
 - Electronic records are not admissible as documents

E-SIGN - EXCEPTIONS

- Wills, codicils, and testamentary trusts;
- A state statute, regulation, or other rule of law governing adoption, divorce, or other matters of family law;
- The Uniform Commercial Code, as in effect in any state, other than sections 1-107 and 1-206 and Articles 2 and 2A;
- Court orders or notices, or official court documents (including briefs, pleadings, and other writings) required to be executed in connection with court proceedings;
- Notices for cancellation or termination of utility services (including water, heat, and power);
- Notices of default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual;
- Notices for the cancellation or termination of health insurance or benefits or life insurance benefits (excluding annuities);
- Recall notices of a product, or material failure of a product that risks endangering health or safety; and
- Any document required to accompany any transportation or handling of hazardous materials, pesticides, or other toxic and dangerous materials.

INTERSECTION OF E-SIGNATURE AND CONTRACT MANAGEMENT

- All business deals need to be formalized with a contract.
- Increased outsourcing has resulted in every business having to keep track of many contracts. As managing paper contracts takes up time and space, many businesses have moved to digitally managing contracts.
- Cloud computing or Software as a Service (SaaS) models have dramatically brought down the costs of digital contract management.
- Storage and retrieval of contracts is faster when they are digitally stored. Important dates such as scheduled delivery dates or the contract renewals can be flagged so that the appropriate person receives a reminder.

INTERSECTION OF E-SIGNATURE AND CONTRACT MANAGEMENT

- Digital contract management has a few drawbacks. Unlike paper contracts where each draft is signed by the person proposing the change and countersigned by the person accepting it, digital documents were difficult to authenticate.
- The evolution of contract management systems sets the appropriate legal and technological setting for the implementation of a robust electronic signature solution.
- By utilizing cloud-based contract management systems that incorporate electronic signatures, a business benefits in multiple ways.
- The speed of the negotiations ensures that customers are not lost to quicker competition.

REGULATORY COMPLIANCE AND E-SIGNATURES

UETA & E-Sign Act contain several key requirements that parties signing documents online need to be aware of, including:

1. INTENT TO SIGN AND AUTHENTICATION

- A signature is only valid if the signer intends to sign the document and there is no possibility of forgery.
- Authentication of person – Secure Link or Multi-factor authentication

2. THE SIGNATURE MUST BE ASSOCIATED WITH THE RECORD

To meet the requirements of E-Sign and UETA, the system used to capture the electronic transaction must either:

- Keep an associated record that details how the signature was captured, or
- Make a textual or graphic statement that can be added to the signed record.

REGULATORY COMPLIANCE AND E-SIGNATURES

3. THERE MUST BE CLEAR CONSENT TO DO BUSINESS ELECTRONICALLY

- This stipulation is mainly for business-to-consumer transactions, where the customer may not always be clear what they are signing and why.
 - Intent cannot be implied
- Between businesses, consent to do business in this way is usually established easily during standard interactions. However, E-Sign and UETA protect consumers by stipulating that electronic records can be used to deliver information to consumers only if they:
 - Receive certain disclosures (UETA Consumer Consent Disclosures);
 - Have affirmatively consented to use electronic records for the transaction; and
 - Have not withdrawn their consent.

By clicking the button labeled "Accept" below, you agree to the terms and conditions of this Agreement and acknowledge that you have read and understand the disclosures provided above.

REGULATORY COMPLIANCE AND E-SIGNATURES

4. THERE MUST BE ACCESS TO RECORDS

- These Acts also state that electronically-signed documents are only valid if they are capable of being retained and are available for later reference by all parties involved in the contract.

5. NO TAMPERING OF DOCUMENTS

- If a document has been tampered with in any way before it is signed it may be rendered invalid. Therefore checks and measures must be introduced to ensure that both parties are signing an original, in-tact document.



REGULATORY COMPLIANCE AND E-SIGNATURES

- General compliance with E-Sign and UETA is not difficult.
- When preparing documents to be signed electronically, consider the following points carefully:
 - The process by which the signer is asked to sign must be clear and unambiguous
 - The terms and agreements must be viewed and agreed to (disclosures)
 - The language you use in your document must be readily understandable
 - Checking boxes should be carefully used on contracts for opt-ins and opt-outs

E-SIGN DISCLOSURE – SAMPLE

Dedicated Community Bank

Disclosure Relating to Electronic Delivery - Online Banking Agreement.

Prior to using Dedicated Community Bank's Online Banking, you must affirmatively consent to the terms of our Online Banking Agreement ("Agreement"). The Online Banking permits you to electronically initiate account transactions and communicate with Dedicated Community Bank (the "Bank"). This Agreement contains the terms that govern your use of Online Banking. You can agree to the terms of this Agreement by clicking on the **I Agree** button at the end of this Agreement.

