

GARMAN BUILDERS, INC.

Seller / Contractor Addendum

THIS Addendum made by and between
Garman Builders, Inc. of
471 North Reading Road, Ephrata, Pennsylvania 17522,
(hereinafter "**Seller / Contractor**"),

AND

(hereinafter "**Owner(s)/ Buyer(s)**").

Addendum / Endorsement to Agreement of sale dated: _____

Property located at: _____

1. **Selections:**

Owner(s) shall be permitted to make, as is reasonably possible and where Owner(s) has a choice, selections of color, feature, style and material for the Home by mortgage commitment date or within twenty-five (25) days after the effective date of this Contract, whichever occurs first. If these selections are not made within such time, Owner(s) hereby authorizes Seller to make such selections for the Property as Seller deems advisable. In the event Owner(s) makes selections, requests, changes or orders "extras" which result in a net increase in cost (excess of charges over credits), the additional cost shall be paid in full and in cash by Buyer(s) to Seller at the time such selections or requests are made, and such selections or requests shall not be deemed to have been made unless and until payment therefor is received by Seller. If Owner(s) defaults or in any way terminates this Agreement, including the invocation of any statutory right to do so, such payments are not and shall not be refundable, whether or not the subject selections or changes are wholly or partially executed, and any such payments so retained by Seller shall be separate from and in addition to liquidated damages, if any, as defined elsewhere in this Agreement. If selections or requests made by Buyer(s) result in a net credit (excess of credits over charges), such credit shall be applied to reduce the balance due from Buyer(s) at closing.

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2. **Options:**

Contractor may, in its sole discretion, choose to refund or credit the value of a change order, option, or amenity requested by owner instead of making the proposed change. If Seller shall fail to include any extras which have been ordered and paid for by Owner(s), Seller's sole liability shall be to deduct the cost of any such extra from the total cost of the Property.

3. **Change Orders & Addendums:**

All change orders will be agreed by Owner(s) and Contractor. The sum of the change order is due within 5 days of executing such change order unless agreed to in writing by contractor. Commission fees are not included on change orders, monies increasing allowances, or on amount of Addendums to increase sales price prior to and after contract is signed. Buyer is responsible for all transfer tax on Addendum amount above the original contract amount. Failure to pay any change order amount when due shall constitute a default by owner.

4. **Deposits & Prepayments:**

Deposits are hereafter known as "Prepaid Document and Material Reservation Fee" and are to be made payable to Garman Builders, Inc. or are to be released to Garman Builders, Inc. after the execution of this Addendum. Owner(s) is aware that Seller may or may not hold monies in escrow.

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5. **Finishes:**

Owner(s) understands that the location of telephone, electric, cable TV and other utility outlets, doors, windows, air conditioning components, lighting fixtures, equipment and fixtures are subject to change and Owner(s) understands that materials such as brick, wood, wood grain, carpeting, paint, cabinets, cultured marble, tile, Formica, granite and the like are subject to shading and gradation and may vary from samples, models or color charts, and from piece to piece, and Seller shall not be liable for such variations.

6. **Construction:**

For reasons of safety, and to comply with insurance requirements imposed on Seller, neither Owner(s) nor any agent or invitee of Owner(s) shall, until after the closing of this transaction, be permitted to enter upon the Property unless accompanied by a representative of Seller. A violation of this provision shall be deemed an incurable default by Buyer under this Contract.

7. **Locks:**

Owner(s) shall not under any circumstances change locks or prevent contractor from access to construction through final settlement of the home.

8. **Owner Work:**

Any work performed by Owner(s) or by any subcontractor chosen by Owner(s) shall constitute "Owner Work," and shall relieve Contractor of any and all liability for all such work. Owner(s) shall be solely responsible for all such work, and shall provide a waiver of mechanics lien in advance of any such work. Contractor shall not under any circumstances have any payment obligation for any Owner Work. Owner Work must be approved by Contractor in writing in advance. Copies of Liability insurance and Workers Compensation insurance must be provided to Contractor prior to work being done. By performing or authorizing any Owner Work, owner agrees to indemnify, defend and hold Contractor harmless from and against any claims of any kind or nature involving or in any manner relating to the Owner Work.

