



National Headquarters  
 2501 Seaport Drive, Chester, PA 19013  
 888-736-6335  
 WWW.POWERHRG.COM

James Kilman and Martha Kilman  
 33-01372  
 March 10, 2018

**CUSTOM REMODELING AND IMPROVEMENT AGREEMENT**

<b>Buyer(s)' Information and Description of the Property:</b> <b>James Kilman</b> <b>Martha Kilman</b> 12410 Long Leaf Dr Conroe, TX, 77303 <b>County:</b> Montgomery <b>Township:</b>	Project Number: 33-01372 <b>(302) 650-5209</b> ( <i>James's Cell</i> )	<b>March 10, 2018</b> <i>Date of Agreement</i> <b>jdavidkilman@gmail.com</b> <i>E-Mail Address 1</i>
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Buyer(s) listed above hereby jointly and severally agrees to purchase the goods and/or services of Power Home Remodeling Group and its vendors ("Contractor") in accordance with the prices and terms described in this 7 page document and the Product Specifications, which are incorporated as part of the Agreement (collectively, this "Agreement"). This Agreement represents a cash sale of goods and services. Buyer(s) agrees to pay the cost of the goods and services purchased as described herein, regardless of timing or approval of any financing Buyer(s) may seek for their purchase.

Purchase Price: <b>\$33,816.98</b> Down Payment: <b>\$0.00</b> Balance Due on Substantial Completion: <b>\$33,816.98</b> Method of Payment: Check	<b>Pre Installation Inspection Dates:</b> Tue 3/20 between 11:30a and 12:30p <b>Estimated Project Start: 5 to 6 weeks</b> <b>Estimated Project Completion: 3 to 7 days</b> Buyer(s) acknowledge that a definite start and completion dates are NOT of the essence. Delays beyond Contractor's control not included in calculating time frames. See Delay/Unknown Conditions.
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Buyer(s) hereby acknowledges receipt of a copy of the pamphlet, "The Lead-Safe Certified Guide to Renovate Right", informing Buyer(s) of the potential risk of lead hazard exposure from renovation activity to be performed in or at Buyer(s)' Property, at the address written above. Buyer(s) received this pamphlet on the date of this Agreement, before commencement of work.  
JK Buyer(s)' Initials.


This Agreement constitutes the entire agreement and understanding between the parties, and this Agreement replaces any and all prior negotiations, representations, or agreements, either written or oral. No amendment, modification or waiver of this Agreement shall be valid or effective unless in writing and signed by both parties. Buyer(s) hereby acknowledges that Buyer(s) 1) has read the entire Agreement and has received a completed, signed, and dated copy of this Agreement, including the two accompanying Notice of Cancellation forms, on the date first written above and 2) was orally informed of his/her right to cancel this transaction.

Buyer(s) also agrees and understands that if Buyer(s) finances the work with a third-party, the terms of that financing will be contained on separate documents, including any finance charge.

Future promotions not applicable.

I have read and received each page of this 7 page agreement.

**Power Home Remodeling Group**  
  
 /03/10/18  
 Signature of Remodeling Consultant  
**Brett Bontrager**

**Buyer(s)**  
  
 /03/10/18  
 Signature  
**James Kilman**

**Buyer(s)**  
  
 /03/10/18  
 Signature  
**Martha Kilman**

**YOU, THE BUYER(S), MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT.**





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This contract is subject to Chapter 27 of the Texas Property Code. The provisions of that chapter may affect your right to recover damages arising from a construction defect. If you have a complaint concerning a construction defect and that defect has not been corrected as may be required by law or by contract, you must provide the notice required by Chapter 27 of the Texas Property Code to the contractor by certified mail, return receipt requested, not later than the 60th day before the date you file suit to recover damages in a court of law or initiate arbitration. The notice must refer to Chapter 27 of the Texas Property Code and must describe the construction defect. If requested by the contractor, you must provide the contractor an opportunity to inspect and cure the defect as provided by Section 27.004 of the Texas Property Code.

**IMPORTANT NOTICE:** You and your contractor are responsible for meeting the terms and conditions of this contract. If you sign this contract and you fail to meet the terms and conditions of this contract, you may lose your legal ownership rights in your home. **KNOW YOUR RIGHTS AND DUTIES UNDER THE LAW.**

### Additional Terms & Conditions

**Delay/Unknown Conditions:** Contractor's failure to perform any term or condition of this Agreement as a result of conditions beyond its control such as, but not limited to strikes, fires, floods, acts of God, manufacturer's delay, material shortages, Buyer(s)' inability to qualify for or obtain financing, delays by local government authorities in issuing or otherwise approving inspections, permitting, or other required authorizations do not constitute abandonment and are not included in calculating time frames for performance by Contractor. Contractor and Buyer(s) have determined that a definite start and completion date are not material terms of this Agreement. The Buyer(s) understand that the start date and completion date are approximate and are subject to change.

