

BUILDER'S LIMITED WARRANTY

BUYER:

Phone: _____
Email: _____

BUYER:

Phone: _____
Email: _____

SELLER:

Heron Properties LLC

Phone: _____
Email: _____

PROPERTY:

Community Judkins Grove

Unit/Lot/Parcel _____

Address _____

Tax Parcel: _____

RESIDENCE:

MLS Listing No. _____

Elevation _____ Garages: _____

1. INTRODUCTION

- 1.1. **General.** For valuable consideration, Seller hereby makes the following warranties to Buyer covering the Residence and Property identified above, subject to the limitations stated herein. The following is intended to ensure that Buyer has a clear understanding of this Builder's Limited Warranty, its coverage, and the procedure for requesting warranty service. This Builder's Limited Warranty specifies limits for responsibility, and conditions under which it is valid or applicable. This is NOT an insurance policy, a maintenance agreement, or a service contract. It is an explanation of what Buyer can expect from this Builder's Limited Warranty.
- 1.2. **Representations.** Seller's employees, salespersons, subcontractors, vendors, and all other agents are not authorized to make any warranty or representation other than this one, nor can they extend or in any way alter this Builder's Limited Warranty. Please note that any item or representation not put in writing before the close of escrow will not be honored by Seller. Any specific representation or promise made must be in writing in the Purchase and Sale Agreement.
- 1.3. **Manufacturer Warranties.** As the sole and exclusive warranty and in lieu of all other express or implied warranties on all appliances, fixtures, equipment, and furnishings installed within the Residence or Property, Seller hereby assigns and passes through to Buyer the manufacturer warranties for same, including without limitation the commencement, termination, and extent of warranty. Seller provides no additional warranty, express or implied, for any such appliances, fixtures, equipment, and furnishings. Buyer has rights under these warranties, which flow directly from the manufacturer to Buyer.
- 1.4. **Parties to Warranty and Warranty Scope.** This Builder's Limited Warranty consists of a number of warranties on specific parts of the Residence and specifies how long the Builder's Limited Warranty remains in effect for which parts of the Residence, as well as who has responsibility for making a warranty claim, and how warranty claims are to be made. This Builder's Limited Warranty extends only to the original Buyer and shall not apply to any transferees or assigns.

2. REPRESENTATIONS, OBLIGATIONS, AND LIMITED WARRANTY

- 2.1. **Governmental Regulations.** Seller represents and warrants that the Property and Residence described in the Purchase and Sale Agreement has been constructed in substantial conformance with all then-existing applicable local, state, and/or federal governmental regulations. Seller warrants that it will return to the Property at Seller's sole expense to repair (or replace, as necessary) any work that does not comply with the requirements of this Builder's Limited Warranty or the Purchase and Sale Agreement. Seller, in its sole discretion, may hire another contractor to repair or replace any work that does not comply with this Builder's Limited Warranty or the Purchase and Sale Agreement.
- 2.2. **Limited Warranty Period.** This Builder's Limited Warranty expires one (1) year from: (A) the date of closing; or (B) the date that Buyer takes actual occupancy of the Residence and Property, whichever occurs first (the "Warranty Period"). Any warranty claim of Buyer shall accrue only during the Warranty Period. The Warranty Period may not be lengthened by lack of discovery of a defect. Any warranty claim must be in writing, sent by certified mail to Seller, and received during the Warranty Period, or such claim is waived. Any warranty claim or any other cause of action arising from Seller's performance under the Purchase and Sale Agreement, including this Builder's Limited Warranty, must be filed prior to the expiration of the Warranty Period. Any unresolved, unasserted, or undiscovered claims or causes of action, including claims for intentional torts and/or statutory violations, shall be waived and released unless pursued prior to expiration of the Warranty Period. Any claim asserted under this Builder's Limited Warranty is expressly limited to claim(s) made in writing and sent to Seller during the Warranty Period as specified above. Warranty work performed by Seller does not extend the Warranty Period. If anyone other than Seller or Seller's agent performs any obligation covered by this Builder's Limited Warranty, then Seller shall be relieved of its obligations hereunder and Buyer shall be deemed to have waived the benefits of this Builder's Limited Warranty.
- 2.3. **Warranted Items.** Subject to the provisions of this Builder's Limited Warranty, Seller warrants during the Warranty Period that the Residence is suitable for the ordinary use of real estate of its type and that the improvements to the Property and the Residence will be free from defects in workmanship or materials used in the construction of the Residence as more fully described below:
- 2.3.1. Structural Components. Seller warrants that it will correct structural defects within the Residence that are caused by defective workmanship or materials that result in actual damage to the Residence such that it is not safe, habitable, and/or fit for the purpose for which it was constructed.
- 2.3.2. Roofs. Seller warrants that the roof, roof flashing, gutters, and downspouts on the Residence will be free from leaks during the Warranty Period except where such defects are caused by damage or negligence by others and acts or natural disasters beyond Seller's control. This Builder's Limited Warranty is void in the event Buyer or Buyer's agents attach any superstructure or appurtenance to the roof or on the roof or rooftop deck surfaces. Rooftop decks (if any) are designed to support everyday outdoor furniture and occupants only.
- 2.3.3. Plumbing. Seller warrants the plumbing system within the Residence to be free from defective workmanship or materials during the Warranty Period except where a failure in the system is caused by improper use or alteration by Buyer or Buyer's agents. The water heater is not covered by this Builder's Limited Warranty; it is covered by the manufacturer's warranty, a copy of which has been furnished to Buyer.

