



## **Golden Builders Association (“GBA”) Membership Agreement**

### **Golden Commercial General and Excess Liability Programs**

**Insured By: Golden Insurance Company, A Risk Retention Group**

**Among : \_\_\_\_\_ (“Member”)**

Participant Name (type or print)

\_\_\_\_\_  
Address

SHW Insurance Services, L.L.C., a Colorado limited liability company (“SHWIS”)  
and

Golden Insurance Company, A Risk Retention Group, a Nevada corporation (“GIC”)  
1655 Lafayette Street, Suite 200 • Denver, CO 80218 • 303.388.5688

SHWIS, GBA (as administered by SHWIS), and GIC, a risk retention group, and the Member, intending to be legally bound and in consideration of the mutual promises set forth in this Agreement, the receipt and adequacy of which is hereby acknowledged, covenant and agree as follows:

#### **A. Application, Membership and Terms**

1. Member hereby concurrently applies for membership in the Golden Builders Association and the Golden Commercial General Liability Program (“GCGL”), the Golden Excess Liability Program (“GEL”), or both programs and Golden Insurance Company, Inc., a Risk Retention Group. Upon satisfactory completion of the application and the underwriting approval associated with the GCGL Program and/or GEL Program, Member becomes an insured Member and shareholder of GIC. Upon execution of this Agreement, GBA, GIC and SHWIS have approved and accepted Member to participate in the GCGL Program and/or the GEL, as a member of GBA, and as a shareholder of GIC. Membership in GBA becomes active immediately upon payment of the premium and submission of the required capital contribution, issuance of the commercial general liability insurance policy and/or the excess liability policy, and issuance of a Share Certificate of GIC to Member.
2. Member shall have no liability for the corporate obligations of GBA or GIC and shall not be subject to assessments by GBA or GIC.

#### **B. Shareholder’s Agreement**

1. Member is obligated to remain in good standing with GBA and participate as a shareholder in GIC in order to be insured in the GCGL Program and/or the GEL Program and otherwise obtain insurance from GIC.
2. Upon acceptance, and subsequent to Member’s initial enrollment in the GCGL Program and/or the GEL Program and submission of the required capital contribution, Member shall be entitled to a Share Certificate for at least one Share with a par value of one cent (\$0.01). Said Share Certificate shall be held in safekeeping for the Member. Member may request to receive the certificate, provided that Member notifies SHWIS in writing of such request. No Shares shall be transferred, encumbered or in any way alienated except under terms set forth in this Section B. Member shall have the right to vote Shares and receive the dividends, if any, paid on Shares until the Shares are sold or transferred. Regardless of whether participates in the GCGL Program, the GEL Program, or both programs, Member shall be entitled only to a single Share of GIC.
3. Member shall remit at the time acceptance and enrollment into the GCGL Program and/or the GEL Program and payment of the determined premium a non-refundable capital contribution to GIC equal to five percent (5%) of the applicable gross written premium associated with the GCGL program and/or the GEL Program. Member’s capital contribution shall be allocated as additional paid-in capital over and above the par value of each share of one cent (\$0.01).