Prior to consenting to this Agreement you must be informed of:

- (a) the option to receive a paper or non-electronic form of the record and the transactions or category of records that may be provided;
- (b) your right as a consumer to withdraw this consent along with any of the conditions, consequences or fees in the event of such a withdrawal request and the procedures necessary to withdraw;
- (c) the procedure for requesting a paper copy of an electronic record (and any fees associated with such request);
- (d) your obligation to inform us and update us of how we can contact you electronically;
- (e) hardware and software requirements for access to and retention of electronic records; and
- (f) your responsibility to provide proof of your ability to access the information and electronically consent to all of these.

Records Available – Sixty days of transaction history to include bill pay transactions and stop payment history normally provided in writing may be provided electronically if you have affirmatively consented to receive such records electronically and you have not withdrawn such consent.

Receiving a Paper Copy - You have the right to receive a paper copy of the Dedicated Community Bank E-Sign Disclosure. You may request a paper copy of this Agreement at no charge in one of the following ways: send an electronic mail message ("E-mail") with your name and e-mail address to customer service at the Contact Options of the Customer Service Index of Consumer Internet Banking, call us at 843-395-1956 or 1-866-680-8167/customer service department, or write to us at Dedicated Community Bank, 202 Cashua Street, Post Office Box 502, Darlington, S.C. 29540 with your name and mailing address. Be sure to state that you are requesting a copy of the Dedicated Community Bank E-Sign Disclosure.

Withdrawing Your Consent to Receive Notices Electronically - You can contact us in any of the ways described in the preceding paragraph to withdraw your consent to receive any Dedicated Community Bank E-Sign notices and/or future notices. If you withdraw your consent, we may terminate our relationship. A consumer's withdrawal of consent shall be effective within a reasonable period of time after receipt by the institution. Failure, on the part of the institution, to provide adequate notice of changes in hardware and/or software specifications can be treated as a withdrawal of consent by the consumer without the imposition of fees.

E-SIGN DISCLOSURE – SAMPLE

Notifying Us of a Change in your E-mail Address - You must notify us of any change in your e-mail address by logging on to Online Banking select the Customer Service tab and select change e-mail address located under the Account Maintenance section or write to Dedicated Community Bank, 202 Cashua Street, Post Office Box 502, Darlington, S.C. 29540 and give us your name and your new e-mail address.

Hardware and Software Requirements - In order to use Online Banking and to access, receive and retain notices electronically, you must provide at your own expense the following minimum hardware: PC computer equipped with 133 Mhz processor, 64 Mg of memory, 56k Modem, and 800x600 screen resolution. Your computer must meet the following minimum requirements: an Internet web browser with capabilities to support a minimum 40 to 128 bit encryption (AOL, Netscape, Internet Explorer, version 5.0 or above, are examples)]. You confirm that your computer will meet these specifications and requirements and will permit you to access and retain any notice electronically each time you access and use Online Banking.

Change in Hardware and/or Software Specifications - We will give you notice of any change of the previously disclosed specifications and/or requirements if the proposed change will adversely affect your ability to access and retain subsequent electronic notices from us.

Nothing in this agreement affects the content or timing of disclosures to be provided by any other statute, regulation or other rule of law. If any law requires verification or acknowledgement of receipt of such notice or disclosure, the notice or disclosure may be provided or made available electronically only if the method used provides verification or acknowledgements of receipt, whichever is required. Oral communication or a recording of an oral communication shall not qualify as an electronic record for the purposes of consent to receive electronic notices.

BY CLICKING THE I AGREE BUTTON BELOW You consent to the electronic delivery of the Online Banking Agreement and other notices or disclosures relating to the Agreement. You confirm that you are able to access information in an electronic form and you also agree that the institution does not need to provide you with an additional paper (non-electronic) copy of the Agreement unless specifically requested. You agree to the terms and conditions of all applicable notices and disclosures.

