

DRAFT (for discussion purposes.)

## RESIDENCE WAIVERS

Many golf clubs own one or more dwellings which they provide to club employees either free or at extremely advantageous rents as part of their employment compensation. Club owners often put their own personal residence in the name of their business for tax purposes.

While these practices have certain benefits for the club's operations, they also open up a significant number of risk management exposures that were never contemplated in a Golf Club operation, including lawsuits from the tenant's / occupant's personal insurance company to recover paid claims and demands from the Canada Customs and Revenue Agency for unpaid income taxes. **Depending upon the circumstances of the claim, coverage might not be available under the Club's insurance policy.**

Whether or not the club uses a "written" lease / rental agreement with the tenant (dwelling occupant) has no relevance to the club's insurance however the club should have a WAIVER & INDEMNITY and INSURANCE agreement signed by the occupant.

This agreement should include:

- A clear statement that the club DOES NOT provide any insurance on the occupant's personal goods or property and a requirement that the tenant carries both **Personal Property** and **Personal Liability** insurance including **Tenant's Legal Liability**.
- A **Waiver of Liability** against the club. The Tenant / Occupant agrees not to sue the club for any loss, damage or bodily injury resulting from his use and occupancy of the residence.
- **Indemnity Agreements** in favour of the club.

The tenant / occupant agrees to assume responsibility for the cost of repairing any damage to the dwelling resulting from his occupancy other than normal wear & tear.

The tenant / occupant agrees that if a third party institutes a lawsuit against the club as a result of the use or occupancy of the dwelling the tenant / occupant will indemnify the club for any costs or settlements.

The following are "suggested" clauses that should be included in the dwelling rental / occupancy agreement.

### Insurance

- Without restricting the generality of indemnification, the tenant / occupant shall provide, maintain and pay for personal property insurance adequate to meet his needs and a minimum of at least \$1,000,000. third party liability insurance. Such coverage shall be at least equal to the IBC's standard Comprehensive Personal Liability form (or its current equivalent) and shall include Tenant's Legal Liability protection.

## Property Damage

- Without restricting the generality of indemnification, the tenant / occupant shall be responsible for all damages caused by the tenant / occupant, his guests, agents or employees to the club's property or property of others.

## Waiver & Release

- The tenant / occupant agrees to release the Club, its agents and employees, from any liability from personal injury, property damage or loss sustained by the tenant / occupant directly or indirectly resulting from occupancy of the dwelling.
- The tenant / occupant further waives, as against the Club, its agents and employees, all claims recourses and rights of action that the tenant / occupant might have against the Club as a result of such personal injury, property damage or loss.

## Indemnification

- The tenant / occupant agrees to indemnify, reimburse and hold harmless the Club, its agents and employees, from and against any and all claims, demands, losses, costs, actions, suits or proceedings by Third Parties that arise out of or are attributable in any way to, the occupancy of the dwelling. In this section, "cost" includes lawyer's fees ( on a solicitor and own client basis), accounting fees and expenses, court costs and all other out-of-pocket expenses
- The Club expressly does not waive its rights to any indemnity to which it may be entitled in addition to that stated above.

## General

- The tenant / occupant acknowledges that he/she has read these waiver, release and indemnity agreements and understands and accepts the contents hereof.
- The tenant / occupant agrees that in the event that any provision herein contained is deemed to be unenforceable and/or invalid, that the provision shall be severable from the whole document and shall not effect the validity and enforceability of the other provisions and documents as a whole.
- **By signing this document the tenant / occupant expressly acknowledges that he will be waiving certain legal rights including the right to sue.**