4. Except as provided herein, no Member shall transfer, encumber or in any way dispose of Shares or any right or interest in them without obtaining the prior written consent of SHWIS, GIC, and of all other Shareholders, unless Member shall first have given written notice to GIC and SHWIS of an intention to do so (“Notice”). Notice shall be accompanied by a copy of an executed counterpart of any document of transfer, which names the proposed transferee and specifies the number of Shares to be transferred, the price per Share and the terms of payment.
  - a. Notwithstanding the foregoing, no Member may make any transfer hereunder if:
    - i. The transfer will be of less than his or her entire Share holdings in GIC in any one transaction; or
    - ii. The transfer will result in GIC violating any law, including, but not limited to, Chapter 78 of the Nevada Revised Statutes, as amended, Chapter 694C of the Nevada Revised Statutes, as amended, the general insurance laws of the State of Nevada, or the rules and regulations of the Commissioner of Insurance for the State of Nevada.
  - b. If the Notice is delivered with respect to fewer than ten (10) Shares, GIC shall have the obligation to purchase the Shares at the lesser of: (i) the price and on the same terms and conditions specified in the Notice and any accompanying transfer documents; or (ii) the price set forth in paragraph 4(c) herein.
  - c. The purchase price for each Share shall be calculated by dividing the book value of GIC, as determined according to Generally Accepted Accounting Principals (including the provisions for state and federal income taxes), by the number of Shares issued and outstanding (the “Share Price”). The Share Price shall be calculated by using the book value of GIC as of the last date of the preceding fiscal year. GIC’s then current independent outside accountant shall determine the Share Price calculation using GIC’s audited financial statements. The Share Price calculation determined by GIC’s accountant shall be final and binding on all parties hereto. The Share Price shall be multiplied by the number of Shares to be transferred to determine the total purchase price.
  - d. If the Notice is delivered with respect to any other amount of Shares, promptly upon receipt of the Notice, the secretary of GIC shall forward a copy of the Notice and the executed counterpart to the other Shareholders/Members. The other Members, in proportion to their respective ownership interests, shall have the option to: (i) purchase the Shares at the price and on the same terms and conditions specified in the Notice and any accompanying transfer document; (ii) join in the sale of the Shares at the price and on the same terms and conditions specified in the Notice and any accompanying transfer document; or (iii) neither purchase the Shares nor join in the sale of the Shares. A Member shall exercise the option by delivering notice thereof to the offering Member, GIC and all other Members within forty-five (45) days after GIC’s receipt of the Notice from the offering Member. A Member who fails to so deliver such Notice shall be deemed to have elected option (iii). If more than one Member elects to purchase the offering Member’s Shares, or if one or more Members elect to join in the sale of Shares, each Member so purchasing or selling shall share the purchase or the sale in the proportion that the number of Shares held by the Member bears to the total of Shares held by the Members so purchasing or selling. To the extent the other Members elect not to exercise this option, GIC may elect to purchase the Shares at the price and on the same terms and conditions specified in the Notice and any accompanying transfer document, subject to regulatory approval as may be required. If the other Members do not purchase all of the Shares set forth in the offering Member’s Notice, all of the Shares offered for sale may be transferred at any time within ninety (90) days from the date of the Notice of intention to transfer and on the terms specified in the Notice. No transfer of the Shares shall be made after the end of the 90-day period, nor shall any change in the terms of transfer be permitted without a new notice of intention to transfer and compliance with the requirements of this Section.
  - e. The closing of a purchase and sale by reason of this Section C, shall take place at the principal office of GIC on a date designated by GIC which shall be not more than ninety (90) nor less than ten (10) days following the date of the event triggering such purchase and sale.
5. Each transferee or any subsequent transferee of Shares or any interest in such Shares shall, unless expressly provided otherwise herein, hold such Shares or interest in the Shares subject to all of the provisions of this Section B and shall make no further transfers except as provided herein. For voting purposes, such exchanges shall be deemed to have occurred on the dates of such occurrences, regardless of when the Share Certificates representing the Shares are actually exchanged.
6. GIC shall apply for and use its best efforts to obtain all governmental and administrative approvals required in connection with the purchase and sale of Shares under the Shareholder’s Agreement. Member shall cooperate in obtaining the approvals and execute any and all documents that may be required to be executed by them in connection with the approvals. GIC shall pay all costs and filing fees in connection with obtaining the approvals.

