

Rock solid terms and conditions are vital

By Hayley Goodwin, Commercial Solicitor
Else Solicitors LLP

A Midland commercial lawyer has warned of the potentially crippling consequences of not using properly drafted terms and conditions in commercial contracts.

Many businesses failed to recognise the importance of seemingly mundane “small print”, with a result that can be costly and time consuming dispute resolution with an unpredictable outcome.

Hayley Goodwin of Else Solicitors LLP, which has offices in Birmingham and Burton on Trent, said: “Terms and conditions are of paramount importance and less expensive than allowing a dispute to fester into a severe problem, which may ultimately be financially crippling.

“They provide the main contractual terms upon which businesses operate on a day to day basis whether supplying goods or services.”

“Terms and conditions are essential for businesses of all types to ensure that customers are clear on how a supplier operates – and how and when they must pay.”

Hayley said: “If you are selling goods, your terms need to reflect this – terms for the sale of services will be of little use.”

She said terms and conditions should be incorporated into all contracts with customers.

“There is a common misconception they need only to be printed on the back of an invoice, but these are usually produced after the formation and conclusion of the contract between the parties.”

“It is too late to inform a customer of the terms of that contract after the conclusion of the contract.”

“Bring them to the attention of the customer as early on as possible on pre-contractual documents such as brochures, quotations, estimates, costing and order acknowledgements.”

Order acknowledgements, she said, were important because they confirm acceptance of a customer’s order, on the supplier’s terms.

“They ensure that your terms are the final binding terms before the contract is concluded.”

“Otherwise, you may be at risk of customers using purchase orders with their own terms enclosed.”

“This is known as the ‘battle of the forms’ which means that the terms and conditions contained in the last document passing between two parties before a contract is concluded will usually be those which apply.”

“Remember, if you print your terms on the back of any document, you must have a legible statement on the front to state their location.”



For more information, please contact: **Hayley Goodwin**

Tel: **01283 526 200** Email: **hayley.goodwin@elselaw.co.uk**