

# Practice Support & Optimization

# Law and Practice of Electronic Signatures

Current to: 1 April 2020

## Overview

This memo provides a summary of the current law on the use of electronic signatures (e-signatures) instead of traditional “wet ink” signatures. This analysis is limited to the applicable federal and provincial legislation in British Columbia, Alberta, Ontario and Quebec. A table summarizing that legislation is available [below](#).

This summary is intended to guide Dentons’ professionals in their determination of whether or not to use an e-signature in any given case. When working with electronic transactions and contracts, there are a number of issues that must be considered: whether an agreement must be reduced to writing, whether a signature is required by law to create an enforceable agreement, and other statutory and common law requirements pertaining to the validity of agreements. This summary is not intended to address the legal issues arising from electronic commerce more generally, and should be used only to determine whether an e-signature will be effective and permissible in a given case.

Finally, this memo recommends best practices for using e-signature software such as DocuSign.

## Applicable Legislation

Electronic commerce and contracts are matters of provincial jurisdiction. Under provincial law, e-signatures are generally permissible to satisfy a requirement for a signature, with a few exceptions (these exceptions are identified in the Legislative Table). Where a signature is required under provincial law, an e-signature will be treated as functionally equivalent.<sup>1</sup>

Although matters of contract law are within provincial legislative competence, there are federal statutes contemplating and requiring signatures, such as the *Canada Business Corporations Act*.<sup>2</sup> Where the requirement for signature arises from federal legislation, a separate analysis is required. Generally speaking, the federal e-signature requirements are less permissive than the provincial e-signature requirements.

The *Personal Information Protection and Electronic Documents Act (PIPEDA)*,<sup>3</sup> applies to documents or activities that fall under federal jurisdiction, and articulates the e-signature regime for such activities. PIPEDA provides that where a signature is required under a provision of a federal law that contemplates the use of paper to record or communicate information or transactions, the requirement is satisfied by an e-signature, only if the law is listed in Schedule 2 or 3 of PIPEDA and the signature complies with the applicable regulations under PIPEDA (if any).<sup>4</sup> However, where the document requiring a signature is a statement made under oath or affirmation, a statement declaring the truth of its

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<sup>1</sup> See, e.g., *Electronic Transactions Act*, S.B.C. 2001, c. 10, (**BC ETA**) s. 11; *Electronic Transactions Act*, SA 2001, c. E-5.5, (**Alberta ETA**) s. 16(1); *Electronic Commerce Act, 2000*, S.O. 2000, c. 17, (**Ontario ECA**) s. 11; and *An Act to Establish a Legal Framework for Information Technology*, RSQ, c C-1.1, (**Quebec ITA**) s. 5.

<sup>2</sup> CBCA, R.S.C., 1985, c. C-44

<sup>3</sup> PIPEDA, S.C. 2000, c. 5

<sup>4</sup> See sections 32 and 43 of PIPEDA. Listed under Schedule 2 of PIPEDA are the *Federal Real Property and Federal Immovables Act*, S.C. 1991, c. 50 (ss. 3, 5 to 7, 11 and 16) and the *Canada Labour Code*, R.S.C., 1985, c. L-2 (s. 254(1)), and listed under Schedule 3 are the *Federal Real Property Regulations*, SOR/92-502 (ss. 9 and 11).

contents, or a document requiring a signature to be witnessed, the e-signature must also be “secure”, requiring the use of encryption, hash functions and other security features.<sup>5</sup>

While the general rule under federal legislation is more restrictive than under provincial law, some federal statutes (or their regulations) may expressly contemplate the use of e-signatures or prescribe certain requirements for e-signatures on documents required to be prepared under those statutes.<sup>6</sup>

For further details on the applicable legislation in each jurisdiction, refer to the Legislative Table.

## What is considered an “electronic signature”

The term “electronic signature” is broadly defined across the e-commerce legislation in each province in Canada. For example, the definition in British Columbia, Alberta and Ontario,<sup>7</sup> which is substantially the same, requires the following four elements be met:

- electronic information;
- that is created or adopted by a person;
- in order to sign a record or document; and
- that is attached or associated with a record or document.

The definitions in Alberta and Ontario have not been judicially considered, however the Supreme Court in British Columbia determined that an email containing an email signature satisfied the requirements of an “electronic signature” for the purpose of the British Columbia legislation.<sup>8</sup>

In Quebec, the Superior Court has similarly accepted a person’s name at the end of e-mail exchanges as sufficient to indicate consent.<sup>9</sup>

Further, there is case law in Saskatchewan and New Brunswick (which are not included in the scope of this memo, but have implemented e-commerce legislation with similar definitions of “electronic signature” to those in British Columbia, Alberta and Ontario) which determined that “electronic signatures” also include:

- letters bearing a person’s electronic signature which was digitally affixed to the letter including an image of the person’s wet ink signature;<sup>10</sup> and

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<sup>5</sup> See sections 44 to 46 of PIPEDA and the *Secure Electronic Signature Regulations*, SOR/2005-30 under PIPEDA for what constitutes a “secure electronic signature”.

<sup>6</sup> See, for example, section 252.7 of the CBCA, section 1002 of the *Bank Act*, S.C. 1991, c. 46, and section 539.11 of the *Trust and Loan Companies Act*, S.C. 1991, c. 45.

<sup>7</sup> BC ETA, s. 1; Alberta ETA, s. 1; Ontario ECA s. 1.

<sup>8</sup> *Johal v Nordio*, 2017 BCSC 1129.

<sup>9</sup> *Hebert v Bernard*, 2016 QCCS 3485. See also *Syndicat des Employées et Employés de la SOGEECOM (SEESOG) / Alliance de la Fonction publique du Canada et Société générale des Étudiantes et Étudiants du Collège Maisonneuve*, 2013 QCCRT 184, para 32-40.

<sup>10</sup> *I.D.H. Diamonds NV v Embee Diamond Technologies Inc.*, 2017 SKQB 79.

- clicking “I agree” on a screen when signing a waiver.<sup>11</sup>

Whether or not a DocuSign signature falls within the definition of an “electronic signature” in the e-commerce legislation in Canada has not been judicially considered. However, given the breadth of the definitions, it is likely that it would.

Further, based on the case law to date, it is likely that any images or other digital reproductions of wet ink signatures will be considered “electronic signatures” for the purpose of the e-commerce legislation.

## When e-signatures cannot be used

Under provincial legislation, certain types of agreements and other documents must be signed by hand to be enforceable and should therefore never be sent for electronic signature. These agreements and documents, such as wills and codicils (subject to some nuances in Quebec), and negotiable instruments, still require a wet ink signature in order to be considered properly executed.

For details of the types of agreements and other documents excluded from e-commerce legislation, refer to the Legislative Table.

For documents or activities that fall within federal jurisdiction, the relevant legislation should be reviewed to determine if the legislation specifically authorizes or prohibits the use of e-signatures. For example, as set out in the Legislative Table, promissory notes across Canada are subject to the federal *Bills of Exchange Act (BEA)*,<sup>12</sup> which requires promissory notes to be signed to be effective. As the BEA is not listed under Schedules 2 or 3 of PIPEDA – see above – and the BEA contains no express provision permitting e-signatures, an e-signature would not satisfy the requirement that a promissory note be signed.<sup>13</sup>

## Consent as a requirement for e-signatures

While provincial legislation and PIPEDA contemplate and permit e-signatures, nothing in them makes the use of electronic documents or e-signatures mandatory.

Under provincial legislation, a party is not required to use, provide or accept a document in an electronic form without the person’s consent;<sup>14</sup> though consent may be inferred by a person’s conduct.<sup>15</sup> This suggests that, for documents or activities under provincial jurisdiction, a party that actively engages in an electronic transaction without objection may be consenting to doing so (absent any coercion). The Alberta and Ontario legislation does not permit consent to be implied by public bodies.<sup>16</sup>

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<sup>11</sup> *Quilichini v Wilson’s Greenhouse*, 2017 SKQB 10.

<sup>12</sup> BEA, R.S.C., 1985, c. B-4.

<sup>13</sup> Some transactions may involve electronically signed promissory notes for purposes of commercial

<sup>14</sup> See, e.g., **BC ETA** s. 4(1); *Electronic Transactions Act*, SA 2001, c. E-5.5, (**Alberta ETA**) s. 8(1); *Electronic Commerce Act, 2000*, S.O. 2000, c. 17, (**Ontario ECA**) s. 3(1); *An Act to Establish a Legal Framework for Information Technology*, RSQ, c C-1.1, s. 29.

<sup>15</sup> BC ETA s. 4(2); Alberta ETA, s. 8(2); Ontario ECA, s. 3(2). In Alberta and Ontario, there must also be reasonable grounds to believe that consent is genuine and relevant to the information or document at issue.

<sup>16</sup> Alberta ETA s. 19; Ontario ECA s. 14.

Under PIPEDA, where a provision of a federal law requires a person to provide another person with a document or information, both people must have agreed to such document or information being provided in electronic form.<sup>17</sup>

This requirement for consent is the basis on which certain institutional and other parties continue to require wet ink signatures on certain documents. For example, see the financial institution requirements under the Quebec section of the Legislative Table, and the corporate registry requirements under the Alberta section.

## Form of signature

In the common law provinces, there is no requirement that an e-signature be equivalent to a cursive signature or take a particular format.<sup>18</sup> Under Quebec's legislation, a signature must be the name of the person signing or a distinctive mark regularly used to signify the intention of the person who made the mark.<sup>19</sup>

## Legal opinions and e-signatures

The execution and delivery of opinions (and diligence in respect thereof) requires a consideration of the law of e-signatures with respect to the specific document(s) that are the subject of the opinion (e.g., commercial agreement, guarantee or negotiable instrument). Once due diligence is completed and it is established that the document can be executed by e-signature under the relevant legislation, it should not be necessary to add qualifications and assumptions beyond the typical assumption as to the genuineness of signatures.

