



CALIFORNIA ASSOCIATION OF REALTORS®

**Buyer's and Seller's Guide
to the
California Residential Purchase Agreement
(C.A.R. Form RPA-CA)**

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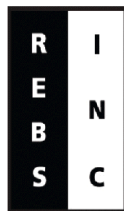
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The Residential Purchase Agreement – More Than Just a Receipt for Your Deposit

A lot of people consider owning their own home to be a realization of the "American Dream." Homeownership brings a natural sense of pride, accomplishment and belonging, as well as financial respectability and security. As a result, buying a home is an important event in most people's lives.

Selling a home is similarly important. Many people use the proceeds of the sale to help them purchase another property or to begin a new chapter in the book of their life.

Before you become a homeowner, or sell a home, there are many, sometimes complicated steps involved in the sale and purchase of real estate that you need to be aware of. Completing a purchase agreement is one of the most important steps in this process.

The purchase agreement is the legal contract that establishes a buyer's willingness to buy a home, the seller's willingness to sell it, and the terms and conditions that affect both parties before such a sale can be completed.

This booklet will help you become familiar with the agreement you are likely to use when you offer to buy, or sell, a home--the California Association of REALTORS® California Residential Purchase Agreement and Joint Escrow Instructions.

This booklet is not intended to give you legal advice nor interpret the terms of the contract for you in a specific situation. If you want specific legal advice regarding the form or a transaction in which it is used, you must contact an attorney of your own choosing.

Paragraph 1: Offer

Paragraph 1 asks for the buyer's name and the name of anyone else that will be the owner of the home. This is also where the property is described by its street address, where the buyer specifies how much he/she is willing to pay for the property and when the buyer wants to "close escrow," or in other words, pay for and own the property.

Paragraph 2: Financing

Paragraph 2 identifies how the buyer is willing to pay for the property. Most buyers give some money at the very beginning, called a "deposit". An "escrow holder," which is a company that is neither controlled by the buyer or the seller, typically holds this money. Here the buyer will also state whether he/she needs a loan to purchase the property (and if so, how much the loan will be) or whether he/she will pay for the property with money the buyer already has.

Paragraph 3: Closing and Occupancy

Paragraph 3 specifies when the buyer wants to move in to the home and when the seller will move out. If the property is currently rented, the issue of what will happen to the existing tenants also needs to be addressed. It also states when the buyer will get the keys to his/her new home.

Paragraph 4: Allocation of Cost

Paragraph 4 states whether the buyer or the seller will pay for certain costs that are typically a part of the sale. Examples of these costs are: reports that tell if the property is in an area likely to have earthquakes, fires or floods; a title insurance policy; the services of the escrow holder; and certain property taxes or other governmental fees.

Paragraph 5: Statutory Disclosures (Including Lead-Based Paint Disclosures) And Cancellation Rights

Paragraph 5 identifies those things that the seller must, by law, give the buyer in writing. Examples include whether paint on the property has lead in it; if the property is in an area likely to have earthquakes, fires or floods; and a list of things the seller knows is wrong with the property. Generally, if the buyer does not like what he/she sees or reads in these disclosures, he/she has a few days to cancel the contract and get back any deposit money already paid.

Paragraph 6: Condominium/Planned Unit Development Disclosures

Paragraph 6 says that the seller will provide the buyer with additional information when the property is subject to certain rules. The seller must give the documents that establish the rules that must be complied with if the home is a condominium or otherwise shares facilities with others, such as a pool or meeting room.

Paragraph 7: Condition Affecting Property

Paragraph 7 says that the property is being sold in the condition it is in when the buyer makes the offer. The seller does not have to fix anything that is already broken. However, the seller does have to tell if the seller knows something is wrong with the property and is responsible for fixing anything material that breaks after the contract is signed by everyone. This paragraph also reminds the buyer of the right to "check out" the property. If the buyer finds something wrong, the buyer can cancel the contract or, he/she may ask the seller to fix it. Even though the seller does not have to fix all problems, if the seller refuses to fix the problem after the buyer asks, the buyer has the right to cancel the contract and get deposit money back.

