

# THE MEWS AT DARLINGTON VALLEY

## AGREEMENT FOR THE SALE OF REAL ESTATE

This Agreement, made this \_\_\_\_\_ day of \_\_\_\_\_ 2000. WITNESSETH, that Fortress Pennsylvania Realty, Inc., agent for the Seller FORTRESS PENNSYLVANIA, LLC, A Delaware Limited Liability Company 2 EF Raymond Drive, Havertown, Pa. 19083 who hereby agrees to sell to \_\_\_\_\_ who hereby agrees to buy premises \_\_\_\_\_ also known as \_\_\_\_\_ for the sum of \_\_\_\_\_ Dollars which shall be paid to Seller by Buyer as follows:

Cash or check at signing of this Agreement (Payable to Fortress Pa. Realty, Inc.)	\$	
Cash or check to be paid on or before _____ (Payable to Fortress Pa. Realty, Inc.)	\$	
Cash or check to be paid on or before _____ (Payable to Fortress Pa. Realty, Inc.)	\$	
Cash or Certified Check at Settlement	\$	
<b>TOTAL</b>	\$	

1. **SETTLEMENT:** It is understood and agreed that the projected date for completion of construction of the subject premises is \_\_\_\_\_ and that settlement shall be made within ten (10) days after written or oral notice by Seller to Buyer that Seller, or his authorized agent, is prepared to make settlement, and, if a mortgage is to be obtained under this Agreement, that the said Mortgage has been approved. The said time for settlement and all other times referred to for the performance of this Agreement, provided, however, that in the event that Seller is delayed in completing construction or settlement for any reason whatsoever, including, by way of illustration and not of limitation, inclement weather, strikes, shortages of materials or labor, or delay in issuance of any requisite permits, Seller may, at Seller's option, extend the time for completion of construction and settlement for a reasonable period of time, and Seller shall not be held responsible for, and is hereby relieved and discharged from all loss, liability and expense by reason of any such delay.

2. **MORTGAGE CONTINGENCY:** This sale and settlement hereunder are **NOT** conditioned or contingent in any manner upon the sale or settlement of any other real estate **NOR** subject to any mortgaging or financing except hereinafter provided.

- A. Terms and amount of mortgage required by Buyer \_\_\_\_\_
- B. Commitment date for approval of Mortgage \_\_\_\_\_
- C. Interest and Type Mortgage \_\_\_\_\_ % \_\_\_\_\_
- D. Mortgage application to be made through the office of \_\_\_\_\_ and if said mortgage cannot be obtained, this Agreement shall be null and void and all deposit monies and interest returned to the Buyer on or before date for settlement as provided herein; subject, however to the provisions in Paragraph E.

E. Buyer shall make a completed application in writing to a responsible mortgage lending institution for the aforementioned mortgage through the office of the agent named in Paragraph D within the ten (10) days from the date of Seller's approval hereof. Should the Buyer fail to make such completed application within the specified ten (10) days, it shall be the option of the Seller, within fifteen (15) days from the approval date herein, to declare this Agreement of Sale null and void at which time all deposit monies paid on account will be forfeited to the Seller as liquidated damages and all copies of this Agreement will be returned to the Seller's agent for cancellation. In the absence of the aforementioned notice to cancel, the condition and contingency herein provided for shall no longer prevail and this Agreement shall remain effective according to its terms in the same manner as if the condition and contingency were not a part hereof. Buyer must furnish to the Seller's agent a written commitment for said mortgage on or before the date as specified in Paragraph C. If the said commitment is not furnished on or before the specified date in Paragraph C, Seller shall have the option at that date or any other time thereafter during the term of this Agreement until, but not beyond, the date of receipt of the written commitment by the Seller's agent, to declare this Agreement null and void by notice in writing to the Buyer of his decision to cancel, at which time all copies hereof shall be returned to Seller's agent for cancellation, all monies paid hereunder by Buyer on account of the purchase price shall be returned to him and all rights and liabilities of the parties hereto shall thereupon cease and determine anything contained herein to the contrary notwithstanding.

3. **TITLE:**

A. The premises are to be conveyed free and clear of all liens, encumbrances and easements, **EXCEPT, HOWEVER**, the following: mortgage encumbrances, as aforementioned, if any; existing building restrictions, ordinances, easement of roads, privileges, or rights of public service companies, if any; agreements or like matters of record or easements or restrictions visible upon the ground, otherwise the title to the above described real estate shall be good and marketable or such as will be insured by a reputable Title Insurance Company at the regular rates.

