

# Commercial and Business Contracts

## INTRODUCTION

- This Commercial and Business Contracts training course will provide participants a comprehensive understanding of procedures and practice related to the risks inherent in the formation and management of contracts. Through analysis of real life examples, this Contract Management training course demonstrates how to manage contract risk effectively and to ensure contract negotiations and performance occurs quickly and efficiently. Contracts are valuable and useful tools for companies to maximise value for businesses and minimise risk of loss or things going wrong. Businesses cannot continue to focus on pricing and key commercial terms alone.
- Contracts are vitally important for any business. Understanding and managing contract risk is critical for companies and senior employees. The business and competitive advantages of managing contracts effectively produces significant benefits and a failure to fully understand risk related items in a contract can result in lost opportunities and costly disputes.

The highlights of this training course are:

- Creation of contracts including legal effectiveness and structure
- Key contract clauses focusing on payment and non-payment remedies
- Securing performance of a party's obligations in the contract
- Liability for breach of contract
- Dispute resolution and important considerations

## OBJECTIVES

- Analysis of the risks inherent in the formation and management of contracts
- Explain key contract provisions and provide instruction on how to manage contract risk effectively
- Interpret essential contract clauses and understand the specific terms and conditions
- Develop your ability to negotiate an effective contract to protect your corporation's interests
- Discuss where things can go wrong, and learn how to avoid problems, or mitigate their effects through well drafted contracts and good management
- Recognize how to avoid disputes but be prepared to deal with them if they arise

## TRAINING METHODOLOGY

- This Commercial and Business Contracts training course will involve the attendees in as much participation as possible with discussion and exercises on particular topics. Presentations will be kept short and topical to maximise interest and participation. Topics will be designed as far as possible to be clearly relevant to the business issues faced by or likely to be faced by the delegates.

## ORGANISATIONAL IMPACT

- Ensuring that the organisation effectively manages the creation of contracts
- Improve contracting processes within the organisation
- Enhance transactional and litigation risk control within the organisation
- Delivering greater value to the organisation by the use of more effective contract performance provisions
- Minimising costly disputes caused by unclear or inappropriate contract clauses and maximising the benefits available
- Increased awareness of methods of dealing with disputes to ensure that commercial relationships are maintained and enhanced

## PERSONAL IMPACT

- Increased understanding of contracting process
- Enabling more effective control of the contracting process
- Understanding the importance of key contractual clauses
- Determining appropriate allocation of risk in contracts
- Developing enhanced contract management and administration skills
- Improving the ability to avoid costly contractual disputes

## WHO SHOULD ATTEND?

- This Contract Management training course will benefit all professionals negotiating and dealing with contracts and managing relationships within the organisation.

This training course would also benefit:

- Contract and Purchasing Personnel
- Project Management Professionals
- Other employees in corporate or governmental organisations who have a responsibility for drafting, negotiating, or approving contracts.
- Professionals such as legal and financial staff
- Any personnel involved or interacting with contracts

## Course Outline

### How Contracts are Created

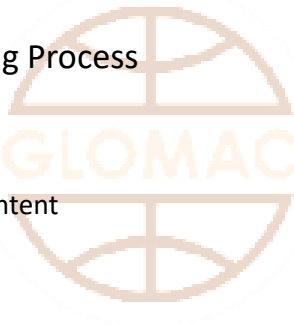
- Quantifying Risks
- The Benefits of Understanding Contracts
- The Pitfalls of Getting It Wrong
- Controlling the Contract Process
- Understanding the Deal
- Controlling the Negotiation
- Contract Formation
- Offer and Acceptance
- Battle of the Forms
- Consideration and Intention
- Pre-contractual Issues and Documents
- Due Diligence, Permits, and Financial Stability
- When are you committed?

### Controlling the Contracting Process

- Auctions, Bids and Tenders
- Invitations to Tender and Treat
- Heads of Terms and Letters of Intent
- Bonds and Guarantees
- Standby Letters of Credit
- Form of Agreement
- Incorporating Standard Terms of Business
- Informal Contracts
- Letters of Comfort
- Subcontracts and Warranties

### Key Contract Clauses

- Pre-contracts and Post Contract “qualification phrases”
- Subject to Contract
- Without Prejudice
- Subject to Client Comment
- Securing Payment
- Payment Obligations
- Non Payment Remedies
- Letters of Credit
- Guarantees
- Delivery, Ownership and Risk
- Time and Place of Delivery
- Late and Failed Delivery



- Damage in Transit
- Ownership and Acceptance
- Transfer of Title and Risk
- Retention of Title

## When Things Go Wrong

- Contract Liability
- Managing Liability
- Limits of Liability
- Damages
- Insurance and Indemnities
- Product Liability
- How a Claim is Brought in Contract
- How a Claim is Brought in Negligence
- Practical Risks
- Frustration of a Contract
- Force Majeure
- Notices and Service
- Entire Agreement & Waiver
- Interpretation and Signing
- Authority to Sign a Contract
- Power of Attorney
- When do Contracts End?
- Termination / Discharge
- Transfer
- Variation
- Mistake



## Disputes and Compliance

- Choice of Law
- Choice of Dispute Resolution
- Negotiated Settlement
- Litigation
- Arbitration
- Mediation, Adjudication, and Experts
- Settlement Issues
- Enforcement of Judgements and Awards
- Jurisdiction
- The Importance of Business Integrity
- Bribery
- Corruption
- Money Laundering
- Competition Law