Paragraph 8: Items Included and Excluded

Paragraph 8 lists those things included as part of the purchase price, such as the attached carpets (but not rugs), plumbing, television antennas and heating/air conditioning equipment (excluding window units). If something would not normally be included, such as a picture hanging on the wall or furniture the buyer can also ask for that item to be sold with the home by writing it into this paragraph.

Paragraph 9: Buyer's Investigation of Property and Matters Affecting Property

Paragraph 9 gives the buyer the right to inspect the property within a certain period of time. It is the buyer's responsibility to check out everything important to him/her, either on his/her own or by hiring a professional inspector.

Paragraph 10: Repairs

Paragraph 10 says that if the seller has agreed to make repairs, they will be completed before completion of the sale. The buyer will have a chance before completing the sale to see if the seller made the repairs correctly.

Paragraph 11: Buyer Indemnity and Seller Protection for Entry Upon Property

In Paragraph 11 the buyer promises to pay the seller to correct the damage caused by the buyer or one of his/her inspectors.

Paragraph 12: Title and Vesting

Paragraph 12 talks about an insurance policy that protects the buyer from certain things such as: the seller did not really own the property, or someone else has the right to use part of the property (such as a telephone or gas company or neighbor). Keep in mind that often fences and natural barriers, such as trees or hedges, may not really be on the property line.

Paragraph 13: Sales of Buyer's Property

Paragraph 13 applies if the buyer needs to sell property that the buyer already owns in order to buy another one.

Paragraph 14: Time Periods; Removal of Contingencies; Cancellation Rights

Paragraph 14 gives 17 days to the buyer to inspect the property and review those documents the seller is required to give. After that time, the buyer must either remove their contingencies or cancel the agreement.

Although the buyer is not required to, he/she can request that the seller repair things the buyer does not approve. The seller is not obligated to make any repairs. If the buyer and seller cannot reach an agreement, the buyer continues to have the right to cancel the contract and get their deposit back.

If the buyer does not remove their contingencies in writing or cancel the contract within the 17-day period, or take certain contractual actions, the seller has the right to cancel the contract. But before the seller can cancel the contract, the seller must first give the buyer a written notice that the seller will cancel if the buyer does not the contingency or do what the contract says. The seller has to give the buyer at least 24 hours to act before the seller can cancel.

Paragraph 15: Final Verification of Condition

Paragraph 15 gives the buyer the right to inspect the property one last time before completing the sale to make sure the seller has taken care of those things that were agreed-upon.

Paragraph 16: Liquidated Damages

Paragraph 16 concerns damages. Normally, if the buyer cancels a contract without a proper reason, then the seller can sue for damages. If the buyer initials this paragraph and then cancels the contract without a proper reason, the seller can still sue but the most the buyer can lose is typically the amount of money given as a deposit.

Paragraph 17: Dispute Resolution

Paragraph 17 does many things. First, it is an agreement between the buyer and the seller to try to talk through differences with the help of someone not involved with the sale, called a "mediator", if a problem develops that cannot be resolved with the help of the real estate agents.

If both the buyer and the seller initial at the bottom of the paragraph, then each agree that if the dispute has not been settled through mediation, instead of going to court they will ask an "arbitrator" to decide the dispute. An arbitrator is not a judge, but has the authority to decide who is right or wrong and, among other things, whether the buyer or the seller has to pay money to the other. This paragraph is also an agreement to arbitrate any disputes the buyer or seller may have with the brokers involved in the sale.

Paragraph 18: Prorations of Property Taxes and Other Items

In Paragraph 18 both the buyer and the seller agree that certain costs and expenses that are paid periodically will be prorated if the escrow closes in between these periods.

Paragraph 19: Withholding Taxes

Paragraph 19 says that both the buyer and the seller will sign necessary papers to comply with certain tax laws. Both California and federal law require, with certain exceptions, a portion of the purchase price be withheld and the money sent to the tax collection agency. In those situations where withholding is required, the task is often done by the escrow holder. If any of the certain exemptions apply they must be documented to protect you.

