

# Assigning Contracts





# Assigning Contracts

Sometimes during the course of the transaction, a buyer may need to assign all or a portion of their interest in the contract.

## **This could mean:**

- swapping out one buyer for another (a total assignment);
- adding an additional buyer to the existing one (a partial assignment); or
- deleting a buyer or replacing buyer(s) with at least one original buyer remaining (other assignment).

In each case, buyers under the Residential Purchase Agreement (C.A.R. Form RPA) have a limited right to assign their interest in the contract as long as they follow the appropriate procedures.

# Right to Assign under Paragraph 23 of the RPA

- Paragraph 23 of the RPA lays out the procedure for an assignment to take place.
- If the buyer is assigning all of their interest to either 1) their own trust or 2) any wholly-owned entity of buyer's that is in existence at the time, then the buyer has the right to make the assignment and does not need seller's consent.
- In any other circumstance, buyer may not assign the contract without first getting the separate written consent of the seller to the specified assignee.
  - The seller's consent, notably, cannot be unreasonably withheld.

**23. ASSIGNMENT/NOMINATION:** Buyer shall have the right to assign all of Buyer's interest in this Agreement to Buyer's own trust or to any wholly owned entity of Buyer that is in existence at the time of such assignment. Otherwise, Buyer shall not assign all or any part of Buyer's interest in this Agreement without first having obtained the separate written consent of Seller to a specified assignee. Such consent shall not be unreasonably withheld. Prior to any assignment, Buyer shall disclose to Seller the name of the assignee and the amount of any monetary consideration between Buyer and assignee. Buyer shall provide assignee with all documents related to this Agreement including, but not limited to, the Agreement and any disclosures. If assignee is a wholly owned entity or trust of Buyer, that assignee does not need to re-sign or initial all documents provided. Whether or not an assignment requires seller's consent, at the time of assignment, assignee shall deliver a letter from assignee's lender that assignee is prequalified or preapproved as specified in **paragraph 6B**. Should assignee fail to deliver such a letter, Seller, after first giving Assignee an Notice to Buyer to Perform, shall have the right to terminate the assignment. Buyer shall, within the time specified in **paragraph 3K**, Deliver any request to assign this Agreement for Seller's consent. If Buyer fails to provide the required information within this time frame, Seller's withholding of consent shall be deemed reasonable. Any total or partial assignment shall not relieve Buyer of Buyer's obligations pursuant to this Agreement unless Otherwise Agreed by Seller (C.A.R. Form AOAA). Parties shall provide any assignment agreement to Escrow Holder within 1 Day after the assignment. Any nomination by Buyer shall be subject to the same procedures, requirements, and terms as an assignment as specified in this paragraph.

# Right to Assign under Paragraph 23 of the RPA

**When making an assignment request, the buyer must:**

Disclose the name of the assignee

Disclose the amount of any monetary consideration between buyer and assignee

Provide assignee with all documents relating to the transaction

Ensure that assignee will provide a letter from assignee's lender that assignee is prequalified or preapproved as specified in the RPA







# Right to Assign under Paragraph 23 of the RPA

If the buyer does not deliver the assignment request and satisfy the above requirements within 17 Days after Acceptance (or whatever time is specified in RPA Paragraph 3K) then the seller's withholding of consent to the assignment shall be deemed reasonable.

# Use of the Assignment of Agreement Amendment

- To make the assignment request, and to complete the assignment itself, the buyer should use the Assignment of Agreement Amendment (C.A.R. Form AOAA).
- The AOAA Form has spaces for the buyer to indicate the name of the assignee; whether the assignment is total, partial or other; and whether or not the buyer is receiving consideration for the assignment.
- Paragraph 2 of the AOAA defaults to stating that a copy of the prequalification/preapproval and initialed copies of all prior documents are attached to the form. The buyer may elect to deliver prior documents to the assignee 3 Days after the seller signs and delivers back the AOAA form in Paragraph 2A.



## ASSIGNMENT OF AGREEMENT AMENDMENT (C.A.R. Form AOAA, Revised 6/23)

The following terms and conditions are hereby incorporated in and made a part of the: Purchase Agreement, OR ☐ Other \_\_\_\_\_, dated \_\_\_\_\_ ("Agreement"),  
on property known as \_\_\_\_\_ ("Property"),  
between \_\_\_\_\_ ("Buyer")  
and \_\_\_\_\_ ("Seller").  
Buyer and Seller are referred to as the "Parties".

