

## Counter Offer Forms

This Quick Guide provides an overview of the **Seller Counter Offer** (C.A.R. Form SCO) and **Buyer Counter Offer** (C.A.R. Form BCO).

**Numbering Counter Offers:** Technically there is no “correct” way to number counter offers. If a SCO is “No. 1,” the next BCO could be either “No. 1” or “No. 2.” Either numbering system is acceptable if understood between the parties.

**Adjusting Down Payment and Loan Amounts to Match Price Changes:** Down payment and loan amount adjustments are automatic under Paragraph 1B of the counter offer forms, which states that the down payment and loan amounts are automatically adjusted in the same proportion as the revised purchase price. It is important to note that the initial deposit is not automatically adjusted in the same proportion when the purchase price is adjusted in a counter offer form.

**Liquidated Damages and Arbitration Provisions:** Paragraph 1A of both counter offer forms states that these provisions, which require initials by all parties, are excluded from the final agreement, *unless the paragraph is initialed by all parties in the original purchase offer*. Thus, if the seller issues a counter offer, no affirmative action is needed to exclude these provisions if they were initialed by the buyer. The language of the counter offer will automatically counter out these provisions if the seller has not initialed them in the purchase agreement. If the buyer wants to add these paragraphs, the buyer must specifically refer to the liquidated damages and/or arbitration paragraphs in the BCO Form (such as by writing “Arbitration and liquidated damages as specified in paragraphs 29 and 31 of the Residential Purchase Agreement are included in the final agreement.”) and have it signed by the seller.

**Withdrawing a Counter Offer:** Legally, all that is necessary to withdraw a counter offer is to communicate it is withdrawn. This may be done verbally, but it is better to do so in writing by using the Withdrawal of Offer (C.A.R. Form WOO) or simply to confirm and document a prior oral withdrawal in writing. While Paragraph 2C of the SCO states the seller’s acceptance of an offer from a different buyer functions as a withdrawal, the SCO advises the seller to nonetheless formally withdraw any outstanding counter offer before accepting another offer.

**Creating a Binding Agreement:** A binding agreement is created when the final counter offer is accepted and returned to and personally received by the buyer or seller who made the counter offer. If the Real Estate Brokers Section on page 16 of the RPA is completed with the name of the agent, then returning to that agent may create a binding agreement as well. If these paragraphs are left blank; however, then the accepted counter offer must be personally received by the buyer or seller who made it.