With respect to contracts, the key requirements under contract law are that the party has assented to the terms by which they are bound and the agreement be unconditionally delivered to the other party indicating the party's acceptance of the terms and intention to be bound.

Whether assent, as expressed by a signature on a document, will bind a party depends on: (1) the authority of the person signing (where an individual is not signing on her or his own behalf); and (2) the willingness of the other party to accept the form in which assent is expressed (a party can always specify what the other must do to accept an offer or indicate assent). Delivery is met as long as the obligor or promisor has indicated that it intends to be bound by the agreement it has executed, which is informed by case law.

## Available e-signature software: DocuSign

DocuSign is a web-hosted application that permits licensed users to send "execution copies" of documents for signature to recipients (e.g., clients), which those recipients can sign electronically. The person signing the document does not need a licence. The application makes redundant the practice of sending documents in PDF or other electronic format via email and asking recipients to print, manually sign, scan and return via email those documents.

DocuSign and similar applications may greatly simplify and speed up the signature process but various steps must still be taken to prepare documents for signature for use with the application. For further information, see our [DocuSign Practice Tip](#).

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<sup>17</sup> PIPEDA, s. 40.

<sup>18</sup> In the Ontario ECA, for instance, an e-signature is defined as "electronic information that a person creates or adopts in order to sign a document and that is in, attached to or associated with the document."

<sup>19</sup> *Civil Code of Quebec*, RLRQ c CCQ 1991, s. 2827.

DocuSign also provides an “audit trail” as to when a document was sent, viewed and signed by each party, as well as the IP address of the computer that viewed the email and agreement. This can assist in establishing, for example, that the signatory was an authorized representative of a corporate party rather than a non-authorized employee, which was the finding in one U.S. case.<sup>20</sup> We are not aware of any similar finding in Canada.

## Recommended best practices: Drafting agreements

For documents which may be signed by e-signature, there is no prescribed wording that must be included in the document to allow for e-signatures.

Nevertheless, when drafting an agreement intended to use an e-signature, such as DocuSign, in order to reduce the risk that a party may argue that it did not consent to such use, it is recommended that a provision be included in the agreement, such as the following:

### **Signature, Counterparts, and Delivery**

This Agreement may be signed electronically, including through DocuSign and similar applications. This Agreement may be signed in any number of counterparts (including counterparts by scanned or electronic signature) and each counterpart will be deemed an original; taken together, all counterparts will be deemed to constitute one and the same instrument. Delivery of a printed counterpart (whether or not the counterpart was signed electronically) and electronic delivery (including by email transmission or transmission over an electronic signature platform) of an executed counterpart of this Agreement are each as valid, enforceable and binding as if the signatures were upon the same instrument and delivered in person.

In addition, the governing law provision of an agreement should be reviewed. One of the benefits of electronic signatures such as DocuSign is that a person can use the application anywhere, such as when travelling. But when a person who signs an agreement intended to be governed by Ontario law, for example, is physically located outside Ontario when he or she signs the agreement (or resides outside Ontario), it raises the question whether the laws of that other jurisdiction would apply to the execution of the agreement.

Therefore, when a party signing an agreement may be geographically located outside the jurisdiction intended to govern that agreement, to avoid the potential application of the legislation of that other jurisdiction, it is recommended that a governing law clause similar to the following be included:

### **Governing Law**

This Agreement will be construed, interpreted, and enforced in accordance with the laws of [Province] and the federal laws of Canada applicable therein. The laws of [Province] govern the execution of this Agreement regardless of the party's location at the time of entering into this Agreement.

## Recommended best practices: Sending documents for electronic signature

The following guidelines have been prepared for Dentons lawyers and paralegals using DocuSign, but can be applied more generally in any situations where an e-signature is intended to be used.

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<sup>20</sup> *IO Moonwalkers, Inc. v. Banc of America*, 814 S.E.2d 583 (2018).



## Inform the client and others of your intent to use e-signatures

Discuss using e-signatures early on with the client. Explain how it works and, if necessary, do a “dry run” if they have not used it so that things will go smoothly when it is time to sign. Do the same with all parties who will be signing documents. Communicating your intent to use e-signatures helps to evidence consent.

## Respect a party's wishes to sign documents manually

If a person expected to sign a document objects to signing something electronically, expresses a desire to sign or receive something manually, or behaves in a way that suggests they may be withholding consent, respect that person's wishes and do not use proceed with use of an e-signature.

## Whenever possible, send complete documents rather than packages of signature pages

One of the benefits of using DocuSign is that one or more documents can be sent out for signature at the same time – and the person signing can quickly skip to the signature pages of each document with a single click if they so choose – making the practice of sending signature pages only for the sake of economy unnecessary. More importantly, to evidence the agreement of a signatory to be bound, it must be clear that the signatory knows what he or she is signing, so it is always preferable to send complete and final versions of documents for e-signature. If sending signature pages or packages cannot be avoided, however, be sure that the documents have been sent to the client for review and that is clear as a matter of record to which documents the pages or packages relate.

## Shortly before sending documents, tell the recipients to expect an email from DocuSign

When a DocuSign user sends documents for signature, recipients receive a DocuSign and Dentons-branded communication with links to the documents for signature and a subject heading that includes the name of the DocuSign user. Give the recipients a “heads up” to expect a DocuSign email from the individual sending the documents – whose name might be unfamiliar to the recipients – and, if practicable, describe the documents they will be asked to sign and save that email in the matter workspace in DeskSite.

## Consider including an acknowledgement and consent when sending documents, especially when having to send signature packages

When sending documents for signature, consider including the following (or similar) acknowledgment and consent in the communication that accompanies the documents (and/or in an email telling the recipients to expect a message from DocuSign – see immediately above):

Dear [Name],

In connection with [subject line], we are sending to you for review and execution the enclosed signature package.

By executing these documents OR the signature package related to documents previously provided to you, you acknowledge and agree that:

- (i) your executed signature pages may be combined with other counterpart signature pages from the same documents, and that all counterparts to any particular document together constitute one instrument;
- (ii) minor customary changes may be made to finalize the documents without further acknowledgement or acceptance by you; and

- (iii) the documents shall be effective as at the date provided for in the final executed versions of the documents.

## Save the signed document and certificate in DeskSite

When a document has been completely signed, a certificate of completion is produced in DocuSign. Download the signed document and the certificate and save them both in the matter workspace in DeskSite.

# Electronic Signatures

## Legislative Table

This Legislative Table is an Appendix to a memorandum on the Law and Practice of Electronic Signatures, and should be used in conjunction with that memorandum.

If you require more information regarding the legality of using electronic signatures, or would like to be set up for a DocuSign account, email the Practice Support team at [practicesupport.canada@dentons.com](mailto:practicesupport.canada@dentons.com).

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**I. FEDERAL**

Applicable Legislation	Key Definitions	Exclusions	What is allowed	Additional requirements	Banking	Real Estate	Corporate / Commercial	Litigation / Advocacy	Other notes
Personal Information Protection and Electronic Documents Act (SC 2000, c. 5) (“ <b>PIPEDA</b> ”)	<p><b>PIPEDA</b>  <b>“Electronic signature:</b> a signature that consists of one or more letters, characters, numbers or other symbols in digital form incorporated in, attached to or associated with an electronic document (PIPEDA, s.31(1)).</p> <p><b>“Secure electronic signature”:</b> an electronic signature that results from the application of a technology or process prescribed by regulations made under subsection 48(1) of PIPEDA (see “What is allowed” column for a description of the requirements</p>	<p><b>PIPEDA</b>  PIPEDA permits documents to be signed in electronic form provided that the requirements in the column “What is allowed?” are followed. However, all other applicable legislation (or, in the case of a body corporate, the constating documents) should be consulted for any restrictions.</p>	<p><b>PIPEDA</b>  Where required by federal law and: (1) the federal law or provision is listed in <b>Schedule 2</b> or <b>Schedule 3</b> of PIPEDA (see “Other Notes” column); and (2) the specific federal law satisfies the regulations that apply to this section, which include the regulations applicable to <b>Schedule 2</b> or <b>Schedule 3</b> (see “Other Notes” column), any other responsible authority in respect of a federal law that would apply (PIPEDA, s.51), and the <b>Secure Electronic Signature Regulations</b> (PIPEDA, s.43.)</p> <p>A <b>secure electronic signature</b> is</p>	<p><b>All federal legislation permitting electronic signatures:</b>  It should be noted (either formally or informally by email) that both parties agree to electronic signatures.</p> <p><b>Sample language from Practical Law Canada is as follows:</b>  “Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures.  Electronic signature means any electronic sound, symbol, or process</p>	<p><b>PIPEDA</b>  <i>Witness signatures</i> may be signed electronically if: (1) each signatory and witness signs with their respective secure electronic signatures; (2) the federal law is in <b>Schedule 2</b> or <b>Schedule 3</b>; and (3) the <b>Secure Electronic Signature Regulations</b> are complied with (s.46).  <i>Documents required to be in original form</i> may be signed electronically if: (1) the federal law is listed in <b>Schedule 2</b> or <b>Schedule 3</b>; (2) the electronic signature can be linked with an electronic</p>	<p><b>PIPEDA</b>  <i>Witness signatures</i> may be signed electronically if: (1) each signatory and witness signs with their respective secure electronic signatures; (2) the federal law is in <b>Schedule 2</b> or <b>Schedule 3</b>; and (3) the <b>Secure Electronic Signature Regulations</b> are complied with (s.46).  <i>Documents required to be in original form</i> may be signed electronically if: (1) the federal law is listed in <b>Schedule 2</b> or <b>Schedule 3</b>; (2) the electronic signature can be linked with an electronic document that can</p>	<p><b>PIPEDA</b>  <i>Seals</i> may be signed by secure electronic signature if the federal law is listed in <b>Schedule 2</b> or <b>Schedule 3</b> (s.39).  <i>Witness signatures</i> may be signed electronically if: (1) each signatory and witness signs with their respective secure electronic signatures; (2) the federal law is in <b>Schedule 2</b> or <b>Schedule 3</b>; and (3) the <b>Secure Electronic Signature Regulations</b> are complied with (s.46).  <i>Documents required to be in original form</i> may be signed electronically if:</p>	<p><b>PIPEDA</b>  <i>Statements required to be made under oath or solemn affirmation</i> may be signed electronically if: (1) each signatory signs with its respective secure electronic signature; (2) the person before whom the statement is made and who is authorized to take statements under oath or solemn affirmation signs with that person’s secure electronic signature; (3) the federal law is listed in <b>Schedule 2</b> or <b>Schedule 3</b>; and (4) the regulations respecting this section are complied with</p>	<p><b>PIPEDA - Schedule 2 (listed federal laws and provisions):</b></p> <p>1) <b>Federal Real Property and Federal Immovables Act</b> with respect to (1) the authorization of officials (s.3);; (2) letters patent, instruments or grants of concessions, leases, licenses and transfers or conveyances of federal real property or immovables for a public purpose (s.5-7); (3) an instrument transferring administration and control of federal real property or vesting such control in real property to Canada (s.11); and any</p>

