

How you can sign your non-disclosure agreement electronically

Consider a scenario: You and a prospective business partner have been negotiating how your business can reveal sensitive information the other side needs to decide whether to move to the next stage of a business relationship with you. It has been a back-and-forth process of finessing the details of your non-disclosure agreement (NDA), but you are now finally ready to conclude the NDA by signing it. You get ready to do the signature process in the same old way, such as:

- First, you convert your Microsoft Word version of the NDA into Adobe PDF format;
- Next, you print out the signature page and sign it;
- Then you scan the signature page into a separate PDF file;
- Then you use a software program like Adobe Acrobat to replace the unsigned signature page with the signed one.

After that you email the signed PDF version of the NDA to the other company for countersignature, which somebody does by hand before faxing back the completed agreement to you.

Or maybe you just print out the document, sign it, fax it to the other party who signs and returns a fax of a fax, and you hope it's still readable when your fax machine spits out the fully executed version. Whichever method you choose, the procedure can take days to complete, maybe even longer, and you still need to consider all of the possible drawbacks inherent with faxes: transmission and reception problems, multi-sheet feeding resulting in a skipped page or two, lines and streaks on the document, and hard-to-read text. At the end of it all you are still left with a paper copy of your NDA in a file cabinet, in the same way you would if you had used a typewriter and the U.S. Mail in the 20th Century.

And you think to yourself, *"Isn't there a better way to do this? I've heard of something called an 'electronic signature,' but I'm not sure whether I can figure out how to make it work, how much it might cost, or if it's even legal to use on a contract."*

If this scenario or something like it describes how your business handles NDAs, and has you wondering what might be involved in converting to a more modern and efficient way of going about executing them, then this article will help you to better understand how electronic signatures work, their legal effectiveness when it comes to contracts like NDAs, and some of the online electronic signing services that are available to you.

What is the legal effect of an electronic signature?

In the United States

The US Federal government and individual state governments understand that in the digital age the distinction between a handwritten signature and its electronic counterpart are mostly immaterial and have crafted laws to recognize this new reality. The Federal [Electronic Signatures in Global and National Commerce \(ESIGN\) Act](#) applies to documents that involve interstate or foreign transactions, and most states have adopted the [Uniform Electronic Transactions Act](#) (UETA) for electronic signatures on documents that are not necessarily subject to the ESIGN Act.

Acts

Electronic Transactions Act

Description

UETA establishes the legal equivalence of electronic records and signatures with paper writings and manually-signed signatures, removing barriers to electronic commerce.

View Final Act

- [Final Act](#)

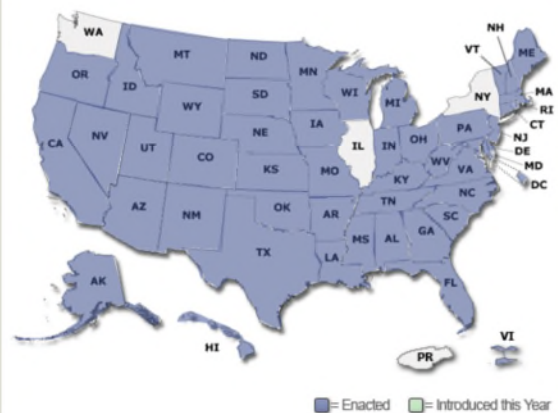
Legislative Information Kit

- [Legislative Fact Sheet](#)
- [Act Summary](#)
- [Why Enact UETA? The Role of UETA After E-Sign](#)
- [Why States Should Adopt UETA](#)

Staff Contact

Contact the Chicago office for more information.

Enactment Status Map



Both the ESIGN Act and the UETA establish the legal enforceability of electronic documents and signatures:

- (1) a signature, contract, or other record relating to such transaction may not be denied legal effect, validity, or enforceability solely because it is in electronic form; and
- (2) a contract relating to such transaction may not be denied legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation.

The ESIGN Act prohibits claims that an electronic contract or an electronic signature is invalid because it is in electronic form.

- (a) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.
- (b) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.
- (c) If a law requires a record to be in writing, an electronic record satisfies the law.
- (d) If a law requires a signature, an electronic signature satisfies the law.

The UETA also makes electronic documents and signatures legally valid.

Although you can sign almost any kind of document electronically, both the Federal law and the UETA make it plain that they are used mainly with contracts. The UETA states that it covers documents used in "transactions between parties," which includes NDAs and other legal agreements.

