



## COVID-19 Toolkit: Terms of service

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I own a business that recently commenced trading online. What legal documentation should I update to best protect my business?

Amidst all of the havoc that the COVID-19 pandemic has wreaked on the economy and our health, it is inspiring to see how people have adapted themselves and pivoted their businesses to survive.

Many of our clients are shifting their operations online to take advantage of new opportunities and sources of income.

We have seen alcohol distilleries pivot to manufacturing hand sanitisers, restaurants to take-away and delivery services, fitness centres to online group and personal training, and clothing manufacturers to manufacturers of personal protective equipment, to name a few.

Our role in all this is to assist businesses ensure that their terms of use, terms and conditions, or terms of service (however they may be labelled) are updated to reflect their evolving business focus, such as:

- a clear connection between the goods or services, the company website, the mobile app, and the invoices;
- the terms of sale (**eg** any restrictions on purchases, the availability of goods or services, how the goods or services are ordered online);
- a force majeure clause;
- the delivery and shipping information (**eg** whether the goods or services will be delivered physically and/or virtually, when and how);
- the payment terms (**eg** the cost of the goods or services, when and for how long, by credit or debit cards or via a third-party offering the customer a line of credit, the conditions for missed or late payments);
- the complaints or disputes handling process;
- the obligations of the business and / or the customer to third-party service providers (**eg** third-party payment facilities or delivery services);
- any links to third-party websites (noting that such is out of your control and usage is at the customer's own risk);
- your intellectual property rights and protections;
- a privacy policy (**eg** how new online customer data and privacy will be maintained by the business, what rights the business has in relation to the customer data);

- a cancellation and refund policy that complies with Australian consumer law;
- conditions regarding any loyalty programs or promotions;
- the terms of use as to the website (**eg** prohibited uses of the website);
- the applicable law (**eg** the legal jurisdiction which the terms and conditions are subject to); and
- disclaimers and limitation of liability (**eg** as to the inaccuracy and incompleteness of the information (despite your best efforts), which may also be subject to change without notice).

Our Corporate team frequently negotiates, drafts and advises on Terms and Conditions on behalf of clients. Contact **Gaurav de Fontgalland** or **Nadine John** if you would like to chat.

Please contact



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