Applicable Legislation	Key Definitions	Exclusions	What is allowed	Additional requirements	Banking	Real Estate	Corporate / Commercial	Litigation / Advocacy	Other notes
	under the Secure Electronic Signature Regulations).		produced according to the Secure Electronic Signature Regulations where the digital signature is produced from: (1) application of hash function to data to generate a message; (2) application of a private key to encrypt the message; (3) association with the electronic document of the encrypted message; (4) transmission of the encrypted message together with a digital signature certificate or a means of access to one; and (5) a method that decrypts and verifies the validity of the electronic signature after receipt.	attached to or logically associated with a record and executed and adopted by a party with the intent to sign such record, including facsimile or email electronic signatures, Delivery of an executed copy of this Agreement by facsimile or electronic transmission constitutes valid and effective delivery.”  Another clause to consider including, commonly used in Dentons precedents, is: <b>“This Agreement</b> may be executed in counterparts and delivered by means of facsimile, portable document format (PDF) or other means of electronic transmission, including through DocuSign or similar applications, each of which when so	document that can be used to verify that the electronic document was in final form at the time of signing; and (3) the Secure Electronic Signature Regulations (PIPEDA, sections 48-51) respecting this section are complied with (PIPEDA, s. 48(2)).	be used to verify that the electronic document was in final form at the time of signing; and (3) the Secure Electronic Signature Regulations are complied with (PIPEDA, s. 48(2)).  Documents required to be signed pursuant to the Electronic Alternatives Regulations for the Purposes of the Federal Real Property and Immovables Act (“EARFRP”) may be signed electronically if they are (1) in respect of a Crown grant (EARFRP s.5, 7); (2) in respect of a license (EARFRP, s.6); and (3) in respect of an instrument transferring	(1) the federal law is listed in Schedule 2 or Schedule 3; (2) the electronic signature can be linked with an electronic document that can be used to verify that the electronic document was in final form at the time of signing; and (3) the Secure Electronic Signature Regulations are complied with (PIPEDA, s. 48(2)).	(s.44).	authorization made under the Governor in Council with respect to the foregoing (s.16) .  2) Canada Labour Code (s.254(1) with respect to paystubs.  3) Canada Lands Surveys Act with respect to management of surveys by the Surveyor General (s 3(2)).  <b>PIPEDA - Schedule 3 (listed federal laws and provisions):</b>  1) Federal Real Property Regulations with respect to dispositions of Crown grants referred to the Minister of Justice (s.9) and with respect to transfers of administration and control of federal real

Applicable Legislation	Key Definitions	Exclusions	What is allowed	Additional requirements	Banking	Real Estate	Corporate / Commercial	Litigation / Advocacy	Other notes
				executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument and, notwithstanding the date of execution of any counterpart, shall be deemed passed as of the effective date first written above.”		administration and control of federal real property (EARFRP, s.11).			property (s.11).
Canada Business Corporations Act (RSC 1985, c. C-44) (“ <b>CBCA</b> ”)	<b>CBCA</b> “ <b>Electronic document</b> ” is any form of representation of information or of concepts fixed in any medium in or by electronic, optical or other similar means and that can be read or perceived by a person or by any means (s.252.1).  Electronic signature and secure electronic signature have the same meanings as	<b>CBCA</b> Notices, documents and other information to be sent to or issued by the Director shall not be signed electronically (s.252.2).  Statutory declarations or affidavits shall not be signed electronically (s.252.6(1)).  Certain financial statements must be signed by wet-	<b>CBCA</b> Documents required or permitted under the CBCA, including resolutions, shareholders agreements, meeting circulars and proxies may be signed electronically if: (1) the electronic signature is unique to the person; (2) the technology or process is used by a person to incorporate, attach or associate the person’s signature; and (3) the technology or				<b>CBCA</b> In practice, filings made to the Director (Corporations Canada) are signed by electronic signature. The administrative policy of the Director is not to accept such filings signed by DocuSign and similar applications. While these filings are often signed by such applications for		

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	under PIPEDA (CBCA s.252.6(2)).	ink (s.158(1)).	process can be used to identify the person signing the document (s.252.7). The articles and by-laws of the corporation should always be checked to confirm there are no restrictions on electronic signatures.				record-keeping and the signed documents are not submitted to the Director, wherever possible, the document should be signed by an electronic signature (for example, a PDF copy). In most cases, all other documents required under the CBCA can be signed electronically, including proxies, board and shareholder resolutions, provided that (1) the articles and by-laws of that corporation are complied with; and (2) any applicable regulations have been complied with (s.252.4).		
Bank Act (SC. 1991, c. 46) (" <b>Bank</b>	<b>Bank Act</b> " <b>Electronic document</b> ": any form of	<b>Bank Act</b> Notices, documents and other information	<b>Bank Act</b> Electronic documents with respect to notices,		<b>Bank Act</b> <i>Board approvals</i> of resident Canadian				<b>Bank Act:</b> The "prescribed requirements" address any

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Act")	<p>representation of information or concepts that is fixed in any medium in or by electronic, optical or other similar means and that can be read or perceived by a person or by any means (s.992).</p> <p><b>"Information system"</b>: a system used to generate, send, receive, store or otherwise process an electronic document (s.992).</p> <p>With respect to statutory declarations and affidavits, <b>electronic signature</b> and <b>secure electronic signature</b> have the same meanings as under PIPEDA (Bank Act, s.1001(2)).</p>	<p>that is to be sent to or issued by the Minister, the Superintendent, the Commissioner or the Bank of Canada or any prescribed notice, document or information (s.993).</p> <p>Where a document is required to be sent by registered mail (s.1000).</p>	<p>documents and other information are permitted if: (1) the person receiving the document consents and designates an information system for receipt of the document; (2) the electronic document is provided to the designated information system; and (3) the prescribed requirements are complied with (see the "Other Notes" column for further information (s.995(1))).</p>		<p>directors unable to attend meetings of the bank holding company may approve by electronic means the business to be transacted at the meeting (s.772(1)).</p> <p><i>Statutory declarations and affidavits</i> may be signed electronically if: (1) the person making the declaration or affidavit signs with their secure electronic signature; (2) the authorized person taking the declaration or affidavit signs with their secure electronic signature; and (3) the requirements of sections 994-1000 are complied with</p>				<p>requirements or regulations under the Bank Act requiring notice, documents, or other information to be provided, and in satisfying the above, an electronic document is used. Therefore, the applicable requirements will vary depending on the specific notice/consent provision referenced in the Bank Act. Additionally, the Bank Act provides that the foregoing requirements may provide that the consent referred to in s.995 (1)(a) and any notice related to that consent may be provided in electronic form.</p>

Applicable Legislation	Key Definitions	Exclusions	What is allowed	Additional requirements	Banking	Real Estate	Corporate / Commercial	Litigation / Advocacy	Other notes
					(s.1001(1)).				
Bills of Exchange Act (RSC 1985, c. B-4) (“ <b>BOE Act</b> ”)	<b>BOE Act</b> “ <b>Signature</b> ” is not defined in the BOE Act, but it is provided that any instrument or writing required to be signed a person <i>need not sign it with that person’s own hand</i> , and it is otherwise sufficient if the signature is written thereon by some other person by or under that person’s authority (s.4). It is accepted practice that documents governed by the BOE Act should be signed in wet-ink (see “Exclusions” column).	<b>BOE Act:</b> Most documents governed by the BOE Act should be signed by wet-ink (as per a 2018 Report by the Toronto Opinions Group – please see Document 45510829 in iManage).	<b>BOE Act:</b> The BOE Act does not identify any document that may be signed by electronic signature. However, in certain circumstances, practitioners may choose to execute documents electronically and send wet-ink copies at a later date (see “What clauses do you need to add” and “Other Notes”).	<b>BOE Act:</b> <i>See “Other Notes” column before using this language:</i> “This [instrument] may be signed electronically, including through DocuSign and similar electronic signature applications. Delivery of a printed counterpart (whether or not the counterpart was signed electronically) and electronic delivery (including by email transmission or transmission over an electronic signature platform) of an executed counterpart of this [instrument] are each as valid, enforceable and binding as if the signatures were upon the same instrument and delivered in person.			<b>BOE Act:</b> Documents governed by the BOE Act should not be electronically signed, subject to the comments in the “Other Notes” column.		<b>BOE Act:</b> In certain circumstances, documents to which the BOE Act applies are signed electronically, including by DocuSign and similar applications. <b>This practice</b> is common in certain practice areas, such as venture financing deals, <b>however</b> , it should be carefully considered whether to accept electronic signatures. Best practice is to obtain a wet-ink signature prior to closing. <b>In the event that a transaction involving a promissory note or debenture is closed on electronic signatures</b> , the instrument should include a further assurances clause



