

Business Update:**Protecting Your Business with “Boiler Plate” or “Standard Business Terms”**

Running a business is all about building and maintaining strong business relationships. However, business owners sometimes fail to give the proper attention to the use of “standard business terms” in their contracts. In fact, often times, “standard business terms” are disparagingly referred to as merely “boiler plate” and not given their proper due. When I hear this, I like to point out that “boiler plate terms” are usually tried and true and serve very important roles.

Here are just a few examples of highly recommended “boiler plate” or “standard business terms” I use in my business clients’ contracts and why they are important.

Limitation of Liability and Waiver of Consequential Damages Terms. Both of terms protect the party who is delivering either a service or product from unlimited liability for losses suffered by the other party if there is a failure to deliver or perform. Ask yourself, if you are selling a product or service for a specific amount, do you want to be potentially liable for all of the foreseeable damages suffered by the other party if you fail to deliver or perform? Think of an open ended financial domino effect for which you are responsible. If you want to avoid unlimited liability, you need to use standard Limitation or Liability and Waiver of Consequential Damages terms in your business contracts.

Choice of Law, Exclusive Venue and Personal Jurisdiction Terms. Unfortunately as part of running a business, sometimes you will have to enforce our rights or defend yourself from claims brought by another party. In those situations, wouldn’t you rather use your local trusted counsel, use your own state’s laws and force the other party to fight you on your home court? Most business owners would say “Of course!” In order to do so, you should consider using standard *Choice of Law, Exclusive Venue and Personal Jurisdiction* terms in your business contracts.

Attorneys Fees Recovery Term. Whenever a client of mine asks that I file a lawsuit against another party, one of the first things I ask is whether their contract contains an attorneys’ fees recovery term. Why? Because, unless the contract has one or if there is a statute which provides for their recovery, even if I am successful for my client they will still have to pay my attorneys fees and they cannot recover them from the other party as part of the judgment. This reality is often an economic deterrent to many businesses from pursuing their rights. In light of this, I tell my clients that it is important to have an attorney fees recovery provision in their contracts. Aside from the possibility of recovering your attorneys fees as part of the judgment, the use of this type of term will often cause the other side to resolve the matter sooner in light of their additional financial exposure. However, in order to gain these advantages, you need to use a standard *Attorneys Fees Recovery* term in your business contracts.

About The Entrepreneur’s Legal ResourceSM

Our firm is designed to provide legal services to business owners in small to mid-sized business in the Chicago area. We specialize in helping our clients solve business problems in order to effectively run their operations. Our services range from business start-up to complex litigation matters. Contact:

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