

TOP TIPS FOR BUSINESS' TERMS & CONDITIONS

It's important, both legally and commercially, that your business' terms and conditions ("T&Cs") of supply of goods or services are right for your business.

Incorporation

For T&Cs to be binding, they need to be incorporated into the contract between the parties. If they are not properly incorporated then the other party' terms may prevail.

Signed by the customer

You must be able to establish that the T&Cs were agreed to by the other party before the contract was entered into. It is best to get both parties to sign the T&Cs, though this may not always be practicable.

Bringing the T&Cs to the customer's attention

The T&Cs should be brought to the attention of the other party at the earliest opportunity. For example, the T&Cs should be visible on your brochures, purchase orders, website, quotations, order acknowledgements and delivery notes (as appropriate in your circumstances).

Do not provide T&Cs on your invoice

As mentioned above, the T&Cs will have been formed before the invoice is generated and so including T&Cs on an invoice will generally be ineffective incorporation.

You cannot impose new T&Cs on the other party without their agreement

You cannot introduce new T&Cs after the contract has been formed and accepted, unless agreed by the other party.

Keep accurate records on how you provided your T&Cs

When you introduce new T&Cs, ensure it is clear to the other party that the new terms will apply to all future orders.

Update your T&Cs in line with your business practice and changes in the law

You should review the T&Cs and identify whether they should be 'updated' to reflect your current business practice and any relevant changes in the law. For example, are your T&Cs GDPR compliant?

Do you have a different set of T&Cs for consumers (B2C) and businesses (B2B)?

If this is something which is applicable to you and your business, your B2C T&Cs should be compliant with the Consumer Rights Act 2015.

Ensure your staff are familiar with the T&Cs

You should ensure that your staff are up to speed on the content of the T&Cs. It is important that your staff do not provide the other party with any inaccurate statements about the goods or services; otherwise you may run the risk that the statement is incorporated in the contract.

Are your T&Cs in line with those of your competitors?

This is broadly a commercial question for your business and should be considered when drafting your T&Cs in both a B2B and B2C context.

GET IN TOUCH

For further information, please contact James Geary whose details are below.



The information contained in this document is for general information purposes only and should not be relied on in isolation without seeking further legal advice that is specifically applicable to your circumstances.