

Terms and conditions whether they apply to sales or services, are essential to your business as they set out the level of responsibilities that apply to you and your customers. They represent you either as a seller or a buyer and protect your rights. They can also inspire confidence in your business, especially if your business is run online. They are absolutely vital. They are the terms on which you trade and without them, how do you seek redress for anything that goes wrong?

Terms and conditions are contained within a legal document, you can buy standard templates and adapt them to your particular needs however I offer caution, these are only ever as good as the amount you pay for them, so would argue NOT as valuable as you might first think! They might be “better than nothing” whilst your testing the waters in incubator stage of business, however very quickly do you realise any good solicitor will pull them to pieces and therefore become worthless if you try and implement them through the courts!

I would therefore argue most strongly the need for specialised Terms and Conditions written specifically for you and the way you want to do business. – This will work out more expensive in the short term but WILL save you more money and problems in the long term. Having had previous need of reliance on my own Terms and Conditions, I am more than happy to recommend Colin Freeman, or Freeman Jones Solicitors in Chester, Cheshire, United Kingdom. He has an exceptional eye for detail, is highly experienced and proficient and offers a highly professional yet no-nonsense approach to all aspects of commercial law.

What you should include?

There is no hard and fast rule as to what to include in terms and conditions, but they should generally cover the following:

1. when payment should be made
2. any interest that will be due on payments not made by the specified time
3. who owns the products or services before any payment is made
4. who is responsible for the goods or services
5. space for the customer to sign and acknowledge his agreement

In the event of a dispute, the terms will be what forms the decision. It will define the contract, delivery, legal liability and indemnities.

Terms and conditions should also be set out in an easy-to-read and easy-to-understand format. If your business is online, it is essential that you have a list of terms and conditions on the site, and that they are clearly visible, either on the home page, or accessed via a clearly-marked button.

It is also worth ensuring that customers not only have to read your terms and conditions, but also have to agree to them by clicking on a button, before they can proceed with a purchase.

To ensure your terms and conditions apply, they should be highlighted each and every time a contract is agreed. Whenever you open an account with a new customer, ensure you send your terms and conditions and have a signed copy sent back to you.

It's no good having them on the back of an invoice and assuming they will be enforceable. Good practice dictates that when asked to open an account a supplier should send their terms and conditions and get them accepted in writing by the purchaser. This means that, unless varied, they should be enforceable. Therefore remember, they are there to protect both you and the customer by highlighting both the Terms AND the Conditions on which you agree to do business. There is little point stating things if you are not prepared to apply these yourself. And so, only set out Terms that you yourself are willing to adopt within the business and follow should it be necessary.

If the worst comes to the worst and a dispute arises, take some advice from Colin, seriously you could do far worse than to check in to ensure what you have in place is going to ensure you are sufficiently protected and enforceable if required to do so.

