



Frequently Asked Questions



Is there any REISA Best Practice Policy for use by its members of the DocuSign® functionality?

Yes. Many of the issues are covered again within this FAQs sheet but for the policy, refer to the document attached [HERE](#)

Should a policy be adopted within each member Agency?

It is recommended that each Principal determine a policy for the use of the DocuSign® remote signing capability. Matters such as, but not limited to, who has the authority to use that functionality, under what circumstances should remote signing be used, and what procedures be put in place whereby the use of remote signing as well as printed copies (for example a contract document being used as an “offer” document) should be expressly determined from the outset. This is new functionality being introduced for members of REISA for the first time as a result of legislative change, so members should regard this process and any associated procedures as important in servicing remote customers.

Can we use DocuSign®?

Since July 4, 2016, when the restrictions within the Electronic Transactions Act (SA) were removed, real estate agents and clients can have confidence in sending documentation, to a remote location for execution electronically by a party. Prior to that date, face to face transactions using an electronic device were permitted within REI Forms Live. Since, July 4, remote signing (that is not in the physical presence of the agent) is now permitted using DocuSign®.

How do we use DocuSign®?

Simple. After completion and finalisation of a form, click on the signing icon; then choose the DocuSign® option. You will automatically be directed to the DocuSign® sign up process. You only need to sign up once (ie this sign up process will not appear again for you). You then return to the email instruction page relevant to the form you have finalised - simply insert the relevant email addresses for sending and execution.

What if I do not have the email address of the party?

Seek out the email address from the relevant party and if possible advise them as to why you need their email address-namely execution of documentation. It is reasonable to expect that upon receipt of someone’s email address that they are then happy, and give consent, to dealing with you electronically. This is one of the benefits of the Electronic Transactions Act (SA), along with other processes infused into documentation and the DocuSign® functionality to ensure the person consents to dealing with you electronically.

Can all transactions use DocuSign®?

Yes BUT there is a subtle difference that real estate agents need to recognise.

(A) For a transaction between two parties (not involving your agency itself) that does not involve a Corporation, then a signature from the relevant parties is all that is required. There is no requirement for witnessing or initialling (as has been tradition with wet ink signatures) every page.

(B) For a transaction between two parties (not involving your agency itself) involving a Corporation, then a trusted witness is required. That trusted witness will need to be physically present to witness the party applying their electronic signature to an Agreement (and hence seeking advice from your client as to who and on what email address prior to sending the document is a must!).

All parties upon execution of the relevant document will receive a copy-as a result, a “trusted witness” is recommended. Given the trusted witness will themselves receive a copy upon execution, ensure the non-witness party is content. Again, initialling of each page (as has been traditional with wet ink signatures) is not required.

In summary - if a corporation is involved, then include a trusted witness email address in the DocuSign® set up process. If no corporation is involved, then simply ignore (that is do not provide) the email address for a witness when setting up and sending the document under the DocuSign® process. For the sake of clarity, any sales and management agency agreements between your agency itself and your client, no witnessing or initialling of each page is required any longer.

PLEASE NOTE: The DocuSign® Envelope Data, can show a location at which a document was signed – as such it is imperative that, if location services are on or permitted by a party, that both the Signing Party and their associated Trusted Witness are in the same location or close thereto (regardless of what device they are signing with).

Why is there a difference if one of the contracting parties is a Corporation?

A corporation is established under Commonwealth law and there are some anomalies with the Commonwealth version of the Electronic Transactions Act (Cth). Due to that, apart from abolishing the need to initial every page (as a result of the confidence REISA has in the DocuSign® anti-tampering measures), REISA requires the mimicking of the wet ink signing process for transactions involving corporations. Rest assured this anomaly is being lobbied hard at the Commonwealth level to get the anomaly fixed-until then, REISA will continue to exercise caution with regard to corporations.

Does a party an agent is dealing with, have to sign up to using DocuSign® to use the signing facility?

No. As you can imagine, a Vendor, Purchaser, Tenant or Landlord will not use the facility that often and in any case, as a receiver of such a request to sign and execute documentation, there is no requirement for a participant to sign up or enrol. In effect, they will receive an email request; they can review the document; they can then sign where indicated and finalise the process. Whatever device they are using, will enable them to sign electronically.