9. **Site Grading, Septic, Storm Water & Excavating:**

a) Contractor will not be responsible for differing environmental or site conditions such as, rock removal, blasting, stump or tree removal, retaining walls, changes in underground water table, springs, sinkholes, insufficient topsoil, insufficient or excessive fill, extra courses of foundation block, storm water management, mold, existing or abandoned dump sites unless noted in the Garman Builders specifications. All cost due to these conditions will be due at substantial completion or when Contractor deems necessary. Due to the nature of this work, it may or may not be possible to inform Owner(s) of any changes until Substantial Completion.

b) Sink holes are a naturally occurring feature of limestone soil in Central Pennsylvania. Owner(s) acknowledges that it is not possible to predict the occurrence, location, size, or scope of a sink hole. Furthermore, Owner(s) accepts all responsibility for future occurrences of sink holes should they occur on the Owner's property. Owner also agrees to hold harmless Seller and forever discharge any liability to Seller for any damage caused by or the repair of sink holes.

10. **Incllement Weather Conditions and Escrows:**

Owner(s) agrees that if construction of home cannot be completed by time of settlement, in Contractor's sole discretion, to include, (driveway paving, final grade and seeding, walks, outside painting, but not limited to these items), that they will be completed at the first opportunity, as determined by contractor, when weather permits.

Contractor shall not be responsible for either the Owner(s) or the Owner(s) mortgage lender to escrow any funds for the purpose of completing such items. If the Owner(s) mortgage lender requires an escrow of funds for the completion of such items, as a condition to completing settlement, it shall be the responsibility of the owner(s) to provide such escrow funds and to complete settlement as scheduled.

11. **Substantial Completion:**

The home is deemed "substantially completed" when, A) the dwelling is in a reasonable manner for the use for which it is intended, B) sufficiently complete in accordance with the specifications and plans, so the Owner(s)

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may move their belongings into the dwelling and use and occupy. The completion of final grading, seeding, sidewalks, drain fields, paving and final punch list items completed shall not be necessary in order that the dwelling is deemed "substantially completed."

12. **Allowance & Estimate Figures:**

Allowance and estimate figures include material and installation unless noted otherwise. They may also include management time by Contractor or other cost incurred by Contractor in relation to these items.

13. **Final Grading and Seeding:**

Contractor will, (if part of contract), final grade and seed. At completion of construction, the areas that are disturbed by contractor shall be machine raked and seeded. Contractor will do this **one time only**. Contractor cannot warrant quality and quantity of grass growth. Owner(s) responsibility is to maintain, reseed, water, fertilize and stabilize any and all areas of the seeded area that may be affected by adverse conditions such as, soil erosion, drought or hot weather, storm water control or run-off caused by rain storms, heavy down pours, or cloud bursts. Contractor will, at Owner(s) request, have the seeded area either straw mulched or hydro-seeded at time of seeded for an extra charge.

14. **Settlement Dates:**

a) Construction is not an exact science. Settlement dates are considered tentative until set by Contractor, and Contractor shall not be responsible for any losses, damages or claims of any kind or nature whatsoever due to or relating in any manner to the failure to meet a settlement date. Time shall not be considered of the essence for this purpose. This provision shall supersede any inconsistent provision of any other contract or agreement.

b) The Completion Date may be extended by Seller for reason of force majeure, circumstances beyond Seller's control, or any act or failure to act by Owner(s) or Owner(s) employees, subcontractors, agents or representatives. In the event Seller deems it necessary, in Seller's sole judgment, to so extend the Completion Date, Seller shall provide Owner(s) with written notice of same, including the reason for the delay, and the date Seller anticipates that the construction shall be completed. The period of any such extension shall be at minimal equal to the period of the delay or delays in completing the construction and the Completion Date shall be deemed extended for that period. In the event that seller needs more time, seller will inform Owner(s) of delay and set a new date with a written notice to the Owner(s).

15. **Completion (for completed homes or homes under construction):**

a) Owner(s) is aware that the home, as built, may vary from plans and specification and any advertising or promotional materials. Owner(s) accepts the home as built at closing. The indemnity provision below shall specifically apply to this provision.

b) Contractor may delineate certain choices (color, material, texture, etc.) as part of the project. If Owner(s) desires to change any previously identified item, Owner(s) shall notify contractor, and Owner(s) shall be responsible for any and all costs associated with such change including any costs or delay and any restocking fees.

c) Owner(s) is aware that Seller may continue to hold open house in above mentioned property until final closing has occurred. Seller will maintain property in as new condition.

16. **Property and Improvements:**

Contractor/Seller may or may not be the Developer. At no time shall Garman Builders, Inc. or GarDel LLC be liable for improvements imposed on the Developer by governmental statutes, ordinances, rules, and regulations (including but not limited to curbing, paving, signage, bonds, snow removal, retention or detention basins, storm water control, street trees, etc.) unless Garman Builders, Inc. or GarDel LLC is in fact the said Developer of record.

17. **Boundaries:**

Owner(s) shall be deemed to have reviewed and accepted any deed restrictions, recorded easements, lot size, storm water facilities, and any other system of the property at time of entering this agreement.

