

Our

# 10 Top Tips

for drafting

# Terms & Conditions

eric  
robinson  
solicitors



# T&Cs

Anyone who has set up a new business will tell you that there are a million and one things to think about. From tiny details about your product or service, to premises, branding and website, it is a process which takes careful planning and commitment.

Sometimes the last item to be crossed off the to-do list is designing terms and conditions. Far from being a formality, this set of obligations will underpin your operation; if you trade online then it is a legal requirement to have your terms and conditions on your website. They will help make sure that your client or customer pays you and, if they don't, you will have good evidence to back up a claim against them.

It is not just about payments. All sorts of details are contained in terms and conditions.

Here are our top tips for getting the right ones in place for your business.

01

## Who needs to be named on the terms and conditions?

Some commercial arrangements are more straightforward than others. Generally, it will be obvious who your agreement should be with (your client or customer), but you also need to make sure that your side of the agreement is in the correct name. This is important because terms and conditions which specify your own individual name, when it should be your company's name, may be harder to enforce.

02

## Do the terms need to reflect the product or service you are selling?

If you are offering a range of products or services, you may need terms and conditions which are specific to each. That won't always be the case, but where different terms apply to different specifications then you will need to cover this in your paperwork.

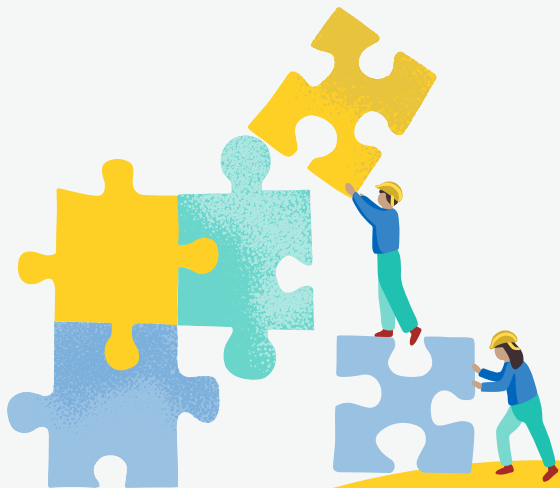


03

## Can I determine my payment terms?

You have choices here, and these largely come down to what you are selling. If it is a product, then you will probably expect to be paid straight-away. That means upfront (face-to-face, or online). If you are selling a service, however, it is more common to invoice your fee and specify the time within which it needs to be paid.

Think about how long you will allow – 7, 14, 21 days, and any interest that will be incurred if there is a late payment. This has a bearing on your cashflow, so it is worth giving it serious consideration.



“Most people expect to be able to pay by Credit or Debit card”

04

## Will you be accepting card payments?

Most people expect to be able to pay for products by Credit or Debit card. There may be charges for providing a card payment service, and different card providers charge different rates, so be clear on the charges before you offer the service. You may run a risk of card fraud, for example, but you will need to balance those risks against the ease of customers paying immediately by card. Alternatively, you may wish to use a service such as PayPal, used widely across the internet, but make sure you are clear on the charges to use such services.

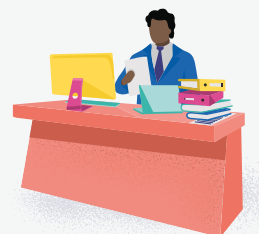
05

## Will you be handling customer data?

Data protection is an increasingly complex consideration for all businesses. If you are collecting, storing or using customers' details, then you need to have a robust, legally compliant system in place. Think about whether you will be taking customers' names and addresses (email or postal), phone numbers and bank details and how you may need to use that information in the future. This is also important in the context of employees whose details you may need to keep.

Tread carefully if you are planning on using customers' information for direct marketing purposes. Always give them the option to opt in, and act quickly to remove them from your marketing database if they ask you to.

All of this should be covered in your terms and conditions. Make sure to also include details of your website privacy policy.





06

## What delivery method will you be using?

We have all had good and bad experiences of products being delivered to our homes and to work. The great news for businesses is that there are lots of options out there, from Royal Mail, to courier services, to in-house delivery. Weigh up the cost and the extent to which you would pass that cost onto your customer. Also, think through how quickly you will be able to process orders and dispatch, as your customers will want to know how quickly it will arrive. Your delivery process should be clearly set out in your terms and conditions.

07

## What happens if a delivery does not happen?

When an order doesn't arrive at a customer's address, it is important to tackle the issue head on. Your terms and conditions should set out the action you will take, whether this is dealing directly with the delivery agent or arranging an immediate replacement product. Give careful thought to how you frame this support, making sure that you will be able to meet those obligations.





08

## Do you need a refund policy?

Sometimes you will have to offer a customer a full refund. That is where the product they have bought is faulty (and they didn't know that at the time they bought it), or isn't as described. If the customer simply changes their mind, then they are not legally entitled to a refund, but lots of businesses choose to offer refunds nevertheless.

Make your policy on refunds clear in your terms and conditions. Specify the window of time within which a customer has the right to return an item, and don't make this overly long – particularly if you deal in seasonal goods. Also, be clear about the condition the item has to be in to qualify for a refund (in its original packaging, in a saleable condition for example).

09

## Who will be liable if the product is faulty?

If you manufacture your products and deliver them yourself, then this is clear-cut – it is you (provided the item was broken when the customer received it). It gets more complicated if your products are made by someone else, or where you use a delivery service or a distributor. Sometimes it is difficult to establish when the product became faulty and why, so you will need to cover the various potential areas of liability in your terms.

10

## How will you resolve any disputes?

Unfortunately, no matter how comprehensive your terms and conditions are, your business cannot be immune from disputes.

If you are dealing in overseas trade then differences in legal jurisdictions could affect the outcome of a dispute. Always specify in your terms and conditions which law will apply to resolving the dispute. We will usually suggest the law of England and Wales, but only after taking a good look at your business activities around the world.



Talk to one of our advisors to find out more:

02380 218000

[commercial@ericrobinson.co.uk](mailto:commercial@ericrobinson.co.uk)

[ericrobinson.co.uk](http://ericrobinson.co.uk)



## Contact Us

### Southampton (Bitterne)

359 Bitterne Road  
Southampton  
SO18 1DN  
**02380 425000**

### Changers Ford

6-8 Brownhill Road  
Changers Ford  
Eastleigh SO53 2EA  
**02380 254676**

### Lymington

Heathcote House  
37 St Thomas Street  
Lymington SO41 9NE  
**01590 647670**

### Southampton (Hedge End)

Vanbrugh House  
Grange Drive, Hedge End  
Southampton SO30 2AF  
**02380 226891**

### Winchester

Regency House  
2/4 Southgate Street  
Winchester SO23 9EF  
**01962 790553**

### Richmond (London)

4 The Square  
Richmond  
Surrey TW9 1DZ  
**02031 467300**