Paragraph 20: Multiple Listing Service ("MLS")

Paragraph 20 authorizes the brokers to report the sale and its terms to an organization called the Multiple Listing Service or MLS. The MLS has a list of most properties offered for sale in your community and is used by brokers to help identify properties for buyers and establish an asking price for the seller.

Paragraph 21: Equal Housing Opportunity

Paragraph 21 states that the brokers and the seller and buyer will not unlawfully discriminate in the sale of the home.

Paragraph 22: Attorney Fees

Paragraph 22 states that if a lawsuit or arbitration is necessary, the loser will pay for the winner's attorney fees.

Paragraph 23: Selection of Service Providers

Paragraph 23 informs the buyer and the seller that even though the broker may give them the names of inspectors or other people who may help them in the purchase or sale of the home, they are not required to use any of the people on that list.

Paragraph 24: Time of Essence; Entire Contract Changes

Paragraph 24 reminds the buyer and seller that verbal promises made in the negotiation process are generally not enforceable unless those same promises are made in writing in the contract itself.

Paragraph 25: Other Terms and Conditions Including Attached Supplements

Paragraph 25 is where the buyer would write additional terms that are not already pre-printed in the contract.

Paragraph 26: Definitions

Paragraph 26 defines many of the terms that are used throughout the contract.

Paragraph 27: Agency

Paragraph 27 does several things: First, it lets the buyer know that the broker who represents him/her may also be working with other buyers directly or through other real estate agents working for the same broker. Second, it lets the buyer know whether the broker who is working for him/her on this particular sale also represents the seller on this same sale. It also lets the seller know that the broker representing him/her may also be trying to sell other properties for other sellers that have listed their property for sale with the broker either directly or through other real estate agents working for the same broker.

Paragraph 28: Joint Escrow Instructions to Escrow Holder

Paragraph 28 tells the escrow holder what to do. It also lets the buyer and seller know that there may be additional papers coming from the escrow holder that they may need to sign. Finally, it tells the escrow holder to pay the brokers at the close of escrow.

Paragraph 29: Broker Compensation from Buyer

Paragraph 29 identifies any fee that the buyer has agreed to pay a real estate broker under a separate written agreement.

Paragraph 30: Terms and Conditions of Offer

Paragraph 30 lets the seller know the buyer is making an offer to buy the property. In order to create a binding contract, the form must be both signed by the seller and returned back to and received by the buyer or the buyer's broker. Below this paragraph is where the buyer signs and prints his/her name and includes an address where important papers may be sent.

Paragraph 31: Expiration of Offer

This clause specifies who is authorized to receive the seller's acceptance on behalf of the buyer. The authorization to receive the acceptance is not an authorization to accept or sign for changes unless that authority is in the form of a power of attorney.

Paragraph 32: Broker Compensation From Seller

Paragraph 32 identifies the fees that the seller agrees to pay the real estate brokers.

Paragraph 33: Acceptance of Offer

Paragraph 33 is where the seller can either accept the buyer's offer or give the buyer a counter-offer. A counter-offer means that the seller wants to change some of the terms included in the offer, but agrees to the others. For example, the seller may agree to everything the buyer has offered but wants more money for the property than the buyer offered. If the seller issues a counter-offer then the contract is not enforceable against either the buyer or seller unless the buyer signs the counter-offer and returns it back to the seller or seller's agent and it is actually received by either of them within a certain amount of time. Below Paragraph 33 is where the seller signs and prints his/her name and includes an address where important papers are to be sent.

Real Estate Brokers

Below the seller signature section is a box where the brokers may sign. By signing, the brokers acknowledge who they are representing in the transaction and also acknowledge receipt if the buyer has made a deposit. They also reference any agreement to split commissions.

Escrow Holder Acknowledgement

The box at the bottom of the last page is where the escrow holder will write down the amount of the deposit it receives, and all of the documents it was given. It may also identify when the contract was formed. That date is essential in calculating other important dates throughout the contract.