Applicable Legislation	Key Definitions	Exclusions	What is allowed	Additional requirements	Banking	Real Estate	Corporate / Commercial	Litigation / Advocacy	Other notes
				Notwithstanding the foregoing, upon request of the Lender the undersigned shall execute and deliver to the Lender an ink signed copy of this [instrument] at the address noted above (or at such other address as the Lender shall notify the Borrower) within five business days of delivery of the request." (see <b>column Other Notes for further details</b> ).					that provides for a wet-ink signature to be delivered at a later date or upon request of the holder (see "What clauses do you need to add" column.)
Trust and Loan Companies Act (SC 1991, C.45) ("TLCA")	<b>TLCA</b> "Electronic signature" has the same meaning as in s.31(1) of PIPEDA: a signature that consists of one or more letters, characters, numbers or other symbols in digital form incorporated in, attached to or associated with an	<b>TLCA</b> Any notice, document, or other information in writing required under the TLCA may be signed electronically. Statutory declarations and affidavits must be signed by secure electronic signature (s.539.1(1))	<b>TLCA</b> Any notice, document or other information that is sent to the Minister, Superintendent, the Commissioner or the Bank of Canada (s.539.02)).		<b>TLCA</b> The addressee to the electronic document must consent and designate an information system (s.539.04(1)).				



Applicable Legislation	Key Definitions	Exclusions	What is allowed	Additional requirements	Banking	Real Estate	Corporate / Commercial	Litigation / Advocacy	Other notes
	<p>electronic document (PIPEDA, s.31(1))</p> <p>“<b>Secure electronic signature</b>” has the same meaning as in s.31(1) of PIPEDA: an electronic signature that results from the application of a technology or process prescribed by regulations made under subsection 48(1) of PIPEDA</p>								

**II. ONTARIO**

Applicable Legislation	Key Definitions	Exclusions	What is allowed?	What clauses do you need to add?	Banking	Real Estate	Corporate/ Commercial	Litigation/ Advocacy	Other Notes
Electronic Commerce Act, 2000, SO 2000, c 17 (“ <b>ECA</b> ”)	<b>ECA</b> “ <b>Electronic signature</b> ”: electronic information that a person creates or adopts in order to sign a document and that is attached to or associated with the document. (s.1(1)).	<b>ECA</b> Wills and codicils Trusts created by wills or codicils Negotiable instruments Powers of attorney with respect to property or personal care Documents belonging to a prescribed class Documents with respect to title, other than with respect to carriage of goods (s.31(1)(2)).	<b>ECA</b> In any document not listed in the Exclusions column or otherwise subject to laws, rules or constating documents restricting the use of electronic signature, an electronic signature satisfies the legal requirement that a document be signed (s.11(1)) or endorsed (s.11(2)), provided that, at the time the signature is made, it: (1) identifies the person; (2) reliably associates the electronic signature with the relevant electronic document; (3) the electronic signature meets the prescribed requirements as to method of signing, if any exist according to the ancillary statute to the document ; and (4) the electronic signature meets the	<b>All provincial legislation permitting electronic signatures:</b>  Both parties should consent to the use of electronic signatures (s.3(1)).  <b>Sample language from Practical Law Canada is as follows:</b> “Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Electronic signature means any electronic sound, symbol, or process attached to or logically associated with a record and executed and adopted by a party		<b>ECA</b> In Ontario, it is permissible for parties to use an electronic signature to sign agreements of purchase and sale and other documents that create or transfer an interest in land (e.g., mortgages).	<b>ECA</b> A legal requirement that anything done in connection with a contract for the carriage of goods be done in writing is satisfied if the act is done electronically. Contract for the carriage of goods includes, but is not limited to, (i) furnishing the marks, number, quantity or weight of goods; (ii) stating or declaring the nature or value of goods; (iii) issuing a receipt of goods; (iv) confirming that goods have been loaded; (v) giving instructions to a carrier of goods; (vi) claiming delivery of goods; (vii) authorizing release of goods; (viii) giving notice of loss of , or damage, to goods; (ix) undertaking to deliver goods to a named person or a person authorized to claim		<b>ECA</b> For signatures to be provided to public bodies, electronic signatures are permissible only if the electronic signature meets: (1) any information technology standards of the public body (please see note below) and (2) any requirements as to method and reliability of the signature to the public body.  Public bodies are defined as the following in the ECA: “(a) any ministry, agency, board, commission or other body of the Government of Ontario, (b) a municipality or its local board, or

Applicable Legislation	Key Definitions	Exclusions	What is allowed?	What clauses do you need to add?	Banking	Real Estate	Corporate/ Commercial	Litigation/ Advocacy	Other Notes
			prescribed information technology standards (s.11(3)(4)).	<p>with the intent to sign such record, including facsimile or email electronic signatures, Delivery of an executed copy of this Agreement by facsimile or electronic transmission constitutes valid and effective delivery.”</p> <p>Another clause to consider including, commonly used in Dentons precedents, is:“This Agreement may be executed in counterparts and delivered by means of facsimile, portable document format (PDF) or other means of electronic transmission, including through DocuSign or similar applications, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument and,</p>			delivery; (x) granting, acquiring, renouncing, surrendering, transferring or negotiating rights in goods; (xi) notifying a person of terms and conditions of a contract of carriage of goods; (xii) giving a notice or statement in connection with the performance of a contract of carriage of goods; and (xiii) acquiring or transferring rights and obligations under a contract of carriage of goods.		(c) an entity that is designated as a public body by a regulation made under clause 32 (a).” (s.1(1)). Please consult the rules and administrative policies of the applicable public body before submitting electronic signatures.

Applicable Legislation	Key Definitions	Exclusions	What is allowed?	What clauses do you need to add?	Banking	Real Estate	Corporate/ Commercial	Litigation/ Advocacy	Other Notes
				notwithstanding the date of execution of any counterpart, shall be deemed passed as of the effective date first written above.”					
International Electronic Communications Convention Act, 2017, S.O. 2017, c. 2, Sched. 6 (“ <b>IECC</b> ”)	<b>IECC</b> “ <b>Electronic communication</b> ”: any communication the parties make by means of data messages (Article 4).	<b>IECC</b> Contracts entered into for personal, family or household purposes Transactions on a regulated exchange, including inter-bank payment systems and agreements, clearance and settlement system relating to securities or other instruments (Article 2).	<b>IECC</b> The requirement that a document be signed is met if the method used: (1) identifies the party and indicates that party’s intention in respect of the electronic communication; and (2) is either reliable as appropriate for the circumstances and purpose the electronic communication as generated or communicated, including any relevant agreement, or is proven in fact to fulfill those functions (Article 9, s.3).  Specific documents permitted to be signed electronically				<b>IECC</b> Provided that the agreement is not listed under Exclusions, and subject to any other laws, rules or constating documents, electronic signatures, including DocuSign and similar applications, can be applied.		

Applicable Legislation	Key Definitions	Exclusions	What is allowed?	What clauses do you need to add?	Banking	Real Estate	Corporate/ Commercial	Litigation/ Advocacy	Other Notes
			under the IECC include: Bills of exchange Promissory notes Consignment notes Bills of lading Warehouse receipts Transferable documents and instruments that entitle the bearer to claim the delivery of goods (Article 2).						
Statute of Frauds, RSO 1990, c S.19 (“ <b>Statute of Frauds</b> ”)	<b>Statute of Frauds</b> The Statute of Frauds does not define document in “writing”, however, “writing” as used in this act means a wet-ink signature.	<b>Statute of Frauds</b> Writing required to create estates or interests of freehold or in messuages, lands, tenements and hereditaments. Deeds. Contracts for sale of lands, tenements and hereditaments and any interest concerning them. (s.1-2, 4). Contracts by a minor person to pay a debt upon or after reaching the age of majority (s.7). Representations concerning the character, conduct,	<b>Statute of Frauds</b> Leases not exceeding three years (s.3). Guarantees for debt, default and miscarriage (s.6).			<b>Statute of Frauds</b> Please refer to documents listed under Exclusions. Most documents required in real estate practice (for example, contracts for sale of lands) are not permitted to be signed by electronic signature.	<b>Statute of Frauds</b> Provided that the agreement is not listed under Exclusions, and subject to any other laws, rules or constating documents, electronic signatures, including DocuSign and similar applications, can be applied. Representations as to character, credit, ability, trade and dealings should be signed in writing pursuant (s.1-2,4).		

