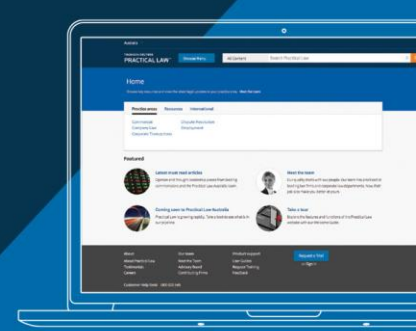


# Practical Law Australia Commercial

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“

*In today's fast-moving business environment, lawyers are expected to keep up-to-date with the current legal position and best practice across multiple aspects of commercial practice. Practical Law Australia's Commercial resources include clear and helpful practice notes, standard documents, checklists and powerful research tools. These resources are created, maintained and updated by an experienced team of expert legal writers, all with real-world commercial law firm or in-house experience. Practical Law Australia provides you with the tools, know-how and insight that you need to advise faster and with more confidence, so you can add even more value to your clients or organisations.*

”

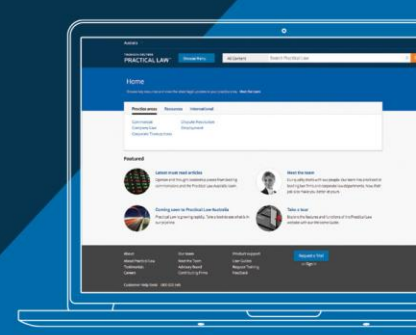


**Michael Milnes, Head of Commercial Law**

### COMING SOON TO COMMERCIAL

Practical Law is a dynamically evolving service. We plan to develop additional documents and resources in the following existing topic areas by 30 September 2017:

- **Supply of goods and services**
  - Practice notes on topics including bailment, equipment leasing, warehousing arrangements and product recalls.
  - Standard documents, including service agreements.
  - Standard clauses, including delivery of goods, product recall, payment mechanisms and price reviews.
- **IT and outsourcing**
  - Practice note on tax aspects of outsourcing arrangements.



- **Intellectual property**
  - Practice notes on counterfeit goods and the assignment of different forms of intellectual property.
  - Standard documents, including IP licence and assignment agreements.
- **Advertising and marketing**
  - Practice note on celebrity endorsement agreements.
  - Standard documents, including an advertising agency agreement.
- **Data protection and privacy**
  - Practice notes on managing privacy and data security risks in supplier relationships and undertaking data security risk assessments.
  - Checklist for performing a risk assessment.

A new **Franchising** topic is also scheduled for publication before 30 September 2017, to include:

- Practice notes on franchising regulation, franchising agreements and international franchising.
- Standard documents, including a franchise agreement, master franchise agreement, franchise disclosure document, information statement and step-in deed.

We welcome customer feedback on the development of Practical Law Australia. Should you have comments or suggestions, please contact me at [michael.milnes@tr.com](mailto:michael.milnes@tr.com)

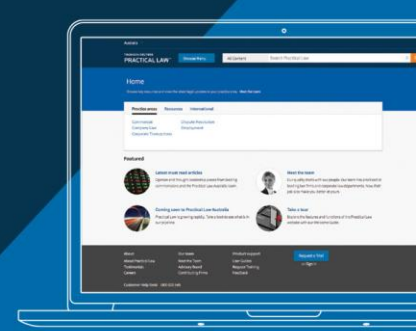
### COMMERCIAL COVERAGE AS OF 1 AUGUST 2017

#### Supply of goods and services

- Practice notes
  - Comparative table of sale of goods legislation
  - Consumer guarantees (NEW)
  - Effective contract management
  - Franchise agreements
  - Franchising overview
  - Goods and Services Tax (GST) (NEW)
  - Insurance in commercial transactions

