



Managing the impact of COVID-19; Executing a contract virtually

By Geoffrey E. Odongo



In an attempt to adhere to the government directives that are meant to slow the spread of COVID-19, many people are working from home. In the circumstances, persons may wish to enter into

contractual relationships from the comfort of their homes without the need to physically meet so as to sign contracts. According to the Business Laws (Amendment) Act which came into force on the 18th of March 2020, advanced electronic signatures are now recognized as a valid way to sign binding contracts between individuals just as handwritten signature. The advanced electronic signature unlike a simple e-signature requires the creation of a unique identification pattern for the person signing.

An advanced electronic signature must meet certain legal requirements which ensure the integrity of the signed content and adds to the high level of security provided by the signature. These are:

- I. It must be uniquely linked to the signatory
- II. It must be capable of identifying the signatory
- III. It must be created by a means that the signatory has under his or her sole control
- IV. It must be linked to the data in the signed document in a manner that prevents any subsequent modification thereof. This ensures integrity of the signed content.

As a result, the use of an advanced electronic signature is at the onset quite onerous requiring face to face authentication for each person that needs to sign after which they receive a digital certificate associated with the advanced electronic signature. Moreover, an advanced electronic signature will require accreditation by an accreditation authority. Once the onerous requirements for an electronic signature have been met the signature safeguards its users from fraud. The above requirements ensure that users are certain about who they are dealing with and that the persons transacting agree to enter into the contracts, are able to sign easily and properly sign the contract document.