Applicable Legislation	Key Definitions	Exclusions	What is allowed?	What clauses do you need to add?	Banking	Real Estate	Corporate/ Commercial	Litigation/ Advocacy	Other Notes
		credit, ability, trade or dealings of any other person (s.8). Declarations of trusts in land (s.9). Assignment of trusts (s.11).							
Business Corporations Act (Ontario), RSO 1990, c B.16 (“ <b>OBCA</b> ”)	<b>OBCA</b> “Electronic signature”: an identifying mark or process that is (1) created or communicated using telephonic or electronic means; (2) is attached to or associated with a document or other information; and (3) capable of associating the person who makes the electronic signature with the document (s.1(1)).	<b>OBCA</b> Documents required to be submitted to the Ministry of Government and Consumer Services. These documents must be submitted in duplicate with wet-ink signatures. Please see Other Notes for discussion (s.273.1).	<b>OBCA</b> Proxies (s.109). Though proxies are the only document specifically named in the OBCA, corporations organized under this act can sign corporate documents by DocuSign and similar applications, including resolutions and shareholder agreements.				<b>OBCA</b> Provided that the document is not to be submitted to the Ministry of Government and Consumer Services, or otherwise subject to any other laws, rules or constating documents, electronic signatures, including DocuSign and similar applications, can be applied.		<b>OBCA</b> <b>At the time of preparing this, Service Ontario locations are currently closed, there may be some changing of the rules around submitting electronic signatures to the Ministry of Ontario.</b> However, presently the requirement remains for documents to be submitted in duplicate wet-ink signatures.
Securities Act (Ontario) RSO 1990, C. s.5 (“ <b>Securities Act</b> ”)	<b>Securities Act</b> The Securities Act does not define an electronic signature.	<b>Securities Act</b> There are no specific exclusions.	<b>Securities Act</b> The Minister is permitted to make rules governing the use of electronic				<b>Securities Act</b> For practitioners advising dealers, the Investment Industry Regulatory		

Applicable Legislation	Key Definitions	Exclusions	What is allowed?	What clauses do you need to add?	Banking	Real Estate	Corporate/ Commercial	Litigation/ Advocacy	Other Notes
			signatures (s.143(1)(46)). In Dentons' internal practice, documents required to be signed under the Securities Act are typically signed electronically, including by DocuSign and similar applications.				Organization of Canada ("IIROC") published rules confirming that dealers may use electronic signatures in the execution of agreements and contracts with clients and consents and notifications to clients.		
Personal Property Security Act, RSO 1990, c. P.10 ("PPSA")	<b>PPSA</b> The PPSA does not define signature or electronic signature.	<b>PPSA</b> All documents creating a security interest, other than uncertificated or certificated securities (s.11).	<b>PPSA</b> Uncertificated or certificated securities (s.11(2)(b)(c)).		<b>PPSA</b> Unless listed under Exclusions, documents governed by the PPSA should be signed in wet-ink.		<b>PPSA</b> Unless listed under Exclusions, documents governed by the PPSA should be signed in wet-ink.	<b>PPSA</b> Unless listed under Exclusions, documents governed by the PPSA should be signed in wet-ink.	
R.R.O. 1990, Reg. 194: Rules of Civil Procedure ("Rules")	<b>Rules</b> The rules do not define electronic signatures.	<b>Rules</b> Agreements requiring notarization or commissioning (Rule 4.06(1)(e)).	<b>Rules</b> Expert Reports Factums Lawyer Certificates Mediation Agreements Releases Settlement Agreements Trial Records All other court forms requiring signature (as per a 2018				<b>Rules</b> Unless listed under the Exclusions column, documents governed by the Rules should be signed in wet-ink.	<b>Rules</b> Unless listed under the Exclusions column, documents governed by the Rules should be signed in wet-ink.	



Applicable Legislation	Key Definitions	Exclusions	What is allowed?	What clauses do you need to add?	Banking	Real Estate	Corporate/ Commercial	Litigation/ Advocacy	Other Notes
			Report by the Toronto Opinions Group – please see Document 45510829 in iManage).						

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III. ALBERTA

Applicable Legislation	Key Definitions	Exclusions	What is allowed	Additional requirements	Banking	Real Estate	Corporate / Commercial	Litigation / Advocacy	Other notes
<p><b>Electronic Transactions Act</b>, SA 2001, c E-5.5 [<b>ETA</b>]</p> <p><i>Electronic Transactions Act General Regulation, Alta Reg 34/2003</i>, which until February 2020 contained further exclusions;</p> <p><i>Electronic Transactions Act Designation Regulation, Alta Reg 35/2003 [ETADR]</i>, which identifies the public bodies to which the <i>ETA</i> applies (subject to consent).</p>	<p><b>s 1(c)</b> “electronic signature” means electronic information that a person creates or adopts in order to sign a record and that is in, attached to or associated with the record;</p> <p><b>s 1(f)</b> “person” includes a public body;</p> <p>Examples of an electronic signature therefore include the following:                      (a) signatures that are handwritten and transmitted electronically;                      (b) the click of an “I accept” button on an e-commerce site;</p>	<p><b>s 7</b> This Act does not apply to:</p> <ul style="list-style-type: none"> <li>• wills and codicils;</li> <li>• trusts created by wills or codicils;</li> <li>• enduring powers of attorney under the <i>Powers of Attorney Act</i>;</li> <li>• personal directives under the <i>Personal Directives Act</i>;</li> <li>• records that create or transfer interests in land, including interests in mines and minerals;</li> <li>• guarantees under the <i>Guarantees Acknowledgment Act</i>;</li> <li>• negotiable instruments (promissory notes excluded at the Federal level);</li> <li>• records that are prescribed, or that belong to a class that is prescribed, as records or a class of records to which the <i>ETA</i> does not apply; and</li> <li>• documents of title (except in respect</li> </ul>	<p>The <i>ETA</i> creates functional equivalency between electronic documents and documents required to be in writing and electronic signatures and “wet” signatures:</p> <p><b>s 11</b> “A legal requirement that information or a record be in writing is satisfied if the information or record is (a) in electronic form, and (b) accessible so as to be usable for subsequent reference.”</p> <p><b>s 16(1)</b> “...a legal requirement that a record be</p>	<p><u>Consent</u></p> <p>Parties are not required to accept or use electronic signatures, but consent may be implied (except for public bodies):</p> <p><b>s 8 (1)</b> “Nothing in this Act requires a person to use, provide or accept information or a record in electronic form without the person’s consent.”</p> <p><b>s 8(2)</b> Consent may be inferred from conduct “if there are reasonable grounds to believe that the consent is genuine and relevant to the information or record”</p>	<p><u>Key ETA exclusions:</u></p> <ul style="list-style-type: none"> <li>• Guarantees under the <i>Guarantees Acknowledgment Act</i> [<i>GAA</i>]</li> <li>• Negotiable instruments</li> </ul> <p>As the <i>GAA</i> only applies to guarantees by individuals, guarantees from corporations are not likely excluded by the <i>ETA</i> and, therefore, may be signed electronically.</p> <p>Documents governed by the <i>Bills of Exchange Act</i> and other Federal legislation will be outside the scope of the <i>ETA</i> and Alberta law.</p>	<p><u>Key ETA exclusions:</u></p> <ul style="list-style-type: none"> <li>• records that create or transfer interests in land, including interests in mines and minerals;</li> </ul> <p>The <i>Land Titles Act</i> was amended in 2015 to allow the LTO to accept electronic documents using “digital signatures” and is currently being tested through a pilot project (see <b>s 56.11 of LTA</b>). This operates outside of the <i>ETA</i> framework. The amendment gives the LTO Registrar</p>	<p>[See Banking]</p> <p>The Corporate Registry has not expressly consented to receipt of documents with electronic signatures. However, <b>s. 20 of the Corporate Registry Document Handling Procedures Regulation</b> deems the inserted name of an authorized representative, in a <b>designated document</b> (and any attachments), as having “the same force as if the authorized representative had signed the document.” Documents otherwise required to be signed and delivered to the Corporate Registry will require an</p>	<p><u>Documents filed with the Courts:</u></p> <p>Alberta Courts accept the electronic signatures of counsel. The proviso that a form may be approved by counsel “by facsimile or electronic signature” is not necessary: <i>Thompson Brothers (Construction) Ltd. v Alberta (Appeals Commission for Alberta Workers’ Compensation)</i>, 2012 ABCA 150 [<i>Thompson Brothers</i>] at para 7.</p> <p>The Rules of Court generally do not contemplate original signatures apart</p>	<p>Unlike B.C., Alberta and Ontario distinguish between consent from public bodies (must be express and may involve further conditions) and consent from other “persons” (which may be implied).</p> <p>In Alberta, the <i>ETA</i> does not ‘occupy the field’ for permitting electronic signatures. In other words, there may be situations not captured by the <i>ETA</i> (or excluded by it) where electronic/digital signatures are still legally effective. See for example:</p> <ol style="list-style-type: none"> <li>1. <i>Land Titles Act</i> amendments (<b>s 56.11</b>) permitting “digital signatures” (pilot project)</li> <li>2. See also <b>1353141 Alberta</b></li> </ol>

