

Contract Creation, C.A.R. Residential Purchase Agreement (RPA)

How is a legally binding contract created under the RPA?

Paragraph 32 specifies the four requirements to create a binding contract:

1. Buyer signature
2. Seller signature
3. Delivery to and personal receipt by buyer or agent, AND
4. Acceptance within the time specified

Buyer and Seller Signatures: Paragraphs 32 and 33 have signature blocks for two signatures each. If there are more than two principals, check the box for Additional Signature Addendum (C.A.R. Form ASA) to add up to three additional signatures per party.

If a principal is an entity, such as trust or corporation or LLC, check the box in paragraph 32(B) or 33(B) and declare who will be signing on the principal's behalf. The signatures of the principals or representatives themselves are required. **Real estate licensees ordinarily do not have authority to sign on behalf of the principals (either on their own or “per telephone conversation”).**

PRACTICE TIP – If there are a lot of principals, considering having them elect a single Power of Attorney, who will then be identified as the signing party for all in paragraphs 32(B) or 33(B).

Personal Receipt Required: Under the RPA, acceptance is a two-step process. It's not enough for the seller to “accept” and send the contract back to the buyer. Delivery of the seller-signed copy must be *personally received* by the buyer or the buyer's Authorized Agent. Without personal receipt of the accepted offer, there is no binding agreement. The reverse is true when the seller makes a counter offer. Then it is the seller or seller's Authorized Agent who must personally receive the accepted counter from the buyer.

Delivery can be effective if sent by email but only if the receiving Authorized Agent has included an email address or other electronic address to use to send the acceptance in the Designated Electronic Delivery Address portion of the Real Estate Broker Section on the last page of the contract.

PRACTICE TIP – If buyer's agent is uncooperative in providing an acknowledgment, the listing agent may call the buyer's agent, get a verbal confirmation of receipt and then confirm the contents of the verbal conversation in writing to the buyer's agent.

Time Specified: Delivery and personal receipt must be made by 5 p.m. on the third day after the buyer signs the offer or the date specified. If not done by this time, the buyer's offer is revoked. Buyer and seller can mutually agree to waive the time specified. It is best to do this in writing by use of a counter offer (C.A.R. Form BCO or SCO) or addendum (C.A.R. Form ADM).