

# WILLIAM BUCHAN HOMES, INC. LIMITED WARRANTY

This Limited Warranty sets forth the specific terms, Conditions and limitations of the limited warranty obligations of William Buchan Homes, Inc. (“Buchan”) with regard to the workmanship and material incorporated into the home (the “Homes”) that has been constructed by Buchan on the real property commonly know as: \_\_\_\_\_ in the City of \_\_\_\_\_, Washington (the “Property”). The Limited of Buchan is as follows:

## ARTICLE I LIMITED WARRANTY

1.1 Warranty Terms. Subject to, and limited by the exclusions, the disclaimers and the limitations set forth in this Limited Warranty, Buchan warrants for the benefit of the initial purchasers of the Home (the “Homeowners”) that the workmanship and materials incorporated into the Home shall be free from material defects (“Defects”) (as defined herein) fro a period of one (1) year from the earlier of (i) the date of the closing of the purchase of the Homes by the Homeowners, or (ii) the date the Homeowners begin occupying the Home, whichever is earliest (the “Warranty Term”). Actions taken by Buchan to correct or remedy Defects in the Home shall not act to extend the duration of the Warranty Term. This Limited Warranty is NOT and insurance policy, a maintenance agreement or s service contract.

1.2 Remedies of Defects. Buchan’s liability pursuant to this Limited Warranty shall be limited solely to the remedies set forth in this document. In the exercise of its discretion, Buchan may either: (i) repair or re-accomplish the workmanship or repair or replace material containing Defects, including any damage incurred in the direct course of correcting or curing the Defects, or (ii) pay to the Homeowners a sum equal to the reasonable cost that Buchan would have incurred to repair or re-accomplish the workmanship or to repair or replace the material containing Defects, including any damage incurred in the direct course of correcting or curing the Defects. In either event, Buchan shall be deemed to have cured and correct6ed the Defects and the Homeowners shall have no other or further claim against Buchan, its officers, directors, shareholders, employees or associated parties or entitles.

1.3 Assignment. This Limited Warranty is for the exclusive benefit of the Homeowners and is not transferable or assignable in the event that the Home is transferred or conveyed. Buchan expressly disclaims the extension of this Limited Warranty or any other warranty, express or implied, to any subsequent owner of the Home, any occupant thereof or any other person or entity claim in any legal or equitable interest in the Home or the Property.

1.4 Definition of Defect. For purposes of this Limited Warranty, a “Defect” shall be exclusively defined to mean that an aspect of the workmanship and /or the materials of the Home materially fails to comply with building, plumbing, electrical or other codes adopted by the governing municipality applicable to the Homes at the time of construction. Buchan shall not be obligated to remedy or repair workmanship or remedy or replace any materials which contain or exhibit any deficiencies, inadequacies or failures that are not strictly within the definition of Defects set forth in this Section 1.4.

## **ARTICLE II. EXCLUSIONS FROM LIMITED WARRANTY.**

2.1 Acts or Omissions. This Limited Warranty shall not extend to, and Buchan shall not be liable for any loss or damage which directly or indirectly results from, is caused by, or is associated with: (i) any defects, deficiencies, inadequacies or failures caused by or resulting from the negligent acts or omissions by the Homeowners, their agents or third parties over whom Buchan has no control, (ii) any aspect or result of work, alteration, repair or modification by the Homeowners, their contractors or agents, or the results thereof, (iii) defective or deficient performance, malpractice, errors or omissions by the persons preparing the survey, staking the lot lines of the Property, conducting any geo-technical studies of the Property, or preparing the plans for the Home, (iv) the Homeowners' faulty operation, improper use or alteration of any aspect of the Home, the Property or any associated improvement; (v) the Homeowners' failure to perform or delay in the performance of, reasonable or necessary maintenance, upkeep or repair to the Home, the Property or any associated improvement; (vi) infestation by birds, pests or insects; (vii) defects, deficiencies, inadequacies or failures in, or those resulting from, or caused by anything not constructed, installed, provided, placed or built into the Home by Buchan, its employees, subcontractors or agents, (viii) the Homeowners' improper usage, failure to maintain and/or failure to prevent damage to any aspect of the Home, the Property or any associated improvement, (ix) damage of any nature directly or indirectly resulting from or caused by the Homeowners moving into the Home and/or the installation of the Homeowners' property, appliances or fixtures in the Home; and (x) carpet spots, chips, scratches or mars in tile, woodwork, walls, ceilings, doors, windows, porcelain, glass, flooring surfaces, counter surfaces, brick, mirrors, plumbing fixtures and finished surfaces not identified and disclosed to Buchan in writing prior to the Homeowners' occupancy of the Home.