Some restrictions exist on the use of electronic signatures. For example, under the UETA:

- Both you and your contract partner must agree to use the electronic signature format. You cannot "compel" the other party to use this method (and vice versa); if the other side refuses to go the electronic route, then you must use the older, conventional method of signing and counter-signing the agreement.

- Documents that require in-person notarization, or specific legal instruments such as wills, codicils and testamentary trusts are outside of the coverage of the UETA.

In other countries

Other countries have adopted their own electronic signature laws. Some use the [United Nations Convention on the Use of Electronic Communications in International Contracts](#) (the “Electronic Communications Convention”); others the United Nations Commission on International Trade Law (UNCITRAL) [Model Law on Electronic Signatures](#); and others their own locally-drafted laws, such as Canada’s [Personal Information Protection and Electronic Documents Act](#). Australia uses the [Electronic Transactions Act 1999](#), but is planning to move to the Electronic Communications Convention, and Britain observes the [Electronic Communications Act 2000](#), which is based on a European Community framework for electronic signatures.

The choice of which law to use in an NDA between businesses in different countries is generally left to the parties to decide, typically by identifying the governing law in the NDA. A detailed comparison of the legal codes in use for electronic signatures is beyond the scope of this article. If you find yourself in a choice-of-law situation with your NDA, you should consult with an attorney to learn how the different legal systems can affect your rights and obligations under each to help decide.

A review of some of the more popular electronic signature websites

DocuSign

DocuSign is the “heavyweight” of the electronic signature service providers, claiming more than 50 million users in more than 180 countries. The DocuSign procedure for electronic signatures is representative of how it works for most sites: you upload a completed document like an NDA to the company’s website, then identify the people you want to sign it using “tags” to indicate where you want the signatures to go. The service then emails the document to the signatories for their electronic signatures and stores the completed document for you to access.

Specific features of this service include:

- A free trial. You can use it once for free to see how it works (you have 30 days to complete the trial offer).
- Compatibility with popular software applications. DocuSign works with Microsoft, Google, Adobe, Apple and more. It is also compatible with mobile devices.
- Scalability. Electronic signatures are just one of the things you can do with DocuSign. You can add additional data fields into documents to populate forms and validate data, use electronic notarization, track document completion progress, correct documents, send notifications and reminders, and more.

DocuSign Facts

- More than 50 million users in 188 countries
- More than 100,000 companies
- More than 50,000 new unique users join The DocuSign Global Trust Network every day
- More than 51% of documents are completed within one hour on The DocuSign Global Trust Network
- The Wall Street Journal ranked DocuSign #6 on its list of "Next Big Things" out of 5,900 companies considered
- DocuSign offers transaction management services and is the National Association of REALTORS® Official and Exclusive provider of electronic signature services under the REALTOR Benefits® Program
- DocuSign is the official eSignature provider to the Big 'I' and its 250,000 members
- 10 of the top 15 U.S. financial services companies use DocuSign
- 13 of the top 15 U.S. insurance carriers use DocuSign
- More than 1,000 credit unions use DocuSign
- DocuSign is available in 43 languages

Prices range from \$10 monthly for an individual user to send up to five documents a month for signature, up to \$125 monthly per user for customers who need unlimited document signing capability and more features. Enterprise-level options are also available for companies that need multiple users, custom API integration, and account management ability.

RightSignature

Coming in after DocuSign in the “heavyweight” category of electronic signature services, RightSignature stresses its user-friendliness as a key advantage: “*No downloads, no plug-ins, no hassle.*” But you should not be lulled into thinking that it is not a highly capable option for your needs, as it includes a host of additional options similar to its major competitor like progress tracking, multiple template packaging, two-factor tagging, audit logs, digital fingerprints, and more.

The screenshot shows a web browser window with the URL 'RightSignature LLC | rightsignature.com'. The page title is 'Sign Document' and it features a progress bar. A yellow banner indicates 'WHAT TO DO NEXT: Ready to submit signature'. The main content area is divided into three numbered steps:

- 1 Fill-In Text Fields**: Includes input fields for 'NAME' (John Bellingham) and 'HOMETOWN' (Santa Barbara, CA).
- 2 Checkboxes**: A checkbox for 'I have read this sample document:' is checked, with 'YES' and 'NO' options.
- 3 e-Signatures**: Includes a signature field with a handwritten signature and a 'DATE' field set to '7/29/2013'.

