THE TERMINATOR
(MANAGING NON-PERFORMANCE IN CONTRACTS)

BUSINESS BREAKFAST CLUB

MARK LOVE  •  8 JUNE 2018
CONTRACT MANAGEMENT

The Information Pathway

• Performance indicators
• Lead indicators
The Character of “Damages”

Compensates for the losses which flow naturally from that breach of that contract.
The contract should reflect:

• What you want; and

• What you suffer if the contract is not performed “on time” and “in accordance with specification”.
If you sign it, you are stuck with it!

*L'Estrange v Graucob*
Terminating a contract is a matter of considerable risk.

Mark Love
Terminating a contract leaves the contract parties free from any further obligation to perform the contract.
Only certain “breaches” permit you to validly terminate a contract.
Terminating a contract has the obvious consequence of a counterclaim for “wrongful termination”.
You can unintentionally “repudiate”: it is how your behaviour is objectively interpreted.
Termination

Repudiatory conduct may be ‘cured’ by the party in breach, but only prior to the acceptance of the repudiation.
THANK YOU

NEXT BUSINESS BREAKFAST CLUB IS ON 13 JULY 2018.