2.2 Matters Beyond Buchan's Control. This Limited Warranty shall not extend to, and Buchan shall not be liable for any loss or damage which directly or indirectly results from, is caused by, or is associated with any events, circumstances or occurrences which are beyond the reasonable control of Buchan including, but not limited to: (i) natural events or disasters, including but not limited to weather, windstorm, lightning, hail, flood, mudslide, earthquake, melting snow or ice, wind driven water, fire, (ii) changes in the underground water table, and other natural occurrences, (iii) acts of nature, acts of God, (iv) accidents, (v) misuse, abuse or negligence by the Homeowners or any third party over whom Buchan has no control, (vi) freezing temperatures, and (vii) falling objects, falling trees or limbs, insects, water escape.

2.3 Ponding and Other Property Conditions. This Limited Warranty shall not extend to, and Buchan shall not be liable for any loss or damage which results from, is caused by, or is associated with any ponding, sliding, subsidence, slumping, cracking, erosion or other natural or manmade conditions affecting the Property or the stability thereof.

2.4 Response to Environmental Conditions. This Limited Warranty shall not extend to, and Buchan shall not be liable for any loss or damage which arise from any

personal reaction or response by any member of the Homeowners or occupant of the Home to dampness, mold, mildew or any environmental condition in or about the Home or the Property, including but not limited to asthma, allergic response or reaction or health impairment resulting directly or indirectly from the nature of materials, substances or compounds incorporated into the Home, the Property or associated improvements, the constituent elements of such materials, substances or compounds, or the restrictions, limitations or controls imposed by law upon ventilation, sealing or air exchange in the Home.

2.5 Failure to Notify. Buchan shall not be liable for any loss or damage directly or indirectly resulting from, or made worse by the Homeowners' failure or delay in notifying Buchan of any Defect within a reasonable time period after the Homeowners know or should know of the existence of the Defect.

2.6 Non-Warranted Items. This Limited Warranty shall not extend to, and Buchan shall not be liable for any loss or damage which directly or indirectly results from, is caused by, or is associated with defects, deficiencies, inadequacies or failures of any nature in any aspects of the Home or the Property that are not within the definition of the a Defect, including but not limited to the following:

2.6.1 Settling and Drying. Minor cracks and nail pops or sticking doors when caused by normal settlement, expansion and contraction of materials; and

2.6.2 Color and Texture Variations. Variations in wood grain, color or composition of any natural surface or material. These are inherent characteristics, are not defects and are excluded from this Limited Warranty; and

2.6.3 Landscaping and Drainage. Any defects, deficiencies, inadequacies or failures of any nature of the Home's landscaping, including but not limited to: (i) the suitability, adequacy, maintenance, sufficiency, installation, planting, viability or continued viability of any natural, native or planted trees, shrubs, vegetation, plants, shrubs, ground cover, grass, sod, mulch or other living plant material, and (ii) the suitability, adequacy, sufficiency, amount, quantity or quality of any natural, man-made or processed material, soil, rock, topsoil (if any), planting soil or any planting medium, rockeries (if any) or materials which would directly or indirectly be considered a component or an aspect of the Home's landscaping, and (iii) the suitability, adequacy, sufficiency, amount, quantity or quality of the grading, the drainage of storm or surface water, the structural and non-structural fill on the Property, and (iv) the suitability, adequacy, sufficiency, amount, quantity or quality of any sprinkler or irrigation system (if any) and the components thereof installed on the Property, and