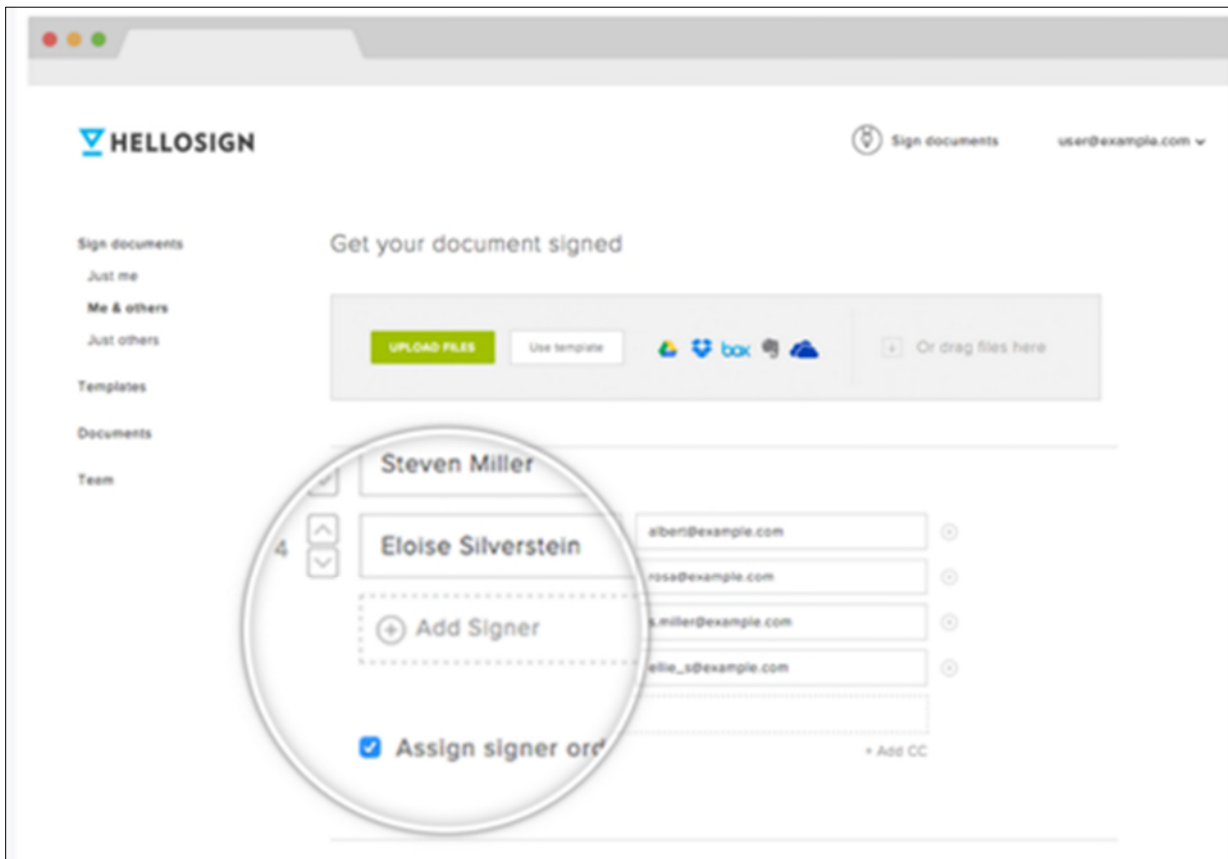
At the bottom, there are six green checkmarks with text:

- ✓ Contracts, NDA's, forms, you name it
- ✓ #1 Easy-to-use, all-in-one solution
- ✓ Secure, legally binding e-signatures
- ✓ Quick setup, great customer service
- ✓ No downloads, no plugins, no hassle
- ✓ Save time, cut costs, impress clients

RightSignature pricing options come in three tiers: Personal for individuals (\$11 per month, but with unlimited document sending), Business (\$39 monthly, up to five senders on the same account, reusable templates, custom branding), and Business Plus for larger companies (\$99 and up monthly, with added features such as API integration, template packaging, and embedded signing).

