ADDENDUM TO PURCHASE AND SALE AGREEMENT AND LIMITED WARRANTY AGREEMENT

This Addendum ("Addendum" or "Limited Warranty Agreement") is made part of and incorporated into the Purchase and Sale Agreement ("Agreement") dated _____, between **John Brown Properties, LLC** ("Seller") and _____ ("Buyer") for the property located at _____ ("Property").

1. The Seller is not a contractor and is not subject to the Maine Home Construction Contract Act.

Buyer is purchasing the Property with a new house and improvements that are under construction for the Seller, commonly known as a "Spec House" (hereafter the "Home"). **Buyer acknowledges that Seller is not a contractor hired by the Buyer.** The parties acknowledge that the Agreement and this Addendum do not constitute a "Home Construction Contract" governed by the Home Construction Contract Act, 10 M.R.S. §§ 1486 – 1490 ("Act"). This is because Buyer will only become the owner of the Property and the Home after the closing of the Purchase and Sale Agreement between the Buyer and Seller. **To the extent that the Act applies, the Buyer and Seller mutually agree to exempt themselves from the Act.**

2. Limited One-Year Limited Warranty.

The Seller expressly warrants to the original Buyer that the Home will be free from material defects in materials and workmanship for a period of **ONE (1) YEAR** from the date of closing of the Purchase and Sale Agreement, subject to the exceptions and exclusions set forth herein. This warranty is non-transferable.

3. Appliances.

All appliances which are conveyed with the Home to the Buyer e.g. (dishwasher, refrigerator, range, microwave, washer/dryer) are sold **AS IS, WHERE IS and WITH ALL FAULTS.** To the extent transferable, Seller will transfer all express and implied warranties which it was provided by its vendor and the manufacturer to Buyer. To the extent that there are appliances conveyed with the Home, Buyer acknowledges having inspected the appliances and accepts their condition.

SELLER DISCLAIMS ALL IMPLIED WARRANTIES FOR APPLIANCES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTY OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

4. Seller's Obligations.

If a covered defect occurs during the one-year warranty period, the Seller agrees to repair, replace, or pay the Buyer the reasonable cost of repairing or replacing the defective item. The

Seller's total liability under this warranty is limited to the tax-assessed value of the Home. The choice among repair, replacement, or payment is the Seller's. Seller may replace an item with a reasonably comparable item and is not required to provide the same make/model. Any corrective action by Seller shall not extend the warranty term. All repairs by the Seller shall be at no charge to the Buyer and shall be performed within a reasonable length of time, defined as 30 days from the date on any warranty work order issued by the Seller unless other scheduling is arranged with the Buyer.

5. Buyer's Obligations.

Buyer must provide normal maintenance and proper care of the Home according to this warranty, the warranties of manufacturers of consumer products, and generally accepted standards in the State of Maine. The Seller must be notified in writing, by the Buyer, of the existence of any defect before the Seller is responsible for the correction of that defect. Written notice of a defect must be received by the Seller prior to the expiration of the warranty on that defect and no action at law or in equity may be brought by the Buyer against the Seller for failure to remedy or repair any defect about which the Seller has not received timely notice in writing. The Seller must provide the Seller with access to the Home during normal business hours, Monday through Friday, 8:00 a.m. to 5:00 p.m., to inspect the defect reported and, if necessary, to take corrective action.

Notice to Seller MUST be sent via Certified Mail, Return Receipt Requested to the following address so that it is received before the expiration of the warranty.

John Brown Properties, LLC
Attn: Skip Stanley
60 Depot St.
Buckfield, ME 04220

Only written notice delivered as specified herein shall be deemed effective

6. Insurance.

In the event the Seller repairs or replaces or pays the cost of repairing or replacing any defect covered by this warranty for which the Buyer is covered by insurance or a warranty provided by another party, Buyer must, upon request of the Seller, assign the proceeds of such insurance or other warranty to the Seller to the extent of the cost to the Seller of such repair or replacement.

7. Other Exclusions.

The following additional items are excluded from this limited warranty:

a. Defects in any item that was not part of the Home when purchased by the Buyer.

b. Any defect caused by or worsened by negligence, improper maintenance, lack of maintenance, improper action or inaction, or willful or malicious acts by any party other than the Seller, its employees, agents, or trade contractors.

c. Normal wear and tear of the Home.

d. This warranty is extended only to the Buyer, and are not extended to any subsequent purchaser, tenant, or mortgage lender who takes possession of the Home.

e. This warranty shall be void if the Buyer, a Tenant, or an occupant of the Home misuses, abuses, or otherwise interferes with the original construction or installations of the Home.

f. The Seller is not responsible for any work or material ordered directly by the Buyer from the Seller's contractors or suppliers or outside suppliers or contractors.

g. Loss or damage caused by acts of God, including but not limited to fire, explosion, smoke, water escape, changes that are not reasonably foreseeable in the level of underground water table, glass breakage, windstorm, hail, lightning, falling trees, aircraft, vehicles, flood, and earthquakes.

