

Contract Basics – Part 1

In today's world it is hard to avoid contracts. In a number of common situations they are presented to us for signing, whether you are upgrading your mobile phone, getting the NBN connected, buying a new or used car or purchasing your first home. Therefore, it is important to know the basics about contracts. Many of the basics are sound commercial practice or simply common sense.

The Contract

If you or your business purchase a product or supplies a product and in return payment is made, generally an enforceable contract comes into existence. A contract can be verbal or in writing, it could be a simple receipt, tax invoice or a 100 page document. What is important is to know what the responsibilities and obligations of each party are under the contract.

Should your contract be in writing?

The days of running a business on a handshake are long gone. If you have a dealing with a customer or business and it is important to your business, it is essential to have a signed contract. It does not need to be a lengthy contract, often all that is required is a simple outline of what each party is to do and the terms of payment.

The parties to a Contract

For most business dealings, you need to know exactly who the party you are contracting with is, are they an individual, company, partnership? How can they be contacted? And can they do what you are contracting them to do or do they have the capacity to pay you when you do the job?

Investigate

Before entering into a contract, you should make enquiries to check that the other party can do what they say they will do. Government agencies such as ASIC, ATO, together with credit reporting agencies have easy to search websites or you can make enquiries of your trusted contacts who may have dealt with the other party.

Record Keeping

No doubt your accountant has mentioned this to you on more than one occasion but it is very important and often overlooked, so is worth repeating. Whatever materials (contracts, invoices, documents) you have relating to any dealing, make sure you keep them in a safe and easily accessible place.

Get advice

When you are asked to sign a contract you should always read it and not simply sign it. If you don't understand a contract or don't think it covers what was agreed, you should get advice before signing it.

This article is not a substitute for legal advice. If you need assistance with any drafting, reviewing or advising in relation to contracts, please contact Sam Pratt on 03 6332 9353 or email sam.pratt@cormistonlegal.com.au

www.cormistonlegal.com.au