Business to Business Contracts

Goods
When a consumer enters into a contract with a business for goods or services, it is usually implied that goods match their description, are of satisfactory quality, fit for their intended purpose and that services are carried out as agreed and with reasonable care and skill.

The same rules apply for Business-to-Business contracts although more emphasis is placed on the associated Terms and Conditions. The implied term of Satisfactory Quality **can be** restricted in a Business-to-Business contract, but this does not mean that it automatically will be. Be sure to check the terms before you agree to any contract to be aware of what you are agreeing to.

"Satisfactory quality"
Goods are of satisfactory quality if they meet the standard that a reasonable person would regard as satisfactory, taking account of:
•any description
•the price (if relevant)
•all other relevant circumstances

The quality of goods includes their state and condition and the following (among others) in appropriate cases:
•fitness for all the purposes of which goods of the kind in question are commonly supplied
•appearance and finish
•freedom from minor defects
•safety
•durability

The consideration of “satisfactory quality" will not apply to faults that:
•are specifically drawn to the buyer's attention before the contract is made
•ought to have been revealed by that examination, where the buyer has examined the goods before the contract was made.

In Business-to-Business contracts sometimes satisfactory quality is restricted but it must be in terms and conditions attached to the contract it is not automatic.

If there is a problem / breach of contract you have the right to a remedy, sometimes this is detailed in the terms and conditions. The law allows you to claim damages or repudiate (reject) the contract. The rights to repairs and replacements are only in consumer contracts, **these do not apply to business contracts**

Reversed burden of proof
For business contracts there is no reverse burden of proof, again, as this is a right afforded to consumers only. This means that if a fault appears in the goods the buyer would have to prove both the fault and that it was present at time of sale.

Private Sales
If the seller is not in business, a buyer's rights are much reduced and the implied terms relating to title and description are implied into the sale of goods contract. Therefore, when buying from a private seller the phrase caveat emptor (buyer beware) is very much the rule.

Time Limits for Court Action
There is a widely held myth that action for breach of SOGA can only be taken up to one year from date of purchase. This is not true. The Limitation Act 1980 sets out a period of six years from when the cause of action arose. In sale of goods cases this is taken to be from when the goods were purchased, effectively when a fault arises it must be shown that the goods were defective at time of sale.

This should not be taken as meaning that all goods sold must last for six years. The Limitation Act has to be read alongside SOGA which states that all goods should be durable. Therefore, the test is how long should goods of that type have lasted, and this may be a very short period for a bar of chocolate, with a limitation of six years even when the goods would have expected to last longer.

Services
When you buy a service from another business it is worth checking what their standard business terms are as some businesses will have different ones depending on whether you are a consumer or business. The law that applies is the Supply of goods and services 1982 which states:

•the contract will be carried out with **reasonable care and skill**
(the standard which is normal for a trader in that field)
•the service will be carried out **within a reasonable time**
(unless the time is fixed by or under the contract)
•there will be a **reasonable charge** made for the service
(unless the price is fixed by or under the contract)

Where a service contract also involves the supply of goods then the implied terms of:

- description
- satisfactory quality (unless restricted by terms)
- fitness for any particular purpose made known
- and correspondence with sample

will apply and will be treated as conditions but can be restricted, often business contracts will restrict satisfactory quality, **always check the terms and conditions**.

Online

Rights relating to Distance selling, digital content and off premises rights also **do not** apply to business, as these are under the Consumer Rights Act 2015 As a business, you will be aware that in certain circumstances consumers are afforded cooling off periods when agreeing to contracts made in the home or at a distance. This is not the case with a Business-to-Business contract. There is no assumed “Cooling off/Cancellation period” unless is has been explicitly agreed in the terms and conditions. However, where goods are delivered to the buyer and he has not previously examined them, then he is not deemed to have accepted them until he has had a reasonable opportunity of examining them to ascertain whether they are in conformity with the contract.

Credit

The Consumer Credit Act does not apply to an offer or supply of credit to limited companies, however it does apply to contracts entered into by sole traders and partnerships (of up to three people). Further information on consumer credit agreements can be found at https://www.businesscompanion.info/en/quick-guides/business-information-other/credit-and-other-financial-matters

Be aware that only a judge in the county court can enforce a contract, **not** Trading Standards. For further advice on taking action through the small claims process, visit www.gov.uk/make-court-claim-for-money/overview

Further advice on for your business can be found at:
http://www.hertfordshire.gov.uk/business/tradingstandards/bus/business/freebusad/businessadvice

Some letter templates are available here:
. https://www.hertfordshirelep.com/media/a3chmtxm/bbfa-contract-cancellation-letter-template.pdf

. https://www.hertfordshirelep.com/media/33qdhytu/bbfa-service-complaint-letter-template.pdf

. https://www.hertfordshirelep.com/media/lbphflqv/sale-of-good-template-letter.pdf