- B. The Buyer will pay for the following:
- (1) The premiums of mechanics lien insurance and/or title insurance, title search, or fee for cancellation of same, if any;
  - (2) The premiums for flood insurance and/or fire insurance with extended coverage, insurance binder charges or fee for cancellation of same, if any;
  - (3) Appraisal fees and charges paid in advance to mortgage, if any;
  - (4) Buyer's normal settlement costs and accruals.

- C. In the event Seller is unable to give a good and marketable title or such as will be insured by any reputable Title Company, subject as aforesaid, Buyer shall have the option of taking such title as the Seller can give without abatement of price or of being repaid all monies paid by Buyer and held in escrow on account of the purchase price plus interest together with such Title Company charges as Buyer may have incurred, and in the latter event, there shall be no further liability or obligation on either of the parties hereto and this Agreement shall become null and void.
- D. The premium for any special insurance required by Buyer or by any mortgagee against possible mechanics liens shall be paid for by Buyer.
- E. If any surveys are necessary or desired, they shall be secured and paid for by the Buyer.
- F. Seller covenants and represents that no assessments or notice of assessments for public improvements has been made against the premises, which will not be paid in full prior to the time of final settlement. Buyer will be responsible for any payment of assessments or notice of assessments made after the date of this Agreement for any public improvement.
4. **DELIVERY AND POSSESSION:** The Buyer hereby authorizes Fortress Pennsylvania Realty, Inc. to order title insurance and to prepare such papers as may be necessary to complete settlement, and Buyer agrees to pay therefore a reasonable conveyancing and service charge of \$100.00.
5. **APPORTIONMENT:** All apportionable debits and credits including taxes for the current term shall be calculated as levied and prorated as of date of settlement. (School taxes are levied on a fiscal year basis. Township and County taxes are levied on a calendar year basis.) All Real Estate Transfer Taxes imposed by any governmental authority shall be divided equally between Buyer and Seller.
6. **TENDER:** Formal tender of deed and tender of monies are hereby waived.
7. **PAYMENT OF DEPOSIT:** Deposit or hand monies shall be paid to Seller's Agent who shall retain the same in escrow until consummation or termination of this Agreement.
8. **RECORDING:** This Agreement shall not be recorded in the Office for the Recording of Deeds or in any other office or place of public record, and if Buyer shall record this Agreement or cause or permit the same to be recorded, Seller may, at Seller's option, elect to treat such act as a breach of this Agreement.
9. **ASSIGNMENT:** This Agreement shall not be assigned or transferred by the purchaser without the written consent of the Seller being first had and obtained. Subject to the said provisions regarding assignment by the Buyer, this Agreement shall extend to and bind the heirs, executors, administrators, successors and assigns of the respective parties hereto. This Agreement is to be construed and interpreted in accordance with the laws of the Commonwealth of Pennsylvania.
10. **DEFAULT:** Should Buyer fail to make any additional payments as specified in Paragraph 1 or violate or fail to fulfill and perform any of the terms or conditions of this Agreement, then and in that case Seller may:
- A. Retain and/or demand as liquidated damages either
- (1) All deposits and other sums paid by Buyer on account of the purchase price; or
  - (2) Ten (10%) of the purchase price, whichever is greater, in which event Seller shall be released from all liability or obligation and this Agreement shall become null and void; or
  - (3) Retain on account of the purchase price all of said deposits and/or other sums paid by Buyer.
11. **CONSTRUCTION:**
- A. It is understood and agreed, that the property will be completed substantially similar to plans and specifications; provided, however, that Seller is given the option in Seller's sole discretion, to make substitutions in material of substantially equal or better quality whenever Seller shall find it necessary or expedient to do so, and Seller shall have the right to make any change or changes in the construction of improvements that Seller shall find necessary or expedient, in Seller's sole discretion, including but not limited to types, sizes, brands, models or colors of materials, appliances, fixtures or other elements of construction. Seller shall also have the right to make minor modifications of plans or specifications, where, in Seller's sole discretion, such modifications are necessary or expedient.
- B. No furnishings or any items indicated as extras are included in this sale, except as shown on Availability Sheet.
- C. If Seller cannot start or complete construction due to any existing or future rules, regulations or restrictions by Federal, State or municipal governments or agencies, then, in any such event, Seller is hereby given the option to cancel this Agreement upon written notice of cancellation to Buyer, in which event full deposit monies shall be returned to Buyer with interest and this Agreement shall thereupon become cancelled, null and void and Seller shall have no further liability whatsoever to Buyer.
12. **SITE WORK:** It is expressly understood that the grading of the lot and the facing of the house on the lot shall be done in a manner within the sole discretion of the Seller, and that upon the completion thereof all the responsibility of the Seller to the Buyer shall cease.
13. **REPRESENTATIONS:** It is understood and agreed that the contour and grading of the lot, plans and specifications of the said property and/or the sample house thereof, have been inspected by the Buyer's duly authorized agent; that the same is and has been purchased by the Buyer as a result of said inspection and not by any representations made by the Seller or any selling agent or any other agent of the Seller and that the Seller shall not be responsible or liable for any agreement, condition or stipulation not specifically set forth herein, relating to or effecting the said property.
14. **SELECTIONS:** If Buyer desires to make any selection among types, models or colors within scope and price range available, Buyer must do so within ten (10) days after the execution of this Agreement.