- 2.3.4. Electrical System. Seller warrants the electrical system within the Residence, excluding light bulbs, to be free from defective workmanship or materials during the Warranty Period except where a failure in the system is caused by improper use or alteration by Buyer or Buyer's agents.
- 2.3.5. Heating and Air Conditioning. Seller warrants the heating and air conditioning systems if the Residence is in its original condition during the Warranty Period as follows: The system has been installed in accordance with standard heating and/or air conditioning system practices. This Builder's Limited Warranty does not include the system or any of its parts that become defective through faulty operation, lack of routine maintenance, or alteration by Buyer or Buyer's agents. It shall be Buyer's responsibility to cause the performance of all maintenance functions, such as annual inspection, lubrication, replacement of filters, etc. as explained in the instructions supplied by the equipment manufacturer. The heating and air conditioning units themselves are not covered by this Builder's Limited Warranty; they are covered by the manufacturer's warranty, a copy of which has been furnished to Buyer.
- 2.3.6. Grading. Grading for the Property has been carefully engineered to standards that have been established by local governmental agencies to ensure proper storm and irrigation drainage. Failure to maintain the established grading and drainage can result in damage to the Residence, the Property, and to neighboring property. Any alteration of the drainage plan for the Property voids the Builder's Limited Warranty for all affected appurtenances. Standing or ponding water shall not remain for extended periods in the area after a storm (generally not more than 24 hours), except in swales that provide drainage for certain areas. In areas where bioswales, sump pumps, or storm drains discharge, a longer period of standing water can be anticipated (generally no longer than 48 hours). The possibility of standing water after an unusually heavy rainfall should be anticipated. No grading determination shall be made while the ground is saturated. Seller is responsible only for initially establishing the proper grades and swales. Buyer is responsible for maintaining such grades and swales. Buyer is responsible for keeping area drains free from leaves and other debris.
- 2.3.7. Concrete Masonry and Stucco. Seller warrants that all concrete, stucco, fiber cement board siding, brick, stone, and other masonry shall be free from structural defects during the Warranty Period. Garage slabs, walkways, driveway, steps, and other masonry will develop cracks or flaking due to the characteristics of expansion and contraction as the temperature changes. It will be Seller's responsibility to repair only those cracks that are of such magnitude so as to substantially interrupt the plane of the surface or significantly reduce its structural value.
- 2.4. **Non-Warranted Items**. Except as otherwise provided herein, this Builder's Limited Warranty does not cover any of the following:
- 2.4.1. Settling and Drying. Minor cracks and nail pops or sticking doors when caused by normal settlement, expansion, and contraction of materials that may occur in the drywall except those cracks which occur within 60 days of the close of escrow and are reported to Seller in writing.
- 2.4.2. Wood Color Variations. Stained woods used in cabinets, siding, paneling, ceilings, doors, windows, and other such millwork will exhibit variations in wood grain and color. These are inherent characteristics that cannot be controlled, are not considered defects, and are excluded from this Builder's Limited Warranty.

