

Addendum vs. Amendment. What's the Difference?

Meaning of Addendum vs. Amendment. According to Thesaurus.com, synonyms for “addendum” include “addition,” “attachment,” and “supplement.” The same source provides synonyms for “amendment” as “change,” “modification,” and “revision.”

Creation and Purpose of the Amendment. For decades, almost every form within the C.A.R. standard forms library, other than the purchase agreement that was intended to be signed by buyer and seller, was called an “addendum” regardless of when it was introduced into the transaction. These forms include the Extension of Time Addendum, Back-up Offer Addendum, Additional Signature Addendum, Short Sale Addendum, and the Addendum, to name a few. C.A.R. members increasingly experienced a problem: after a binding contract was entered into, when one of the principals signed an addendum expecting the other party to sign, the other side did not do so immediately or at all. The party who signed the addendum could not be sure if the new terms were being agreed to or not, and that created uncertainty. In response, in December of 2017, C.A.R. introduced the Amendment of Existing Agreement Terms (C.A.R. Form AEA).

The AEA was created to minimize the problem. The first line in the form identifies the AEA as a proposal, whose terms are specified in paragraph 1. Paragraph 2 provides that the proposal (like an offer or counter) expires automatically unless accepted by the other party in the specified time, defaulting to 3 days after it is signed. If the receiving party takes no action, then the proposal terminates, and the terms of the contract remain unchanged. With the automatic expiration language in the AEA, the party initiating the request can make a decision on how to proceed without waiting indefinitely for a response from the other principal.

When to Use an Addendum vs. an Amendment. In most cases, an addendum is intended to be attached to an offer or other document (it supplements the other document's terms). It is especially useful if there is not enough room to write in all of the terms to be added to the offer or other document. With the advent of the text overflow function in zipForm® there is less need to attach a general addendum to supplement an offer or other document. An addendum is an open-ended offer that can be accepted any time prior to its written withdrawal. By contrast, an amendment is intended to be used after a contract has already been created and one party suggests a modification of the binding agreement. The AEA is a proposal and expires if not accepted.

Specific Form Examples:

Request for Repairs (C.A.R. Form RR). The RR is issued after an offer has been accepted, typically during the buyer's investigation period. Since it comes after an agreement, it is more like an amendment than an addendum. In December 2021, expiration language was added to the RR so that if the seller does not respond in time the RR expires, having the effect of letting the buyer know that the requests have been rejected.

Extension of Time Addendum (C.A.R. Form ETA). The ETA has preprinted language to extend escrow or give a buyer more time to remove contingencies. Since it is issued after a contract, and if agreed to it changes the contract, it operates like an amendment but there is no expiration period in the form. This form has existed for many years and is often issued after buyer and seller have verbally agreed to the stated terms and a quick response is commonplace. But if the recipient does not sign quickly, the sender should consider withdrawing it in writing and making a proposal on the AEA. In December of 2022, the ETA is scheduled to become an amendment with an expiration date, just like the AEA.