



CONTRACT LAW MASTERCLASS

TRAINING WITH SCOTT ALDEN



THIS EDUCATIONAL TRAINING INTENSIVE DELIVERS CRITICAL LEGAL KNOWLEDGE FOR ANYONE WHO HAS ANY EXPOSURE TO CONTRACTS OF WHATEVER SIZE, VALUE AND TYPE.

16 JUNE → 23 JUNE → 30 JUNE 2021

WHAT'S INCLUDED

This educational training intensive split in 3 parts will be delivered in the following innovative format.

- 3 x 2 hour online lectures run over 3 consecutive weeks.
- 4 x 1 hour online Follow Up sessions run monthly.
- 6 formal CPD points upon completion

This format is designed to increase accessibility to high quality training. This course is typically valued at \$1200

per person, this online format is now starting at \$200 and allows anyone across the country to participate at a dramatically lower price. You will be given a comprehensive set of all material including:

- Full set of slides
- Workshop booklet for group exercises

ABOUT

During the training you will examine the law and commercial factors affecting the contract lifecycle, from formation, through performance to completion, you will be provided with essential guidance on:

- understanding clauses and terminology
- risk identification; allocation and management
- standard form contract and general contract
- termination
- dispute resolution.

With this knowledge, you can ensure that contracts are prepared properly from the outset, setting a clear path to maximise outcomes. You will be provided with the tools and knowledge to know your rights when you are not getting what you expect out of your contract. You will also learn how to recognise whether the contract is on the right path, and how to end the relationship either amicably or through dispute, when it is not.

Incorporating a focus on interactive workshops and real life case studies, this course covers all the need-to-know essentials.

LEARNING OUTCOMES

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

- Explain how contracts are formed – so unwanted contracts can be avoided and those wanted are ensured.
- Identify what is required for a valid binding contract and what to do if there isn't one.
- Negotiate better before drafting a contract.
- Understand the traps and pitfalls involved in pre-contract arrangements and tender processes.
- Identify the risk issues in the tender process.
- Explain the importance of Heads of Agreements and MoUs.
- Understand the important differences between deeds and contracts.
- Explain the myths of contract formation.
- Understand how to:
 - eliminate risks and misunderstandings.
 - identify unfair terms in a contract.
 - identify risk and allocate it through negotiations and agreements.
 - resolve a contractual breach.
 - manage disputes without litigation.
 - recognise your rights of termination.
- Explain contractual issues in the tender process.
- Understand what is involved in enforcing a contract.
- Identify alternatives to litigation.



NATIONAL STANDARD OF COMPETENCY FOR ARCHITECTS

This course relates to the following Competencies and Performance Criteria:

1. Design

- 1.1 Preparation & endorsement of an agreement between client and Architect. This agreement will clearly communicate terms, services to be provided, and fees appropriate for the scale and type of project.
- 1.7 Preparation of project brief for approval by client and relevant stakeholders.

7. Project Delivery: Procurement

- 7.5 Preparation of report and recommendations to enable client to make approval of procurement method and all associated contracts.
- 7.6 Knowledge and application of all administration and principles for the selected procurement method and associated contracts.

8. Project Delivery: Construction Stage

- 8.2 Recommendation regarding contractor selection and specifics of project contract are made to the client for their approval.

WHO SHOULD ATTEND?

Principals, Managers, Directors and Officers who negotiate:

- contracts
- procurement
- purchasing
- assets
- commercialisation
- supply chain
- finance
- sales
- projects
- business development.



ABOUT YOUR TRAINER

SCOTT ALDEN

PARTNER, HLW EBSWORTH LAWYERS



With over 20 years' experience, Scott specialises as a legal advisor on significant projects and procurements for primarily government, but also private sector, clients.

Scott's role of lead legal advisor to significant projects often incorporates legal and procurement expertise on the same transaction, as well as strategic probity advice.

In recognition of his position as a leading government lawyer, Scott was one of the first NSW Law Society Accredited Specialists in Government and Administrative Law (with a focus on government commercial and procurement transactions), and has been appointed by the Law Society of NSW as the Head Assessor for that Specialist Accreditation this year. Scott also writes and lectures two procurement courses for the Masters Programs at both the College of Law and the University of Melbourne.

