

Typical trustee LOL clause

Limitation of Liability clause. ***What's wrong with it?***

The parties hereto hereby expressly agree, acknowledge and declare, the one with the other, as hereinafter set forth, notwithstanding anything to the contrary contained in any other term or condition of these presents as amended for the time being and from time to time, that is to say.

- (a) The Borrower enters into this agreement as trustee of the Trust and not in its personal capacity. It will cease to have any obligation or liability under this agreement if it ceases to be trustee of the trust. [ALTERNATIVE FOR CUSTODIAN The Custodian enters into this agreement as custodian and agent of Loxton Laundries Limited as trustee of the Trust and in no other capacity]
- (b) Any obligation or liability arising under this agreement is limited to and can be enforced against the Borrower only to the extent to which it is actually indemnified from assets of the Trust for the obligation or liability. The Borrower is not liable or subject to any obligation in its personal capacity.
- (c) The other parties may not:
 - (i) sue the Borrower personally;
 - (ii) seek execution or other process against the Borrower's personal assets;
 - (iii) seek the appointment of a liquidator, administrator, receiver or similar person to the Borrower;
 - (iv) prove in any liquidation, administration or arrangement of or affecting the Borrower; or
 - (v) exercise any right of set-off against the Borrower.
- (d) This clause will not apply to any obligation or liability of the Borrower to the extent to which it is not satisfied because there is a reduction in the extent, or an extinguishment of the Borrower's indemnification out of the assets of the trust as a result of its fraud, gross negligence, material breach of duty or wilful default.
- (e) [No attorney, [receiver] or other person appointed under this agreement has authority to act on behalf of the Borrower in a way that exposes the Borrower to any personal liability and no act or omission of such a person will be considered fraud, gross negligence, material breach of duty or wilful default of the Borrower for the purposes of paragraph (d)]