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18. **Indemnity:**

Owner(s) agrees to indemnify, defend and hold contractor from and against any and all claims, disputes, damages, actions, rights, duties and obligations of any kind or nature now or hereafter existing in any manner involving or relating to this property transaction, the contracts and documents associated herewith, and any rights or remedies now or hereafter in existence in law and/or equity. In the event that contractor enforces this provision, contractor shall be entitled to recover, in addition to any actual damages, liquidated damages in the sum of up to \$10,000 plus all costs of suit including filing costs and attorney fees.

19. **Default by Owner(s):**

a) Upon the default by owner of any kind or nature whatsoever, all amounts due contractor shall become immediately due and payable, and shall accrue interest at the rate of two percent (2%) per month prorated daily, until paid in full.

b) In the event that the Owner(s) defaults in the performance of the Owner(s) obligations pursuant to this Contract, then all sums previously deposited by the Owner(s) shall immediately become the sole and exclusive property of the Seller as liquidated and agreed-upon damages, and this Contract shall be terminated, and both parties shall be relieved from further liability hereunder.

c) Under no circumstance shall Seller only be limited to retaining of sums paid by Buyer, including the deposit monies as liquidated damages.

20. **Final Closing and Settlement Agent:**

a) Owner(s) have a choice for title work and settlement services. However, closing shall occur at Garman Builders offices. If Owner(s) agrees to use a title company approved by contractor for all title work and settlement services, the title insurance premium will be charged at the re-issue rate less 10% (where allowed by law). Owner(s) agrees to pay all of seller's settlement charges, other than seller's portion of transfer tax, tax pro-rations, and recording changes for filing of mortgage release. Owner(s) agent shall also provide to the seller a written list of all required paperwork necessary for settlement and provide to Garman Builders the time for settlement in writing 15 days prior to settlement. Owner(s) agent shall also provide to seller the HUD closing sheet 24 hours prior to closing.

b) Closing of title shall be held at the office of Seller or Seller's Agent or at such place in Lancaster County, Pennsylvania and on such day and hour as Seller may designate to Owner(s) on not less than (10) days prior notice. Seller may postpone the closing on notice to Owner(s), which notice shall fix a new date and time for closing. In the event Owner(s) fails to close on the date and at the time specified by Seller, Owner(s) shall pay to Seller **\$75.00 per day** (including Saturday, Sunday and holidays) calculated from the date of closing scheduled by Seller to the date of actual closing; provided, however, that such payment shall not be construed as a limitation upon Seller's remedies in the event of Owner(s) failure to close on the designated date.

c) Closing of title to the Property shall take place only after the issuance of a Certificate of Occupancy for the Home by the appropriate governmental entity. Buyer shall not move personal items into or take occupancy of the Home until said Certificate of Occupancy is obtained and payment is made in full under the terms of this Agreement.

d) The amount of all lender's charges is now unknown. Furthermore, Seller reserves the right to collect from Owner(s) at closing, in addition to the other sums described in this Agreement, the sum of **\$250.00** to reimburse Seller for the additional costs it will incur in connection with Seller's coordination of closing with Buyer's lender or title company.

e) **Disclosure Notice:** Officers, shareholders and/or employees of Garman Builders, Inc. will have a direct and/or indirect financial benefit if you use American Eagle Settlement, LLC and/or American Eagle Mortgage Funding, LLC. You are **NOT** obligated to use either company for the services they offer.

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21. **Builder Incentive Program:**

a) **Garman Builders, Inc. Mortgage Advantage Incentive:** Owner(s) understand(s) and accept(s) that should they elect to use BOTH Garman Builders, Inc.'s preferred title company and lender, Garman Builders, Inc. will provide a credit in the amount of \$_____ towards Owner's closing costs at Settlement. This will occur after confirmation that Buyer has used the companies indicated above for title and mortgage. In the event that Buyer changes lender prior to lot and/or final settlement all rights to the above incentive are waived.

b) **Additional Incentive:** In addition to the "Garman Builders, Inc. Mortgage Advantage" incentive, the following incentive is hereby made part of this sale: _____.
For more details on above incentive, see "Incentive Conditions" form.

22. **Miscellaneous:**

a) Overages on allowance are the strict responsibility of owner. If owner requests a revision to the sales price based on any such overage, any additional commission due and/or transfer tax due shall be the sole responsibility of Owner(s), and the indemnity provision below shall apply.

b) Any re-inspection fees requested by any Lender, government entity (VA, FHA, HUD) shall be the sole responsibility of Owner(s), and the indemnity provision below shall apply. This shall include, but not be limited to escrow inspections. Any fees deducted from contractor proceeds for any such inspection will be invoiced to owner and due immediately.