In consideration, of the covenants contained herein, Buyer hereby assigns to assignee and assignee accepts the assignment, subject to Seller's consent if required by the Agreement, of all or a partial interest of Buyer's right, title, and interest under the Agreement, including without limitation, the right, title, and interest in any deposit or down payment upon the following terms and conditions:

### 1. Partial or Total Assignment:

- A. ☐ **Partial Assignment (Adding a buyer):** Buyer is adding the Assignee(s) named below to the Agreement and granting to such Assignee(s) a partial interest in the Agreement.
- OR B. ☐ **Total Assignment (New buyer(s) replaces all original Buyers):** Buyer is assigning all of Buyer's interest in the Agreement to the Assignee(s) named below.
- OR C. ☐ **Other Assignment (Replacing a Buyer and at least one original Buyer remaining; or Deleting a Buyer):** \_\_\_\_\_ (buyer(s) being removed) is assigning all of that buyer(s) interest in the Agreement to the new or remaining buyer(s) (Assignee(s)) named below.

### D. Assignee(s) Names:

- E. ☐ Assignee is Buyer's own trust or a wholly-owned entity of Buyer.

### 2. Prior Documents: Assignee shall initial the first page of each document and Deliver to Seller all of the transaction documents previously approved by Buyer including, but not limited to, all contract documents, inspection reports, pamphlets, advisories, and disclosures ("Prior Documents") within the time specified below. Unless Otherwise Agreed, Assignee acknowledges that all time frames in the Agreement remain the same and no additional time shall be provided for any matter including but not limited to, investigation, review of documents, or Close Of Escrow.

#### A. DELIVERY OF PRIOR DOCUMENTS:

- (1) **Prior Documents already delivered to Assignee:** Assignee acknowledges that Buyer has already provided Assignee all Prior Documents.
- OR (2) ☐ **Prior Documents not yet delivered to Assignee:** Seller shall Deliver to Buyer and Assignee a seller-signed copy of this Assignment of Agreement Addendum ("Assignment"). Upon receipt of the seller-signed Assignment, Buyer shall immediately Deliver to Assignee all Prior Documents.

#### B. PREQUALIFICATION OR PREAPPROVAL OF ASSIGNEES: Assignee has been prequalified or preapproved by Buyer's lender as per the Agreement and a copy is attached. This requirement applies even if 1E is checked.

#### C. TIME TO RETURN ASSIGNEE-INITIALED PRIOR DOCUMENTS:

- (1) Initialed copies of all Prior Documents are attached to this Assignment.
- OR (2) ☐ Assignee shall Deliver initialed copies of all Prior Documents to Seller within **3 (or \_\_\_\_ ) Days** after Seller Delivers to Assignee a Signed Copy of this Assignment.
- (3) If 1E is checked, Delivery and Return of Prior Documents is not required because Assignee is Buyer's own trust or a wholly-owned entity of Buyer.





# Use of the Assignment of Agreement Amendment

- The assignee is required to initial the first page of all prior documents, which can be done with the AOAA or within a time specified in Paragraph 2C(2).
- If the prior documents are not delivered on time and/or the prequalification/preapproval is not attached to the AOAA form, the seller may deliver a Notice to Buyer to Perform and subsequently cancel the Assignment.

A photograph showing two business professionals in a meeting. A woman in a dark suit is shaking hands with a man in a dark suit. They are standing over a wooden table where some papers are laid out. The man is wearing a brown leather watch. The background is blurred, suggesting an office environment.

# Effect of Assignment

If all the above requirements are satisfied and the AOAA form is fully-executed, then the assignment will be effective.

Keep in mind that once the assignment has taken place, the assignee has approved and ratified all prior acts of the buyer in the transaction as if they were assignee's own and agreed to perform all of buyer's obligations remaining in the agreement.





# Effect of Assignment

- The original buyer, however, is not released from the obligations or covenants of the agreement and could still be liable along with the assignee in the event of a breach.
- All parties involved are advised to seek legal advice regarding the assignment, as brokers and agents cannot advise on any potential legal or tax consequences that could arise.

# Additional Resources

**Quick Guide** [Assigning Contracts](#)