**Late Payment/Late Cancellation of this Agreement:** Buyer(s) agrees to pay a late fee of 1 1/2% per month on all amounts due and owing from Buyer(s) to Contractor accruing from the date due and running to the date the payment is made. In the event that Buyer(s) breaches any of the terms and/or conditions of this Agreement, Contractor may recover any damages for the breach thereof and all remedies in its favor existing at law. A Late Cancellation after midnight of the cancellation date, specified in this agreement, is a breach of this Agreement. The Buyer(s) shall reimburse Contractor for all of Contractor's out-of-pocket expenses, including, but not limited to, costs incurred by the Contractor for measuring, ordering, manufacturing, purchasing and administrating the procurement of the goods and services identified in this Agreement, and all other damages available under the law.

**Contractor's Right to Cancel:** In the event that Contractor determines that this Agreement cannot be performed as intended by the parties due, for example, to incorrect pricing, unforeseen structural defects, or pre-existing conditions to Buyer(s)' Property, Contractor may cancel this Agreement within forty-five (45) days of its execution, notify Buyer(s) of such cancellation in writing and return all monies paid by Buyer(s).

**No Set-Offs or Retentions:** Upon Substantial Completion of Contractor's work under this Agreement, Buyer(s) shall pay all amounts due under this Agreement without any right of set-off or retention. Substantial Completion is defined as the stage in the progress of the work where the work is sufficiently complete in accordance with this Agreement so that Buyer(s) can occupy or utilize the work for its intended use. If after paying all amounts due under this Agreement, Buyer(s) alleges that Contractor's work is defective in any respect, Contractor, without waiving any of its rights, shall cause an inspection of the work and perform any remedial work to the extent the Buyer(s) is entitled to under this Agreement or Contractor's warranty at no cost to Buyer(s).





## CUSTOM REMODELING AND IMPROVEMENT AGREEMENT

### Additional Terms & Conditions (continued)

**Buyer(s)' Representations and Responsibilities:** In addition to making timely payment to Contractor according to the terms and conditions of this Agreement, Buyer(s) represents and warrants that (a) Buyer(s) owns the premises where the products and/or services are being provided by Contractor; (b) Buyer(s) will control, secure, and otherwise keep all pets away from the Contractor and the work areas; (c) Buyer(s) will not allow unattended minors at the Property while the work is being performed; (d) Buyer(s) will provide Contractor with unrestricted access to the premises at all reasonable times for the purposes of taking measurements, performing the work, and for any subsequent remedial work, if required, including access to electrical outlets as may be required by Contractor; (e) Buyer(s) will remove, secure, or otherwise protect all items of value or concern to avoid any accidental mistakes or slippages as the Contractor will not be liable for replacing or repairing other household items in the work areas; (f) Buyer(s) shall be responsible for the preparation, moving, and reinstalling of all wiring, water lines, power lines, plumbing, and the moving of any shrubs, plants, or other items as required by Contractor under this Agreement; and (g) if Contractor's work requires consent and/or approval from any Homeowner's Association or any other legal entity or voluntary association that enforces covenants, conditions, and restrictions on property (including designated historic sites), Buyer(s) is responsible to submit any required forms and obtain approval for the work to be done and to keep Contractor informed as to the approval status.

**Contractor's Responsibility:** Contractor shall obtain any necessary permits and provide the Buyer(s) with a certificate of occupancy, if required. Contractor accepts no responsibility for any damage resulting from structural or other defects in the Property at which work is performed under this Agreement. Contractor is not responsible for remedying structural defects and other pre-existing conditions in or at Buyer(s)' Property. Buyer(s) acknowledges that Contractor's products do not correct or cure pre-existing problems such as leaks, lead, mold, asbestos, dry rot, decay, fungi, termites, and/or other structural and/or environmental problems. Contractor shall not be responsible for (a) any damages arising in whole or in part from strikes, fires, accidents, floods, governmental actions, or any other causes beyond control of Contractor; (b) any damages including without limitation, lost profits, or reduction in value of the premises, arising from Contractor's delay in performing under this Agreement or due to its breach of this Agreement; (c) unintentional damage to window treatments, shutters, blinds, alarm systems, household items, landscaping, satellite dish, gas lines, condensation pipes, electrical wiring, plumbing, and telephone installations, it being understood that Buyer(s) is responsible at its own cost for all preparations, protection and/or moving of such items prior to Contractor's commencement of the work; (d) collateral or incidental damage to interior walls (including wall tiles) and personal property, including damage occurring as a result of Contractor installing products on or in Buyer(s)' Property, it also being understood that Buyer(s) is responsible at its own cost for all preparations, protection and/or moving of such items prior to Contractor's commencement of the work; and (e) removing and/or refitting/reconnecting Buyer(s)' home security system or the costs associated with removing and/or refitting/reconnecting Buyer(s)' home security system, it being understood that Contractor will attempt to work around any home security system on the premises.

