

**THE SHORES OF DELAVAN LAKE**  
**LIABILITY WAIVER AND RELEASE AGREEMENT**

**This Liability Waiver and Release Agreement** ("Agreement") is entered into by and between the Shores of Delavan Phase I, LLC, ("Developer") and the Shores of Delavan Lake Community Association, Inc. (the "Association") and the undersigned Member, Permitted User, or lessee of a Lot, Condominium Unit, Townhouse, or unit in an Apartment Building with rights to use the Property of the Community Association in The Shores of Delavan Lake, a Conservation Subdivision (the "Participant").

**RECITALS**

WHEREAS, the Developer and Association provide Participants access and use to certain facilities in the Property of the Community Association, including walking paths, open space, a pier, and access to the Delavan Lake Inlet within The Shores of Delavan Lake, a Conservation Subdivision (collectively, the "Facilities") for the use and enjoyment of Participants;

WHEREAS, the use of the Facilities inherently involves certain risks, including the possibility of physical injury, property damage, or death;

WHEREAS, the Developer and Association seeks to ensure that use of the Facilities is at the sole risk of the Participant and to limit Association liability for accidents, injuries, or damages arising from such use;

NOW, THEREFORE, in consideration of being permitted to access and use the Facilities, the Participant agrees to the following terms:

**1. ACKNOWLEDGMENT OF RISKS**

1.1 The Participant acknowledges that the use of the Facilities involves risks, both known and unknown, including but not limited to:

- i. Slips, falls, or other accidents on or around the pier or lake;
- ii. Hazards associated with swimming, boating, fishing, or other recreational activities;
- iii. Unpredictable conditions such as weather changes, water depth, or wildlife; and
- iv. Lack of supervision, lifeguards, or safety equipment on-site.

1.2 The Participant voluntarily accepts all risks associated with the use of the Facilities, including the risk of serious injury or death.

## **2. RELEASE AND WAIVER OF LIABILITY**

2.1 The Participant hereby waives, releases, and discharges the Association, the Developer, and their respective affiliates, subsidiaries, officers, directors, employees, agents, contractors, insurers, and representatives (collectively, the "Released Parties") from any and all claims, liabilities, damages, or causes of action that may arise out of or relate to the use of the Facilities, including but not limited to claims for:

- i. Personal injury or death;
- ii. Property damage or loss;
- iii. Negligence by any of the Released Parties.

2.2 This waiver and release does not apply to claims arising from gross negligence, reckless misconduct, or willful or intentional harm by the Released Parties.

## **3. INDEMNIFICATION AGREEMENT**

The Participant agrees to indemnify, defend, and hold harmless the Released Parties from any and all claims, liabilities, damages, or costs (including attorneys' fees) arising from:

- i. The Participant's use of the Facilities;
- ii. Any act or omission by the Participant, their family members, guests, or invitees; and
- iii. Violations of posted rules or Association policies.

## **4. AGREEMENT TO COMPLY WITH RULES**

4.1 The Participant agrees to comply with all posted rules, regulations, and policies established by the Association regarding the use of the Facilities.

4.2 The Participant assumes full responsibility for the conduct and safety of any minors, guests, or invitees they permit to use the Facilities.

## **5. WISCONSIN LAW NOTICE AND GOVERNING LAW**

5.1 **Wisconsin Law Governs This Agreement:** The Participant acknowledges that Wisconsin law governs this Agreement, including the enforcement of liability waivers and releases.

5.2 **Recreational Immunity Notice:** The Participant understands that under Wisconsin Statute § 895.52, landowners (including homeowners' associations and developers) are generally immune from liability for injuries to individuals engaging in recreational activities on their property, except in cases of willful or malicious misconduct.

## **6. MISCELLANEOUS**

6.1 **Severability:** If any provision of this Agreement is determined to be invalid or unenforceable under Wisconsin law, the remaining provisions shall remain in full force and effect.

**6.2 Binding Effect:** This Agreement is binding upon the Participant, their heirs, successors, and assigns.

**6.3 Capitalized Undefined Terms:** All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Community Declaration of Covenants, Conditions, Restrictions and Easements for the Shores of Delavan Lake recorded in the Walworth County Register of Deeds on October 25, 2024 as Document No. 1102199.

#### **ACKNOWLEDGMENT AND SIGNATURE**

**By signing below, the Participant acknowledges and agrees that:**

- i. They have read and fully understand this Agreement;**
- ii. They are voluntarily waiving legal rights, including the right to sue the Released Parties;**
- iii. They are signing this Agreement of their own free will.**

IN WITNESS WHEREOF, the parties have executed this Agreement on the date first written above.

PARTICIPANT:

By: \_\_\_\_\_  
Print Name:

By: \_\_\_\_\_  
Print Name:

DEVELOPER AND ASSOCIATION:

By: \_\_\_\_\_  
Print Name:

This Agreement drafted by:  
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