2.6.4 Concrete Surfaces. Any defects, deficiencies, inadequacies or failures of any nature of the sidewalks and flatwork on or off of the Property. However, if within the Warranty Term the Homeowners notify Buchan of cracks and separations in any flatwork

located on the Property which exceed 1/4 inch in width or represent an offset between cracked surfaces of 3/16 inch or more, Buchan shall repair such cracks by surface patching or such other method or manner as Buchan deems appropriate; and

2.6.5 Normal Wear and Tear. Any defects, deficiencies, inadequacies or failures of any nature in any aspect of the Home resulting from normal wear and tear or normal deterioration; and

2.6.6 Accessory Structures, Utilities and Improvements. Any defects, deficiencies, inadequacies or failures of any nature in any detached structures and plat improvements, including streets, curbs, sidewalks, utilities, fences, off-site improvements or any improvement not a part of the Home itself; and

2.6.7 Repair Results. Any visual difference or physical distinction in any surface or material repaired or replaced by Buchan as the result of warranty efforts conducted pursuant to this Limited Warranty.

2.7 Repairs by the Homeowners. In the event that the Homeowners or any person under the Homeowners' direction undertakes to perform repairs of any Defect without first providing Buchan with written notice of the Defect and a reasonable opportunity to cure or remedy the same, Buchan' warranty for the Defect so repaired shall be deemed released, satisfied and such Defect shall no longer be warranted by Buchan and Buchan shall have no liability to the Homeowners with regard to the cost or expense of the repairs of any Defect undertaken by the Homeowners.

2.8 Manufacturer's Warranties. This Limited Warranty shall not extend to, and Buchan shall not be liable for any loss or damage which directly or indirectly results from, is caused by, or is associated with defects, deficiencies, inadequacies or failures of any nature in those items, equipment, devices, appliances, systems, fixtures and material which are "consumer products" as defined in the Magnuson-Moss Warranty Act (Public Law 93-637), which are supplied with, installed in or incorporated into the Home and which are warranted by the separate manufacturers or suppliers thereof, including, but not limited to: appliances, heating, ventilating, plumbing, electrical or mechanical equipment. The warranties given by the manufacturer or supplier of such items, equipment, devices, appliances, systems, fixtures, and material shall be the exclusive warranty with respect to such items, whether or not such items, equipment, devices, appliances, fixtures, systems or material are "consumer products" and Buchan shall not be obligated to perform any services, remedies or repairs with regard thereto. At the commencement of the Warranty Term, Buchan shall be deemed to have assigned to the Homeowners all warranties from the separate manufacturers or suppliers for all items, equipment, devices, appliances, systems, fixtures or material and the Homeowners shall pursue all warranty claims arising from defects, deficiencies, inadequacies or failures therein exclusively against the manufacturer of or supplier thereof.

**ARTICLE III . DISCLAIMERS.**

**3.1 EXCLUSIVE WARRANTY. THIS LIMITED WARRANTY IS THE EXCLUSIVE WARRANTY GIVEN BY BUCHAN, AND IS IN LIEU OF, CONTROLS AND REPLACES ANY OTHER EXPRESSED OR IMPLIED WARRANTY OF EVERY NATURE WITH REGARD TO THE HOME AND THE PROPERTY THAT MIGHT OTHERWISE BE CONTAINED IN OR IMPLIED IN THE PURCHASE AGREEMENT FOR THE HOME THAT ARE PROVIDED UNDER THE LAWS OF THE STATE OF WASHINGTON, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF HABITABILITY AND MERCHANTABILITY. EXCEPT AS SPECIFICALLY PROVIDED IN THIS LIMITED WARRANTY, THE HOME, ALL COMPONENTS, ASPECTS AND ASSOCIATED IMPROVEMENTS AND THE PROPERTY SHALL BE SOLD AND DELIVERED, AS-IS, AS-BUILT.**