7. Each Share Certificate, when issued, shall have conspicuously endorsed on its face the following words: "Sale, transfer or hypothecation of the Shares represented by this certificate is restricted by the provisions of a shareholder's agreement, a copy of which may be inspected at the principal office of the Company and all of the provisions of which are incorporated by reference in this certificate." A copy of Section B of this agreement shall be shown by the Secretary of GIC to any person making inquiry about it.
8. This Section B shall terminate on:
  - a. The written agreement of all parties;
  - b. The liquidation of GIC;
  - c. At such time as only one Shareholder remains, the Shares of all others having been transferred or redeemed;
  - d. The closing of a public offering of GIC's capital stock registered, or exempted from registration, under the Securities Act of 1933; or
  - e. Upon the effective date of any merger, consolidation or other acquisition of substantially all of GIC's assets if GIC is not the surviving corporation, except that a merger or consolidation with a subsidiary which effects a mere change in the form or domicile of GIC without changing the respective Share holdings of Member shall not terminate this Agreement even if GIC is not the surviving corporation.
9. Member shall include in his Last Will and Testament a direction and authorization to his personal representative to comply with the provisions of this Section B provided, however, that the failure of Member to do so shall not affect the validity or enforceability of this Agreement.

#### **C. Proxy to SHWIS**

1. Attached to this Agreement as Exhibit A, and incorporated herein by this reference is a proxy ("Proxy") appointing SHWIS to vote Member's Shares in GIC at any annual or special meeting of the shareholders of GIC, to execute on behalf of Member any written consent of the shareholders of GIC in lieu of such a meeting and to waive notice of the time, place and purpose of any annual or special meeting of the shareholders of GIC. The Proxy will remain effective until the earlier of the date Member no longer owns its Shares in GIC or seven (7) years from the date of execution of the Proxy, or such shorter or longer period as permitted under law. **MEMBER MAY REVOKE THE PROXY AT ANY TIME BY SUBMITTING TO GIC AND SHWIS A WRITTEN REVOCATION OF THE PROXY.**

#### **D. Dispute Resolution**

1. Any and all claims, disputes, and controversies by or between homeowner, Member, SHWIS and/or GIC, or any combination of the foregoing, arising from or related to: the GCGL Program and/or the GEL Program, including without limitation, any claim of breach of contract, negligent or intentional misrepresentation or nondisclosure in the inducement, execution or performance of any contract, including this arbitration provision, and breach of any alleged duty of good faith and fair dealing, shall be submitted to final and binding arbitration by and pursuant to the rules of the American Arbitration Association applicable to commercial disputes involving insurance in effect at the time of the request for arbitration.
2. The decision of the arbitrator shall be final and binding and may be entered as a judgment in any State or Federal court of competent jurisdiction.
3. This Section D shall be deemed to be a self-executing arbitration agreement. Any disputes concerning the interpretation or the enforceability of this Section D, including without limitation, its revocability or voidability for any cause, the scope of the arbitrable issues, and any defense based upon waiver, estoppel or laches, shall be decided by the arbitrator.
4. The initiation of or participation by any party in any judicial proceeding concerning this Section D or any matter arbitrable hereunder shall not be deemed a waiver of the right to enforce this Section D, and notwithstanding any provision of law to the contrary, shall not be asserted or accepted as a reason to delay, to refuse to participate in, or to refuse to enforce this Section of the Agreement.
5. Any party who shall commence a judicial proceeding concerning a dispute which is arbitrable hereunder shall also be deemed to be a party requesting arbitration within the meaning of this Section D. The administrative fee shall be paid by Member in the case of a dispute between the Member and GIC and/or SHWIS. The arbitrator's compensation fee shall be borne equally by the arbitrating parties for single-arbitrator arbitration. Additional fees may be assessed in accordance with the arbitration rules and fees.

6. The parties expressly agree that this Agreement the GCGL Program and/or the GEL Program involves and concerns interstate commerce and is governed by the provision of the Federal Arbitration Act (9 U.S.C. §1, et seq.) now in effect and as the same may from time to time be amended, to the exclusion of any different or inconsistent state or local law, ordinance or judicial rule; and to the extent that any state or local law, ordinance or judicial rule shall be inconsistent with any provision of the rules of the arbitration service under which the arbitration proceeding shall be conducted, the latter rules shall govern the conduct of the proceeding.
7. Member shall fully cooperate in the dispute resolution process including full cooperation with any investigator appointed by SHWIS or GIC.
8. Member shall be bound by, and comply with the decision of the arbitration. Member agrees that it will not commence any arbitration, mediation or litigation to challenge the arbitration decision.