Applicable Legislation	Key Definitions	Exclusions	What is allowed	Additional requirements	Banking	Real Estate	Corporate / Commercial	Litigation / Advocacy	Other notes
	and (c) a typed name at the end of an email <sup>21</sup>	<p>of activities relating to contracts for the carriage of goods).</p> <p>Biometric information (e.g. a fingerprint) is not an electronic signature for the purposes of the <i>ETA (s 5)</i>.</p> <p><u>Recent update:</u> Sections 2 and 3 of the <i>Electronic Transactions Act General Regulation</i> were repealed on Feb 29, 2020, which previously identified further exclusions like records arising from the <i>Alcohol and Drug Abuse Act, Mental Health Act, Public Health Act, Residential Tenancies Act</i>, records arising from an employment relationship (<b>s 2</b>) and records arising from court proceedings (<b>s 3</b>)</p>	<p>signed is satisfied by an electronic signature.”</p> <p><u>Note:</u> An electronic signature does not require the use of an encryption measure; nor is the signor required to personally apply it herself to be legally effective; an assistant or colleague may apply the signature so long as it is adopted by the signor.</p> <p><u>Public bodies:</u> Any party seeking to sign a document electronically to be submitted to a public body</p>	<p><b>s 19</b> “the consent of a public body is given only by an explicit communication that is accessible to the persons likely to seek to communicate with the public body about the matter or purpose in question.”</p> <p><u>Express language:</u> Agreements should state that the parties expressly consent to using, providing or accepting information or records arising from [the Agreement] in an electronic form as the case may be and including electronic signatures as</p>		discretion to accept digital signatures, which enables the pilot project.	<p>original signature.</p> <p><b>s. 255, ABCA</b> - A notice or document required to be sent/delivered under <b>ss 255 to 257 of the ABCA (documents to shareholders or directors, notice to corporation, notice to commission)</b> may be sent electronically in accordance with the <i>ETA</i>, including sending the consent of a person entitled to waive or abridge the notice or time for the notice or the document (<b>s 258</b>).</p> <p><b>s. 48(5), ABCA</b> – Signatures on security certificates may be printed or mechanically reproduced;</p> <p><b>s. 267(4), s 268(2), ABCA</b> –</p>	<p>from affidavits, which require “actual signatures”: <b>Rule 13.19(1)(f); Thompson Brothers</b> at para 7.</p> <p><u>Evidence legislation:</u> The <i>Federal Secure Electronic Signature Regulations</i> promulgated under the <i>Canada Evidence Act</i> and <i>PIPEDA</i> creates a presumption about the identity of a signor when certain processes are followed. The <i>Alberta Evidence Act</i> does not address electronic signatures specifically but “electronic records” generally vis-à-vis the best</p>	<p><i>Ltd v Roswell Group Inc, 2019 ABQB 559</i>, where electronic signature transferring condominium was effective through operation of <i>Interpretation Act</i> and common law</p> <p><u>Law Society requirements Code of Conduct 6.1-3</u> Restricts delegation of signing authority to lawyers for legal opinions or correspondence, unless it is of a routine administrative nature, the non-lawyer has been specifically directed to sign the correspondence by a supervising lawyer, the fact the person is a non-lawyer is disclosed, and the capacity in</p>

<sup>21</sup> Examples from “Electronic signatures” (2020) by Jay Krushell.

Applicable Legislation	Key Definitions	Exclusions	What is allowed	Additional requirements	Banking	Real Estate	Corporate / Commercial	Litigation / Advocacy	Other notes
			(see the <i>ETADR</i> ) must confirm that body has expressly consented to accepting electronic signatures. E.g. The Corporate Registry has not expressly consented to receipt of documents with electronic signatures.	defined by the <i>ETA</i> .			Certificates issued by the Registrar for required filings may also use mechanically reproduced signatures	evidence rule (see <b>s 41.4</b> of <i>Alberta Evidence Act</i> ).	which the person signs the correspondence is indicated [3] In all matters using a system for the electronic submission or registration of documents, whether or not the system contains the electronic signature of the lawyer, a lawyer who approves the electronic registration of documents by a non-lawyer is responsible for the content of any document.

**IV. BRITISH COLUMBIA**

Applicable Legislation	Key Definitions	Exclusions	What is allowed	What clauses do you need to add?	Banking	Real Estate	Corporate / Commercial	Litigation / Advocacy	Other notes
<p><i>Electronic Transactions Act</i> [SBC 2001] CHAPTER 10. (ETA)</p>	<p><u>ETA</u></p> <p>"<b>electronic signature</b>" means information in electronic form that a person has created or adopted in order to sign a record and that is in, attached to or associated with the record.</p> <p>"<b>electronic</b>" means created, recorded, transmitted or stored in digital or other intangible form by electronic, magnetic or optical means or by any</p>	<p>The ETA does not intend to override other laws which already address the use of electronic forms including signatures.</p> <p><u>ETA Section 2(1):</u></p> <p>This Act does not limit the operation of a law that</p> <p>(a) expressly authorizes, prohibits or regulates the use of information or records in electronic form, or</p> <p>(b) requires information or a record to be posted, displayed or delivered in a specific manner.</p> <p><u>ETA Section 2(4):</u></p> <p>This Act does not apply to:</p> <p>(a) wills,</p> <p>(b) trusts created by</p>	<p>Subject to the noted exclusions, the ETA provides that where there is a requirement under law for the signature of a person, that requirement is satisfied by an electronic signature.</p> <p><u>ETA Section 11(1):</u></p> <p>If there is a requirement under law for the signature of a person, that requirement is satisfied by an electronic signature.</p> <p><u>ETA Section 5:</u></p> <p>A requirement under law that a record be in writing is satisfied if the record is</p> <p>(i) in electronic form, and</p>	<p>The ETA does not require a person to use electronic forms without the person's consent, however, consent may be inferred from the person's conduct.</p> <p><u>ETA Section 4:</u></p> <p>(1) Nothing in this Act requires a person to provide, receive or retain information or a record in electronic form without the person's consent.</p> <p>(2) Consent</p>	<p><i>Credit Union Incorporation Act</i> [RSBC 1996] CHAPTER 82 (CUIA)</p> <p>Documents governed by the <i>Bills of Exchange Act</i> (Canada) and other Federal legislation will be outside the scope of the <i>ETA</i> and British Columbia law. (See Federal Law table)</p> <p><u>ETA</u></p> <p>Key ETA exclusions include negotiable instruments and document of title.</p> <p><u>ETA Section 2(5):</u></p> <p>Parts 2 and 3 do not apply to negotiable instruments or documents of title.</p> <p><u>ETA Sections 2(2) and (3):</u></p> <p>(2) For the</p>	<p>(2) An action must not be brought on the agreement or assignment referred to in subsection (1) by a person who fails to comply with this section.</p> <p><b>Transferor to provide registrable description</b></p> <p><b>7</b> (1) In this section, "transferor" includes a landlord obliged to deliver an instrument under section 5.</p> <p>(2) A transferor, in an instrument executed by the transferor, or on the transferor's behalf, must describe the parcel of land intended to be transferred or otherwise dealt with, so that the title</p>	<p><i>Business Corporations Act</i> [SBC2002] CHAPTER 57. (BCBCA)</p> <p><u>ETA</u></p> <p>Key ETA exclusions include negotiable instruments and document of title.</p> <p><u>ETA Section 2(5):</u></p> <p>Parts 2 and 3 do not apply to negotiable instruments or documents of title.</p> <p><u>ETA Sections 2(2) and (3):</u></p> <p>(2) For the purpose of subsection (1), the use of "in writing" and "signature" and other similar words and expressions does not by itself prohibit the use of information or records in electronic form.</p>	<p><u>Court filings</u></p> <p>British Columbia Courts have implemented the <u>Court Services Online (CSO)</u> system for the electronic filing of documents.</p> <p>The various British Columbia Court Rules specify the documents that are permitted to be filed electronically (see, for example, Rule 23-3 of the <i>Supreme Court Civil Rules</i> and Rule 54.1 of the <i>Court of Appeal Rules</i>).</p> <p>There is no restriction imposed by the CSO or the various Court Rules on filing documents electronically which contain electronic signatures, however it is not possible to use electronic signatures for either:</p> <ol style="list-style-type: none"> <li>1. affidavits, or</li> <li>2. other signed documents (which include, for example,</li> </ol>	<p><u>Electronic signatures</u></p> <p>The definition of "electronic signature" in the ETA has been adopted by the BC Supreme Court to expand the definition of a written and signed acknowledgment to include an email containing an e-mail signature (<i>Johal v Nordio</i>, 2017 BCSC 1129).</p> <p><u>LTSA Guidance on Covid-19</u></p> <p>The LTSA is responsible for administering the land title and survey systems in BC and has useful references on its website at <a href="http://ltsa.ca">ltsa.ca</a>. On March 17 and LTSA issued guidance pertaining to the execution and</p>



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	other similar means.	<p>wills,</p> <p>(c) powers of attorney, to the extent that they concern the financial affairs or personal care of an individual,</p> <p>(d) documents that create or transfer interests in land and that require registration to be effective against third parties, or</p> <p>(e) other provisions, requirements, information or records prescribed in the regulations. (2(4))</p> <p>*Note that no regulations have been implemented under the ETA as yet.</p> <p>The Act's general statements that the use of 'in writing' and 'signature' in an operation of law or its requirements allow for electronic forms of documents or signature expressly do not apply to negotiable instruments or</p>	(ii) accessible in a manner usable for subsequent reference.	by a person to provide, receive or retain information or a record in electronic form may be inferred from the person's conduct.	<p>purpose of subsection (1), the use of "in writing" and "signature" and other similar words and expressions does not by itself prohibit the use of information or records in electronic form.</p> <p>(3) The provisions of this Act relating to the satisfaction of a requirement of a law apply whether or not the law creates an obligation or provides consequences</p> <p><u>CUIA</u> Section 61.2 of the CUIA provides that a share certificate of a credit union must be signed manually by at least one officer or director of the credit union.</p>	<p>to the parcel is registrable under the Land Title Act.</p> <p>(3) A transferor must also provide and deposit any further conveyance, other instrument or plan that is required by the registrar.</p> <p>Such land title instruments include Form A – Freehold Transfer, Form B – Mortgage, and Form C – General Instrument – Charge, among others.</p> <p>For these instruments, Part 5 of the LTA speaks to the attestation and witnessing of instruments, including requirements for affidavits of execution or</p>	<p>(3) The provisions of this Act relating to the satisfaction of a requirement of a law apply whether or not the law creates an obligation or provides consequences</p> <p><u>BCCBA</u> BCBCA Section 15 provides that an incorporation application and the articles of a company being formed require "an original signature".</p> <p><u>BCCBA Section 15:</u> (1) A completing party must,</p> <ul style="list-style-type: none"> <li>before an incorporation application is submitted to the registrar for filing to incorporate a company,</li> </ul>	<p>court orders).</p> <p>Affidavits and other signed documents still require an original to be prepared with an "original signature", that original must be retained by the party filing it and, if requested, must be made available for inspection by the other parties as well as the Court.</p> <p>For example, Rule 23-3(6) of the <i>Supreme Court Civil Rules</i> reads as follows: An affidavit or other signed document that is being filed for evidentiary purposes, if submitted for filing electronically, must clearly identify the signatory and must be accompanied by a statement, in Form 119, of the lawyer acting for the person on whose behalf the document is submitted for filing or, if that person is unrepresented, by a statement of that person, in Form 119, indicating that</p>	<p>witnessing requirements under the Land Title Act during the COVID-19 situation (including relaxing the rules regarding affidavits to permit witnessing via teleconference). Further, on March 26, 2020, the LTSA updated the list of supporting documents for which a true copy may be used in place of the original document.</p> <p>The Law Society of BC and other legal groups have been active in pursuing guidance from the LTSA and other governmental authorities to address issues as the COVID-19 situation continues, and it will be important to stay up to date to any</p>