Scott also has a special interest in contract law, particularly for major projects, and is a member of the Australian Advisory Board for World Commerce and Contracting Association (previously the International Association of Contract and Commercial Management)

He is experienced in drafting and implementing key project documents including market sounding/engagement documents, industry briefings, RFTs, tender evaluation plans, tender evaluation reports, commercial contracts and agreements and legal advices and resolutions to support decisions.

SCOTT ALDEN



TRAINING AGENDA

1 WEEK APART, RUN OVER 3 WEEKS – 8AM TO 10AM AEST

CONTRACT LAW PART 1	CONTRACT LAW PART 2	CONTRACT LAW PART 3
Wed 16 June 2021	Wed 23 June 2021	Wed 30 June 2021

1 MONTH APART – 8AM TO 9AM AEST

Follow Up session 1	Follow Up session 2	Follow Up session 3	Follow Up session 4	Follow Up session 5
Wed 21 July 2021	Wed 18 Aug 2021	Wed 22 Sep 2021	Wed 20 Oct 2021	Wed 17 Nov 2021

TOPIC 1

Contract Formation Essentials

Law of Contract – essential prerequisites

- Myths and errors
- Use of Standard Form Contracts (including exercise on types of Standards and gaps in the standards)
- Understanding offers, acceptances and invitations to treat
- Identifying the parties – types of parties and the impact on contract formation
- Offer vs. Invitation to Treat – what is the difference?
- Capacity and Delegation (including reference to published recent article on delegation and exceeding authority)
- Contract vs. Deed
- Issues with contract formation (including exercise on contractual certainty)

WORKSHOP

Defining Contract Formation During Negotiation and Battle of the Forms

TOPIC 2

Heads of Agreement – explained and explored

- What is a Heads of Agreement?
- Are Heads of Agreement different from a letter of intent, MoU or Letter of Understanding?
- Types of Heads of Agreement
- Why use Heads of Agreement?

TOPIC 3

Engaging the market – contractual issues in the tender process

- The difference between an RFP and an EOJ
- The tender process and contractual liability (using a published article on the most recent legal case on tendering in Australia)
- The process contract explained and explored
- Contractual damages and the tender process
- How to structure RFPs
- How tenders are assessed and getting the selection right
- Avoiding risks in the tender process
- Probity- what it is and why we have it
- Managing the Procurement.

WORKSHOP

The Process Contract – Exclusion of Contract and Excluding Liability

TOPIC 4

Intellectual Property

- The Law on IP and who owns what
- Dealing with IP in contracts
- Understanding IP ownership and IP licensing.

TOPIC 5

Liability, Indemnity, Warranties and Insurance

Overview of contractual risk

- Risk in a contractual sense
- Risk Identification and Management- (including a simulated Risk Identification Workshop)
- Liability and Limitation / Exclusion of Liability
- The use of indemnities and tips on negotiation
- Consequential Loss- What it means
- Non-contractual risk mitigation tools.

WORKSHOP

Risk Allocation (participants will work in groups to consider appropriate risk allocation in a dummy project)

Transferring Risk

- Insurance
- Other mechanisms to meet contractor liabilities, including parent company guarantees, deeds of substitution and indemnity and comfort letters.

TOPIC 6

Managing Contracts through a Recession

- Managing contracts through boom and bust – why is it different now?
- Getting the selection right
- Understanding contractual rights and mechanisms to manage contractor/subcontractor solvency risk.

TOPIC 7

Breach of Contract

Termination

- Contractual right to terminate vs. common law right to terminate
- Termination for convenience.

Contractual Damages

- Types of contractual damages
- Heads of damage
- How to assess contractual damages
- Types of loss explained and explored
- How to mitigate damages.

Dispute Resolution

- Is litigation the only option?
- Expert determination vs. mediation – the difference
- Arbitration vs. litigation.

COST - ~~\$1200~~

Members – \$370, Non Members – \$570.
PALS users can purchase for \$200.

Early bird will run from now till 6th May
Members – \$330, Non Members – \$530.

Register at <https://www.architecture.com.au/event/contract-law-masterclass>



LIMITED SPACES AVAILABLE



CONTRACT MANAGEMENT TRAINING COMING SEPTEMBER 2021

Visit the website for more details.



AGENDA