**Mold and Related Matters:** Buyer(s) agrees to defend, indemnify and hold Contractor and its employees, agents, and vendors harmless from any claims as to the identification, detection, abatement, encapsulation, or removal of mold, asbestos, lead-based products, or other hazardous substances inside or outside of the Property at which work is performed. Contractor does not provide mold testing or remediation services. Excessive humidity, lack of ventilation and/or extreme temperature differences may result in excessive condensation to appear on or around windows, in walls, or in attics. Products that Contractor is installing do not create moisture or excessive humidity; thus, Contractor is not responsible for condensation.

**Warranties:** Buyer(s) understands that Contractor will make available to Buyer(s) all product and labor warranties offered in connection with this Agreement. Buyer(s) understands that Buyer(s) should read all warranties for complete details of coverage. Complete copies of applicable product warranties are available for review by Buyer(s) at any time by visiting <https://powerwarranties.com>. Buyer(s) acknowledges that the labor warranty was presented at the time this Agreement was signed and a copy of the warranty was given to Buyer(s). Buyer(s) understands that no warranty will be effective while a balance due remains on this Agreement.





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### Additional Terms & Conditions (continued)

**Lien Rights:** In the event that Buyer(s) does not pay Contractor any of the money owed when it is due, Contractor may have a claim against Buyer(s) that may be enforced against Buyer(s)' Property in accordance with applicable lien laws. Buyer(s) also understands that if Buyer(s) finances the work with a third party, Buyer's separately provided other documents may include a security interest. Buyer(s) understands that Buyer(s) should read those documents closely.

**Miscellaneous:** No waiver of any breach of this Agreement shall be construed as a waiver of any prior, concurrent, or subsequent breach hereof. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement. In construing this Agreement, the gender and number of words used may be changed to meet the context. No alteration to or deviation from this Agreement, including those that change the cost, materials, work to be performed, or estimated completion date, will be valid without the signed, written consent of both Buyer(s) and Contractor. This Agreement is to be governed by the laws of the state in which it is performed, except as may be preempted by federal law. Any part of this Agreement contrary to the law of this state shall not invalidate other parts of this Agreement. If a provision of this Agreement is held to be invalid or unenforceable, this Agreement shall continue in full force and effect and shall be construed as if the invalid or unenforceable provision was omitted.

### Disclosure Statement:

**KNOW YOUR RIGHTS AND RESPONSIBILITIES UNDER THE LAW.** You are about to enter into a transaction to build a new home or remodel existing residential property. Texas law requires your contractor to provide you with this brief overview of some of your rights, responsibilities, and risks in this transaction.

**CONVEYANCE TO CONTRACTOR NOT REQUIRED.** Your contractor may not require you to convey your real property to your contractor as a condition to the agreement for the construction of improvements on your property.

**KNOW YOUR CONTRACTOR.** Before you enter into your agreement for the construction of improvements to your real property, make sure that you have investigated your contractor. Obtain and verify references from other people who have used the contractor for the type and size of construction project on your property.

**GET IT IN WRITING.** Make sure that you have a written agreement with your contractor that includes: (1) a description of the work the contractor is to perform; (2) the required or estimated time for completion of the work; (3) the cost of the work or how the cost will be determined; and (4) the procedure and method of payment, including provisions for statutory retainage and conditions for final payment. If your contractor made a promise, warranty, or representation to you concerning the work the contractor is to perform, make sure that promise, warranty, or representation is specified in the written agreement. An oral promise that is not included in the written agreement may not be enforceable under Texas law.

**READ BEFORE YOU SIGN.** Do not sign any document before you have read and understood it. NEVER SIGN A DOCUMENT THAT INCLUDES AN UNTRUE STATEMENT. Take your time in reviewing documents. If you borrow money from a lender to pay for the improvements, you are entitled to have the loan closing documents furnished to you for review at least one business day before the closing. Do not waive this requirement unless a bona fide emergency or another good cause exists, and make sure you understand the documents before you sign them. If you fail to comply with the terms of the documents, you could lose your property. You are entitled to have your own attorney review any documents. If you have any question about the meaning of a document, consult an attorney.

**GET A LIST OF SUBCONTRACTORS AND SUPPLIERS.** Before construction commences, your contractor is required to provide you with a list of the subcontractors and suppliers the contractor intends to use on your project. Your contractor is required to supply updated information on any subcontractors and suppliers added after the list is provided. Your contractor is not required to supply this information if you sign a written waiver of your rights to receive this information.

