

Making Retention of Title Work

Prior to the recession, Retention of Title (RoT) clauses probably received less attention than they should have from many businesses. However, RoT is now back in the spotlight.

An effective RoT clause will normally allow you to recover the goods you have supplied (assuming they are identifiable and have not been incorporated within other goods) if they are not paid for.

If you are worried about the ability of your customers to pay for the goods you supply, here is a short guide to making RoT clauses operate effectively:

1. Make sure it is clear in your terms of trade that title in the goods you sell does not pass to the buyer until they are paid for and that your customer is aware that this is the case;
2. Make sure all goods are signed for and confirmed as being in good condition on arrival;
3. Make sure separate deliveries of goods are identifiable if possible – this will help if some goods are paid for and others of the same type are not. Use of an ‘all monies’ clause (in which title to goods only passes when the account is fully paid) may be of assistance; and
4. Make sure that any issues regarding quality are dealt with promptly and are fully documented, so the fact that there are no outstanding issues relating to the goods supplied is well evidenced.

If any of your customers are starting to become ‘difficult payers’, take advice before the situation becomes critical.

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