



2014 WAV Group

Not All eSignature Platforms
Are Created Equal

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Table of Contents

Introduction	3
eSignature Platform Checklist	4
Compliant Signing Process.....	4
Consumer Consent.....	4
Signer Authentication Options	4
Digitally Sealed Documents.....	4
Secure Audit Trail	5
Always On	5
A System Trust Page.....	5
Privacy Policy, Terms of Use and End User License Agreement	5
What Does a Trustworthy Document Look Like?	6
Summary	7
Resources.....	7
About WAV Group	8

Introduction

Legal contracts are a critical part of real estate. Real estate professionals need to be sure they're providing tools to customers that protect their clients' interests as well as their own.

It's not always easy to sort out what those tools are, however. A simple search for "electronic signatures" on the App Store or Google Play will yield dozens of results. How can you know which solutions to trust and which to avoid? Knowing what questions to ask and what elements are most important in an eSignature solution is a great place to start.

From a legal standpoint, the following two items are most important:

- **Authentication** - How do you match the person with the signature?
- **Encryption** - Once a document is signed, can you demonstrate that it hasn't been tampered with?

WAV Group moderated a session with two of the real estate industry's leaders in Electronic Signatures – [DocuSign](#) and [Instanet](#). You can view our recorded webinar, [Not All eSignature Platforms Are Created Equal](#) to learn more about this important topic.

We can look to banks to find out more about how to evaluate solutions. Many larger banks now provide requirements or recommendations on the type of support electronic signatures must have to be legally viable within their programs. They want to be able to see the entire "story" of a document--where it's been, who has signed it and more. This can be accomplished via a certificate of completion, a transaction summary that demonstrates authentication procedures, time stamping, audit trail and more. All of these are evidentiary bits that support the integrity of the transaction in case it is ever challenged.

As an industry, we want to be sure that we are providing tools to our customers that will protect our interests as well as theirs. This paper will provide an overview of criteria that electronic signature solutions need to meet in order to be legally viable. We also want the reader to walk away with a better understanding of what

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questions to ask when choosing a solution and how to evaluate those programs.

eSignature Platform Checklist

How well does your electronic signature platform protect you and your clients? If you're not sure, use the checklist below to see how it stacks up. These eight items are important attributes that your eSignature solution should have in order to ensure that your documents are legally binding. If any of these criteria are missing, the service or application may be putting you and your clients at risk! It's also highly likely that no reliable electronic records are being created and that your documents will be rejected by banks.

Compliant Signing Process

The person signing electronically must create and adopt their electronic signature, and place it into the document in the appropriate signing location, just as you would if you were signing with a pen.

Consumer Consent

The ESIGN Act requires the person who has adopted the electronic signature to also agree to the consumer consent, which indicates that they have agreed to conduct business electronically. That consumer consent must be included in the audit trail/certificate, which is the history of the signed document.

Signer Authentication Options

The system provides tools to allow the sender/account owner to request the person who is signing the document to authenticate their true identity with third party services such as Knowledge Base Authentication (KBA) or other third party methods. These tools provide additional assurance that the person signing the documents is the correct person. This is especially helpful when you are not e-signing documents in person.

Digitally Sealed Documents

The system digitally 'seals' the documents with industry standard technology called Digital Certificates. Sealed documents will alert the viewer if they have been changed, and are 'self-reliant', which means there is no need to refer back to the vendor to validate the seal, the document can validate itself. One example is SHA-1 hashing technology that verifies that a document has not been modified.

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Secure Audit Trail

The system generates an audit trail of all actions taken, by whom, and captures information such as email, IP address, and other data. This audit trail is important to a court, and serves to show all the elements of the signing. It must also be digitally sealed. Leading eSignature solution DocuSign offers the following items in their audit trail:

- Signer names
- Authentication history
- Digital signatures
- Email addresses
- Signer IP addresses
- Chain of custody (i.e., sent, viewed, signed, etc.)
- Trusted timestamps
- Geo-location capture of signer (if provided)
- Completion status

Always On

Because you will rely on this for important documents, the system must maintain at least a 99.9% uptime so your customers can sign anytime they need to. Typically, this means the provider will have multiple data centers, and certifications such as ISO 27001 and SSAE16. The best vendors will provide ‘carrier grade’ availability that eliminates maintenance windows, and synchronizes data across the system to avoid loss of data in a server failure.

