

CHECKLIST: BUSINESS TERMS AND CONDITIONS

This checklist lists basic information required for an organisation's terms and conditions of business. It is not necessarily complete, as particular circumstances may require different/extra information. Some of the questions may require our advice for proper interpretation and response. If you would like us to draft or review terms of business for you, please complete the checklist (so far as you can) and send it to us.

Supplier

Supplier's full name

Supplier's ACN or ABN

Supplier's registered office address

Supplier's contact name

Supplier's telephone no.

Supplier's facsimile no.

Is the supplier a sole director and sole secretary company? Yes / No

Is the supplier the trustee of any trust? Yes / No
If yes, please provide the following in respect of each trust:

- (a) A copy of the trust deed.
- (b) Copies of all deeds amending the trust deed.
- (c) Copies of all deeds of retirement and appointment of trustee.

Customer

Customer's full name

Customer's ACN or ABN

Customer's registered office address

Customer's contact name

Customer's telephone no.

Customer's facsimile no.

Is the customer a sole director and sole secretary company? Yes / No

Is the customer the trustee of any trust? Yes / No
If yes, please provide the following in

<p>respect of each trust:</p> <p>(a) A copy of the trust deed.</p> <p>(b) Copies of all deeds amending the trust deed.</p> <p>(c) Copies of all deeds of retirement and appointment of trustee.</p>	
Type of supply	
<p>Will the supplier supply:</p> <p>(a) Products; or</p> <p>(b) Services; or</p> <p>(c) Products and services?</p>	
Term, renewal & termination of contract	
<p>Is the contract to start:</p> <p>(a) On a specified date (if so, when); or</p> <p>(b) Whenever the customer places an order; or</p> <p>(c) Whenever the supplier accepts an order; or</p> <p>(d) At some other time (if so, when)?</p>	
<p>Is the contract to continue:</p> <p>(a) For a specified term (if so, please specify the length of the term or the end date); or</p> <p>(b) Until terminated by either party giving notice to the other?</p>	
<p>Is the contract to be renewable:</p> <p>(a) At option of the customer at the end of a fixed term; or</p> <p>(b) Automatically if not terminated by either party at the end of a fixed term?</p>	
<p>If the contract is to be renewable, is it to be renewable for:</p> <p>(a) The same term as the previous term; or</p> <p>(b) A different period?</p>	
<p>How much notice is required to be given:</p> <p>(a) To exercise the option of renewal</p>	

(if any); or (b) To terminate the contract?	
Basis of provision of products or services	
Are the supplier's products or services to be supplied: (a) On a continuous basis at predetermined rates, invoiced periodically; or (b) Only as required and on the basis of written quotes and/or orders (if so, please specify which); or (c) On some other basis (if so, please specify)?	
Quoting, ordering and acceptance	
Where are orders to be placed?	
What procedure (including time limits) is to be adopted for quoting, ordering and acceptance?	
Does the supplier require orders to be placed on its own order form? If so, what information is required to appear on the form?	
If products/services are to be supplied on the basis of written quotes and/or orders, is the contract to supply the products/performance the services to be made upon: (a) Acceptance by the supplier; or (b) Acceptance by the customer?	
Is the supplier to have the right to refuse/require modification of an order placed by the customer?	
What right (if any) will the customer have to vary orders after acceptance by the supplier?	
What forward estimates of its orders is the customer required to provide? At what frequency?	
What procedure is to be adopted in case of a time/budget/cost overrun?	
Is the supplier to have the right to	

charge extra in case of a time/budget/ cost overrun?	
Products/services to be supplied	
Is the range of products and services to be supplied: (a) To be specified exhaustively in the contract; or (b) To be listed in a separate document (if so, please provide a copy); or (c) To be defined from time to time as necessary in a quote/an order form?	
Please provide details of the products and services to be supplied.	
Specifications	
Are the products sold by reference to: (a) Description; or (b) Sample?	
What specifications of the goods or services are to be met by the supplier?	
What are to be the supplier's rights to change the specifications?	
Packaging	
How are goods to be packed? (E.g., number of items to a carton; style and design of packaging.)	
Delivery	
Where are the goods to be delivered or services supplied? E.g.: (a) Ex factory. (b) To specified port or airport. (c) On board ship/aircraft. (d) To the customer's premises (e) Elsewhere.	
Time parameters	
What time parameters are to apply to the delivery of the products/services?	

