

# **Website Disclaimer**

**by SEQ Legal**

## Website disclaimer<sup>1</sup>

### (1) Introduction

This disclaimer governs your use of our website; by using our website, you accept this disclaimer in full.<sup>2</sup> If you disagree with any part of this disclaimer, you must not use our website.

### (2) Credit

This document was created using an [SEQ Legal](#) template.

### (3) Intellectual property rights

Unless otherwise stated, we or our licensors own the intellectual property rights in the website and material on the website. Subject to the licence below, all these intellectual property rights are reserved.

### (4) Licence to use website

You may view, download for caching purposes only, and print pages [or [*other content*]]<sup>3</sup> from the website for your own personal use, subject to the restrictions below.

You must not:

- (a) republish material from this website (including republication on another website);
- (b) sell, rent or otherwise sub-license material from the website;
- (c) show any material from the website in public;
- [(d) reproduce, duplicate, copy or otherwise exploit material on our website for a commercial purpose;]
- [(e) edit or otherwise modify any material on the website; or]
- [(f) redistribute material from this website [except for content specifically and

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<sup>1</sup> The disclaimer is a cut-down version of our basic terms of use document. It is designed for use with UK-hosted and -focused information-only websites; it can, however, be adapted for use in other jurisdictions – although this should only be done by someone with the requisite familiarity with the relevant law of the other jurisdiction. It is not intended for use on websites which require registration to access particular areas or services; nor is it intended for websites which include bulletin boards or allow users to post comments. It is not sufficient for use on websites which collect personal information (which will also require a privacy policy) or for ecommerce sites (which will also require terms of sale). Websites with unusual or non-standard features should always use bespoke terms and conditions.

The website disclaimer template will need to be edited before it is ready for use. Square brackets in the document indicate the sections which need or are likely to need to be edited. However, you should carefully review the whole document to ensure that it meets with your requirements. If you have any doubts, you should seek professional advice.

<sup>2</sup> The completed website disclaimer should be easily accessible on your website, preferably from every page. Ideally, from a legal perspective, users should be asked to expressly agree to these terms (eg by clicking an "I agree" button). However, in practice, this is very rarely done in relation to website disclaimers.

<sup>3</sup> The scope of the licence to use will vary with the site. Consider carefully exactly what your users should be allowed to do with the material on your website.

expressly made available for redistribution [(such as our newsletter)].]

[Where content is specifically made available for redistribution, it may only be redistributed [within your business].]<sup>4</sup>

## **(5) Limitation and exclusion of warranties and liability<sup>5</sup>**

Whilst we endeavour to ensure that the information on this website is correct, we do not warrant its completeness or accuracy; nor do we commit to ensuring that the website remains available or that the material on the website is kept up to date.

To the maximum extent permitted by applicable law, we exclude all representations, warranties and conditions relating to this website and the use of this website (including, without limitation, any warranties implied by law in respect of satisfactory quality, fitness for purpose and/or the use of reasonable care and skill).

Nothing in this disclaimer will: (a) limit or exclude our or your liability for death or personal injury resulting from negligence; (b) limit or exclude our or your liability for fraud or fraudulent misrepresentation; (c) limit any of our or your liabilities in any way that is not permitted under applicable law; or (d) exclude any of our or your liabilities that may not be excluded under applicable law.<sup>6</sup>

The limitations and exclusions of liability set out in this Section and elsewhere in this disclaimer: (a) are subject to the preceding paragraph; and (b) govern all liabilities arising under the disclaimer or in relation to the subject matter of this disclaimer, including liabilities arising in contract, in tort (including negligence) and for breach of statutory duty.

[To the extent that the website and the information and services on the website are provided free of charge, we will not be liable for any loss or damage of any nature.]<sup>7</sup>

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<sup>4</sup> Where you have content which is specifically available for redistribution, it is usually a good idea to have a more detailed licence setting out the redistribution rights.

<sup>5</sup> Limitations and exclusions of liability are regulated and controlled by law, and the courts often rule that particular limitations and exclusions of liability are unenforceable. The courts are particularly likely to intervene where a party is seeking to rely on a limitation or exclusion of liability in a consumer contract or in its standard T&Cs, but will also sometimes intervene where a term has been individually negotiated. You should take legal advice if you may wish to rely upon a limitation or exclusion of liability, or if you want to exclude or limit – or purport to exclude or limit – any liability to a consumer. Please note that the guidance notes to this Section provide only an incomplete and basic overview of this complex subject.

Exclusions and limitations of liability in UK B2B and B2C contracts are regulated by the Unfair Contract Terms Act 1977 ("**UCTA**"). Relevant legislation in the case of B2C contracts also includes the Consumer Protection Act 1987 and the Unfair Terms in Consumer Contracts Regulations 1999.

The courts may be more likely to rule that provisions excluding liability – as opposed to those merely limiting liability – are unenforceable.

If there is a risk that any particular limitation or exclusion of liability will be found to be unenforceable by the courts (for example, because it may be unreasonable under UCTA), that provision should be drafted as an independent term and be separately numbered from the other provisions.

It may improve the chances of a limitation or exclusion of liability being found to be enforceable if the party seeking to rely upon it specifically drew it to the attention of the other party before the contract was entered into.

<sup>6</sup> Do not delete this paragraph (except upon legal advice). Without this paragraph, the specific limitations and exclusions of liability will not usually be enforceable.

<sup>7</sup> This sort of exclusion is most unlikely to be enforceable.

[We will not be liable to you in respect of any losses arising out of any event or events beyond our reasonable control.]

[We will not be liable to you in respect of any business losses, including (without limitation) loss of or damage to profits, income, revenue, use, production, anticipated savings, business, contracts, commercial opportunities or goodwill.]<sup>8</sup>

[We will not be liable to you in respect of any loss or corruption of any data, database or software.]