A System Trust Page

The service provider’s web site should display the current status of the service, dates of any planned updates, and other security certifications as part of the relationship with their customers. This gives customers complete transparency into the overall system health, and demonstrates the vendor’s focus on trust.

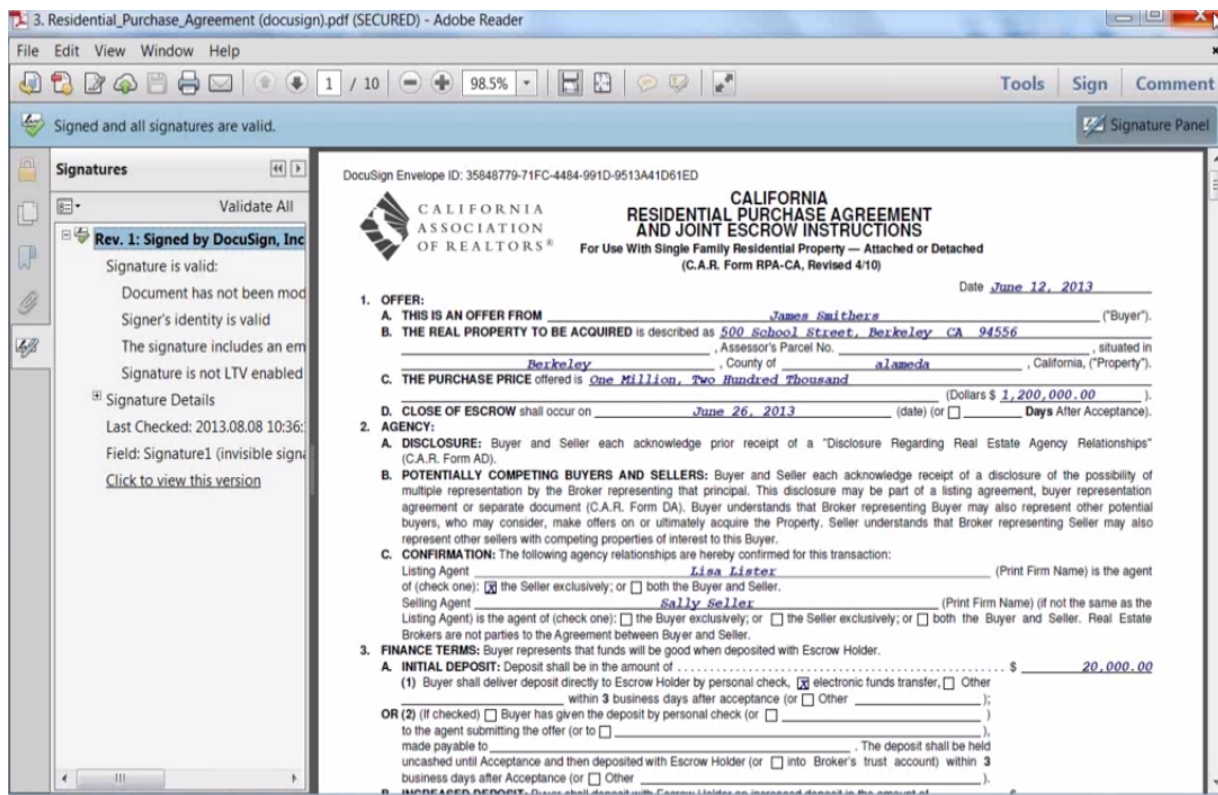
Privacy Policy, Terms of Use and End User License Agreement

The service provider’s terms of use and privacy policy should clearly indicate that the data and documents loaded into the account remains the property of the account holder, and the information will not be shared or sold to advertisers by the service provider.

