Resolving Contract Disputes and Avoiding Construction Claims Training

Description

Course Description

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.

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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.

The course will deal with Contracts written in the English language, and follow principles widely used in international contracting.

Course Objective

- 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 develop your own "standard" clauses
- 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.
- Where disputes do arise, show how the contract can be used to minimise these disputes, and some of the methods by which disputes are resolved in international contracting (including non-traditional approaches, such as mediation)

Course Outline

How and why Contracts are drafted

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

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Main Contract Clauses

- Obligation to deliver/perform
- Rework/re-performance
- Risk
- Title
- Compliance with law/change of law
- Indemnities
- Insurance
- Third parties
- Liability in negligence – relationship with contract conditions

Main Contract Clauses – continued

- Variations and changes
- Product liability and defective goods – rejection
- Precedence of documents – Special Conditions
- Intellectual property
- Taxation
- Suspension and termination
- Acceptance and Certificates
- Payment
- Liquidated damages/penalties
- Limits of liability
- Guarantee/Warranty/Maintenance
- Conflict of Laws and Choice of Law Clauses

Other documents and Negotiations

- Letters of Intent or Award
- Bank and Insurance Bonds
- Letters of Comfort or Awareness
- Collateral warranties
- Alliance /Partnering Agreements
- “Side Letters”
- Finance arrangements
- Negotiating contract qualifications and amendments

Negotiation and Resolution of Disputes

- Contract negotiation – continued
- Dispute Resolution clauses
- Unequal bargaining positions
- Negotiation, compromise and settlement
- Litigation
- Arbitration

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