

Software and IT

Many businesses rely on computers now, to the extent that failure of the systems, or problems with their core software, can destroy their business.

If you are having software written, or adapted, for you, you need to make sure what protection you have if the company supplying it ceases to perform, or, perhaps, becomes insolvent. There is nothing in English law to assist, so it will depend entirely on what is set out in any agreement between the parties. The software supplier will try to limit their risk and liability, but the user will want to protect his investment and the future/survival of his business.

It can be bad enough dealing with the terms and conditions of the supplier. They are often far from straightforward, usually one-sided and, inevitably, tedious and long-winded. What is normally clear, is that there is little protection for the customer. It is available, but it is rarely offered.

We can help you go through the terms and negotiate changes so that they are fairer and provide you with some comfort and protection for the future.

Of course one area that even the suppliers sometimes get wrong is ownership of the intellectual property rights which form the basis of the software. Many software companies use self-employed contractors to write their software. What they do not always appreciate is that the intellectual property rights in the work of that consultant belong to the consultant, not to the software company. This can be corrected if the the contract with that contractor specifically states that ownership of intellectual property rights transfers to the software company. However, we regularly see contracts where that provision has not been included. This may seem a minor issue, but if all of the software is actually owned by the self-employed contractors, it is questionable whether the end user can have any right to use the software. And if the software company is planning to sell, make money and retire, the plans may fall apart when their buyer discovers who really owns the software.

The problem is not insuperable, but it needs to be resolved before there is any time pressure or activity which would allow the self-employed contractor to gain the upper hand. We can help you work through the problems, obtain ownership, and correct your contracts with self-employed contractors for the future.