**15 BUYER'S ACCEPTANCE:** Possession will be given by deed upon completion of final settlement and full payment of the balance of the money called for under this Agreement, together with all the above charges and, if a mortgage is to be obtained under this Agreement, after final approval of the mortgage. The acceptance of a key or deed or entry into possession of any part of the premises by Buyer is an acceptance by Buyer of entire completion and shall constitute a complete release and discharge of all Seller's obligations and liabilities with respect to construction and completion of said premises or any part thereof. It is hereby understood and agreed that, after settlement is made and/or key is accepted and/or entry into possession or any part of the premises by the Buyer, no further claims or demands of any kind will be made of the Seller, and Buyer hereby releases Seller therefrom, excepting items noted on pre-settlement list and items under warranty.

**16. WARRANTIES:** Subject to the limitations hereinafter set forth, Seller expressly warrants, in lieu of any other warranties, or representations express or implied, that it will correct any material defects in the heating, plumbing, air conditioning, electrical, roofing, or other major structural systems of the house, which Buyer, by due written notice, shall call to Seller's attention within 12 months of settlement, provided that such defects do not result in whole or in material part from work, alterations or other acts performed other than by Seller or Seller's subcontractors, acts of God, or any other causes not attributable to Seller.

It is further understood and agreed that lumber shrinkage, settlement cracks, breaking or cracking of exterior concrete, etc. and the results thereof, are normal occurrences in new home construction and are not an indication of poor workmanship and substandard materials. The repair of such items is maintenance, and the responsibility of the Buyer. Seller is not responsible for damages caused by weather conditions after completion of the house.

Specifically, and without limitation, no warranty is given with respect to:

- A. Any appliances, component equipment, or the like ("equipment") for which the manufacturer thereof issues a separate warranty except as to Seller's workmanship with respect to installation of the equipment);
- B. Imperfections due to shrinkage of lumber such as nail pops, seam ridges, and cracks in drywall; cracks in plaster or stucco; opening of joints in wood trim, stairs or hardwood floors; warping or cracking of doors and cracking or falling away of tile grout;
- C. Imperfections due to settling of the house (unless structural damage occurs) and earth in and around the foundation, such as concrete cracks in slabs and walks, mortar cracks in walls, brick or stone work;
- D. Color variations in fixtures, appliances, tile, brick, mortar, stucco, stain wood items, roofing, siding and paint (exterior and interior).

**17. AGENT:** It is expressly agreed and understood between the parties that Fortress Pennsylvania Realty, Inc. is acting as agent only and will in no case whatsoever be liable to either party for performance of any terms or covenants of this Agreement or for damages for the nonperformance thereof. It is understood and agreed that said agent is the sole moving cause of the sale, and Seller agrees to pay said agent a real estate commission for services rendered.

**18. APPROVAL OF SELLER:** It is understood that this sale is made subject to the written approval of the Seller which must be obtained within ten (10) days, or the amount paid on account hereof will be returned to the Buyer without interest and upon return of the said deposit to the Buyer, this Agreement shall become null and void. Deposit of any check offered shall not create a binding agreement unless such an agreement is approved in writing as provided.