UTILIZATION OF E-SIGNATURES THROUGHOUT YOUR INSTITUTION

- User experience
 - Convenience
 - Availability
 - Functionality
- Compliance
- Records management
- Return-on-Investment (ROI)
 - FTE/Manual process
 - Paper and transportation costs
 - Dry storage costs
 - Competitive advantages



UTILIZATION OF E-SIGNATURES THROUGHOUT YOUR INSTITUTION

Benefits

- Reduced paper and associated transportation costs
- Shortened transaction times
- Easier workflows
- Increased security around record keeping
 - Centralized storage
 - Accessibility
- Reduced error rates, improved efficiencies
- Increased QA and improved compliance
- FTE savings associated with the elimination of manual processes (mail sorting, document handling, scanning, etc.)
- Competitive advantages in financial marketplace



UTILIZATION OF E-SIGNATURES THROUGHOUT YOUR INSTITUTION

- **Electronic Signature Policy Development**
 - Develop the scope of your policy
 - Draft a clear policy
 - Understand electronic signature laws
 - Find a “signature approach” that works (i.e. standard, enhanced, digital)
 - Build best practices into your policy
 - Suggested elements
 - Communicate and train on your policy



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UTILIZATION OF E-SIGNATURES THROUGHOUT YOUR INSTITUTION

A successful E-signature policy includes clear guidelines, such as:

- Types of agreements to authorize for e-signatures
- Best practices to implement
- Disclosures to include in different types of agreements
- Global regions in which to use e-signatures



ELECTRONIC SIGNATURE WORKFLOW

ACCESS

- Once a document is ready to be e-signed, how will your signers access it?
 - It may be email, but it is just as common to see direct integration scenarios where the e-signature process is integrated in a web or mobile application.
 - The choice of access method depends on factors like: Is this a face-to-face or remote use case? The options include:
 - Email invitation
 - Inviting signers to login to a web portal or web app
 - Using a link embedded in any native or third-party application, or mobile app
 - Using a QR code or shortened URL on a printed document
 - Having a representative initiate the signing process through an enterprise application portal or dashboard

ELECTRONIC SIGNATURE WORKFLOW

AUTHENTICATION

- When the signer arrives at the e-signature welcome page, how will they prove their identity in order to securely enter the e-sign session?
 - With existing customers, best practice is to use credentials that your organization has already issued.
 - With new customers the choice of identification method will depend on the risk profile of your process. The options include:
 - email authentication
 - Dynamic knowledge based authentication (KBA)
 - SMS authentication
 - Smart cards and more

ELECTRONIC SIGNATURE WORKFLOW

PRESENT THE DOCUMENTS

- Determine how you will present documents to signers so they can read them before signing.
- Best practice is to have the e-signature service present documents through a web browser.
 - No new software to download, which eliminates the risk of software incompatibilities.
 - You can use print out copies but document presentment on-screen needs to be built into the process.

ELECTRONIC SIGNATURE WORKFLOW

FORMS/DATA CAPTURE

- As part of the signing process, you can add data fields to the document for signers to fill in.
- While most e-sign transactions begin at the point when a final document is created (forms data is captured as part of an e-app or other core application and merged with a document template) there are processes where you need the ability to capture data at the time of signing.
- You want the signature platform to be able to support that.

ELECTRONIC SIGNATURE WORKFLOW

DOCUMENT UPLOAD/UPDATE

- In certain business processes, you or your customers may need to add documents to a transaction.
 - This is common in insurance, where an insurance carrier's agents often have their own documents to add to a new business application process.
 - Once the agent has received the document from the customer, he or she should be able to upload a scanned version to the e-signature service and insert it into the transaction.

ELECTRONIC SIGNATURE WORKFLOW

E-SIGN

- This what people most often think about when they imagine e-signatures – the "clicking" to sign.
- It is a very important step in the process, since this is the moment that you are capturing intent and consent. But once again there are different ways to accomplish this, including:
 - Click to sign/click to initial: Via browser on a PC, laptop or mobile device, it is common to use a simple "click-to-sign" button.
 - Digitized handwritten signature capture: If a touchscreen device is available, then cursive signature capture can be used.
 - Smartcard signing: Federal government personnel and contractors routinely e-sign forms and documents using a digital certificate that is stored on their Common Access Card (CAC) or PIV smartcard.

ELECTRONIC SIGNATURE BEST PRACTICES

DELIVER THE E-SIGNED DOCUMENTS

- Once all documents have been e-signed, you will need to offer secure electronic copies for download or send securely printed copies through the mail.
- As with the authentication step, this can be done through the e-signature solution or through another enterprise system such as a customer communications management (CCM) platform.
- Depending on the use case, it may make sense to offer electronic or print copies of the signed records, or give customers the choice.

RECAP – BEST PRACTICES

- Have a updated E-signature Policy.
- Know what documents can and can't be signed via E-Sign.
- Provide the proper disclosures to your signers.
- Make sure your signers know they are signing electronically.
- Authenticate the identity for electronic signatures.
- Capture data from participants at the time of signing.
- Present documents for review.
- Give signers access to the documents.
- Keep good electronic records of all contracts signed electronically.
- Leverage the true power of electronic signatures to change your workflows and speed up business!

Q&A SESSION



CONTACT INFORMATION



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THANK YOU