



Drafting Commercial Contracts

Duration

1 day

What is this course about?

This course aims to give delegates a firm understanding of what is required to successfully draft commercial contracts. It looks at planning for the contract, risk and liability, understanding legal jargon and the legal and contractual framework.

Who would benefit?

This course would benefit anyone involved in tendering, preparing proposals, drafting, amending, varying, working with change or granting waivers to contracts, including:

- Commercial and contracts Directors and managers
- Executives
- Purchasing, (procurement) sales and licensing contracts people
- Those involved in tenders and proposals
- Contract managers
- Lawyers wishing to refresh skills
- Para legals
- Contract co-ordinators
- Contract administrators
- Contract negotiators
- Company secretaries
- Corporate governance officers
- Legal department members

Objectives

At the end of the course those who have attended will be able to:

- Master the skills of effective contract drafting
- Write clear and unambiguous terms
- Specify performance obligations
- Address risks
- Include effective Limitation and Exclusion Clauses
- Avoid drafting pitfalls



Key Topics Covered

1. Planning the structure of the contract

- Who will write the contract?
- Technical Drafting
- Commercial Drafting
- Using mind maps
- What shall or may WE offer?
- What will THEY require?
- What are the problems?
- What are the Risks?
- Checklists

2. Specify who must do what and by when

- What the contract must cover
- Who are the parties
- Is the contract for goods and services, or both?
- How will the contract be performed?
- Special considerations – guarantors, insurers

3. The Specification

- The Technical Task
- Work to be done
- Equipment to be supplied
- Services to be provided
- Performance tasks
- Measuring success
- Subcontracting



4. Risk - Liability - Getting Paid

- What are the risks of each party?
- Exclusion, Limitation and liquidated damages clauses
- Cascading Risk down the supply chain
- Allowances and Contingencies
- Prices Fees and payments
- Change

5. The documents that will make up the contract

- Heads of terms
- Order of priority
- Master agreements and call off agreements
- Recitals
- Special conditions
- Specifications
- Schedules
- Annexes
- Supporting documents
- Different language versions

6. The importance of language and words

- Expounding a myth: you do not pay by the word
- Representations, conditions, warranties and intermediate terms
- Definitions
- Rules of interpretation The golden rules
- The meanings of words
- Getting the grammar right
- Boiler plate clauses
- Drafting tips



7. The contract conditions

- Model or in-house
- Standardised or tailor-made
- Battle of the forms

8. Preparing for negotiation

- Teams
- Tasks
- Research
- Important points
- Establishing Settlement ranges
- Setting agendas

9. Best practice: Final checks

- Do the terms make commercial sense?
- Are all the risks covered?
- Is the draft wording unambiguous?
- Have we met our objectives?
- Have we allowed for change?