**E. Cancellation or Suspension of Membership**

1. SWH may cancel, suspend or terminate Member's registration and membership in the GCGL Program and/or the GEL Program and GBA, as well as the registration or membership of any person, organization controlling, controlled by, or under common control with member, if, in the opinion of SHWIS, Member:
  - a. provided false information in connection with its application for initial or re-registration;
  - b. failed to inform SHWIS of any: (i) adverse change in financial strength which could impair the ability of the Member to meet its obligations; or (ii) change in control of the Member. As used within this paragraph, "change in control" means a change in ownership, legal or beneficial, of 51% or more of the voting shares/interests in Member, whether by withdrawal, sale, or by operation of law (including, but not limited to a merger, consolidation, or re-organization), unless such change in control is a transfer to an affiliate. As used within this paragraph, affiliate means any corporation or entity which controls, is controlled by or is under common control with Member, or with any entity that controls Member;
  - c. fails to cooperate in the dispute resolution process, does not comply with a decision rendered by the approved arbitration service; or a Complaint or Claim decision made by GIC;
  - d. otherwise fails to comply with the terms and conditions of this Agreement or the procedures of the GCGL Program and/or the GEL Program.
2. Member may terminate this Agreement after the first calendar year from the date of the issuance of any insurance policy hereunder by giving written notice to SHWIS and compliance with Section B.
3. SHWIS retains sole discretion to terminate Member's membership in GBA and hereunder by giving written notice and reason for such determination.
4. Member acknowledges that Shares shall be redeemable. All Shares owned by Member shall be called for redemption and shall be redeemed by GIC upon the expiration of all insurance coverage issued by GIC for Member under the GCGL Program and/or the GEL Program as is necessary to maintain GIC's qualified status as a risk retention group under the Liability Risk Retention Act of 1986 (as amended). Shares called for redemption shall not be entitled to vote on any matter and shall not be deemed to be outstanding Shares on and after the date on which written notice of redemption has been mailed to Member and such funds sufficient to redeem Shares have been issued or deposited in an appropriate financial institution or trust company with irrevocable instruction to pay Member the required funds as determined under the provisions in Section B, upon request of the Member.
5. SHWIS retains sole discretion to suspend Member's membership in GBA and hereunder by giving written notice, and reason for such suspension. Member shall have 30 days from the date of notice of suspension to cure the cause of suspension. The cure must be made to the satisfaction of SHWIS and GIC. If such cure is not made within the 30 days, member may be terminated by SHWIS, in accordance with the provisions of this Agreement. An extension of time to cure may be granted by SHWIS, subject to its sole discretion, provided that Member submits such request for extension in writing, prior to the expiration of the 30-day time to cure.

**F. Additional Provisions**

1. Member agrees to maintain all terms and conditions of this Agreement in confidence and will not disclose any such terms and conditions to any person or entity, except that such disclosures to the Member's legal advisors and accountants, for the purposes of advisement, are allowed.
2. Member may not assign this Agreement without written consent of GBA, SHWIS and GIC.
3. This Agreement is binding on the parties, their heirs, executors, administrators, successors, and assigns.

