



# Scott Legal

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## Why you should consider a Terms & Conditions for your Business

The purpose of providing your customers with terms and conditions is to:

- Outline the scope of what you are providing to your customers to avoid mismatched expectations
- Create a legally binding contract between your business and customers
- Limit your risks to protect your business
- Minimise disputes
- Allow you to claim interest and legal costs from your customer if they are late with payment
- Place you in a position of power in the case of a dispute – you can always negotiate a more generous commercial deal with the customer
- Look professional for your business and provides good customer service

A Terms & Conditions is a reflection that your business is growing and so is the demand for your goods and services. In most cases, the customer won't even need to sign it.

### What are Terms & Conditions?

A Terms & Conditions document sets out the agreement as to what your business will be providing to your customers. It should provide a clear distinction of what is included and excluded in terms of your dealing with the customer. The terms should be tailored specifically to your business needs to provide you with confidence in these dealings. It also ensures that your business complies with the current law.

### Your Business Details

Including your business details in the Terms & Conditions such as business name and ABN/ACN is crucial in a legal document.

### Goods and/or Services Offered

A clear description of the goods and services you offer and being open and honest to your customer creates certainty for both you and your customers. The amount of detail needed will depend on your business activities, your customer demographic and any specific needs.

### Payment

The charges for your goods or services, the method and frequency of payment should be covered in your Terms & Conditions. We will ensure that you are covered in case of late payments, dishonoured payments, cancellations and termination, including the right to claim interest and your costs in the case of outstanding payments. Otherwise, you may not be entitled to recover interest and costs.

**Delivery**

The issue of when the risk passes from you to the customer will no longer be an issue. If you are in the business of delivering goods to your customers, we can include terms to allow you to retain ownership of the goods until full payment has been made even though the goods have already been delivered.

**Warranties and Limitation of Liability**

Certain warranties are implied in the Australian Consumer Law, such as a product must be in working order. These warranties cannot be contracted out of, but we will ensure that their effect does not burden you in case of a claim. In addition, the Australian Consumer Law places mandatory obligations on businesses to include certain information and specific wording. We will include terms relating to replacement, repair and refunds (where applicable) and limit your liability as much as possible, to the extent permitted by law.

**Termination**

This outlines the basis for which you or your customer may cancel or end the contract and the consequences that flow, including re-collection of goods already delivered and payments outstanding.

**Website and Privacy**

The way you collect your customer details and information and the way you store it, is subject to privacy rules. We will include terms that deal with any third-party website hosting, such as advertisements, endorsements or links, comments posted on your site and potential viruses.

**Where do we start?**

We will ask you some questions concerning your business, the goods and services you offer and the sort of customers you deal with to ensure that we understand your specific business needs. We then provide you with a cost estimate. If you are happy with our cost estimate, we will prepare a Terms & Conditions document for your approval. We will go back and forth as many times as necessary to ensure that we have it right. Remember, your Terms & Conditions is a live document and it should be developed as your business grows.

Talk to us at Scott Legal today about how we can help your business develop a 'Terms and Conditions' document to keep you protected.

This information is intended as a guide only. For further information, feel free to contact Leanne Scott of Scott Legal on (03) 9394 6326 or [leanne@scottlegal.com.au](mailto:leanne@scottlegal.com.au).