Are the time parameters to be specified: (a) In the contract; or (b) In quotes; or (c) In order forms; or (d) In another document (if so, please specify)?	
What rules are to apply regarding the supplier and the customer scheduling delivery under the contract?	
What are to be the consequences of the customer requesting rescheduling or cancellation of delivery?	
Is the supplier to charge for storing products pending delivery?	
What are to be consequences of late delivery?	
Rejection/returns	
What are to be the consequences of delivery of an incorrect quantity of products?	
What is to be the supplier's policy regarding rejection/return of products?	
What procedure must the customer follow to reject/return a product?	
What time limit(s) are to apply for notification and return of products?	
Licences	
Who is to obtain manufacturing, export and import licences, if required?	
Title and risk	
When is title to (ownership of) the products to pass to the customer?	
Is the supplier to retain title to the products until the customer has paid for the products?	
When is risk in (i.e., the risk of loss of) the products to pass to the customer?	
Reports	
What reports is the supplier to be	

required to provide and to whom?	
How frequently must the supplier provide those reports?	
Customer's obligations	
What are to be the customer's obligations, e.g, provision of: (a) Access; (b) Equipment; (c) Staff; (d) Other (please specify)?	
Contract managers	
Are the supplier and the customer to be required to appoint contract managers to represent them respectively?	
Acceptance of supplier's work	
What procedure (if any) is to apply for acceptance of the supplier's work by the customer?	
Prices	
What prices are to be set for the supplier's products and services? (E.g., list price or list price less prescribed discount(s).)	
Do the prices include or exclude taxes and export/import duties?	
How much notice of price rises is required?	
If orders are to be priced individually, what procedure is to be followed?	
Supplier's charges for services	
Are the services to be charged for: (a) At rate(s) specified in the contract; or (b) At rate(s) specified in a separate document (e.g., a price list); or (c) On the basis of quotes to be provided as necessary; or (d) On some other basis (if so, please specify)?	

Please provide full details of applicable rates.	
Do the supplier's charge rates include GST or is GST to be added to the stated rates?	
If the supplier's charge rates are to be variable, how much notice must be given to vary them?	
Expenses	
<p>Is the customer to be required to pay the supplier's expenses in addition to its service charges? If so, what expenses are to be recoverable, e.g.:</p> <p>(a) All expenses, as incurred; or</p> <p>(b) All expenses, subject to prior written approval by the customer; or</p> <p>(c) Specified expenses, e.g.:</p> <p>(i) Travel;</p> <p>(ii) Accommodation;</p> <p>(iii) Meals;</p> <p>(iv) Communications;</p> <p>(v) Equipment hire;</p> <p>(vi) Consumable supplies;</p> <p>(vii) Other (please specify).</p>	
Payment	
<p>Who is to pay the cost of:</p> <p>(a) Packaging.</p> <p>(b) Shipping.</p> <p>(c) Insurance.</p> <p>(d) Export/import/other licences.</p> <p>(e) Customs procedures.</p> <p>(f) Taxes and duties.</p> <p>(g) Storage.</p> <p>(h) Delivery.</p>	<p>Supplier / Customer</p> <p>Supplier / Customer</p> <p>Supplier / Customer</p> <p>Supplier / Customer</p> <p>Supplier / Customer</p> <p>Supplier / Customer</p> <p>Supplier / Customer</p> <p>Supplier / Customer</p>
<p>What are the terms of payment for goods or services? E.g.:</p> <p>(a) Full prepayment.</p>	

