

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

### How is a legally binding contract created under the RPA?

Paragraph 31 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 31 and 32 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.

If a principal is an entity, such as trust or corporation or LLC, then check the box for Representative Capacity Signature Disclosure (C.A.R. Form RCSD) and declare who will be signing on the principal's behalf. The signatures of the principals (or representative if an RCSD is attached), 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 in the RCSD form for all.

**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. 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 who must personally receive the accepted counter from the buyer.

Email receipt is not the same as personal receipt. In the absence of a written acknowledgment, proof of personal receipt can be difficult. Any form of written acknowledgment is sufficient, whether on the RPA itself or a separate email or text. The contract is only effective on personal receipt by the agent IF the agent's name is specified in Paragraph 31 of the RPA.

**PRACTICE TIP** – If buyer's agent is uncooperative in providing an acknowledgment, either directly or on behalf of their client, 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).