- 2.4.3. Smart Home Features. Smart home features, including but not limited to, doorbells, security systems, lighting, climate control are not covered by this Builder's Limited Warranty; they are covered by the manufacturer's warranty, a copy of which has been furnished to Buyer. Builder is not responsible for connection of any smart home features to Wi-Fi or the internet.
- 2.4.4. Bathroom Grab Bars. All bathroom grab bars/handrails requested by Buyer are specifically and expressly excluded from this Builder's Limited Warranty. Buyer understands and acknowledges that no backing was installed to support these grab bars/handrails.
- 2.4.5. Cosmetic Defects. This Limited Builder's Warranty does not apply to cosmetic blemishes not identified at the time of Homeowner Orientation, such as carpet spots, chips, scratches, or marks in the following: tile, woodwork, walls, porcelain, plastic laminate, resilient floor, hardwood floor, brick, mirrors, plumbing fixtures, or glass.
- 2.4.6. Drainage/Landscaping. Buyer must notify Seller of any dead or dying plants or any landscaping defects at the time of the Homeowner Orientation walkthrough. Except for any corrections undertaken as a consequence of the Homeowner Orientation walkthrough, Seller specifically and unconditionally disclaims all express or implied warranties with regard to all aspects of the Residence's landscaping. These include, but are not limited to: the irrigation system, yard drainage system, structural or non-structural fill, rockeries, lawn, sod, topsoil, trees, shrubs, natural vegetation, native trees, other plantings, and the suitability or adequacy of installation or planting. Minor erosion of the yard areas can be expected and are Buyer's responsibility to correct. Ground settlement around the foundation in utility trenches and other backfilled areas is warranted if in excess of 4 inches depth. Subterranean water or any resulting damage is not warranted.
- 2.4.7. Wear and Tear. This Builder's Limited Warranty does not apply to defects caused by normal wear and tear.
- 2.4.8. Hose Bibs/Connections and Clogged or Frozen Pipes. This Builder's Limited Warranty does not apply to defects by caused outside hose bibs and other hose connections or by clogged or frozen pipes.
- 2.4.9. Noise. This Builder's Limited Warranty does not cover sound transmission and soundproofing between rooms or floor levels, or ambient noise from outside the Residence.
- 2.4.10. Natural Disasters. This Builder's Limited Warranty does not apply to defects resulting from acts or natural disasters beyond Seller's control, including but not limited to flooding, earthquakes, and fire.
- 2.4.11. Animals/Pests. This Builder's Limited Warranty does not apply to damage or loss caused by animals or birds, or by pests or insects.
- 2.4.12. Furnishings. This Builder's Limited Warranty does not apply to damage caused by the weight and performance of any type of mechanical bed, waterbed, or any other furnishing.
- 2.4.13. Non-Original Components. This Builder's Limited Warranty shall not extend to defects in or caused by anything not built into or installed in the Residence by Seller, its employees, or agents.

2.4.14. Correction of Defects Does Not Extend Builder's Limited Warranty. No steps taken by Seller, its employees, or agents to correct defects shall act to extend the term of the Builder's Limited Warranty beyond the Warranty Period.

2.4.15. General Exclusions.

- a. This Builder's Limited Warranty shall only apply to the original structure of the Residence and shall be void to the extent any structural component of the Residence is repaired, constructed, or altered by anyone other than Seller, its employees, or agents.
- b. This Builder's Limited Warranty shall not apply to any modifications made by Buyer or Buyer's agents or assigns to the Residence or the Property after the Closing Date.
- c. This Builder's Limited Warranty shall not apply to any damage or defect caused by Buyer's improper use, operation, ownership, or maintenance of the Residence or the Property after the Closing Date.
- d. This Builder's Limited Warranty shall be void with regard to any defects occurring in the Residence resulting from Buyer's use of the Residence for any purpose other than as a single-family residence.