**19. BUYER ACKNOWLEDGES THAT THE PREMISES KNOWN AS *The Mews at Darlington Valley* AND THE DWELLING HOUSES CONVEYED OR TO BE CONVEYED THEREIN, ARE SUBJECT TO THE TERMS OF A DECLARATION OF COVENANTS, RESTRICTIONS, AND EASEMENTS AND THAT HE/SHE HAS RECEIVED CONTEMPORANEOUSLY HERewith A COPY THEREOF. BUYER WAIVES ANY RIGHTS TO OBJECTION TO THE TERMS OF SAID DOCUMENTS AND AGREES TO ACCEPT A DEED UNDER AND SUBJECT TO SAID DECLARATION AND TO BE BOUND BY AND ABIDE BY ALL OF THE TERMS THEREOF, INCLUDING THE OBLIGATION TO PAY ANNUAL AND SPECIAL ASSESSMENTS FOR THE MAINTENANCE AS THEREIN PROVIDED.**

**BUYER PURCHASING A HOME ACKNOWLEDGES THE OBLIGATION TO PAY MONTHLY ASSESSMENTS FOR MAINTENANCE AS THEREIN PROVIDED. IT IS ALSO AGREED AND UNDERSTOOD THAT A WORKING CAPITAL CONTRIBUTION WILL BE PAID AT THE TIME OF SETTLEMENT.**

**20.** It is hereby warranted to Buyer that said building shall be constructed in accordance with the provisions of ACT 222 of December 15, 1980, as amended, and the related rules and regulations contained in the Energy Conservation Act.

**21.** It is hereby agreed and understood that the items set forth in the attached Availability Sheet are included in the sales price.

**22.** Monies held on account for the deposit of the sales price is to be placed in an interest bearing account with the interest to accrue to the Buyer. In the event of default or cancellation, interest accrued on deposit monies will be given to Buyer.

**23.** It is agreed and understood that monies paid to Seller on account of options are not refundable; however, in the event that construction of said options have not been commenced, prepaid monies will be returned to Buyer.

**24.** It is agreed and understood that a Harmony Package with Deed restrictions will be made a part of purchase of a Single Home. Buyer acknowledges that he/she has received a copy of said Declaration of Covenants.

**25.** It is understood and agreed that one window in basement is standard, location of same to be at Builder's discretion.

**26.** It is understood and agreed that foundation will be poured concrete or concrete block, at Builder's discretion.

**27 CANCELLATION:** If this Agreement is cancelled for any reason, then and in that event, Buyer agrees to immediately return all copies hereto to Seller and agrees that affidavit by Seller to the effect that this Agreement has been cancelled shall be primary evidence of the cancellation hereof, and the burden of proof otherwise shall rest upon the Buyer.

**28. ENTIRE AGREEMENT.** This writing contains the entire Agreement between the parties and no agent, representative, sales person, or officer of the parties hereto has authority to make or has made any statement, agreement, representation, or contemporaneous agreement, oral or written, in connection herewith, modifying, adding to or changing, the terms and conditions set forth herein. No dealing between the parties or

custom shall be permitted to contradict, vary or add to the terms thereof. No modification of this Agreement shall be binding unless such modification shall be in writing and signed by the parties hereto.

29. **GLENDAL MORTGAGE CORP. IS THE APPROVED LENDER FOR IACOBUCCI HOMES. QUICK APPLICATION** for a mortgage is to be completed and attached as part of this Agreement of Sale. It is understood and agreed that Buyer is under no obligation to obtain their final Mortgage Commitment through Glendale Mortgage Corp.

IN WITNESS WHEREOF, the said parties have hereunto set their hands and seals the day and year first written above.

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Witness

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BUYER (Seal)

\_\_\_\_\_  
Witness

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BUYER (Seal)

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Seller (Seal)  
FORTRESS PENNSYLVANIA, LLC,  
A DELAWARE LIMITED LIABILITY COMPANY

It is hereby understood and agreed that the Buyer is entitled to receive their choice of one of the "Iacobucci Advantage Financing Programs" offered exclusively through Glendale Mortgage Corp. If the Buyers choose to apply for financing through Glendale Mortgage Corp., these programs are funded by a Seller closing cost assist of 1 point of the Buyer's loan amount.