4. Failure of either party to insist upon compliance with any provision of this Agreement shall not constitute a waiver of the provision.
5. All notices required hereunder must be in writing and sent by certified mail, postage prepaid, or other such form of notice deemed acceptable by SHWIS to the recipient at the respective address shown herein or to whatever other address the party may designate in writing. Member must inform SHWIS of any change of address in writing.
6. Should legal action arise between the parties involving this Agreement, whether through arbitration or judicial proceeding, the parties authorize the arbitrator or the court to award the prevailing party reimbursement of its reasonable attorney and expert witness fees. The prevailing party is that party who is awarded judgment as a result of trial or arbitration. If both parties receive judgment in any dollar amount, the arbitrator or the court will determine the prevailing party, taking into consideration the merits of the claims asserted by each party, the amount of the judgment received by each party and the relative equities between the parties.
7. Failure of either party to insist upon compliance with any provision of this Agreement shall not constitute a waiver of the provision. In the event that any provision of this Agreement is held invalid or unenforceable, such invalid or unenforceable provision shall be considered severable from the rest of the document in the same manner as if it had not originally been included. Such invalidity or unenforceability shall not be construed to invalidate or otherwise affect any other provision of this Agreement or any document executed in connection herewith.
8. The headings or titles given each section are used and included merely for the convenience of the parties, and shall not affect or alter the meaning, effect or interpretation of any of the terms or provisions hereof.
9. This Agreement does not create an agency. Member is not an agent of SHWIS or GIC, and Member and its employees are not authorized to hold themselves out as agents of SHWIS or GIC. Member and its employees have no authority to bind or obligate SHWIS or GIC. Member agrees to indemnify and hold SHWIS and GIC harmless against any and all expenses incurred and losses suffered, including, but not limited to, attorney fees by either of them as a result of Member's violation of this provision.
10. This Agreement embraces the entire understanding between the parties with respect to the subject matter herein and supercedes all previous agreements, either written or oral, and any prior statements, agreements, negotiations or representations among the parties are merged herein. Notwithstanding the foregoing, this Agreement confers no insurance coverage and is not an insurance policy. In the event of a claim, all such terms and conditions of the excess liability insurance policy supercede this Agreement.
11. This Agreement, when properly executed, binds all parties, their successors, assigns and legal representatives to meet their obligations as previously stated herein for all homes enrolled in the GCGL Program. This Agreement contains the entire understanding of the parties with respect to the GCGL Program, and cannot be altered or amended in any way except by formal written instrument signed by all parties. The obligations of GIC hereunder, including coverage for homes, are secondary to any other applicable warranties and insurance such as casualty and property coverage.

MEMBER: \_\_\_\_\_  
 Type or Print

BY: \_\_\_\_\_  
 \_\_\_\_\_  
 Signature  
 Date of Execution

For: SHW INSURANCE SERVICES, L.L.C.:

BY: \_\_\_\_\_  
 \_\_\_\_\_  
 Signature  
 Date of Acceptance

For: GOLDEN BUILDERS ASSOCIATION:

BY: \_\_\_\_\_  
\_\_\_\_\_

Signature  
Date of Acceptance

For: GOLDEN INSURANCE COMPANY, A RISK RETENTION GROUP:

BY: \_\_\_\_\_  
\_\_\_\_\_

Signature  
Date of Acceptance

# EXHIBIT A

## PROXY TO SHW INSURANCE SERVICES

**THE UNDERSIGNED**, does hereby constitute and appoint SHW Insurance Services, as its attorney-in-fact, agent and proxy, with full power of substitution, to act in its place and stead to vote as its proxy all of the shares owned by the undersigned of Golden Insurance Company, a Risk Retention Group, a Nevada corporation ("GIC") as follows: (i) at any and all meetings of the shareholders of GIC upon any question which may be brought before such meetings, or any continuation or adjournment thereof; (ii) for the purpose of signing and delivering any consent of the shareholders of GIC executed in lieu of any such meeting; and (iii) for the purpose of signing and delivering any waiver of notice of the time, place or purposes of any meeting of the shareholders of GIC; in each such instance with full power to vote and act for the undersigned to the extent if the undersigned were personally present.

This Proxy shall be effective on the date of execution and shall terminate on the earlier to occur of the following events:

- I. The undersigned owns no shares of GIC;
- II. The undersigned gives to Golden Insurance Company and SHW Insurance Services written notice of its revocation of this Proxy; or
- III. The expiration of seven (7) years from the date hereof or such shorter or longer period as permitted by law.

\_\_\_\_\_  
Date of Execution

MEMBER: \_\_\_\_\_  
Type or Print

BY: \_\_\_\_\_  
Signature