h. Any defect or damage caused by changes in the grading or drainage patterns or by excessive watering of the ground of the Buyer’s property or adjacent property by any party other than the Seller, its employees, agents, or trade contractors.

i. Any loss or damage that arises while the Home is being used primarily for nonresidential purposes.

j. Any damage to the extent it is caused or made worse by the failure of anyone other than the Seller or its employees, agents, or trade contractors to comply with the requirements of this warranty or the requirements of warranties of manufacturers of appliances, equipment, or fixtures.

k. Any defect or damage that is covered by a manufacturer’s warranty under paragraph 3 of this Limited Warranty.

l. Failure of Buyer to take timely action to minimize loss or damage or failure of Buyer to give the Seller timely notice of the defect.

m. Insect or animal damage.

n. In no event shall the Seller be responsible for:

- the partial or total death of any grass, sod, seed, trees, shrubs, bushes, or other landscape improvements;
- damage to walkways or other concrete areas caused by the application of salt or de-icers;

- nail pops, raised butt joints, ridging, normal lumber shrinkage, normal settlement or any consequential damage resulting therefrom;
- normal plumbing and heating noises;
- carpet stretching;
- normal settlement cracks on concrete foundations, patios, decks, terraces, sidewalks and other flat work;
- basement leaks resulting from acts of God or alteration of landscaping or grading;
- leakage resulting from "ice dams" forming on roofs;
- spalling or flaking of concrete surfaces if ice melting compounds have been used;
- scuffing on kitchen cabinet or vanity surfaces;
- variations of wood grain or staining of kitchen cabinets or vanities;
- minor chips (nicks to Formica tops, cultured marble floors, tops, tubs, showers, tiles, edges and surfaces;
- shading variations of the exterior siding staining on the face of surface or grooves);
- shading variations on fascia from staining; doors and windows sticking because of weather;
- door warpage less than ¼ inch;
- adjustment of bi-fold doors;
- bath tile grouting;
- slight separation in joints of flooring;
- slight separation between base and floor in all rooms (including bathrooms);
- repair of chips, scratches, marks, breaks or other blemishes in windows, sliding doors, screens, electric fixtures and globes, painted surfaces, sinks, tubs, basins, kitchen cabinets and counter tops, vanity tops and cabinets, medicine cabinets, ceramic tile, saddles, resilient flooring, appliances, woodwork and doors.
- Subsequent to the conveyance of title to the Home, Seller shall not be responsible for paint touchups, repair of dented appliances or cabinetry, porcelain or Formica chips and scratches in tubs, vanities or countertops, broken windows or screens.

o. **THIS LIMITED WARRANTY IS SPECIFICALLY IN LIEU OF ANY OTHER GUARANTEE OR WARRANTY, EXPRESS OR IMPLIED INCLUDING ANY WARRANTY OF MERCHANTABILITY, HABITABILITY OR WORKMANLIKE CONSTRUCTION. ALL IMPLIED WARRANTIES ARE DISCLAIMED.**

8. **Governing Law.**

This Addendum and the Agreement shall be governed by and construed in accordance with the laws of the State of Maine, without regard to its conflict of laws principles.

9. Force Majeure

Seller shall not be liable or responsible for any failure or delay in performing any obligation under this Limited Warranty when such failure or delay is caused by events beyond the reasonable control of Seller, including but not limited to acts of God, fire, flood, earthquake, storm, hurricane, pandemic, epidemic, war, terrorism, civil unrest, labor disputes, governmental actions, lack of availability of contractors, or any other similar event that makes performance impracticable or impossible. Seller shall use commercially reasonable efforts to resume performance as soon as practicable.

10. **Dispute Resolution.**

The parties agree that any dispute, claim, or controversy arising out of or relating to this Addendum shall first be submitted to mediation administered by a mutually agreed mediator in Cumberland County, Maine. If the dispute is not resolved through mediation within thirty (30) days, the parties agree to submit the matter to binding arbitration in accordance with the rules of the American Arbitration Association (AAA) or another mutually agreed arbitration service. Arbitration shall be final and binding, and judgment may be entered in any court of competent jurisdiction. The parties shall each pay ½ of the mediation and arbitrator's costs and will bear their own attorneys' fees.

11. Limitation of Damages.

Buyer and Seller agree that in any dispute arising under this Addendum or the Agreement, neither party shall be liable for any consequential, punitive, or exemplary damages, and recovery shall be limited to actual damages proven.

12. Jury Trial Waiver.

Buyer and Seller knowingly, voluntarily, and irrevocably waive any right to a trial by jury in any action, proceeding, or counterclaim arising out of or relating to this Addendum or the Agreement.

13. Severability

If any provision of this Addendum is held invalid, the remaining provisions shall remain in full force and effect.

14. <u>Entire Agreement.</u>

This Addendum modifies and supplements the Agreement. Except as expressly modified herein, all other terms and conditions of the Agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands.

John Brown Properties, LLC

Dated: _____ By: _____
Seller:

Dated: _____ By: _____
Buyer: