

# € TRAINING

The Essentials of Contracting & Contract  
Negotiation





# The Essentials of Contracting & Contract Negotiation

## Introduction:

Every day significant monies are made and lost by organizations as a result of the contractual terms and conditions governing contracts for the purchase of goods, equipment, and services. Since all business activities are governed by contractual relationships, it is increasingly important for all those dealing with outside organizations to have an understanding of how to obtain the best possible agreement for their organization. This involves skills in negotiating and drafting the contract, as well as managing the same and negotiating issues and disputes that may arise.

The module will look at how contracts are created, and some of the main clauses that appear in contracts, together with many alternative contracting strategies and structures. The course will also consider techniques for third party dispute resolution. The second Module will cover the whole range of negotiations, reviewing the whole negotiation process and showing how a collaborative style to handling disputes or conflict maintains the win/win approach which was set before any dispute arose!.

## Course Objectives:

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

- Provide an understanding of how contracts are formed
- Give an in-depth analysis of issues behind major contract clauses
- Enhance understanding of different contracting strategies and structures
- Learn how to transfer risk through different contract types
- Understand dispute resolution techniques through courts and other alternative methods
- Apply the main negotiation phases - Planning, Discussion, Proposing, Summarising, and Concluding
- Achieve "win-win" outcomes within the bargaining process
- Understand the significance of disputes, their causes, and the long term impact they can have on business relationships
- Identify and use strategies to resolve the causes of disputes

## Targeted Audience:

This training course will benefit all levels of personnel in contracts and project management, purchasing, supply, and procurement. It will enable them to enhance their understanding of different contracting strategies and structures in a variety of applications.

## Course Outlines:

### Unit 1: How Contracts are Formed:

- The reasons for using contracts
- Basic principles in contract formation
- Examples of formalities for contract formation
- The use of written or oral contracts
- Authority to sign a contract
- Basic contractual structures
- Use of different types of contract for different business models

## Unit 2: Main Contract Provisions and Associated Issues:

- Scope of Work
- Force majeure
- How to deal in volatile market conditions
- Delivery and acceptance
- Termination and Suspension
- Warranty
- Selecting the appropriate law to govern the contract
- Entire Agreement

## Unit 3: Changes and Variations:

- Changes to the contract
- Scope variations
- Use of variations clauses
- Evaluating scope changes
- Extensions of time
- Disruption
- Changes in sequence and timing
- Controlling and managing change

## Unit 4: Contractual Documents and Payment Issues:

- Letters of Intent and Award
- Bonds
- Progress Payments
- Parent Company Guarantees
- Use of commercial standard documents
- How contracts end
- Suspension and Termination
- Types of damages

## Unit 5: Dispute Resolution:

- Avoiding disputes
- Recognizing disputes when they arise
- Contract clause to encourage negotiation
- Third-party dispute resolution
- Courts
- Arbitration
- Alternative methods - including mediation
- Post review and analysis

## Unit 6: Fundamentals of Negotiation:

- Building business relationships
- The impact of disputes on partnerships
- 4-phase structure: Preparation, Discussion, Proposing, Bargain & Close
- Use of concessions: best alternative to a negotiated settlement BATNeS
- Preparing the case, objectives entry/exit points, and concessions

## Unit 7: The Negotiator's Toolbox:

- Planning an appropriate environment for the meeting
- Opening discussion, priorities, information needs, and building trust
- Using proposals -conditional and unconditional to move the meeting on
- Closing the bargain: trading concessions, summaries, recording outcomes
- Alternatives to negotiating outcomes to a dispute

## Unit 8: Negotiating Styles, Tactics, and Ploys:

- Cultural & international issues: negotiating styles around the World
- Emotion and negotiation
- Managing negative emotions
- Interpreting non-verbal communication
- Do's and don'ts
- Push/Pull styles and silence as a tactic
- 60 common tactics and how to counter them

## Unit 9: Personal Skills in Dispute Negotiation:

- Motivation - analysis of needs, interests, positions, and escalation
- Motivators of conflict and 5 alternative approaches to the dispute resolution
- Team negotiations - Why? What? How? Who? When?
- Handling conflict and deadlock
- Personal skills development
- Fitness check

## Unit 10: Putting it All Into Practice:

- Leaders' contribution of mission and self-belief in critical situations
- Team allocation and orchestration of specialists
- Mediation process
- Negotiation case study - plan, bargain, review, analysis of results
- The do's and don'ts of negotiating
- Success in dealing with assumptions
- Murphy's law - improving what we do
- Action planning