[We will not be liable to you in respect of any special, indirect or consequential loss or damage.]<sup>9</sup>

## **(6) Variation<sup>10</sup>**

We may revise this disclaimer from time to time. The revised disclaimer will apply to the use of our website from the date of the publication of the revised disclaimer on our website.

## **(7) Entire agreement**

Subject to the third paragraph of Section [5], this disclaimer[, together with our privacy policy,]<sup>11</sup> constitutes the entire agreement between you and us in relation to your use of our website and supersedes all previous agreements in respect of your use of our website.

## **(8) Law and jurisdiction<sup>12</sup>**

This disclaimer will be governed by and construed in accordance with English<sup>13</sup> law, and any disputes relating to this disclaimer will be subject to the [non-]exclusive<sup>14</sup>

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<sup>8</sup> You should consider carefully the particular kinds of loss you want to try to limit or exclude.

If you wish to try to limit or exclude for liability in respect of reckless, deliberate, personal and/or repudiatory breaches of contract, you should specify this in relation to the relevant paragraph (for example, using the following wording: "The limitations and exclusions of liability in this paragraph will apply whether or not the liability in question arises out of any [reckless, deliberate, personal and/or repudiatory] conduct or breach of contract"). In some circumstances the courts will find these types of limitations and exclusions to be unenforceable (eg because unreasonable under UCTA).

<sup>9</sup> "Consequential loss" has a special meaning in English law: it means a loss that, whilst not arising naturally from the breach, was specifically in the contemplation of the parties when the contract was made.

<sup>10</sup> Changes to the notices will not be retrospectively effective.

<sup>11</sup> If you collect personal data from users, you should have a privacy policy as well as a disclaimer. You should also refer here to (for example) any terms of sale or terms of subscription which relate to your website.

<sup>12</sup> The questions of what law governs a contract and where disputes relating to the contract may be litigated are two distinct questions.

<sup>13</sup> These terms of use have been drafted to comply with English law, and the governing law provision should not be changed without obtaining expert advice from a lawyer qualified in the appropriate jurisdiction. (NB in some circumstances the courts will apply provisions of their local law, such as local competition law or consumer protection law, irrespective of a choice of law clause specifying that a different law applies.)

<sup>14</sup> Choose "non-exclusive" jurisdiction if you may want to enforce the terms of use against users outside England and Wales. Otherwise, choose "exclusive jurisdiction". (NB in some circumstances – particularly

jurisdiction of the courts of England and Wales.

## **(9) Registrations and authorisations<sup>15</sup>**

[We are registered with [*trade register*]. You can find the online version of the register at [*URL*]. Our registration number is [*number*].]<sup>16</sup>

[We are subject to [*authorisation scheme*], which is supervised by [*supervisory authority*].]<sup>17</sup>

[We are registered with [*professional body*]. Our professional title is [*title*] and it has been granted in the United Kingdom. We are subject to the [*rules*] which can be found at [*URL*].]<sup>18</sup>

[We subscribe to the following code[s] of conduct: [*code(s) of conduct*]. [These codes/this code] can be consulted electronically at [*URL(s)*].]<sup>19</sup>

[Our VAT number is [*number*].]<sup>20</sup>

## **(10) Our details<sup>21</sup>**

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where you are contracting with a consumer – your jurisdiction clause may be overridden by the courts.)

<sup>15</sup> This section can be deleted where The Electronic Commerce (EC Directive) Regulations 2002 (the "**Ecommerce Regulations**") do not apply. Generally, the Ecommerce Regulations will apply unless a website is entirely non-commercial, ie where a website does not offer any goods or services and does not involve any remuneration (including remuneration for carrying Google AdSense or other advertising).

<sup>16</sup> The Ecommerce Regulations provide that where you are "registered in a trade or similar register available to the public", you must provide "details of the register in which the service provider is entered and his registration number, or equivalent means of identification in that register".

<sup>17</sup> The Ecommerce Regulations provide that "where the provision of the service is subject to an authorisation scheme", you must provide "the particulars of the relevant supervisory authority". In most cases you will be able to delete this paragraph.

<sup>18</sup> The Ecommerce Regulations provide that where "the service provider exercises a regulated profession", it must provide "(i) the details of any professional body or similar institution with which the service provider is registered; (ii) his professional title and the member State where that title has been granted; (iii) a reference to the professional rules applicable to the service provider in the member State of establishment and the means to access them".

<sup>19</sup> The Ecommerce Regulations provide that "a service provider shall indicate which relevant codes of conduct he subscribes to and give information on how those codes can be consulted electronically".

<sup>20</sup> Under the Ecommerce Regulations, where the service provider undertakes an activity that is subject to value added tax, the relevant identification number must be disclosed.

<sup>21</sup> UK companies must provide their corporate names, their registration numbers, their places of registration and their registered office addresses on their websites.

Sole traders and partnerships that carry on a business in the UK under a "business name" (ie a name which is not the name of the trader/partners or certain other specified classes of name) must also make certain website disclosures: (a) in the case of a sole trader, the individual's name; (b) in the case of a partnership, the name of each member of the partnership; and (c) in either case, in relation to each person named, an address in the UK at which service of any document relating in any way to the business will be effective.

All websites covered by the Ecommerce Regulations must provide a geographic address (not a PO Box number) and an email address.

The full name of our company is Webmatix Limited

[We are registered in [England and Wales] under registration number 12384046.]

Our [registered] address is 9 Buttercup Avenue, Wynyard, Teesside, TS22 5GY (UK).

You can contact us by email to andy [at] webmatix.co

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