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		<p>documents of title.</p> <p><u>ETA Section 2(5):</u></p> <p>Parts 2 and 3 do not apply to negotiable instruments or documents of title.</p> <p>ETA Sections 2(2) and (3):</p> <p>(2) For the purpose of subsection (1), the use of "in writing" and "signature" and other similar words and expressions does not by itself prohibit the use of information or records in electronic form.</p> <p>(3) The provisions of this Act relating to the satisfaction of a requirement of a law apply whether or not the law creates an obligation or provides consequences.</p>			<p><u>CUIA Section 61.2:</u></p> <p>A share certificate of a credit union must be signed manually by at least one officer or director of the credit union, or by or on behalf of a registrar, branch registrar, transfer agent or branch transfer agent of the credit union, and any additional signatures may be printed or otherwise mechanically reproduced and, in that event, a certificate so signed is as valid as if signed manually.</p>	<p>execution under seal that effectively preclude the use of electronic signatures for instruments tendered for registration.</p> <p><u>LTA Part 5 Section 42:</u></p> <p><b>Witnessing and execution</b></p> <p><b>42(1)</b> The execution by a transferor of an instrument must be witnessed by an officer who is not a party to the instrument.</p> <p>(2) Subsection (1) does not apply to</p> <p>(a) a Crown grant,</p> <p>(b) an order in council,</p> <p>(c) a court order,</p>	<ul style="list-style-type: none"> <li>examine the articles and incorporation agreement to ensure that both are endorsed within the meaning of subsection (2),</li> <li>designate as incorporators, in the incorporation application, all of those persons who have endorsed both the articles and the incorporation agreement and no other persons, and</li> <li>complete the completing party statement in the incorporation application, and</li> </ul>	<ol style="list-style-type: none"> <li>the original paper version of the document appears to bear an original signature of the person identified as the signatory and the person making the Form 119 statement has no reason to believe that the signature placed on the document is not the signature of the identified signatory, and</li> <li>the version of the document that is being submitted for filing electronically appears to be a true copy of the original paper version of the document and the person making the Form 119 statement has no reason to believe that it is not a true copy of the original paper version.</li> </ol> <p><u>Evidence legislation</u></p>	<p>applicable guidance as it is issued.</p>



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						<p>or</p> <p>(d) an instrument or an instrument that is of a class of instrument that is prescribed for the purposes of this section.</p> <p>(3) An affidavit necessary for the purposes of this Act may be taken or made inside or outside British Columbia by and before a person before whom an affidavit may be sworn under the <i>Evidence Act</i>.</p> <p>(4) The signature of a transferor on an instrument is proof, in the absence of evidence to the contrary, that the</p>	<ul style="list-style-type: none"> <li>after the company is incorporated, deliver to the delivery address of the company's records office, or mail by registered mail to the mailing address of the company's records office, the originally signed articles and incorporation agreement examined by the completing party.</li> </ul> <p>(2) For the purposes of subsection (1), a record is endorsed if</p> <ul style="list-style-type: none"> <li>the record contains a signature line for each signatory with the name of</li> </ul>	<p>The British Columbia <i>Evidence Act</i> addresses secure electronic signatures, only in respect of "electronic records" signed by prescribed persons (which, except in the case of criminal convictions, is limited to officers and employees of the Court). <u><i>Electronic Court Documents Regulation</i></u> <u>Section 3:</u></p> <p>(1) A record contained within an electronic court system and signed electronically by a person described in subsection (2) is a prescribed electronic record for the purpose of section 41.3 of the Act.</p> <p>(2) The persons who may electronically sign a record for the purpose of subsection (1) are the following:</p> <ol style="list-style-type: none"> <li>a person who exercises an adjudicative function in a court, if the record being signed relates to a matter in</li> </ol>	

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						<p>transferor</p> <ul style="list-style-type: none"> <li>knows the contents of the instrument and has signed it voluntarily, and</li> <li>has the legal capacity to execute the instrument and intends to be bound by it.</li> </ul> <p>The LTA does not preclude, however, individuals from using electronic signatures to execute commercial agreements related to land, such as purchase and sale agreements, leases, or licenses to use land, to which the ETA</p>	<p>that signatory set out legibly under the signature line,</p> <ul style="list-style-type: none"> <li>an original signature has been placed on each of those signature lines, and</li> <li>the completing party has no reason to believe that the signature placed on a signature line is not the signature of the person whose name is set out under that signature line.</li> </ul> <p>BCBCA Section 110 speaks to the manual execution of share certificates. <u>BCBCA Section 110:</u></p>	<p>which the person has acted as adjudicator;</p> <ol style="list-style-type: none"> <li>a clerk of a court, if he or she is acting in the capacity of clerk in relation to the record being signed;</li> <li>a peace officer or a person acting in an enforcement capacity under any enactment, if the peace officer or person is acting in their official capacity in relation to the record being signed;</li> <li>a person accused or convicted of an offence under any enactment, or the person's representative, if the record being signed relates to the person accused or convicted;</li> <li>a person who is an employee of the government of any jurisdiction, or who is working on contract for or on behalf of the government of any jurisdiction, if the</li> </ol>	

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						<p>would apply.</p> <p>Lawyers and paralegals who have obtained a digital certificate from Juricert often sign electronic forms as 'designates' under the LTA to register instruments on title using the Land Title Surveying Authority (LTSA) e-filing system. In doing so, they are certifying that an execution copy of the document has been executed and witnessed in writing if required, and that the execution copy, or a true copy, is in their possession.</p> <p><u>LTA Section 168.41(3 and 4):</u></p> <p>(3) A document is certified under this</p>	<p>(1) A share certificate must be signed manually</p> <ol style="list-style-type: none"> <li>1. by a director or officer of the company, or</li> <li>2. by or on behalf of a registrar, branch registrar, transfer agent or branch transfer agent of the company.</li> </ol> <p>(2) Any additional signatures required on a share certificate may be printed or otherwise mechanically reproduced on the certificate.</p> <p>(3) If a share certificate contains a printed or mechanically reproduced signature of an individual, the company may</p>	<p>person is acting in their official capacity in relation to the record being signed.</p>	

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						<p>section by a designate if the document</p> <ul style="list-style-type: none"> <li>includes a statement that the document is certified under this section by the designate, and</li> <li>is signed electronically by the designate.</li> </ul> <p>(4) The electronic signature of a designate on a document described in subsection (3) is a certification by the designate that</p> <ul style="list-style-type: none"> <li>an execution copy of the document has been executed and witnessed in writing if and as required, and</li> </ul>	<p>issue the certificate even though the individual has ceased to be a director or an officer of the company, and the certificate is as valid as if the individual were a director or an officer on the date of the issue of the certificate.</p>		

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						<ul style="list-style-type: none"> <li>the execution copy referred to in paragraph (a), or a true copy of that execution copy, is in the possession of the designate.</li> </ul> <p>Certain other provisions of the LTA expressly permit electronic signatures. For example, Section 168.3 provides that a plan submitted electronically must be signed electronically by a BC land surveyor.</p> <p><u>LTA Section 168.3:</u></p> <p>(1) A plan that is submitted electronically must be signed electronically by a British Columbia land surveyor.</p>			