[HelloSign](#)

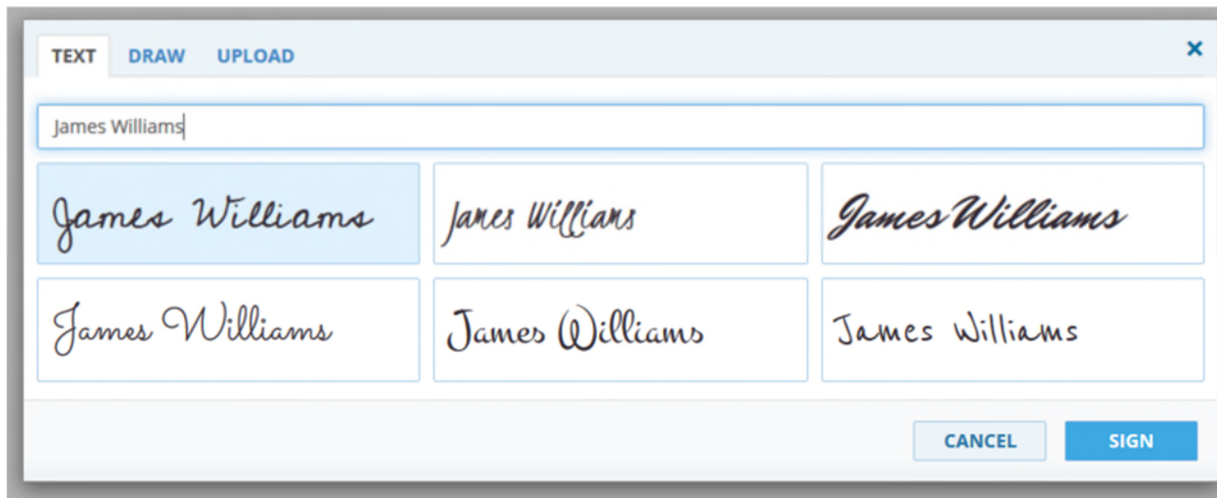
HelloSign offers electronic signature services for both individuals and businesses with multiple users. Up to 20 signatures can be included in a single document. It is compatible with the Google family of applications, including Gmail, Google Drive and Google Docs. It also integrates with popular file storage and organizer applications like Dropbox, OneDrive and Evernote, and works with 17 different document formats.



Pricing runs from free for one user and up to three documents per month, to \$40 monthly for unlimited document signing and up to five users. The paid plans include 30-day free trials. Enterprise-level services are also available on a per-case basis.

[DigiSigner](#)

On the lower end of the price and capability spectrum, DigiSigner offers free electronic signature services for up to five documents per month per user, or charges up to \$12 monthly for unlimited documents and extra options like templates, branding and bulk signing. With a user base of hundreds of companies instead of millions of users, it features an easy-to-use interface that can be more inviting for people who might feel overwhelmed by more feature-packed sites catering to enterprise-level customers. You can type, draw, or upload your signature using a simple online interface. DigiSigner also offers API and on-premises services for those who want more advanced possibilities.



Which electronic signature service is right for you?

When deciding on an electronic signature service, the following guidelines can help:

- Shop around. The four examples above are only a sample of the choices available. Depending on your needs (do you work with many NDAs in each month, or just occasionally? Do you need only a basic service, or more advanced features? What is your budget?), you can narrow the candidates to the ones most appropriate to you.
- Ask around. Given the increasing use of electronic signatures, you may know someone who has already done the trial-and-error work in choosing a service provider and who can give you insight on what to look for.
- Take advantage of free trials. Several of these service providers offer limited-time free use. If you are unsure whether a particular company or level of service is best for you, this can be a good way to try it out without committing your business to something that might be more (or less) than you require.

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<http://www.pcworld.com/article/2035744/e-signatures-the-complete-guide-to-paperless-signing.html>

<https://www.law.cornell.edu/uscode/text/15/7001>

<http://www.uniformlaws.org/Act.aspx?title=Electronic%20Transactions%20Act>

https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=X-18&chapter=10&lang=en

http://www.uncitral.org/uncitral/en/uncitral_texts/electronic_commerce/2001Model_status.html

<http://laws-lois.justice.gc.ca/PDF/P-8.6.pdf>

<https://www.legislation.gov.au/Details/C2011C00445>

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/356786/bis-14-1072-electronic-signatures-guide.pdf

<https://www.docusign.com/>

<https://www.hellosign.com/>

<https://www.digisigner.com/>

<https://rightsignature.com/>