



The Essentials of Contracting



4 - 15 August 2024



Kuala Lumpur (Malaysia)

# The Essentials of Contracting

course code: P4004 From: 4 - 15 August 2024 Venue: Kuala Lumpur (Malaysia) - Royale chulan hotel course Fees: 4500 Euro

## The Course

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.

The course will look at how contracts are created, and some of the main clauses that appear in contracts, together with a number of alternative contracting strategies and structures. The course will then consider methods to be used in negotiating contracts, including techniques relating to negotiating on variations and claims. The course will deal with day to day commercial issues arising from business agreements written in the English language, but will use techniques which have wide application to many types of contract in many countries.

## The Goals

- Provide an understanding of how contracts are formed
- Give in depth analysis of issues behind major contract clauses
- Improve appreciation of legal issues in contracts
- Enhance understanding of different contracting strategies and structures
- Develop new skills in negotiation of contracts and disputes
- Increase understanding as to how and why disputes arise
- Learn how to transfer risk through different contract types
- Explain how to use contract provisions to reduce the risk of disputes

## The Process

Training will involve a high level of interaction and delegate participation. The intention is that the trainer will explain issues, using real examples, but will then involve the delegates in discussion, using the information provided. There will also be sessions on negotiating, where delegates will work as teams to seek to agree disputes in realistic scenarios.

Delegates are encouraged to bring real problem examples with them, for discussion on a confidential basis, and to share their experience of particular issues in their company or industry.

## The Benefits

- Delegates will be introduced to some of the latest international practices in contracting strategy and dispute resolution, and shown how to build such practices into their contract documents
- Professionals should have more confidence in discussing issues with lawyers or with the other parties to contracts
- A better understanding of legal and practical issues will allow the more effective management of external legal and other resources
- Non-lawyers will find it easier to instruct and work with specialist lawyer colleagues,

- improving the performance of both parties
- Dispute avoidance skills will be enhanced, as will the ability to manage such disputes as do arise in an effective manner

### **The Results**

- Expanding the expertise of personnel involved in developing contractual strategies, negotiating contracts and claims
- Improve supplier performance in providing fair and reasonable prices for an on-time high quality scope
- Total cost of Ownership should be reduced
- Contracts should better reflect the commercial and other aims of the business
- Contract negotiations should be more structured and focused on business goals
- Disputes should be reduced, and those that do arise should be settled more quickly, with less cost, delay and disruption

### **The Core Competencies**

- Negotiating skills and techniques
- Developing contract strategies and structures
- Understanding contract issues
- Analyzing and drafting contract clauses
- Resolution of claims and disputes
- Risk Analysis
- Commercial awareness of pricing and performance issues

### **The Programme Content**

#### **Day One**

##### ***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

#### **Day Two**

##### ***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

### **Day Three**

#### ***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

### **Day Four**

#### ***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

### **Day Five**

#### ***Dispute Resolution***

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