

MODULE 7

Understanding legal best practice in business

PRESENTER: SINAL GOVENDER, CO-FOUNDER, POP.LAW

Sunlight | **Lionesses of Africa**

**WOMEN ENTREPRENEURS
START-UP
ACCELERATOR
PROGRAMME**

It's your time to shine!

ANTOGRACE
MORE THAN JUST FOOD

Sunlight
2in1
Hand Wash Powder

Sunlight
FABRIC CONDITIONER

Sunlight
SOAP

Unilever



Sinal Govender

Co-founder,
pop.law (South
Africa)



What's law got to do with it?



- The law intersects with life and business everyday.
- Many entrepreneurs are not equipped to run **legally sound businesses**. Even those who have studied the law have limited exposure to the practical realities of running a business.
- This includes **being responsible employers, service providers, users of personal information, and creators of work for others**.
- Commercially **successful entrepreneurs need to understand how to leverage the law** to be able to maximise their output, turnover, and profits in order to build scalable businesses.
- Entrepreneurs need to move away from seeing legal intervention as a fix, or grudge purchase, and towards it being a **useful tool** to make **sound business decisions** from the outset.

Module Contents



1. How to protect your business
2. Understanding IP
3. Preparing your own agreements
4. Negotiating agreements from others
5. Alternative dispute resolution
6. Choosing the right legal partner
7. Best practice tips

How do you protect your business?



- The best thing you can do for your business is to make sure you own it!
- What is the business?
 - PTY / Sole Prop / Joint Venture
- Who owns the IP?
 - Independent service provider / employment contracts
- Where is the value?
 - Products / Services / Networks / Data

What is your IP?



- Every. single. business has IP.
- Understanding what your rights are can be your greatest asset.
- Registrable rights vs automatic rights
 - Copyright
 - Trademarks
 - Patents
 - Designs
- Novelty requirements.
 - NDAs / confidentiality agreements

What to include in your own contract?



- Try to shift your focus from a “contract” to what it really is – an **agreement between people**.
- Start with a **conversation** towards a common goal.
- End with everything **in writing** so that everyone buys into the relationship and has a record of what is expected.
- Be clear and unambiguous.
- You don't have to have it all figured out – agreements can be adjusted as the relationship changes.

What to include in your own agreement?



Who

- You and the other person (client, service provider, employee)

Why

- What is the purpose of the relationship?
To collaborate, provide a service, deliver goods...

What

- The obligations of each party, deliverables

When

- The timing of delivery/outputs/payments

Where

- The territory / exclusivity of the relationship –
local, international?

How

- Dispute resolution, Confidential information,
Intellectual property

What to include in your own agreement?



Service Level Agreement

- Overall relationship
- Legal terms
 - Confidential information
 - IP
 - Jurisdiction
 - Termination
- Once off per client
- Shouldn't change much

Scope of Work

- Particulars of the project
- Practical terms
 - Payment terms
 - Delivery/handover
 - Obligations of each party
- Specific to each project
- Dynamic and builds on previous working relationship
- Easy to update and adjust

What to expect from a corporate...



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ANNEXURES

Annexure A	Service Provider Particulars
Annexure B	Services and Deliverables

Before you sign that contract...



- It can be very intimidating when you're first presented with a contract to sign. Take your time to **read through every section**.
- Make sure you **understand every word**. If you don't – ASK!
- More often than not **a single word can trip a business up**, often much longer after the contract has been signed.
- The best time to negotiate is **before** a contract is presented to you.
- **Don't underestimate your value**.
- The experience of signing a contract can be more informative than the contents. **If you feel rushed, bullied, or confused – trust your gut and don't engage**. It might be more costly to do the work than it is to walk away from a deal.

Pay special attention to...



- **Exclusivity** – can you do other work for someone else?
- **Obligations** – what is expected from both you and the other party?
- **Payment** – when and how is payment received?
- **IP ownership** – are you licensing your IP or selling it to someone?
- **Termination** – NB when it comes to fixed term agreements.
- **Dispute resolution** – it's best to determine what happens when things go wrong while everyone is on good terms at the outset of the relationship.

