



IT CONTRACTS - HOW WE CAN HELP

A contract is the main way for you or your organisation to manage legal and commercial risk. It should represent and safeguard your interest so that the objectives for the transaction or relationship are clear and unambiguous. We work with you to draft, negotiate, review and enforce all kinds of IT contracts.

Software development

Software development is a complicated process - projects run notoriously late, over budget and often fall over before achieving a finished product. Consider:

- workable change control procedure
- clear and unambiguous definitions for technical and functional specifications, timeframes, budget and objectives
- termination events and break clauses
- post termination logistics
- IP ownership.

Support services

Support contracts need to protect the customers' working environment, ensure continuity of supply for the customer but provide flexibility for the supplier. Consider:

- realistic targets
- additional out of hours or off site response
- regularity in service provision
- disaster recovery and data security
- termination events and 'persistent breach' service credits.

Software licences

Software licences should consider:

- legal ownership

- appropriate use provisions relating to scope and territory
- fee structures and payment terms
- support and service levels
- termination events
- post termination logistics.

Software assignment

In order to transfer legal ownership of copyright, an assignment must be in writing with fair consideration and signed by both parties. It cannot inadvertently be given away. Consider:

- clear definition of what is being assigned
- appropriate consideration - assignment for a nominal £1 may have tax implications at a later date
- warranties and indemnities
- waiver of moral rights.

Outsourcing

Outsourcing service provision to a third party can be a daunting process. But it needn't be if your contract covers all the issues. Consider:

- the third party provider warranting that it has the appropriate level of skill to carry out its tasks
- data and IT migration and processing
- realistic service levels which mirror those offered to your clients



- clear definition of expectations and remedies for failure
- TUPE
- termination triggers and post termination logistics of transition of service.

Terms and conditions

Ts&Cs should comply with legislation on e-commerce, data protection and consumer rights.

Non disclosure agreements

The critical issue with NDAs is to ensure that they are enforceable. This means having a clear definition of what is being protected, for what purpose and for how long. An all encompassing obligation to keep everything confidential forever is probably not enforceable.

Be clear, concise and realistic. Having protection for three years is better than having none at all.

Third party IT contractors

Remember that copyright is owned by the person who creates it unless they are an employee of the company acting in the usual course of employment. Using any third party contractors immediately raises issues regarding ownership which should be addressed at the outset of discussions.

Consider:

- ensuring all IP is assigned to you under a valid IP assignment
- TUPE and tax issues
- clear definitions with regard to scope of work, timeframes and payment
- termination triggers
- confidentiality and restrictive covenants.

Find out more

Please contact us to discuss your requirements or to find out more.



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