2.4.16. Buyer Negligence. This Builder's Limited Warranty shall be void with regard to defects resulting from Buyer's negligence or Buyer's agents' negligence, or their failure to keep and maintain the Residence in good repair and condition at all times during the Warranty Period, or Buyer's failure to comply with manufacturer warranty requirements. This includes dampness, condensation, and mildew due to Buyer's failure to maintain adequate ventilation.

3. **BUYER'S OBLIGATIONS.** Buyer agrees that during the Warranty Period, Buyer will:

- 3.1. Engage in a reasonable maintenance and repair program in and around the Residence.
- 3.2. Comply in all respects with the requirements set forth in the manufacturers' warranties for all appliances, fixtures, equipment, and other manufactured items within the Residence and Property.
- 3.3. Notify Seller in writing immediately after the discovery of any defect that Buyer believes is covered by this Builder's Limited Warranty; and grant Seller such reasonable easements and rights of access necessary to correct or replace any defect covered by the Builder's Limited Warranty. After correction, Buyer agrees to sign off that the work has been performed.

4. **HOW TO MAKE A CLAIM**

- 4.1. Notice of Claim. Buyer must promptly notify Seller in writing by certified mail prior to the expiration of the Warranty Period regarding any item in need of repair to which this Builder's Limited Warranty applies. Except for emergency repairs, all warranty claims must be submitted in writing in a single request prior to expiration of the one-year Warranty Period. The notice shall include a detailed description of the defect, the section of the Builder's Limited Warranty on which the claim is based, and Buyer's contact information. Prior to the expiration of the Warranty Period, Buyer shall submit warranty claims to:

Name:
Company Name:
Address:

- 4.2. Acceptance of Claim Repairs. When Seller receives Buyer's written notice of a request for warranty repairs, Seller will promptly review and determine if the defect is covered by this Builder's Limited Warranty. An inspection visit to the Property/Residence may be necessary to decide if the claim is within the specifications of the Builder's Limited Warranty. If the claim is valid, Seller will, at Seller's sole discretion, replace or repair or reimburse Buyer for the item. Seller's responsibility is limited to correcting and restoring the Residence as closely as reasonably possible to its condition prior to the defect. If Seller pays Buyer the cost of repairing or replacing a defect, then Seller's form of full release of all legal obligations with respect to the defect must be signed and delivered to Seller by Buyer.
- 4.3. Completion of Repairs. Buyer must provide access to the Property and the Residence during normal business hours for completion of the repairs. Seller's repair will restore damaged components original to the Property or Residence to a condition approximating the condition just prior to the defect, but not necessarily to a like-new condition. Seller shall have complete discretion as to the method and manner for repairing or replacing any defect, provided that such method and manner shall conform to the warranty coverage of this Builder's Limited Warranty. The work will be performed by Seller or by a subcontractor of Seller's choice. Seller shall have the option of selecting the materials and methods to be used in correcting any defects.
5. **CONSEQUENTIAL DAMAGES.** Seller and Buyer each waive the right to recover consequential damages from the other. Buyer waives all consequential damages including, but not limited to, damage to improvements on the Property or within the Residence that is caused by a warranted defect but is not itself a warranted defect; costs of shelter, transportation, food, moving, storage, or other incidental expenses related to relocation during repairs; bodily or personal injury of any kind (including physical or mental pain and suffering and emotional distress); medical, hospital, rehabilitation, or other incidental or consequential expenses; damage to personal property; or damage to any property of others.
6. **DISPUTE RESOLUTION.**
- 6.1. **Procedure.** If a dispute should arise between the parties that relates to, arises out of, or concerns this Limited Builder's Warranty, the parties shall promptly meet and attempt in good faith to resolve the dispute. Openness, civility, and good faith are required of both parties. If the parties are unable to resolve the dispute amicably within 14 days of one party providing the other party notice of such a dispute, then the parties agree that such dispute shall be submitted to binding and final arbitration before Judicial Dispute Resolution, LLC (www.jdrllc.com) or equivalent firm to which the parties mutually agree (the "Arbitrator"). The parties, in any such arbitration, shall be bound by the Arbitrator's rules.
- 6.2. **Attorney Fees and Costs.** In any claim or arbitration pursued hereunder, the substantially prevailing party shall be awarded its/his/her attorney fees and costs by the substantially non-prevailing party.
- 6.3. **Time Limit to File Claims.** All claims by Buyer concerning the performance of this Builder's Limited Warranty and the sale of the Residence, including but not limited to claims for breach of contract, breach of warranty, tort (such as misrepresentation or fraud), and indemnification, are WAIVED unless filed prior to expiration of the Warranty Period.

