

Institute de Vie

## Director's Service Agreement

As a Director of Insitite de Vie, I support the organization's mission:

*To improve the quality of life by promoting sexual health and well being through education. To help adults better understand the mechanics of their mind and body with techniques for better control of many aspects of their being.*

Director Positions are required by the IRS to be volunteer positions. The time requirement for a Director is average of 1 to 2 hours per week. Each Director focuses on primary and secondary areas of the organization by being members of Board Committees.

As evidence of my support, I commit myself to:

1. Participate on the board for a term of two years;
2. Attend and participate in board and committee meetings (in person or electronically) throughout my term;
3. Serve on at least one committee of the Board;
4. Advocate for Institute de Vie's mission in the community;
5. Participate and support Institute de Vie events with my time, talents, and presence;
6. Nominate and recruit qualified individuals to serve as Institute de Vie's Directors and Advisers;;
7. Be an accountable Director of Institute de Vie and follow the Duty of Care, Loyalty and Obedience guidelines (see appendix).

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

Date: \_\_\_\_\_

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## Appendix

### **Duty of Care:**

The Duty of Care describes the level of competence that is expected of a board director, and is commonly expressed as the duty of "care that an ordinarily prudent person would exercise in a like position and under similar circumstances." (See RCW 24.03.127) This means that a board director owes the duty to exercise reasonable care when making a decision as a steward of the organization.

#### **1. Active Participation**

A director should actively participate in the management of the organization including setting direction, attending meetings of the board, evaluating reports, reading minutes, reviewing the performance and compensation of the executive director and so on. Persons who do not have the time to participate as required should not agree to serve on a board.

#### **2. Committees**

A board of directors may establish committees and may rely on information, opinions or reports of these committees. Committees operate subject to the direction and control of the board. As a result, Directors are still responsible for the committees and should periodically scrutinize their work.

#### **3. Board Actions**

A board member who is present at a meeting when an action is approved by the entire board is presumed to have agreed to the action unless the member (1) objects to the meeting because it was not lawfully called or convened and doesn't otherwise participate in the meeting; (2) votes against the action; or (3) is prohibited from voting on the action because of a conflict of interest. Normally, the minutes will record such objections to create a record of the dissent.

#### **4. Minutes of Meetings**

Written minutes should be taken at every board meeting, by someone other than the chair. The minutes should accurately reflect board discussions as well as actions taken at meetings. The minutes should be reviewed and approved by all Directors by the next board meeting.

#### **5. Books and Records**

A board member should have general knowledge of the books and records of the organization as well as its general operation. The organization's articles, bylaws, accounting and membership records, voting agreements and minutes must be made available to Directors who wish to inspect them for a proper purpose.

#### **6. Accurate Record Keeping**

The board of directors should not only be familiar with the content of the books and records, but should also assure that the organization's records and accounts are accurate. The board is ultimately responsible to ensure that internal controls are adequate to safeguard the organization's assets and help prevent fraud. This also means the board might take steps to require regular financial audits by an independent certified public

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accountant. At the very least, the board should be aware of what the financial records disclose.

Many boards determine that an effective way to achieve adequate financial oversight is to appoint a Finance Committee that includes at least one member with a background in finance to focus on the financial details and report to the full board. Often, the treasurer of the board chairs this committee and the appointed members can include people who are not on the board.

### **7. Assets**

The board of directors has the duty to protect, preserve, invest and manage the corporation's assets and to do so in a manner consistent with the organization's mission, donor restrictions, and legal requirements. Oversight of appropriate internal controls will aid in the protection of assets and the prevention of fraud.

### **8. Resources**

The board of directors should assist the organization in obtaining adequate resources to enable it to further its mission.

### **9. Investigation**

The board of directors has a duty to investigate warnings or reports of officer or employee theft or mismanagement. The board should adopt procedures to handle reports of inappropriate uses of resources or inaccurate reporting of financial affairs. These procedures should include protections for anyone reporting the possibility of such damaging activities. In some situations the board may have to report misconduct to the appropriate authorities, such as the police or the Attorney General. Where appropriate, a director should consult an attorney or other professional for assistance. The board as a whole may also seek such advice when needed to assist the members in dealing with a difficult situation.

### **Duty of Loyalty:**

The duty of loyalty is a standard of faithfulness; a board member must give undivided allegiance when making decisions affecting the organization. This means that a board member can never use information obtained as a member for personal gain, but must act in the best interests of the organization.

#### **1. Conflicts of Interest**

Under certain circumstances, a contract or transaction between a nonprofit corporation and a board member or an organization in which a board member has a material financial interest is acceptable. However, if the transaction is challenged, the board member will have the burden of establishing that the contract or transactions was fair and reasonable, that there was full disclosure of the conflict and that the contract or transaction was approved by other Directors in good faith.

#### **2. Written Policy**

Boards should establish a written policy on avoiding conflicts of interest.

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### **3. Loans**

Washington State law disfavors a nonprofit corporation making a loan to a board member or the board member's family members. If a loan is made, all officers and Directors who participated in making the loan will be liable for the amount until the loan is repaid.

### **4. Corporate Opportunity**

Directors of business organizations are under a fiduciary obligation not to divert a corporate business opportunity for their personal gain. A board member of a nonprofit corporation is also subject to this duty. This duty means that a board member may not engage in or benefit from a business opportunity that is available to and suitable for the corporation unless the corporation decides not to engage in the business opportunity and conflict of interest procedure is followed.

### **6. Internal Revenue Code**

Other prohibitions relating to the duty of loyalty are specified in the rules of the Internal Revenue Code regarding self-dealing. These rules apply to private foundations.

### **Duty of Obedience:**

The duty of obedience requires the board of directors to be faithful to the organization's mission. They are not permitted to act in a way that is inconsistent with the central goals of the organization. A basis for this rule lies in the public's trust that the organization will manage donated funds and other resources to fulfill the organization's mission.

#### **1. Federal, State and Local Statutes**

Directors should be familiar with federal, state and local laws relating to nonprofit corporations, charitable solicitations, sales and uses taxes, FICA (Social Security) and income tax withholding, and unemployment and worker's compensation obligations. They should also be familiar with the requirements of the Internal Revenue Service. Directors should see to it that their organization's status with federal, state and local agencies is protected and current.

Directors should assure themselves that the provisions of the Internal Revenue Code applying to 501(c)(3) organizations have been met before advising donors that their contributions may be tax deductible.

#### **2. Filing Requirements**

Directors must comply or assure compliance with deadlines for tax and financial reporting, for registering with the Secretary of State, for making Social Security payments, for income tax withholding and so on. Additionally, if an organization is incorporated, its directors have a duty to maintain its corporate status by submitting or assuring submission of timely filings to the Office of the Secretary of State. If the organization conducts fund raising activities, a separate annual Charitable Solicitation Report may be required. See RCW 19.09.065 and the information about the Charitable Solicitations Act on the Secretary of State's website at <http://sos.wa.gov/charities> for details.

#### **3. Governing Documents**

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Directors should ensure that the organization's mission is being accomplished in accordance with the stated purpose in the organization's articles of incorporation. They should be familiar with their organization's governing documents and should follow the provisions of those documents. Directors should be sure that proper notice is given for meetings, that regular meetings are held, and that members are properly appointed or elected.

#### **4. Outside Help**

Where appropriate, Directors should obtain opinions of legal counsel or accountants.