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## **Importance of Terms of Use**

### **Introduction**

In the world today information and resources are at our fingertips thanks to the ever growing internet. This technology boom has made it possible to present ideas and products like never before. Each owner of this intellectual mass has the right to limit and regulate the use of this information. Through the use of a “terms of use” document, the owner can specify the legal use and distribution of their product or idea.

### **Definition**

Terms of use are described as “rules set up by the owner of an intellectual property or service to govern how they may be legally used. In many cases, terms of service are used as a contractual agreement between a company and users of a service they provide.” (Terms of use) If a person wants to make use of the intellectual property they must accept the outlined rules for the given product or idea. Interestingly accepting terms of use is legal just like signing a written contract. It is important to the owner of the property to make the terms as specific as

possible. In this way if there is a court can determine whether or not copyright infringement has taken place.

## **Purpose**

The purpose of intellectual property rights is to insure that the intellectual property of the creator is protected and used only as the owner sees fit.

“Under intellectual property law, owners are granted certain exclusive rights to a variety of intangible assets, such as musical, literary, and artistic works; ideas, discoveries and inventions; and words, phrases, symbols, and designs. Common types of intellectual property include copyrights, trademarks, patents, industrial design rights and trade secrets.” (Intellectual property)

The main reason for these rights is to ensure that the creator will have financial and creative rights to their ideas. In this way creators are have an incentive to improve our society.

The purpose of terms of use documents is to inform others of the owner of the property's set parameters of how the property can be used. This means that the terms of use should be readily available for anyone that would like them. This will eliminate a confusion and misuse of the property.

## **Composition**

Making a terms of use document that is relevant to the material in your site is the most important. It is important that every aspect be covered in a thorough manner. A few examples

from the site entitled, "What Should a Web Site Terms of Use Agreement Cover?" include: 1) Covering any liability issues of any of the content of your site. 2) Covering any guarantees or lack thereof that might be associated with the site. 3) States how copyrighted material can be used. ("What Should")

These are just a few examples of how different a terms of use document would be depending on what the company is and what services they provide.

### **Validity**

Just because something is in a terms of use document does it mean that it is legal and binding? Most of the time, yes. It is also important to understand how the user sees the agreement.

Your Customer Agreement (often called a Subscription Agreement, Membership Agreement, or SaaS Agreement) is a so-called "**click-wrapped**" agreement because your customer indicates agreement by clicking on an I AGREE button. For this reason, click-wrapped agreements are usually legally enforceable provided they are presented correctly.

Your website's Terms of Use govern **all** visitors to your site -- both casual visitors to the public areas of your site and registered customers who access both public and private areas. Terms of Use are typically referred to as "**browse-wrapped**" agreements because they are linked from the home page, but there is no requirement to click an I AGREE

button -- the visitor may browse and read them, or just browse on and avoid them altogether.

Although “browser-wrapped” terms of use are legal and binding it is still smart to have a “click-wrapped” agreement. In this way you can be assured that the user had the opportunity to look over the agreement and so will be more accountable if there is misuse. (“Website Terms of Use: Are Yours Enforceable... Or Does It Matter?”)

### **Example**

An example of a Terms of use agreement from a large company that has to deal with many different types of use cases is Facebook. I will not go into great depth, I did find it interesting to go over all of the different subheading.

### **Terms of Use**

Date of Last Revision: September 23, 2008

#### **Eligibility**

**Registration Data; Account Security**

**Proprietary Rights in Site Content; Limited License**

**Trademarks**

**User Conduct**

**User Content Posted on the Site**

**Facebook Mobile Services**

**Copyright Complaints**

**Repeat Infringer Policy**

**Third Party Websites and Content**

**Share Service**

**Use of Share Links by Online Content Providers**

**Facebook Marketplace**

**Facebook Platform Applications**

**Facebook Connect**

**Facebook Pages**

**Terms of Sale**

**User Disputes**

**Privacy**  
**Disclaimers**  
**Limitation on Liability**  
**Termination**  
**Governing Law; Venue and Jurisdiction**  
**Arbitration**  
**Indemnity**  
**Submissions**  
**Definitions and Constructions**  
**Other**

("Terms of Use | Facebook")

I listed all of them to show that most of the Terms of use agreements of large companies are so large that it is unrealistic that anyone would really read and understand all of the points. I believe that they do this just to cover themselves. It is a sad testament to the state of our world when such agreements have to be made just to use services.

"Intellectual property." Wikipedia, The Free Encyclopedia. 12 Mar. 2009. 12 Mar. 2009

< [http://en.wikipedia.org/wiki/Intellectual\\_property](http://en.wikipedia.org/wiki/Intellectual_property)>.

"Terms of Use." Wikipedia, The Free Encyclopedia. 14 Feb. 2007. 12 Mar. 2009

< [http://en.wikipedia.org/wiki/Terms\\_of\\_use](http://en.wikipedia.org/wiki/Terms_of_use)>.

"Terms of Use | Facebook" Facebook. 23 Sept 2008. 12 Mar 2009

<<http://www.facebook.com/terms.php>>.

"Website Terms of Use: Are Yours Enforceable... Or Does It Matter?" Contract Maker. 2008.

9 Mar. 2009. <[http://www.digicontracts.com/articles/tou/TOU\\_Enforceability.htm](http://www.digicontracts.com/articles/tou/TOU_Enforceability.htm)>.

“What Should a Web Site Terms of Use Agreement Cover?” All Business. 2007. 9 Mar. 2009.

<<http://www.allbusiness.com/technology/internet-web-site-agreements/2633-1.html>>.