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3HR Legal Weekly

Commercial

Terms and conditions - the backbone of business relationships

A lot of businesses have them. Some businesses even have good ones. However, *all* businesses would benefit from a review of their terms and conditions of business and commercial contracts.

A robust and thorough set of terms and conditions are the backbone of all of a company's trading. That's why it is so important to get them right. They set out the basis of the contractual relationship between you and your customers, and protect you should things go wrong.

Whenever you enter into any contractual negotiations you will be agreeing terms. If you do conduct business by orally agreeing what each party will do you are creating a valid contract, but you will be missing so many important legal points. You are also inviting the possibility of disagreements. By providing your customer with your standard terms and conditions, you will have all the bases covered.

You will be telling the customer when they should expect delivery, when they should pay you, disclaiming liability should something happen that is completely beyond your control, and giving you the right to take back your goods should you not be paid.



Terms and conditions are also invaluable should one party breach the contract. Parties usually enter into a contract confident that everything will be fine. It is natural to think that everyone will get exactly what they bargained for, and a long and fruitful business relationship will be formed. Unfortunately, that is not always the case and occasionally a dispute will arise. Good terms and conditions will tell your customer how you will handle any complaints or problems they might have (which can often stop them from immediately taking you to court), while also giving you protection. When something is clearly set out in your terms, a customer will not be surprised should you take a particular course of action.

There are also regulations or legislation that might affect your specific industry. For example, there are certain rights in the recruitment industry that, unless they are offered to the client, will stop the recruitment agent from charging a fee. Rather than give this option to every customer individually, it is preferable to include this in the terms and conditions. Then, if the client raises an issue, all you need to do is show that they received your terms and conditions and the dispute will be over.

It is also vitally important for a company to have its commercial contracts regularly reviewed. Much like standard terms and conditions, the contracts that a company forms will define an organisation's relationships with its clients. It is therefore key for you to ensure that the contracts you send out, as well as those that you might receive, are up to date and contain no surprises.

A review of these documents will provide you with amendments you should make to better protect your company, as well as information you might have overlooked. For example, an important thing to check is whether a contract will automatically renew, and whether you need to provide a certain amount of notice to terminate. This could have major implications for your business in the future.

Should you require any assistance in this or any other commercial area please refer to our 3HR Commercial Law team which can advise accordingly.

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