

How to sort out trade agreements

L. asks what she should include in her Terms of Trade for her small business.

If you are entering into a contract for the buying/selling of goods or services, it is important to know what you are agreeing to.

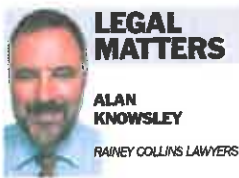
A simple terms of trade should set out who the parties are, what goods or services are to be supplied and when, any details as to quality etc and when payment is due, including the deposit upon acceptance and any balance.

You may also want to specify what happens if the contract is not completed – for example, interest on unpaid amounts, costs of recovery action and ownership of the goods until the account is paid.

Other matters to consider in more complicated matters may be who owns the intellectual property in the goods or services, provision for variations, guarantors, references, dispute resolution processes etc.

Check that the parties are correctly named and identified.

Are they individuals, compan-



ies, trusts or perhaps incorporated societies?

It may be too late to try to add the correct party later if the wrong one is named on the agreement.

If the other party is a company or other entity, you should consider if you need a personal guarantee from one or more individuals.

You do not want to be chasing a shell company that turns out to have no assets.

Once you have your terms of trade sorted, make sure you provide them to the other party before you agree on the contract. It is too late afterwards to add them in. Some places put their terms on the back of the invoice –

that is too late.

Make sure that any required information is completed – for example, names, addresses, contact details.

Also, get some acknowledgement of acceptance of the terms – for example, a signature or email.

Make sure this is by or from the person entering into the agreement and not someone else.

This avoids later claims that the terms were not provided in advance and agreed to by the correct party.

If you have sought trade references to check on their credit worthiness, make sure you check them out before you enter into the contract.

It is too late to pull out owing to a bad credit reference after you have signed up the customer and agreed to supply.

If the terms provide for certain steps, make sure they are followed – for example, if variations can only be in writing, a verbal variation is not binding. Put it in writing and get it signed.

You then have a binding variation and proof that it was accepted.

If problems arise, deal with them quickly.

Do not sit on a bad debt or complaint because the problem will only get worse.

Column courtesy of Rainey Collins Lawyers, phone 0800 733 484. If you have a legal inquiry you would like discussed in this column, email Alan on aknowsley@raineycollins.co.nz.

Keeping internet-savvy children safe online

By JIM CHIPP

Free, uncapped, high-speed data connections for schools bring a world of information to children, but also new threats.

