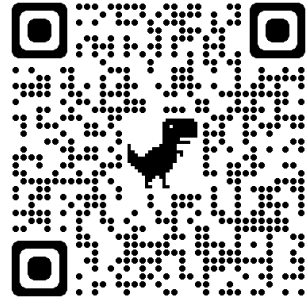


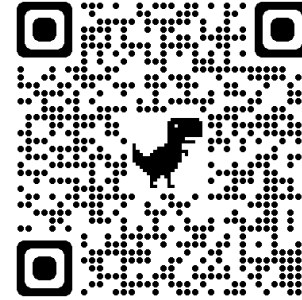


Getting your terms and conditions right: why the small print matters

Introduction & Connect with Us



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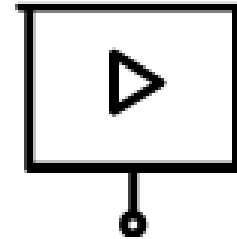
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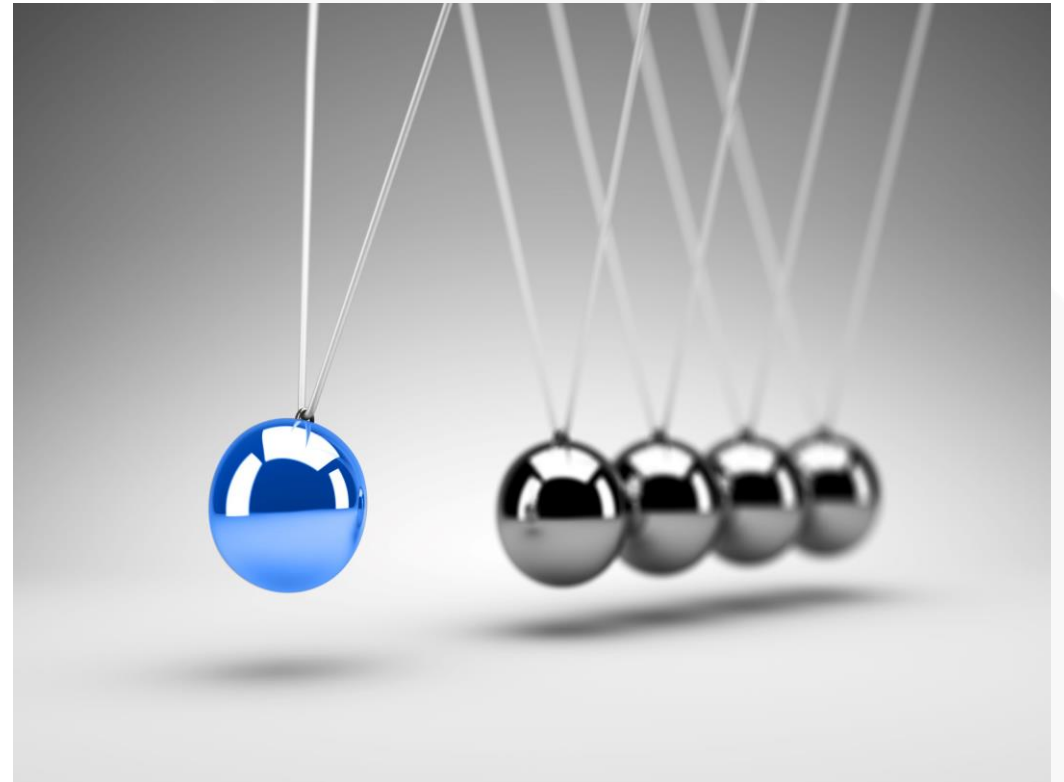
**Presentation slides will
be sent to you**

Why are terms and conditions important?

- Binding Contract
 - Offer
 - Acceptance
 - Consideration
 - Intention to create legal relations (“Subject to Contract”)
- Oral contract
- Written Contract

Why are terms and conditions so important?

- Certainty
- Investment rather than a cost
- Protect your business (Insurers may insist on seeing your terms)
- Professional regulation



Terms and conditions – the alternative

- Email trail
- Handshake/Gentlemen's agreement
- Statute
 - Sale of Goods Act 1979
 - Supply of Goods and Services Act 1982
 - Unfair Contract Terms Act 1977

Considerations post Covid-19 and Brexit

Review standard terms:

- Force majeure clause
- Price review
- New services
- Validity period of quotations



Drafting terms and conditions: Common Issues

- **What is being supplied** – goods/services/both?
- **Price** – set out in a quotation/proposal/project plan?
- **Timescale for payment** – credit account/instalment payment/payment up front?
- **Limitation of Liability** - carefully drafted to comply with UCTA
- **Defective Goods/Services** - what are the remedies?

Incorporation

Good business practices to incorporate terms and conditions.

Where to have terms and conditions:

- Reverse of invoices?
- Account opening forms
- Proposals, quotations, brochures
- Websites

Battle of the Forms

- Quotation fee
- Purchase Orders fee
- Order acknowledgements
- *Butler Machine Tool v Ex-Cell-O Corporation [1979]*
- *Tekdata Interconnections Ltd v Amphenol Ltd [2009]*
- *TRW Ltd v Panasonic Industry Europe GmbH*

New Terms and Conditions Notification

- Date and version number of terms and conditions



Case Study

Thornton v Shoelane Parking



What if it all goes wrong?

- Not able to limit liability for certain aspects
- May not be able to recover costs
- Can't charge contractual interest
- Cannot rely on other helpful clauses e.g. no retention of title
- Expensive litigation

Points to remember

- Drafting
- Incorporation



Any questions?



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