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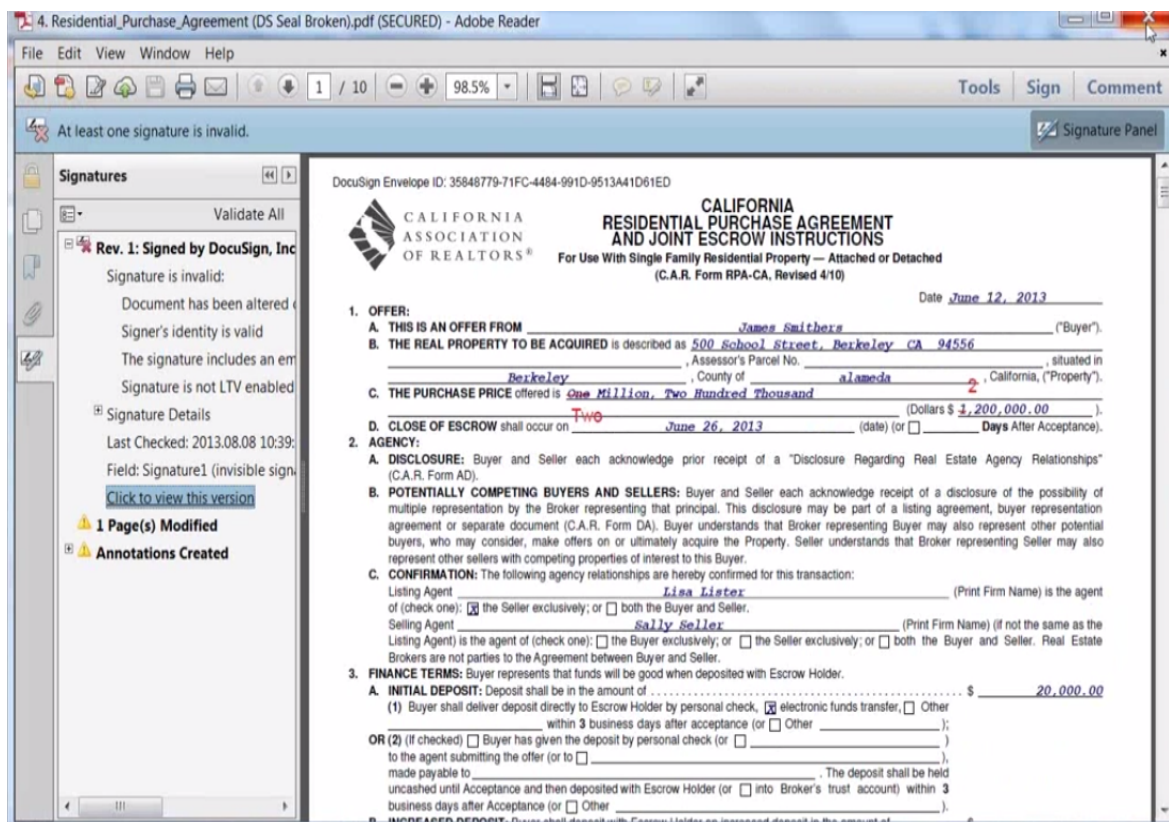
What Does a Trustworthy Document Look Like?

Anytime a document is opened, it's checked for validity. A trustworthy document, like the one below, will be verified as having all signatures valid.



The document below, however, has been tampered with, as evidenced by the message near the top of the screen. The sidebar also shows what parts of the document have been changed.

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Summary

A document that meets all the criteria above carries within it information that tells a story about a transaction. These standards are not hard to meet if you use a reputable vendor like DocuSign who provides you with an audit trail and authentication options. A trustworthy solution is more amenable to having standards, like Bank of America's, placed upon it. DocuSign is able to meet those requirements and gives you a document that is self-proving, tamper proof, and provides a full signing history.

The great thing about electronic signatures is that all parties have total transparency going into a transaction. With that transparency comes peace of mind--for consumers, REALTORS®, and even the underwriting bank.

Resources

Ready to learn more? View our recorded webinar, [Not All eSignature Platforms Are Created Equal](#), and then check out the following resources for further information.

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- [NAR Field Guide to Electronic Signatures](#)
- [Keep Business Digital™ - “Do You Know What You Don’t Know About eSignatures and Transaction Management Platforms](#)
- [Bank of America Electronic Signatures Reference Guide](#)
- [What You Need to Know Now About eSign and Document Security](#)

For More Information:

To Learn More about Companies that Provide Compliant Electronic Signatures
Click here:

[DocuSign:](#)
[Instanet](#)

About WAV Group

WAV Group is the leader in providing research and thought leadership to the MLS industry seeking to create a wave of positive change with every subject that it tackles. The firm is comprised of corporate executives with a depth of expertise in the real estate industry proven to catalyze new approaches leading to more customer-centricity and business success.

For more information or to register to receive report releases and newsletters please contact Marilyn Wilson at 805-473-9119 or Marilyn@wavgroup.com.

WAV Group supports of many of the nations largest real estate Multiple Listing Services, REALTOR® Associations, technology vendors, brokerages and franchises, in the US, Canada and Europe. WAV Group has expertise in the areas of strategic planning, technology evaluation, product development, market research, recruiting, sales and marketing plan development, technology selection and implementation.

