



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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Guide to the California Association of REALTORS® Residential Purchase Agreement

Buying a home is an important event in most people's lives, and often the lives of their families as well. A lot of people consider owning their own home to be a realization of the "American Dream." Once you own your own home, it is natural to feel a sense of pride, accomplishment and belonging, as well as financial respectability and security. Before you become a homeowner, it is necessary to get through the often-complicated process of purchasing a home. Many aspects are involved including emotional, legal, financial and contractual. The purchase contract is the legal agreement that establishes your willingness to buy a home, the seller's willingness to sell it to you, and the terms and conditions that affect both of you before such a sale can be completed. This booklet will help you become familiar with the contract you are likely to use when you offer to buy a home; the California Association of REALTORS® 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 contract an attorney of your own choosing.

Paragraph 1 asks for your name and the names of anyone else who will be the owners of the home. This is also where you describe the property by its street address, specify how much you are willing to pay for the property and indicate when you want to "close escrow," or in other words when you will pay for and own the property.

Paragraph 2 does two things. First, it lets you know that the broker who represents you may also be working with other buyers him or herself or through other real estate agents working for the same broker. Second, it lets you know whether the broker who is working with you on this particular sale also represents the seller on this same sale.

Paragraph 3 identifies how you will pay for the property. Most buyers give some money at the very beginning, called a deposit. An "escrow," or a company that is neither controlled by you or the seller typically holds this money. Here you will also state whether you need a loan to purchase the property (and if so, how much the loan will be) or whether you will pay for the property with money you already have.

Paragraph 4 states whether you or the seller will pay for certain costs that are typically a part of the sale. Examples of these costs are: reports that tell you 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 specifies when you want 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 you will get the keys to your new home.

Paragraph 6 identifies those things that the seller must, by law, give you in writing. Examples include whether a 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 you do not like what you see or read in these disclosures, you have a few days to cancel the contract and get your deposit money back. This paragraph also specifies that both California and federal law require you to withhold a portion of the purchase price and send the money to the tax collection agency. Certain exceptions apply and must be documented to protect you.

Paragraph 7 lists many other things the seller has to tell you or give you. For example, the seller must give you the documents that establish the rules you must comply with if the home is a condominium or otherwise shares facilities with others such as a pool or meeting room.

Paragraph 8 lists those things included when you buy the home 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 you can also ask for that item to be sold with the home by writing it into this paragraph. If it is unclear if an item is included, that should be written in to avoid confusion.

Paragraph 9 says that you are buying the property in the condition it is in when your offer is accepted. The seller does not have to fix anything that is already broken. However, the seller does have to tell you anything the seller knows is wrong with the property. Further, if there is a material change in the condition of the property, the seller has to put it back to its condition on the date the contract is signed by everyone. This paragraph also reminds you that you have the right to "check out" the property. If you find something wrong, you may ask the seller to fix it. Even though the seller does not have to fix all problems, after you ask, in most cases you have the right to cancel the contract and get your deposit money back if the seller refuses to fix the problem.

Paragraph 10 gives you the right to inspect the property within a certain period of time. It is your responsibility to check out everything important to you, either on your own or by hiring a professional inspector to help you.

Paragraph 10 says that if the seller has agreed to make repairs, they will be completed before you become owner of the home. You will have a chance before completing the sale to see if the seller made the repairs correctly. Additionally, you promise the seller that if you or one of your inspectors damages the property you will pay the seller to correct the damage.

Paragraph 11 is where you would write additional terms that are not already pre-printed into the contract or you indicate that other documents will be attached or provided. These documents may modify the contract or supplement it or simply provide you with additional information that you can use to make a decision about the property.

Paragraph 12 talks about an insurance policy that protects you from certain things such as; the seller did not really own the property, or some one else has the right to use part of your property (such as a telephone or gas company or a neighbor). A title company will examine the seller's ability to transfer the property without some other person or entity claiming a right to the property or the proceeds.

Paragraph 13 applies if you need to sell property you already own in order to buy another one.

Paragraph 14 establishes how many days you have to inspect the property; review those documents the seller is required to give you; and try to work out an agreement with the seller if you do not like something. If an agreement cannot be reached, then you have to decide whether to go forward with the transaction or cancel.

