

GETTING A GRIP ON INTERNATIONAL CONTRACTS



Education

Webinar series

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CONTENT

General Terms and Conditions

- Content of General Terms and Conditions
- Usage of General Terms and Conditions
- Importance of Incoterms in cross-border contracting

Case Studies

- International Sales Agreement

Tips and Tricks



“NAVIGATION
THE LEGAL
PITFALLS”

MOST COMMON CLAUSES

- Definitions
- Price and Payment
- Delivery
- Risk
- Retention of Title
- Return of Goods
- Complaints
- Intellectual Property Rights
- Force Majeure
- Waiver
- Severability
- **Jurisdiction**



INCLUDED IN THE CONTRACT

1. **Applicability of Terms**

Standard terms are included in the contract where the parties have expressly or impliedly agreed to their inclusion before or at the time of the formation of the contact and

2. **Notice of Terms**

...the other party had a reasonable opportunity to take notice of the terms.



PROBLEMS?

- **Applicable Law?!**
- **Choice of Forum** – this clause requires a separate check to conform to Unie-Law (EEX-Regulation and others)





CASE STUDY INTERNATIONAL SALES AGREEMENT

 Janssen Bloemen B.V.	 Riedewald Einkauf GmbH
<p>Seller</p> <p>In T's & C's:</p> <ul style="list-style-type: none">✓ Applicable law and choice of forum clause✓ Dutch Court✓ Dutch Law <p>T's & C's can be consulted on www.janssen-bloemen.nl</p>	<p>Buyer</p>



CASE STUDY INTERNATIONAL SALES AGREEMENT I

Example 1

Riedewald Einkauf GmbH
places an order by telephone.

Janssen Bloemen B.V. confirms
in writing (via email) that this
order has
been accepted.

- Are Janssens General Terms and Conditions applicable?
- Which court has jurisdiction in this matter?

Applicability of Terms

Standard terms are included in the contract where the parties have expressly or impliedly agreed to their inclusion before or at the time of the formation of the contact and

Notice of Terms

....the other party had a reasonable opportunity to take notice of the terms.

- **Applicable Law?!**
- **Choice of Forum**



CASE STUDY INTERNATIONAL SALES AGREEMENT II

Example 2

Riedewald Einkauf GmbH
places an order via email.

Janssen Bloemen B.V.
confirms in writing (via email)
that this order has been
accepted.

Order confirmation:

“The General Terms and Conditions of Janssen Bloemen B.V. apply to all orders. These General Terms and Conditions can be consulted on

www.janssen-bloemen.nl”

- Are Janssens General Terms and Conditions applicable?
- Which court has jurisdiction in this matter?

Applicability of Terms

Standard terms are included in the contract where the parties have expressly or impliedly agreed to their inclusion before or at the time of the formation of the contact and

Notice of Terms

....the other party had a reasonable opportunity to take notice of the terms.

- **Applicable Law?!**
- **Choice of Forum**



CASE STUDY INTERNATIONAL SALES AGREEMENT III

Example 3

Riedewald Einkauf GmbH
invites Janssen Bloemen B.V.
to make an offer.

Janssen Bloemen B.V. sends
an offer via email.

Example continues on the next slide →



CASE STUDY INTERNATIONAL SALES AGREEMENT III

Offer:

- *“The General Terms and Conditions of Janssen Bloemen B.V. apply.”*
- *“The General Terms and Conditions are included in the appendix to this document.”*
- *“The General Terms and Conditions need to be signed and send back to Janssen Bloemen B.V.”*

Riedewald Einkauf GmbH places an order via email but does not send back signed Terms and Conditions.

- Are Janssens General Terms and Conditions applicable?
- Which court has jurisdiction in this matter?

Applicability of Terms

Standard terms are included in the contract where the parties have expressly or impliedly agreed to their inclusion before or at the time of the formation of the contact and

Notice of Terms

....the other party had a reasonable opportunity to take notice of the terms.

- **Applicable Law?!**
- **Choice of Forum**

== TIPS & TRICKS



Choice of forum clause and applicable law should be agreed upon explicitly.

Choice of forum clause and applicable law should match.

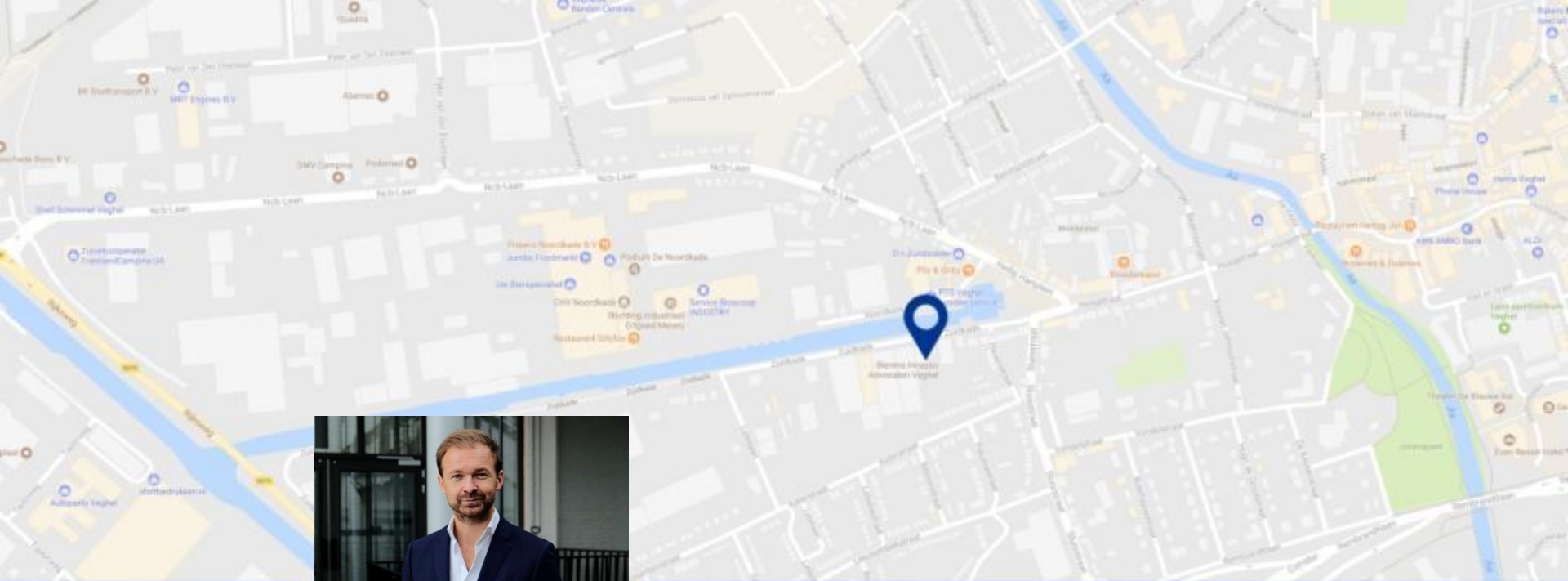
✓ Dutch Court → Dutch Law

Provide the General Terms and Conditions in the language of your trade partner OR in the language in which you and your trade partner are communicating.

“Escape” → Actual place of delivery.

== QUESTIONS





For more information or to discuss your needs,
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