# Practical Law Australia Commercial

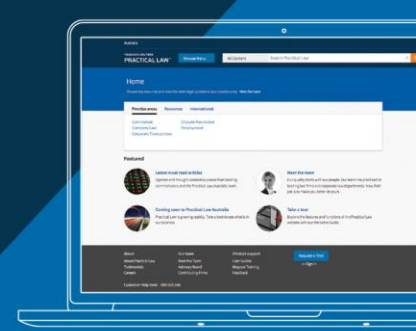
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- Long-term supply of goods contracts
- Modern slavery in the supply chain
- Outsourced manufacturing
- Retention of title and the Personal Property Securities Register
- Regulation of franchising
- Service agreements
- Service levels and service credit schemes in outsourcing
- Setting up a franchise operation overseas
- Standard terms and conditions in commercial transactions
- Supply chain overview
- Supply of goods contracts
- Unfair contract terms and protections for small businesses
  
- Standard documents
  - Service level agreement
  - Supply of goods agreement (supplier friendly)
  
- Standard clauses
  - Anti-slavery and human trafficking clauses
  - Audit rights (NEW)
  - Retention of title
  
- Checklists
  - Assessing the risk of modern slavery in the supply chain
  - Registering retention of title on the PPSR
  - Reviewing or drafting a service agreement
  - Reviewing or drafting a supply of goods contract

### Advertising and marketing

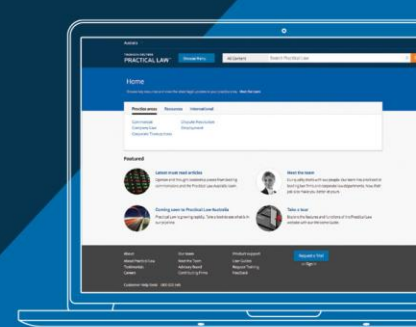
- Practice notes
  - Overview, Advertising and marketing law
  - Advertising and displaying prices



- Advertising self-regulation and industry codes
- Ambush marketing
- Digital and online marketing
- Misleading or deceptive conduct and false or misleading representations under the Australian Consumer Law
- Social media marketing
- Social media platform terms of use
- Sponsorship agreements
- Trade promotions
- Standard documents
  - Sponsorship agreement
  - Terms and conditions for trade promotions (game of chance)
  - Terms and conditions for trade promotions (game of skill)
- Standard clauses
  - Short form terms and conditions for a trade promotion
- Checklists
  - Appointing a marketing or advertising agency
  - Preparing for a trade promotion
  - Quick guide to popular social media sites
  - Reviewing advertising materials
  - Reviewing or drafting sponsorship agreements
  - Reviewing or drafting an online advertising agreement

### **Data protection and privacy**

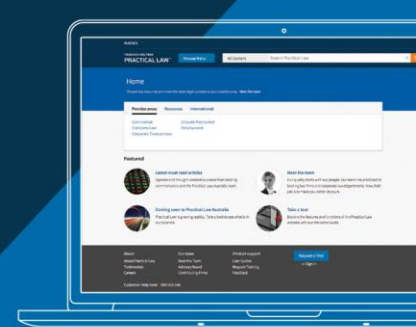
- Practice notes
  - Overview, Australian data protection and privacy laws
  - Australian Privacy Principles
  - CCTV and workplace surveillance
  - Data issues in the financial services sector
  - Data issues in the health sector
  - Data issues in the telecommunications sector



- Hacking and network intrusions
- Key concepts in privacy law
- Malware and end user attacks
- Privacy law enforcement and regulation
- Ransomware
- Regulation of drones
- Responding to a data breach incident
  
- Standard documents
  - Letter notifying affected individuals of a data breach (relating to personal information)
  - Privacy policy
  