**BUCHAN'S EMPLOYEES, SALES PERSONS, SUBCONTRACTORS, VENDORS, REPRESENTATIVE OR OTHER AGENTS ARE NOT UTHORIZED TO INCREASE, EXTEND, ALTER OR IN ANY WAY MODIFY THE WARRANTY OBLIGATIONS SET FORTH IN THIS LIMITED WARRANTY OR TO MAKE ANY WARRANTY OR REPRESENTATION OTHER THAN AS SET FORTH HEREIN. THERE ARE NO VERBAL WRITTEN OR OTHER WARRANTY AGREEMENTS OR REPRESENTATIONS THAT MODIFY OR AFFECT THIS LIMITED WARRANTY.**

**3.2 LIMITATION ON LIABILITY, DAMAGES. BUCHAN EXPRESSLY DISCLAIMS ALL NON-CONTRACTUAL LIABILITIES, INCLUDING PRODUCT LIABILITY, AND LIABILITY BASED UPON NEGLIGENCE OR STRICT LIABILITY AND ALL LIABILITY FOR DIRECT, SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES OR LOSS ARE DISCLAIMED. BUCHAN SHALL NOT BE LIABLE OR RESPONSIBLE FOR BODILY OR PERSONAL INJURY OF ANY NATURE, DAMAGE OR LOSS TO PERSONAL PROPERTY OWNED OR LEASED BY THE HOMEOWNERS OR ANY THIRD PARTY, THE COST OF SHELTER, THE COST OF MOVING OR STORAGE, INCONVENIENCE, RELOCATION, LOSS OF USE, LOSS OF OPPORTUNITY, LOSS OF MARKET VALUE OR LOSS OF RENT OR OF RENTAL VALUE OF THE HOME.**

**ARTICLE IV. NOTICE AND REPAIR OF WARRANTED DEFECT.**

**4.1 Written Notice. In the event that a warranted Defect occurs, the Homeowners within the Warranty Term, must notify Buchan in writing of the existence of the defect, and must provide Buchan with an opportunity to inspect and to cure the warranted Defect in a manner customary in the industry. In all events, such written notice must be given to Buchan within a reasonable time after the Homeowners know or should have known of the warranted Defect. Buchan shall not be required to repair or remedy any defects that**

are: (i) not identified to Buchan by written notice within a reasonable time after the Homeowners know or should have known of the same, or (ii) not identified in a written notice received by Buchan on or before the end of the Warranty Term. Time is of the essences in all such notices. All notices of defects must be mailed to Buchan at:

William Buchan Homes, Inc.  
Attention: Warranty Department  
2630 – 116<sup>th</sup> Avenue N.E.  
Bellevue, Washington 98004

Or sent via e-mail to Buchan at: [WARRANTY@BUCHANNHOMES.COM](mailto:WARRANTY@BUCHANNHOMES.COM); In the event that the Homeowners provide the required notice via e-mail, the transmission must be via an instrument that provides proof of the date and time for the transmission of the notice to Buchan.

4.2 Scheduling of Repairs, Access. Within a reasonable time after written notice of the defect is received, Buchan will undertake to correct any warranted Defect in accordance with the terms of this Limited Warranty. All warranty repairs shall be scheduled to be performed during the hours of 7 A.M. and 5 P.M. during the work-week. The Homeowners must grant to Buchan, its employees and subcontractors such reasonable easements and rights of access to the Property and the Home as are necessary to correct any warranted Defect covered by this Limited Warranty.

4.3 One Time Drywall Repair. Notwithstanding the limitations of this Limited Warranty, at one time during the Warranty Term, Buchan will repair drywall cracks or nail pops that are solely the result of the normal shrinkage in the Home. All other drywall defects or paint touch up are the responsibility of the Homeowners.