**V. QUEBEC**

Applicable Legislation	Key Definitions	Exclusions	What is allowed	What clauses do you need to add?	Banking	Real Estate	Corporate / Commercial	Litigation / Advocacy	Other notes
<p><i>Act to establish a legal framework for information technology</i>, CQLR c C-1.1 (<b>AELFIT</b>)</p> <p><i>Civil Code of Quebec</i>, RLRQ c CCQ 1991 (<b>CCQ</b>)</p> <p><i>Notaries Act</i>, CQLR c N-3</p> <p><i>Règlement sur la tenue des dossiers et des études des notaires</i>, CQLR c N-3, r. 17</p>	<p><b>AELFIT</b>: s. 39 (electronic signature)</p> <p>The link between a person and a document, whatever the medium used, may be established by means of the person's signature. A person's signature may be affixed to the document by means of any process that meets the requirements of article 2827 of the Civil Code.</p> <p>A person's signature affixed to a technology-based document may be set up against that person if the integrity of the document is ensured and the link between the signature and the document was established at the time of signing and has since been maintained.</p>	<p>Electronic signatures are permitted insofar that the "medium or technology chosen is in <u>compliance with legal rules</u>, in particular those contained in the Civil Code" (emphasis added, s. 2).</p> <p>Specific exclusions as per the CCQ are:</p> <ul style="list-style-type: none"> <li>immovable hypothecs,</li> <li>hypothec in favour of a hypothecary representative,</li> <li>declaration of co-ownership (or amendments),</li> <li>trust-related deeds,</li> <li>gift or donation,</li> <li>any deed</li> </ul>	<p>AELFIT provides for a functional equivalence between a "wet" signature and one applied by way of a technology-based medium (s. 5).</p> <p><u>Key requirements (AELFIT)</u>:</p> <ul style="list-style-type: none"> <li>Confirmation of the person's identity (e.g.: use of a password, personal identification number, biometric data, subject to privacy and data protection legislation etc.) (s.38.1)</li> <li>Identification of the document (s.38.2)</li> <li>Established link between the person and the document (e.g.: "distinctive" mark) (s.38)</li> <li>Ensured integrity</li> </ul>	<p>There is some debate as to the minimal standards required to satisfy AELFIT conditions.<sup>ii</sup></p> <p>Care should be given to ensure that the measures taken to satisfy AELFIT requirements are proportional to the circumstances at hand.<sup>iii</sup></p>	<p>No specific provincial legislation prohibits the use of electronic signatures. However, notarized documents are required to be on paper format and, as such, electronic signatures will not be available.</p> <p>Banks <u>customarily</u> require the following material documents to be signed with "wet" ink (note that items 6-9 <u>must</u> be provided with original "wet" signature):<sup>iv</sup></p> <ol style="list-style-type: none"> <li>Credit agreement;</li> <li>Security documents (general security agreements, hypothecs, subordination agreement,</li> </ol>	<p>Documents to be registered at the Land Registry that create or transfer interests in land or give rise to the registration of a right in or the removal of a right from the land register, or the reduction of an entry (e.g.: notice of commercial lease, deed of sale, hypothecs, servitudes, mainlevée, cancellations)</p> <p><b>(Documents)</b> must be, if not in notarial form, accompanied by a <u>certificate of a notary or an advocate</u> certifying they have verified the identity, quality and capacity of the parties and the validity of the act as to form, and that the document represents the will expressed by the</p>	<p><u>Potential exclusions</u>: Ensure that the bylaws and articles of any corporation have not excluded electronic signatures or the use of electronic documents.</p> <p><u>Key legislation</u>: <i>Business Corporations Act</i>, CQLR c S-31.1</p> <ul style="list-style-type: none"> <li>Signatures affixed to share certificate may be by an automatic device or electronic process (s. 62)</li> <li>Board approval of financial statements is evidenced by signature, regardless of</li> </ul>	<p>Electronic signatures are valid on pleadings as a general principle.</p> <ul style="list-style-type: none"> <li><i>Code of Civil Procedure</i>, CQLR c C-25.01 (s.99)<sup>v</sup> (<b>CCP</b>)</li> </ul> <p>No restrictions to this in:</p> <ul style="list-style-type: none"> <li><i>Regulation of the Court of Québec</i>, CQLR c C-25.01, r 9 (s. 11)</li> <li><i>Regulation of the Superior Court of Québec in civil matters</i>, CQLR c C-25.01, r 0.2.1 (s. 3)</li> <li><i>Civil Practice Regulation of the Quebec Court of Appeal</i>,</li> </ul>	<p><b>COVID-19 developments</b></p> <p><u>Notarial Documents</u></p> <p>Please note that, given the ministerial order No 2020-010 of the Minister of Health and Social Services dated March 27, 2020, regarding COVID-19 and amending the schedule of the order 223-2020, a notary will now be authorized to receive, remotely, a notarize deed <i>en minute</i> on a technological support under certain conditions (videoconference and signature through a method that allows the parties to the deed, excluding the notary, to be identified and declare their consent).</p> <p><u>Litigation</u></p> <p>In response to Covid-19 on March 28, 2020, the Quebec Ministry of Justice announced</p>

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	<p><u>CCQ Division IV – Private Writings:</u> Art. 2827. A signature is the affixing by a person, to a writing, of his name or a mark distinctive to him which he regularly uses to signify his consent.</p> <p>Note that a “distinctive” mark could be biometric measurements, a specific piece of information known to the person (name, password, personal identification number, secret code, etc., depending on the situation or transaction at hand) or an object in the person's possession (smart card, digital signature, etc.).<sup>i</sup></p>	made in the form of a notarial act <i>en minute</i> and other notarial acts (e.g. notarial will).	<p>of the document (s.39.2)</p> <p><u>AELFIT:</u> s. 38. The link between a person and a technology-based document, or the link between such a document and an association, a partnership or the State, may be established by any process or combination of processes, to the extent that it allows</p> <p>(1) the identity of the person or the identification of the association, partnership or the State and, where applicable, their location, to be confirmed, and allows their link with the document to be confirmed ; and</p> <p>(2) the document to be identified and, if need be, allows its origin and destination at any given time to</p>		<p>cessions of rank, guarantee agreements);</p> <p>(c) Certificates of officer, resolutions and perfection certificates;</p> <p>(d) Compliance certificate and borrowing base certificate;</p> <p>(e) Drawdown notices, direction of payments and payout letters;</p> <p>(f) Original share certificate and signed stock transfer power, if share pledge is required as part of security package;</p> <p>(g) Bank Act security document – notice to Bank Act security registry, if required as part of security package;</p> <p>(h) Discharge (RV) form in respect of a</p>	<p>parties (Art. 2991, 2993 CCQ). Note that <u>the Land Registry may impose restrictions</u> on the form of signature accepted.</p> <p>Individuals may use electronic signatures to execute commercial agreements related to land (e.g.: letters of intent, purchase and sale agreements, leases).</p> <p>Notaries and land surveyors may make applications for registration to the registrar by means of a technological signature process, including applications for registration of the Documents on the Land Registry (<i>Act Respecting Registry Offices chapter B-9</i>, s. 5.1; <i>Regulation respecting land</i></p>	<p>the means used to sign (s. 227)</p> <p>Silent: <i>Companies Act</i>, CQLR c C-381 <i>Securities Act</i>, CQLR c V-1.1</p> <p><u>Governmental authorities:</u> The <i>Registre des entreprises</i> and <i>Autorité des marchés financiers</i> (AMF) may set forth specific exceptions or requirements to the use of electronic signatures.</p> <p>Note that for on-line services, AMF uses digital signatures by way of public key infrastructure (PKI) in partnership with the certification authority</p>	<p>CQLR c C-25.01, r 10 (absence of rules on signatures).</p> <ul style="list-style-type: none"> <li><i>Regulation of the Court of Appeal of Quebec in Penal Matters</i>, <b>CQLR c C-25.1, r. 0.1 (s. 17)</b></li> <li><i>Rules of the Court of Appeal of Quebec in Criminal matters</i>, SI/2018-96 (s.18)</li> </ul> <p><u>Exceptions:</u> Many pleadings must be supported by a sworn statement. <u>A sworn statement cannot be signed electronically, but in handwriting</u></p>	measures by which pleadings may be served through technological means (e.g. email, fax) in accordance with s. 133 CCP. These measures are temporary and will be in effect until the end of the current health emergency period.



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			be determined.		<p>registration made at RPMRR;</p> <p>(i) Deed of mainlevée to discharge or partially reduce an immovable hypothec at the land register (such deed also needs to be certified and attested by a lawyer or notary).</p>	<p><i>registration chapter CCQ, r. 6, schedule 6).</i></p> <p>Notaries who have obtained a digital certificate from Entrust (Notarius) often sign electronic applications for registration accompanying the Documents under the CCQ to register instruments on the title using the digital signature system. In doing so, they are certifying that an execution copy of the Document is in registrable form and that the original remains in their possession (in private writing: AELFIT s.17; Art. 2982.1 CCQ).</p>	<p>Notarius and in accordance with AELFIT.</p>	<p><u>before a notary or a commissioner for oaths.</u></p> <p>Many proceedings are served (i.e. as opposed to notified) on the parties by bailiff (CPC. s. 116). <u>The bailiff's certificate of service is signed in handwriting and filed with the Court.</u></p> <p>Only the pleadings at the Small Claims Division of the Court of Quebec can be filed electronically. <u>An electronic signature is required at the end of the filing process.</u></p> <p>Court orders and judgments are signed in <u>handwriting</u> by the judge or the</p>	

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								<p>special clerk.</p> <p><u>Evidence:</u> Note that the admissibility of the means used to evidence an electronic signature depends on the integrity and the reliability of the medium used to do so (s. 5-8, 38-39 AELFIT).</p> <p><u>Arbitration:</u> An arbitration agreement can be signed electronically, insofar as such signatures are in accordance with the requirements of AELFIT, particularly, the consent of the parties.</p> <p><u>Transactions:</u> A transaction, having the legal standing as a contract, can be signed electronically, insofar as such</p>	

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								signatures are in accordance with the requirements of AELFIT.	

<sup>i</sup> Annotations of s. 39 of the AELFIT by the Secretariat du Conseil du Trésor of Quebec.

<sup>ii</sup> *Bolduc c. Montréal (Ville de)*, 2011 QCCA 1827; *Syndicat du soutien scolaire du Pays-des-Bleuets (CSN) et Syndicat de soutien du Pays-des-Bleuets (FISA)*, 2019 QCTAT 5564.

<sup>iii</sup> See Chapter 5, part 2 of Trudel, P. *Introduction à la Loi concernant le cadre juridique des technologies de l'information*. (Québec: Éditions Yvons Blais, 2012). Fondation du Barreau du Québec, "Know Your Law: Guide Respecting the Management of Technology-Based Documents" (para 4.3, 2005). *Centre du camoin Gamache Inc. c. Bolduc*, 2000 CanLII 9581 (QC CQ).

<sup>iv</sup> List developed internally by Dentons Montreal as a practice note.

<sup>v</sup> *Roussel v Desjardins Sécurité financière, compagnie d'assurance vie*, 2012 QCCQ 3835.