- 6.4. **Notice per RCW 64.50.** Chapter 64.50 RCW contains important requirements you must follow before you may file a lawsuit for defective construction against the seller or builder of your Residence. Forty-five days before you file lawsuit claim, you must deliver to the seller or builder a written notice of any construction conditions you allege are defective and provide your seller or builder the opportunity to make an offer to repair or pay for the defects. You are not obligated to accept any offer made by the builder or seller. There are strict deadlines and procedures under State Law, and failure to follow them may affect your ability to file a claim.
- 6.5. **No Assignment.** This Limited Builder's Warranty and the purchase and sale agreement to which it relates may not be assigned or transferred by either party to any other person or company without the express written and signed consent of the other party. This prohibition of assignment applies not only to the assignment of rights to compel performance but also to the assignment of any claim or cause of action, including but not limited to claims for breach of contract, breach of warranty, tort, and indemnification.
- 6.6. **Governing Law.** This Builder's Limited Warranty is to be governed by and construed in accordance with the laws of the state of Washington.
- 6.7. **Venue.** All disputes, actions, arbitrations, claims or controversies shall be resolved in Seattle, King County, Washington.

7. MISCELLANEOUS

- 7.1. **Nonmerger.** Buyer and Seller agree that all terms and conditions of this Limited Builder's Warranty survive the closing of Buyer's purchase of the Property, and the obligations and terms herein do not merge into the deed conveyed to the Buyer.
- 7.2. **Captions.** Captions and headings are for reference purposes only, and not for purposes of interpreting the provisions of this Builder's Limited Warranty.
- 7.3. **Amendments.** The terms, conditions, provisions, and scope of the coverage of this Limited Warranty, and the rights, duties, and obligations of the parties, can be changed only by a written document mutually executed and accepted by Seller and Buyer.
- 7.4. **Severability.** Should any provision of this Builder's Limited Warranty be deemed unenforceable by a court of competent jurisdiction, that determination will not affect the enforceability of the remaining provisions. Without limiting the generality of the foregoing, should it be legally determined that the period during which a proceeding for breach of any warranty obligation may be commenced is longer than the period provided hereunder, then all other provisions hereof shall continue in full force and effect.
- 7.5. **Conflict.** In the event of a conflict or inconsistency between this Limited Builder's Warranty and the purchase and sale agreement, the terms of this Limited Builder's Warranty shall take precedence.

By placing their signatures below in the spaces provided, each party affirms that it has carefully reviewed each provision of this Builder's Limited Warranty.

BUYER

BUYER

Signature

Date

Signature

Date

SELLER

Signature

Date

By _____

Printed Name

Its _____

Title

BUILDER'S LIMITED WARRANTY REQUEST FORM

All warranty requests must be submitted in writing. Verbal requests will not be accepted, except in cases of extreme emergency. General maintenance and upkeep items are the homeowner's responsibility and will not be considered warranty items. Refer to your Builder's Limited Warranty, which was part of your purchase and sale agreement, for clarification of what is covered by warranty. All requests must be submitted prior to expiration of the Warranty Period as defined in the Builder's Limited Warranty. Submit warranty requests to: _____.

Homeowner Name(s): _____

Community Name: _____ Lot/Unit/Parcel: _____ Closing Date: _____

Address: _____

Phone: _____ Email Address: _____

Appointment Preferences:

Best Days ☐ Monday ☐ Tuesday ☐ Wednesday ☐ Thursday ☐ Friday

Best Times ☐ 8:30 am – 12:00 noon ☐ 12:00 noon – 4:30 pm ☐ First Available

	Date Noted	Location and Description (please be as specific as possible)
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