Paragraph 15 establishes how agreed-upon repairs are to be made and who can make them.

Paragraph 16 gives you the right to inspect the property one last time before you complete the sale to make sure the seller has taken care of those things that were agreed-upon.

In paragraph 17 both you and the seller agree that certain costs and expenses that are paid periodically will be prorated between you if the escrow closes in between these periods.

Paragraph 18 informs you that even though the broker may give you the names of inspectors or other people who may help you in the purchase, you are not required to use any of the people on that list.

Paragraph 19 authorizes the brokers to report the sale and its price and 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 the type of property that is right for you.

Paragraph 20 states that the brokers as well as seller and buyer will not unlawfully discriminate in the sale of the home.

Paragraph 21 states that if a lawsuit or arbitration is necessary, the loser will pay for the winner's attorney fees.

Paragraph 22 defines many of the terms that are used throughout the contract.

Paragraph 23 identifies any fee that you have agreed to pay a real estate broker.

Paragraph 24 tells the escrow holder what to do. It also lets you know that there may be additional papers coming from the escrow holder that you may need to sign. Finally, it tells the escrow holder to pay the brokers at the close of escrow.

Paragraph 25 concerns damages. Normally, if you cancel a contract without proper reason then the seller can sue you for all of the damages. If you initial this paragraph and then you cancel the contract without proper reason, the seller can still sue you but the most you can lose is typically the amount of money you have given as a deposit. This paragraph is only part of the sale if initialed by both you and the seller or otherwise incorporated through a counter offer.

Paragraph 26 does many things. First, 26A is an agreement between you and the seller to try to talk out your differences with the help of some one not involved with the sale, called a mediator, if a problem develops that you cannot resolve on your own or with the help of the real estate agents. Second, 26B says that if you and the seller cannot resolve a dispute, which has not been settled through mediation, instead of going to court you will ask an arbitrator to decide your dispute. An arbitrator is not a judge but has the authority to decide for you and the seller who is right or wrong and, among other things, whether one of you has to pay money to the other. This paragraph is only part of the sale if initialed by both you and the seller or otherwise incorporated through a counter offer. Third, 26C identifies those times you do not have to mediate or arbitrate. It also says that your broker may decide to become part of the mediation or arbitration process.

Paragraph 27 tells you that even though you have made an offer for the property the seller can consider and even accept other buyer's offers before accepting yours.

Paragraph 28 reminds you that verbal promises made in the negotiation process are generally not enforceable unless those same promises are made in writing in the contract itself. And, changes can only be made to the contract, once accepted, by another written document.

Paragraph 29 lets the seller know you are 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 you (or if you specify, the agent you are working with).

Paragraph 30 is where the seller can either accept your offer or give you a counter-offer. A counter-offer means that the seller wants to change some of the terms you have included in your offer but agrees to the others. For example, the seller may agree to everything you have offered but wants more money for the purchase price. If the seller issues a counter-offer then the contract is not enforceable against either of you unless you sign the counter-offer and return 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 this paragraph 30 is where the seller signs and prints his/her name and includes an address where important papers are to be sent.

Below the seller signature section is a place to identify when your or your specified licensee has personally received back an acceptance. Thus from that point forward, you all parties will know that there is a binding agreement.

The box below this is where the brokers may sign. By signing, the brokers acknowledge who they are representing in the transaction and may also acknowledge receipt if you have given the deposit to that broker or agent.

Below the box for the brokers or agents to sign is another box 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 your contract with the seller was formed. That date is essential in calculating other important dates throughout your contract.

The last two pages you receive are called the Buyer Inspection Advisory. These pages list a number of things about the property you may want to check out, such as the electrical, plumbing, roof and soil condition to name a few. Generally, you must check those things out within the first couple of weeks after you and the seller have entered into a binding contract. You may check these things out yourself but it is strongly recommended that you hire a professional inspector. The Buyer Inspection Advisory names the types of people who can help you with the inspections and investigations. If there is anything that is not specifically listed, that you are concerned about, you should also look into that particular item.