

*“Internally research the terms & conditions your company offers you as a negotiator, and place a value on each of them.”*

## TERMS AND CONDITIONS

By Bill Garcia, Negotiation Trainer

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People who don't negotiate for a living naturally assume that those who do, focus primarily on price or the out-of-pocket payment for goods or services. That's not a big surprise -- we all grew up learning that "money makes the world go 'round."

### Value – Not Price

But good negotiations are about value. The more sophisticated the negotiator, the less likely they'll accept (or expect) price-only concessions. More often than not, the currency will be "terms and conditions." Better known as "Ts & Cs."

Terms and conditions have real-world value. The challenge is finding those with high value for the receiver, and low value for the giver. Uncovering your value requires internal research – talking with the people in your company to learn the Ts and Cs available, and their worth to the organization.

### Terms & Conditions Check List

Here, in no particular order, is a sample checklist of terms and conditions frequently used as negotiation concessions:

- Payment terms
- Delivery options
- Limited liability



- Liquidated damages
- Extended warranties
- Start-up assistance
- Just in time inventory
- Tech support
- Response Time
- On-site embedded engineers
- Force majeure (Acts of God)
- Customer training
- Escalation clauses
- Termination clauses
- Spare parts
- Consignment of spares
- Proof of insurance
- Promotional requests\*

### Getting Creative

When negotiating, the power of terms and conditions often comes from being creative. Consider a couple of examples:

Some companies get creative with the last item, promotional requests. Basically, the

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idea is to publicize relationships with current customers to attract new ones. Tools for this purpose include joint press releases, case histories, published success stories, reciprocal web links, co-branding of products or services, and references and referrals.

Here are some additional terms and conditions that can be used to your advantage

- Factory Acceptance
- Final acceptance
- Shipping terms
- Intellectual Property
- Product or Software Upgrades
- Long-term price agreements
- Rebates
- Penalties & Bonuses\*

A caution about penalties and bonuses: Experienced negotiators won't accept one without the other. For example, if a buyer insists that a seller pay for late deliveries, the seller can legitimately insist on a bonus for early deliveries. This kind of counter-proposal "tit-for-tat," is a good way to end discussions of penalties, once and for all.

## Assigning Value

Bargaining with Terms and Conditions requires knowing their value – the value your company places on them, that is. Before negotiating, draw up a list of the known Ts and Cs of interest to your opponent. Then, work internally with the people responsible for them in your

company and assign value to each of them -- the "economic value" they have for your organization.

Assigning a dollar figure to each item is ideal. However, if you can't come up with a price tag, simply labeling them low, medium, or high will do. (That's better than entering a negotiation with no values at all.) You'll be a stronger, more confident negotiator when you understand the value of the terms and conditions at your disposal.

## Using Ts & Cs

Here's how buyers and sellers yield terms and conditions in a negotiation. Notice how each statement never gives – without getting.

*Absolutely! We can ship product for free if you accept Friday deliveries.*

*I'll pay you net-15 if I can get a 5% discount*

*Yes, I can introduce you to that division, if you can shave some points of the price.*

*I can save you more money if we agree to a different material spec.*

Remember negotiations are all about value. And Terms and Conditions are the currency of experienced negotiators.