

# Terms of Trade

## Do your terms of trade protect you?

Here is a list of questions to get you thinking.

### Approach

- Who is your customer buying from? Make sure your company name is correct, believe it or not this is a common error.
- Do you offer quotes or estimates? Make it clear as to what your prices are and how long they last.
- Can your customers easily tell how payment is to be made and when?

### After-sales

- Delivery or pickup? Pizza companies aren't the only ones give these options, so you should make it clear what the options are, and who covers the cost and the risk.
- Don't want them copying your design? Then make it clear that they are buying just the product, not the right to produce more of them.
- Like your privacy? So do your customers, so reassure them that you will keep their details secure, where it will be stored and how they can gain access to it. Make sure you comply with the Privacy Act 1993.
- Sending out spam? New Zealand has strict legislation on what can and can't be emailed out, so consider having an email policy, that is within the law, and letting people know what it is and how they can be removed from it.
- Why isn't this thing working? What warranties are you providing or excluding?

- No payment or late payment – do your terms allow you to charge interest for late payment and the costs of debt collection?

### Not unexpected, just undesired

- Have a dispute? With the high cost of adjudication or court action you might want to set down a procedure to mediate any disagreements that occur before any court action can be taken.
- Alien invasion? That might seem farfetched, but wouldn't you rather have a force majeure clause there, just in case something happens that is outside of your control?
- Is it just not possible? There may be a number of reasons that a contract may be cancelled, so make it clear what these are and how it will be handled.
- Can you get your goods back if there is no payment? If you are giving possession of goods prior to payment, a PPSR clause is essential to protect the goods from other creditors. You must also register your security interest within a certain amount of time to gain protection.
- No guarantees – if the customer is purchasing the goods and services for the purpose of a business you can contract out of the Consumer Guarantees Act 1993 but must do so in writing.
- Have you limited your liability as much as you can?
- Can you change your terms? You should be able to change your terms at any time and your contract should state this and when any changes will take effect?

- Overseas customers? Make it clear New Zealand law will apply.

### **We can help!**

If you think your Terms could do with updating, we have some great fixed price deals. For help with these and all the rest contact:



**Rory MacDonald** by phone **(09) 307 3324** or by email [rory@mllaw.co.nz](mailto:rory@mllaw.co.nz)

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**Important:** This information is provided as a guide only and is not intended to be legal advice. You are strongly recommended to consult the services of an experienced franchise lawyer if you are considering purchasing a franchise.

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