**MONITOR THE WORK.** Lenders and governmental authorities may inspect the work in progress from time to time for their own purposes. These inspections are not intended as quality control inspections. Quality control is a matter for you and your contractor. To ensure that your home is being constructed in accordance with your wishes and specifications, you should inspect the work yourself or have your own independent inspector review the work in progress.

**MONITOR PAYMENTS.** If you use a lender, your lender is required to provide you with a periodic statement showing the money disbursed by the lender from the proceeds of your loan. Each time your contractor requests payment from you or your lender for work performed, your contractor is also required to furnish you with a disbursement statement that lists the name and address of each subcontractor or supplier that the contractor intends to pay from the requested funds. Review these statements and make sure that the money is being properly disbursed.





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**CLAIMS BY SUBCONTRACTORS AND SUPPLIERS.** Under Texas law, if a subcontractor or supplier who furnishes labor or materials for the construction of improvements on your property is not paid, you may become liable and your property may be subject to a lien for the unpaid amount, even if you have not contracted directly with the subcontractor or supplier. To avoid liability, you should take the following actions:

(1) If you receive a written notice from a subcontractor or supplier, you should withhold payment from your contractor for the amount of the claim stated in the notice until the dispute between your contractor and the subcontractor or supplier is resolved. If your lender is disbursing money directly to your contractor, you should immediately provide a copy of the notice to your lender and instruct the lender to withhold payment in the amount of the claim stated in the notice. If you continue to pay the contractor after receiving the written notice without withholding the amount of the claim, you may be liable and your property may be subject to a lien for the amount you failed to withhold.

(2) During construction and for 30 days after final completion, termination, or abandonment of the contract by the contractor, you should withhold or cause your lender to withhold 10 percent of the amount of payments made for the work performed by your contractor. This is sometimes referred to as 'statutory retainage.' If you choose not to withhold the 10 percent for at least 30 days after final completion, termination, or abandonment of the contract by the contractor and if a valid claim is timely made by a claimant and your contractor fails to pay the claim, you may be personally liable and your property may be subject to a lien up to the amount that you failed to withhold. If a claim is not paid within a certain time period, the claimant is required to file a mechanic's lien affidavit in the real property records in the county where the property is located. A mechanic's lien affidavit is not a lien on your property, but the filing of the affidavit could result in a court imposing a lien on your property if the claimant is successful in litigation to enforce the lien claim.

**SOME CLAIMS MAY NOT BE VALID.** When you receive a written notice of a claim or when a mechanic's lien affidavit is filed on your property, you should know your legal rights and responsibilities regarding the claim. Not all claims are valid. A notice of a claim by a subcontractor or supplier is required to be sent, and the mechanic's lien affidavit is required to be filed, within strict time periods. The notice and the affidavit must contain certain information. All claimants may not fully comply with the legal requirements to collect on a claim. If you have paid the contractor in full before receiving a notice of a claim and have fully complied with the law regarding statutory retainage, you may not be liable for that claim. Accordingly, you should consult your attorney when you receive a written notice of a claim to determine the true extent of your liability or potential liability for that claim.

**OBTAIN A LIEN RELEASE AND A BILLS-PAID AFFIDAVIT.** When you receive a notice of claim, do not release withheld funds without obtaining a signed and notarized release of lien and claim from the claimant. You can also reduce the risk of having a claim filed by a subcontractor or supplier by requiring as a condition of each payment made by you or your lender that your contractor furnish you with an affidavit stating that all bills have been paid. Under Texas law, on final completion of the work and before final payment, the contractor is required to furnish you with an affidavit stating that all bills have been paid. If the contractor discloses any unpaid bill in the affidavit, you should withhold payment in the amount of the unpaid bill until you receive a waiver of lien or release from that subcontractor or supplier.

**OBTAIN TITLE INSURANCE PROTECTION.** You may be able to obtain a title insurance policy to insure that the title to your property and the existing improvements on your property are free from liens claimed by subcontractors and suppliers. If your policy is issued before the improvements are completed and covers the value of the improvements to be completed, you should obtain, on the completion of the improvements and as a condition of your final payment, a 'completion of improvements' policy endorsement. This endorsement will protect your property from liens claimed by subcontractors and suppliers that may arise from the date the original title policy is issued to the date of the endorsement.





### CUSTOM REMODELING AND IMPROVEMENT AGREEMENT

Notice of Cancellation

**NOTICE OF CANCELLATION**

**DATE OF TRANSACTION:** March 10, 2018  
**YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE. IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 10 DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELED. IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOODS DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY, IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLERS EXPENSE AND RISK. IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, POWER HOME REMODELING GROUP, 2501 SEAPORT DRIVE, CHESTER PA 19013, NOT LATER THAN MIDNIGHT OF March 14, 2018.**

I HEREBY CANCEL THIS TRANSACTION 33-01372

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Kilman, James

\_\_\_\_\_  
Date

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