#### **ARTICLE V. PRE-CLAIM NOTICE.**

**STATUTORY PRE-CLAIM NOTICE AND OPPORTUNITY TO CURE.**  
**CHAPTER 64.50 OF THE REVISED CODE OF WASHINGTON CONTAINS REQUIREMENTS THAT THE HOMEOWNERS MUST FOLLOW BEFORE THE HOMEOWNERS MAY COMMENCE AN ARBITRATION [OR A LAWSUIT IF IT WAS A PERMITTED PROCEEDING] FOR DEFECTIVE CONSTRUCTION AGAINST BUCHAN.**

**THE STATUTE SPECIFICALLY PROVIDES THAT FORTY-FIVE (45) DAYS BEFORE THE FILING BY THE HOMEOWNERS OF A LAWSUIT, THE HOMEOWNERS MUST DELIVER TO BUCHAN A WRITTEN NOTICE OF ANY CONSTRUCTION CONDITIONS THE HOMEOWNERS ALLEGE ARE DEFECTIVE AND PROVIDE BUCHAN THE OPPORTUNITY TO MAKE AN OFFER TO REPAIR OR PAY FOR THE DEFECTS.**

**THE HOMEOWNERS ARE NOT OBLIGATED TO ACCEPT ANY OFFER MADE BY BUCHAN. THERE ARE STRICT DEADLINES AND PROCEDURES**

**UNDER STATE LAW, AND FAILURE TO FOLLOW THEM MAY AFFECT THE HOMEOWNERS' ABILITY TO FILE A LAWSUIT FOR CONSTRUCTION DEFECTS AGAINST BUCHAN.**

**THE HOMEOWNERS ARE DIRECTED TO CONSULT WITH THE APPLICABLE PROVISIONS OF CHAPTER 64.50 OF THE REVISED CODE OF WASHINGTON IF THE HOMEOWNERS HOLD A CLAIM AGAINST BUCHAN.**

**ARTICLE VI. HOMEOWNERS' REPAIR AND MAINTENANCE**

During the Warranty Term, the Homeowners shall engage in a reasonable and practical program of maintenance and repair in and around the Home and the Property, including but not limited to the following obligations which shall be accomplished by the Homeowners: (i) dispose of all trash, debris and other discarded items on a regular basis, (ii) fully comply with the manufacturer's instructions for the use, application and operation of all appliances, fixtures, systems and the components thereof which are affixed to or incorporated into the Home and the Property and with the requirements set forth in the manufacturer's warranties for such items, (iii) cause all gutters, downspouts and drainage facilities to be cleaned and cleared on a regular basis, (iv) prevent any soil from making contact with any component of the Home that is made of, or supported by wood or any wood composition material, (v) clean and clear any debris that becomes deposited upon the roof, decks, sidewalks, walls and driveways of the Home, (vi) lubricate mechanical equipment and replace filters of the furnace according to the manufacturers requirements, or more frequently, if required, (vii) prevent vegetation from making any contact with any aspect of the Home, (viii) regularly inspect drains, drain pipes, sumps or other drainage facilities for any clogs or impairment and clean the same, (ix) prevent toilets, sinks, showers and other water sources from overflowing or depositing water into the Home and insure that the same adequately drains the appropriate facility, and (x) take whatever action is reasonably required to prevent infestation by birds, insects or pests, (xi) paint, stain or otherwise seal any wood products comprising the Home that become exposed to weather conditions, (xii) not cause, permit or allow water or landscape irrigation to be directed onto any portion of the Home, (xiii) insure that the water lines, including but not limited to the ice maker in refrigerator, the clothes washer and the dishwasher do not leak, become "kinked", damaged or frozen, (xiv) prevent water or other liquids from ponding, standing or otherwise remaining on any finished surface within or without the Home, (xv) regularly inspect ventilation facilities for obstructions, (xv) clean up spills and replace any material that cannot be thoroughly dried in a timely manner, (xvi) lubricate and replace filters, (xvii) check and repair all exterior caulking and weather stripping, (xviii) scrub and remove mildew from any areas within or without the Home, (xix) periodically check and test all smoke alarms, circuits breakers and outlets and the GFI circuits in the kitchen, bathrooms and garage of the Home, (xx) not overload any wall outlet by exceeding the amperage limit thereof, (xxi) water, fertilize, trim, prune, weed and mow all aspects of the landscaping on the Property and undertake necessary pest control, and (xxii) maintain and stabilize drainage facilities for storm and surface water on the Property.

