

Automatic Contract Renewals

Written by Steve Marr
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Frequently I encounter contracts that have an automatic renewal clause, known as an evergreen clause. Essentially it means that a contract automatically renews for specific period of time, typically for the original cost and service, if it is not canceled by a specific date. I personally detest these automatic renewal contracts and avoid them whenever possible.

Recently “Kim” was looking at closing her business and wanted some advice on how to shut things down. Kim had rented the space for 2 ½ years, though the original lease was for one year. She thought that the rental agreement had reverted to a month-to-month contract. She was wrong. Kim failed to understand that without a 90-day notice in advance of the expiration of her lease, the contract was automatically renewed for another year, including an escalation clause to increase rent. This was particularly distressing because rents were dropping in the area. As a result Kim was stuck and required to pay off the lease as agreed in the contract.

When I took over purchasing responsibilities in my corporate work years ago, I learned that an expensive copy machine fell under an automatic renewal clause and had been automatically renewed. At that time copiers were improving drastically in terms of service and costs were dropping. I tried to work with Xerox to adjust the agreement but they refused. As a result I notified Xerox that we would no longer purchase or lease any other products in the future until they agreed to make an adjustment. For three years Xerox called on our company requesting business, and every time I gave them a copy of my earlier letter that explained that we would not consider any Xerox product for our office until they responded to my request. Since we were a large user, this was a huge loss to Xerox.

This is another example why you need to read and understand the contracts and agreements you sign. Fine print does matter. Whatever is actually in the contract is important, not just what we think is there.

I always advise clients, and follow the step myself, to request removing automatic renewals in contracts so that no one gets caught. An option to renew is quite different, meaning we can make the choice to renew an agreement at specified terms if we notify the other party within the time stated in the agreement. In these instances, place a note on your calendar to remind you in advance to review the agreement and consider exercising your option to renew or not.

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When you're not able to remove an automatic renewal from a contract, be very careful to place a note on your calendar in advance of the automatic renewal date. This ensures you can review the contract and determine what action you wish to take if any.

King Solomon wrote, "The hand of the diligent will rule, But the slack hand will be put to forced labor." (Proverbs 121:24, NASB) An important part of our diligence is reading and understanding all agreements we sign. The reality is that we are bound to the terms we sign, even if we didn't know what we agreed to.

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