- Checklists
  - Steps to take if a data breach incident occurs

### **IT and outsourcing**

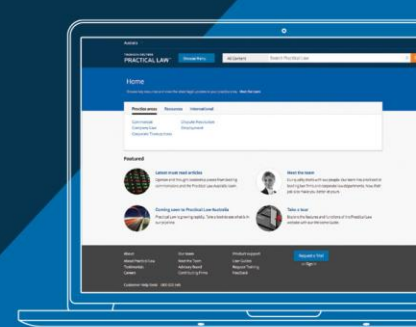
- Practice notes
  - Overview, IT procurement
  - Agile software development
  - Cloud computing agreements
  - Cloud computing overview
  - Effective contract management
  - Electronic contracts and transactions
  - Intellectual property protection of software
  - Introduction to the internet
  - IT outsourcing
  - Managing a software development portal
  - Open-source software
  - Outsourced manufacturing
  - Regulation of drones
  - Service levels and service credits in outsourcing transactions
  - Software development agreements: payment mechanisms
  - Software escrow agreements
  - Software licensing and methods



- Website content, development and hosting
- Standard documents
  - Project initiation document for outsourcing transactions
  - Service level agreement
  - Trade mark policy
  - Website design and development agreement (customer friendly)
  - Website design and development agreement (supplier friendly)
- Standard clauses
  - Acceptance testing (NEW)
  - Audit rights (NEW)
- Checklists
  - Reviewing or drafting a software licence or maintenance and support agreement (NEW)
- Toolkits
  - Software (NEW)

### **Intellectual property**

- Practice notes
  - Copyright
  - Copyright infringement
  - Design rights
  - Intellectual property protection of software
  - Passing off
  - Patents
  - Trade marks: amendment and cancellation
  - Trade marks: applying for registration
  - Trade marks: infringement
  - Trade marks: introduction and use



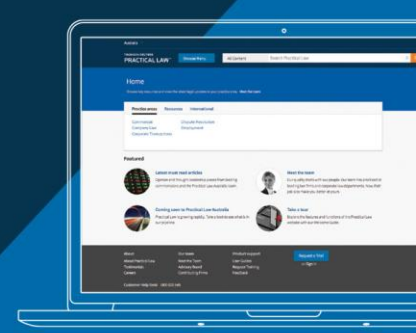
- Trade marks: opposition to an application
- Trade marks: rejection of an application
- Standard documents
  - Letter of consent to use registered trade mark
  - Letter of demand for infringement of registered trade mark
  - Trade mark assignment deed (assignee friendly)
  - Trade mark policy

### **Pre-transaction agreements and confidentiality**

- Practice notes
  - Confidentiality agreements
  - Heads of agreement
- Standard documents
  - Confidentiality deed (mutual)
  - Confidentiality deed poll (one-way)
  - Confidentiality letter (one-way)
  - Heads of agreement for commercial transactions
- Standard clauses
  - Confidentiality

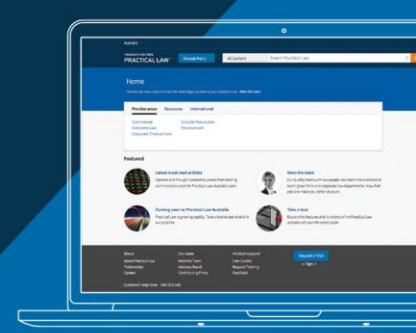
### **Execution formalities**

- Practice notes
  - Execution of deeds and documents by companies incorporated under the Corporations Act 2001 (Cth)
  - Execution of deeds and documents by individuals
  - Powerpoint presentation: Valid execution of documents, remote signings and electronic signatures
  - Protocols for remote or virtual signings



