

€ TRAINING

Contracts: Reading, Writing and Negotiating



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Introduction:

Understanding contract law has become an essential part of conducting our daily business functions. Whether you are in purchasing, contract management, subcontracts, project management, general management, or sales, you are constantly involved with legal and contract principles, sometimes without even realizing it.

Too often the wording used in Contracts is not properly understood by those who are making decisions relating to those Contracts, and non-specialists are reluctant to get involved in the process of drafting and amending the documents which are critical to their company's success. There may also be problems in assessing amendments proposed by the other party, and determining whether these are reasonable, or are eroding your company's position.

Course Objectives:

At the end of this course the participants will be able to:

- Provide an understanding of contract structures, and how and why contracts are drafted in particular ways
- Enhance understanding of the legal principles behind contracts
- Provide an understanding of some of the main clauses in different types of agreements
- Explain the commercial impact of particular provisions
- Discuss the differences between similar clauses in different international standards
- Show how to write contract clauses clearly to avoid conflict
- Develop an understanding of when to accept proposed amendments, and when to reject them, including how to give clear reasons for such rejection
- Give practice in amending documents to meet particular requirements, including the use of Special Conditions
- Provide strategies and tactics for negotiating on possible contract amendments
- Explain how to use contract provisions to reduce the risk of disputes.
- Understand where disputes do arise
- Show how the contract can be used to minimize these disputes
- Learn some of the methods by which disputes are resolved in international contracting including non-traditional approaches, such as mediation

Targeted Audience:

- Contract Administrators, Contract Professionals and Project Coordinators
- Specifiers, Buyers, Purchasing Professionals and Procurement Officers
- Contracts Managers
- Project Managers
- Engineers or Contracts Operatives
- Persons who want to extend their skills and knowledge to the contracting area to improve their profile

Course Outlines:

Unit 1: How and Why Contracts are Drafted?

- Why we use contracts
- Formation of a Contract
- The key elements of a contract
- Oral or written?
- Electronic contracts
- Terms and Conditions of contract
- Agency issues
- The basic structure of a contract
- Incorporating documents by reference
- Standard Forms - International and Company
- Form of Agreement
- Precedence of documents - Special Conditions

Unit 2: Main Contract Clauses:

- Obligation to deliver/perform
- Rework/re-performance
- Risk of Damage
- Title
- Compliance with law/change of law
- Indemnities
- Insurance
- Third parties
- Liability in negligence
- Relationship with contract conditions
- Variations and changes
- To the scope of work
- To the contract
- Product liability and defective goods - rejection of goods
- Intellectual property
- Taxation
- Suspension and termination
- Acceptance and Certificates
- Payment
- Liquidated damages/penalties
- Limits of liability
- Guarantee/Warranty/Maintenance
- Which law to apply in international contracts

Unit 3: Other Documents:

- Incorporating tender documents
- Letters of Intent or Award
- Letters of Comfort or Awareness
- Side Letters
- Bank bonds and Guarantees
- Parent Company Guarantees

Unit 4: Writing Contracts:

- Clarity of language

- Legal terms
- Definitions
- Translation
- Resolving conflict with a document or between sections

Unit 5: Negotiation and Resolution of Disputes:

- Contract negotiation
- Dispute Resolution clauses
- Unequal bargaining positions
- Negotiation, compromise, and settlement
- Litigation
- Arbitration
- Alternative methods of resolving disputes
- Mediation
- Conciliation
- Early Neutral Evaluation
- Expert Determination
- Mini-arbitration
- Pendulum arbitration