## **ARTICLE VII LIMITATION ON CLAIMS.**

7.1 Commencement of an Action. The Homeowners shall not be permitted to maintain, prosecute or pursue a claim, lawsuit, arbitration or action against Buchan, any member, agent, principal, employee, materialman or subcontractor of Buchan unless such a proceeding or procedure is commenced on or before eighteen (18) months from the date of the commencement of the Warranty Term. Time is of the essence.

For purpose of this Article VII, this limitation on the commencement of any such proceeding or procedure shall include any action in contract, in tort or in equity and shall include, but shall not be limited to claims, demands or assertions of any nature by the Homeowners which directly or indirectly arise out of, or are based upon: (i) the construction of, or any claimed breach of this Limited Warranty, or (ii) the performance, acts, actions or omissions by Buchan, or any officer, director, agent, principal, employee, materialman or subcontractor in the construction of the Home, or (iii) any claimed breach or default of any express or implied promise, warranty, covenant, duty or obligation, any misrepresentation, or any nondisclosure or misdisclosure of any fact or circumstance by Buchan, its agents or employees, or (iv) any claimed breach or violation of any building code, electrical code, plumbing code or other code, regulation or standard applicable to the Home.

7.2 Waiver of Claim. All rights to pursue any claim, lawsuit, arbitration, action or legal or equitable proceeding or procedure at any time from or after the eighteen (18) month period specified in Section 7.1 hereof shall be deemed waived, released and extinguished for all purposes and the Homeowners shall be deemed to have waived, released and relinquished any claims, at law or in equity against Buchan, any officer, director, agent, principal, employee, materialman or subcontractor of Buchan.

## **ARTICLE VIII. MISCELLANEOUS.**

8.1 Captions. The Section and Articles of this Limited Warranty are for convenience and reference only and the words contained in them shall not be held to expand, modify, amplify or aid in the interpretation, construction or meaning of this Limited Warranty. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identification of the person or persons, firm or firms, corporation or corporations may require.

8.2 Binding Effect. The rights and responsibilities set forth or created by this Limited Warranty shall inure to the benefit of and be binding upon the Homeowners and Buchan, their respective successors in interest, grantees and assigns. No provision in this Limited Warranty is intended to confer any rights or benefits on any third parties not signatories to this Limited Warranty and no one shall claim rights hereunder as a third party beneficiary hereof.

8.3 Severability. The enforceability, invalidity, illegality or termination of any provision of this Limited Warranty shall not render any other provision of this Limited Warranty unenforceable, invalid or illegal, and shall not terminate this Limited Warranty or the rights or obligations of the parties.

DATED as of this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

WILLIAM BUCHAN HOMES, INC.

By: \_\_\_\_\_

Its: \_\_\_\_\_

**CONFIRMATION OF REVIEW AND APPROVAL BY THE HOMEOWNERS.**

By signing below, the Homeowners: 1) acknowledge that the forgoing Limited Warranty constitutes a document having legal consequences; 2) agree that they have had the opportunity to seek legal counsel; and 3) understand that this Limited Warranty sets forth the entirety of the warranty by Buchan with regard to the Home and the Property; and 4) warrant that they have read it thoroughly, understand its contents, and have negotiated and fully agree with its terms and conditions. The Homeowners certify they have given particular attention to those Sections of this Limited Warranty dealing with scope of this Limited Warranty, waivers, disclaimers, limit of liability, and private statute of limitations.

\_\_\_\_\_  
Homeowner  
Dated this \_\_\_ day of \_\_\_\_\_, 200\_\_

\_\_\_\_\_  
Homeowner  
Dated this \_\_\_ day of \_\_\_\_\_, 200\_\_

