



If any of the factors described above arise in your standard form contracts, there may be unfair terms which, if not removed or amended, expose you to business and financial risk. If more than one factor is apparent, it is more likely the offending term is unfair. At the same time, these factors are not conclusive and there may be other reasons the term can lawfully be included, this should be assessed to ensure that a term is not removed unnecessarily.

Ultimately, no matter how fair/unfair a term appears to be, only a court can make this determination. If the factors described above seem relevant, see this as a signal to act cautiously and either remove the term from the contract altogether, or more suitably, seek legal advice.

Not only will legal advice reduce the risk of overlooking unfair terms and incurring significant financial penalties, it may help determine if a favourable term can be retained or amended to comply with the law.