- Standard documents
  - Board minutes: authorising grant of power of attorney
  - Board minutes: revocation of power of attorney
  - Deed of revocation of power of attorney
  - Power of attorney (NSW): general or specific powers
  - Power of attorney (ACT): general or specific powers
  - Power of attorney (NT): general or specific powers
  - Power of attorney (QLD): general or specific powers
  - Power of attorney (SA): general or specific powers
  - Power of attorney (TAS): general or specific powers
  - Power of attorney (VIC): general or specific powers
  - Power of attorney (WA): general or specific powers
  - Template email for remote signings: Approach 1 (print and sign entire document)
  - Template email for remote signings: Approach 2 (print and sign signature page only)
  - Template email for remote signings (attaching signature pages): Approach 3 (sign signature page in advance)
  - Template email for remote signings (authority to close): Approach 3 (sign signature page in advance)
- Standard clauses
  - Execution block (agreement): company: by common seal
  - Execution block (agreement): company: by signature of authorised representative
  - Execution block (agreement): company: by signature of sole director who is also sole company secretary
  - Execution block (agreement): company: by signature of two directors OR one director and one company secretary
  - Execution block (agreement): individual
  - Execution block (deed OR agreement): individual: unable to read or physically unable to sign
  - Execution block (deed): company: by common seal
  - Execution block (deed): company: by signature of authorised representative
  - Execution block (deed): company: by signature of sole director who is also sole company secretary





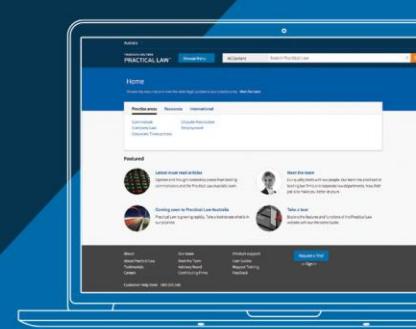
- Execution block (deed): company: by signature of two directors OR one director and one company secretary
- Execution block (deed): individual
- Execution block (deed): company: under power of attorney
- Execution block (agreement): company: under power of attorney
- Execution block (deed): individual: under power of attorney
- Execution block (agreement): individual: under power of attorney
  
- Checklists
  - Flowchart: Protocols for remote or virtual signings
  
- Toolkit
  - A toolkit for companies executing deeds and documents

### **General contracts and boilerplate**

- Standard documents
  - Back-to-back subcontract
  - Boilerplate agreement
  - Boilerplate deed
  - Deed of assignment
  - Deed of novation
  - Deed of termination of contract
  - Deed of variation
  - Notice of assignment (with subcontracting option)
  - Notice of assignment: third party
  - Notice of termination of contract for breach
  - Notice of termination of contract for convenience
  - Notice to remedy breach of contract
  - Request for consent to assignment (with subcontracting option)
  - Response to a notice to remedy breach of contract
  - Variation of contract (formal agreement)
  - Variation of contract (letter agreement)
  
- Standard clauses

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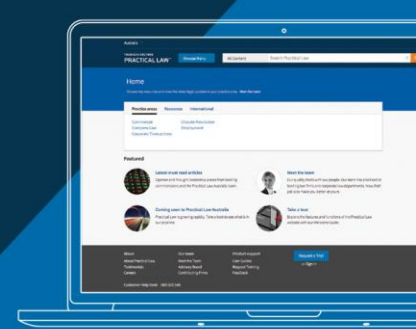
- Assignment
- Commencement and term
- Compliance with laws and policies
- Contra proferentem
- Counterparts
- Default interest
- Definitions and interpretation
- Entire agreement
- Exercise of rights
- Force majeure
- Further action
- Goods and services tax (GST)
- Governing law and jurisdiction
- Indemnity
- No merger
- No reliance
- No waiver
- Notices
- Relationship of the parties
- Remedies cumulative
- Set-off
- Severability
- Survival
- Termination
- Time of the essence
- Variation

### Contract Law

- Practice notes
  - Assignment of contractual rights
  - Consumer guarantees (NEW)
  - Contractual capacity
  - Electronic contracts and transactions
  - Evidence of contractual terms
  - Express and implied terms
  - Formation of contracts

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- Limitation and exclusion of liability in commercial contracts
- Misleading or deceptive conduct and false or misleading representations under the Australian Consumer Law
- Misrepresentation
- Novation of contracts
- Reasonable and best endeavours
- Rescission
- Subcontracts
- Termination of contracts
- Variation of contracts