23. **Associations:**

Owner(s) acknowledges that, if property is part of a planned residential community (condo, homeowner association, etc.), in accordance with the terms and conditions contained in the Development Documents Buyer may be responsible for the payment of certain assessments to be levied against the Property by the Association. Owner(s) understands that any estimated operating budget received at the time of purchase is only an estimate of what it will cost to run the Association. Changes to the budget may be made at any time to cover increases or decreases in expenses or estimates in the budget. Without limiting the generality of the Paragraph, those changes will not give Owner(s) any right to cancel this Agreement unless Seller also materially changes any guaranteed assessments stated in the Development Documents in a manner which is inconsistent with the terms of the Seller's guarantees, if any.

24. **Builder Warranty:**

A Garman Builders limited warranty is incorporated into and made part of this agreement. The limited warranty shall run for one (1) year from time of occupancy or settlement, which ever occurs first. A copy of this warranty shall be signed by the owner(s) and the contractor. Owner(s) agrees to comply with and be bound by all terms of the warranty. Owner(s) hereby acknowledges receiving the Garman Builders limited warranty.

25. **Mold/Mildew:**

Owner(s) acknowledges and agrees that Seller will not be liable for any actual, special, incidental, or consequential damages based on any legal theory whatsoever, including, but not limited to, strict liability, breach of express or implied warranty, negligence or any other legal theory with respect to the presence and/or existence of molds, mildew, and/or microscopic spores unless caused by the sole negligence or willful misconduct of Seller. Owner(s), on behalf of itself and its family members, tenants, invitees and licensees, hereby releases Seller and Seller's officers, directors, partners, members, successors and assigns from and against any and all claims, actions, damages, causes of action, liabilities and expenses (including without limitation, attorneys' fees and costs of enforcing this indemnity) for property damage, injury, or death resulting from exposure to mold, mildew, and/or microscopic spores and from any loss of resale value due to the presence and/or existence of mold, mildew, and/or microscopic spores, provided however, that in no event is Owner releasing Seller from property damage which results from the presence and/or existence of mold, mildew, and/or microscopic spores which is caused by the sole negligence or willful misconduct of Seller.

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26. **VA, FHA or Farm & Home Financing:**

All costs attributed to such financing approval must be included as part of final sale price and to be paid by owner(s).

27. **Propane Tanks and Propane Fuel:**

This property, if heated by propane, has a buried tank. This tank may be a leased tank that requires buyer to purchase propane from a certain supplier. Buyer has the option to purchase tank from supplier for an additional fee. Buyer is aware that the propane fuel in the tank is not included with the sale and seller will contact lessee to fill tank and send invoice to Buyer for the full tank of propane fuel. Buyer agrees to pay invoice when received from said supplier.

28. **Waiver of Rights:**

No delay or omission by the Company in exercising any right under this Agreement will operate as a waiver of that or any right. A waiver or consent given by the Company on any one occasion is effective only in that instance and will not be construed as a bar to or waiver of any right on any other occasion.

29. **30 Day Notices:**

Owner(s) is responsible to notify contractor with-in 30 days of occupancy or ownership, whichever occurs first, of any chips, scratches, marks on woodwork, tile, mirrors, counter tops, appliances, tubs, plumbing fixtures, brick, stone, windows, carpet, vinyl, hardwood, steps, cabinets, light fixtures, screens, etc. If contractor is not notified **in writing**, contractor will not cover under Builders Limited Warranty.

30. **Plans, Specifications, and Marketing Materials:**

The design of the home and all construction drawings and specifications are the sole property of the Seller. Seller reserves the right to use such Designs in existing and future developments constructed by Seller. Owner(s) further consents to Seller's use of drawings, pictures, or other materials in Seller's marketing materials that may include the home constructed on the Property.

31. OWNER(S) AGREES THAT IF THERE IS A CONFLICT BETWEEN THIS GARMAN BUILDERS ADDENDUM AND ANY OTHER AGREEMENT OR DOCUMENTS, THAT THIS ADDENDUM HAS AUTHORITY OVER THE OTHER AGREEMENT OR DOCUMENTS.

Owner(s) and contractor agree that the terms of this Addendum shall survive settlement. If it becomes necessary for contractor to take any steps to enforce this Addendum, contractor shall be entitled to recover from Buyer(s) all costs of enforcement including costs and attorney fees.

Owner(s) has read and understands, in all aspects, this Seller / Contractor Addendum. This document in its entirety is part of the Sale Agreement.

Witness _____

Owner _____

Witness _____

Owner _____

Witness _____

Contractor _____

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