Before you sign that contract...



Exclusivity

The Parties acknowledge and agree that the appointment of the Service Provider is **non-exclusive** and that the Client reserves the right to procure the Services from a third-party service provider and/or to provision the services itself.

The Service Provider agrees not to, **during the Contract Term and for a period of 1 (one) year thereafter, provide services substantially similar to the Services to a Direct Competitor** of the Client.

Before you sign that contract...



Obligations

The Service Provider agrees to comply with the provisions of this Agreement and the Client's policies and procedures as may be provided to the Service Provider from time to time;

The Service Provider shall not be entitled to appoint subcontractors unless otherwise agreed in writing with the Client. In no event shall the Service Provider be relieved of its obligations under the Agreement as a result of such use of the subcontractors.

Before you sign that contract...



Payment

All payments to be made by the Client to the Service Provider shall be contingent upon the Service Provider's performance of its obligations hereunder and the due performance of the Services.

Before you sign that contract...



IP

All Intellectual Property Rights in and to the Services or Deliverables **created or developed by the Service Provider** as part of the Services **shall vest in the Client ("Created IP")**. To the extent that such Intellectual Property Rights do not vest in the Client by operation of law, the Service Provider hereby, **free of any consideration** whatsoever and unconditionally, cedes, assigns and makes over to the Client the Intellectual Property Rights in and to such Deliverables with effect from the date of its inception, and the Service Provider will procure that **any person who assisted in the creation** of the Created IP does the same.

Before you sign that contract...



Termination

Upon expiry of the Initial Period and at any time during the Contract Term, **the Client has the right to terminate this Agreement for convenience and without cause** upon 30 (thirty) days' written notice to the Service Provider.

Before you sign that contract...



Dispute resolution

In the event of there being any dispute or difference between the Parties arising out of this Agreement, the said dispute or difference shall on written demand by either Party be submitted to arbitration in London in accordance with the rules of the International Court of Arbitration of the International Chamber of Commerce ("**Rules**"). One or more arbitrators shall be appointed in accordance with the Rules.

How to resolve a dispute?



- When it comes to litigation, even if you win you lose
- Consider alternative dispute resolution (mediation / arbitration)
- Build in proactive protection measures (handovers / payment / IP ownership)
- Minimise disputes by having very clear expectations in a written agreement from the beginning
- Consider alternatives litigation platforms (Small Claims Court, CCMA, Consumer Commission, ISP, Social Media)
- Avoid getting to a place where you're trying to unscramble the egg

How and when to level up?



- Not unlike choosing medical assistance – self help, pharmacist, GP, specialist.
- Look for a legal **advisor** who can help you solve problems and maximise your business
- Above all else – you must be able to **trust** this person
- **Understand** payment terms, turnaround times, and processes in place
- Find someone who is **invested in you**, your business and success (outcomes vs billed time)
- Ask lots of **questions** about them and their experiences

Best practice tips



- Do what you can on your own and **get professional advice when necessary** e.g. registering a company through the bank vs paying for shareholders agreement
- Consider **drafting your own documents** (offer of employment, scope of works etc)
- Educate yourself. The Internet is your friend. When in doubt, research!
- Look for **reputable templates** - be careful that they are drafted in terms of South African law and suitable for your purpose

Questions?

The advertisement features a smiling woman in a white chef's uniform with a logo on the chest. She stands behind a counter with various Sunlight cleaning products, including a spray bottle, a packet of powder, and a liquid detergent bottle. A chalkboard in the background has the word 'WELCOME' written on it. The text 'WOMEN ENTREPRENEURS START-UP ACCELERATOR PROGRAMME' is prominently displayed in blue and white. A yellow ribbon banner below the text reads 'It's your time to shine!'. Logos for Sunlight and Lionesses of Africa are at the top, and the Unilever logo is in the top right corner. The background shows a bright, sunny outdoor setting.

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INFO@ANTOGRACE.COM

WELCOME TO ANTOGRACE MEN