(b) Deposit and balance.	
(c) Payment on or after delivery.	
(d) Place of payment.	
(e) Method of payment.	
(f) Letters of credit.	
Prepayments	
Will the customer be required to pay:	
(a) A deposit on signing the contract or on placing an order (if so, please specify the amount or percentage); or	
(b) A regular periodical sum in advance (if so, please specify the period and the amount); or	
(c) Any other prepayment (if so, please provide details)?	
Invoices	
At what intervals are invoices to be rendered by the supplier?	
Within what period must the customer pay the supplier's invoices?	
Will the supplier have the right to suspend deliveries in case of late payment?	
Will interest be payable in case of late payment? If so, please specify the interest rate (e.g., a specified number or a reference to a financial institution's rate).	
Is the customer to pay the costs of dishonoured payments and other enforcement costs incurred by the supplier?	
Training	
What training is the supplier to provide to the customer?	
Where is the training to be undertaken and at whose cost?	
Stock	
What minimum stock requirements (if any) must the supplier maintain?	

For how long must the supplier maintain a stock of spare parts?	
Support	
What technical support services is the supplier to provide?	
Insurance	
<p>What insurances is the supplier required to have, e.g.:</p> <p>(a) Public liability;</p> <p>(b) Professional liability;</p> <p>(c) Product liability;</p> <p>(d) Workers compensation;</p> <p>(e) Other (please specify)?</p> <p>In each case, please specify the level of cover required to be carried.</p>	
Supplier's warranties	
What warranties are to be given by the supplier?	
What implied warranties (if any) are to be excluded?	
Supplier's liability	
<p>What is to be the extent of the supplier's liability under the contract, e.g.:</p> <p>(a) Full liability; or</p> <p>(b) Liability limited to the aggregate of the charges paid by the customer to the supplier; or</p> <p>(c) Liability limited to a specified sum; or</p> <p>(d) Liability excluded so far as possible; or</p> <p>(e) Other (please specify)?</p>	
What steps is the customer required to take to mitigate its loss?	
Intellectual property	
<p>What intellectual property rights exist in relation to the products or services:</p> <p>(a) Copyrights.</p>	

(b) Designs. (c) Patents. (d) Trade marks. (e) Others.	
Who owns each of those rights?	
Who is to own the intellectual property rights in products developed or discoveries made by the supplier's personnel during the term of the contract?	
Restrictions on parties	
Are the supplier and/or the customer required to keep the other party's information confidential?	
What restrictions are to apply on either party hiring the other party's personnel during or after the term of the contract?	
Sub-contracting	
Is the supplier to have the right to sub-contract all or any part of its obligations under the contract?	
Force majeure	
Is the supplier to be allowed additional time to fulfil its obligations if delayed by circumstances beyond its control?	
Complaints	
What complaint investigation and resolution systems are to be provided by the supplier?	
What restrictions (if any) are there to be on the making of claims against the supplier?	
Dispute resolution	
Are disputes to be resolved by: (a) Negotiation between the parties; or (b) Mediation; or (c) Arbitration; or (d) Court proceedings; or	

(e) A combination of the above (if so, please specify)?	
Termination	
How much notice is required to terminate the contract after the end of the fixed term?	
How much time is either party to be allowed to remedy breaches of the agreement before the other party is able to terminate the agreement?	
In case of termination of the agreement, what are the supplier's and the customer's respective rights regarding the supplier's stock of the products?	
Other terms	
Are the customer's obligations to be guaranteed by: (a) Its directors; (b) Its shareholders; or (c) Anyone else (specify)?	
Are the supplier's terms (including the content of quotations and order forms) to comprise the entire agreement, to the exclusion of any other discussions?	
What is to be effect of terms proposed by the customer (e.g., in the customer's order form)?	
What right is the supplier to have to vary its terms of business?	
How will the supplier notify the customer of changes in its terms of business?	
How are variations of terms to be agreed between the supplier and the customer?	
Which state's laws are to govern the agreement?	
Are there any other terms that have been agreed between the supplier and the customer?	