

Indemnity and Hold Harmless Clauses in Franchise Agreements

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Franchisors must protect their companies from lawsuits and liability. Indemnity and Hold Harmless Clauses in Franchise Agreements, while they may not always hold up are at least one way to help with this along with other strategies.

In my franchise agreements for my company, I addressed this issue by slightly modified our hold harmless clauses in our franchise agreements. Below is a copy of one of the early renditions of the clauses we used in our franchise agreements;

3.26 Indemnity/Hold Harmless

Franchisee agrees to defend at their own cost and to indemnify and hold Franchisor, its affiliates and its predecessor, sister or co-branding companies, their shareholders, directors, officers, members, employees, agents and their spouses, harmless from and against any and all loss, costs, expenses (including attorneys' fees), damages and liabilities arising out of your negligence, failure to maintain or repair, breach of contract or other civil wrong, resulting directly or indirectly from or pertaining to the use, condition, equipping, maintenance or operation of your car wash truck/unit, including the preparation and sale of any product or service made or sold out of your mobile car wash unit. Such loss, claims, costs, expenses, damages and liabilities will include, without limitation, those arising from latent or other defects in the trucks, units and equipment, whether or not discoverable by Franchisor, and those arising from the death or injury to any person or arising from damage to your or our property, our agents or employees, or any third person, firm or corporation, whether or not such losses, claims, costs, expenses, damages or liabilities were actually or allegedly caused wholly or in part through our active or passive negligence or any of our agents or employees or resulted from any strict liability imposed on Franchisor or any of our employees.

Franchisee will indemnify and hold Franchisor and its affiliates and its predecessor, sister or co-branding companies free and harmless from and against any and all reasonable attorneys' fees, liabilities, expenses, claims, demands, actions or causes of action which may be incurred by or threatened against Franchisor or its affiliates and arising out of

- (i) the Franchisee's operation of the Franchised Business, or
- (ii) any transaction between Franchisee and any third party or
- (iii) Franchisee's improper use of the Marks.

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All franchise in company should be concerned with this and it would be very smart and wise to contact a knowledgeable and experienced franchise attorney to make sure you are protected in your franchise agreements. I hope you will address this in 2006.Lance Winslow - Online Think Tank forum board. If you have innovative thoughts and unique perspectives, come think with Lance; www.WorldThinkTank.net/wttbbs/