What happens if the signature on screen does not look like the one the person normally uses for say when signing a paper document using wet ink?

It does not matter. Their email address in combination with their intent to be bound, as evidenced by their adoption through signing electronically, is more than sufficient. After all, remember those people that cannot write can sufficiently be bound, even in wet ink, by placing a mark or “X” on the document where indicated.

Will the parties executing an agreement be given a copy?

Yes they will. Whenever they sign a document using DocuSign® facility, they will receive a copy immediately via email. They will also receive an email containing all parties signatures upon the final party signing a document immediately.

Why is initialling each page not required when using DocuSign®?

In effect, DocuSign® is your electronic courier (think of it as the equivalent of your personal courier coming to your office to pick up, deliver, get executed and return to your office) that achieves delivery for execution to the person at a particular email address, along with ensuring the integrity of the document whilst in delivery mode and upon returning of that documentation. The anti-tampering functionality within DocuSign® prevents any changes to a document, at any time whilst in transit or post execution, and that's why initialling is no longer required.

Go to <https://trust.docusign.com/en-us/trust-certifications/>

to view the various aspects that will give you confidence in the DocuSign® methodology- including the various certifications, privacy levels and anti-tampering measures to protect your documentation.

In fact, even when agents using the face to face on-screen signing capability within REI Forms Live (that has been available since 2013), the requirement for initialling each page of an electronic document is no longer required.

Can I use DocuSign® for every transaction?

Yes you can (subject to using a trusted witness with a corporation entity) but it remains REISA Best Practice to make every effort to see your client face to face at every opportunity. You must have confidence in the capacity and identity of the person you are sending a document to. There are the Verification of Identity issues for transfers of property that the Conveyancers and Lawyers are required to carry out for settlement at the Land Registry Office but that should not mean you can take a casual approach with the parties you are dealing with in executing a contract of sale.

Why is it only DocuSign® - why can't we use other commercially available remote signing technology software?

REISA has only enabled DocuSign® integration with REI Forms Live as a result of the level of confidence and guarantees provided by DocuSign®. REISA will continue to review other software options for integration with REI Forms Live in South Australia.

Given DocuSign comes at a cost to Agents, is REISA going to provide or include this functionality as part of REI Forms Live at no cost into the future?

It remains REISA's intention to continue partnering with the best in the business rather than investing in and reinventing the functionality already available from a well-respected and well certified organisation. REISA will continue to try and provide such levels of expertise via such partners at an affordable cost to agent members.

The face to face on-screen signing documentation will continue to be made available as part of the REI Forms Live functionality.

Can you sign in counterparts?

Yes. On the basis that the Special Condition Counterparts has been included into the agreement for execution. A document can be sent to individual people for signing in counterparts; that is combinations of face-to-face (wet ink) and remotely, using combinations of wet ink paper signing and remote electronic signing. After all, signing electronically in counterparts is no different to wet ink – upon signing by all parties on the same terms, the combination of all make up the executed agreement.

What if I have a husband and wife couple wanting to buy/sell, can I send the DocuSign document to both of them at the same email address?

Each party MUST have their own unique email address. That individual email address should only be accessible to that particular person using their login and password details.

How long do documents in the cloud need to be stored for?

Whether you store hard copies or just in the 'Cloud', the rules remain the same. Sales related documentation should be kept for a minimum of six years. Leasing related documentation should be kept for a minimum of six years. Why six years? Ultimately there is an ability to sue and be sued via other legislation and hence we recommend six years.

What happens if I store my documentation in the 'cloud' and a CBS Officer requests to see a particular file?

Whether information is in the 'Cloud' or paper based, you must provide access to the relevant information upon request from a CBS Officer. If the relevant information/Files are stored in the 'Cloud', then you will need to provide ready and reliable access to that requested information – whether that be via the provision of computer and printing facilities, or by simply emailing the relevant documentation to the relevant Officer. Communicate with the CBS Officer to find out what is appropriate in the circumstances.