

4<sup>th</sup>

Applicable toward CPD Requirement

# Commercial Contract Negotiation and Administration

Latest strategies and techniques for achieving greater value for money and improving contract performance

Workshop Included: MANAGING VENDOR RELATIONSHIPS & PERFORMANCE

## Course Leader



Elisabeth Symons,  
Mann Symons LLP

## Course Leader



Richard Corley,  
Goodmans LLP



Didhiti Bhoumik,  
McCarthy Tétrault LLP



Shehryar Butt,  
MacDonald Dettwiler and  
Associates Inc.



Hugh F. Hamilt on,  
Fidelity National  
Information Services, Inc.



Caroline Hillyard,  
Grant Thornton LLP



Donald B. Johnston,  
Aird & Berlis LLP



Rodger Madden,  
TELUS Communications  
Company



David Malamed,  
Grant Thornton LLP



John-Nicolas Morello, VIA  
Rail Canada Inc.



Zella K. Phillips,  
Regional Municipality  
of York



Elisabeth S. Preston,  
Allen-Vanguard  
Corporation.

Caroline Jacques AbbVie  
Inc.

Heather Platt  
Metrolinx

## Two-Day Event!

## Participating organizations

AbbVie Inc.  
Aird & Berlis LLP  
Allen-Vanguard Corporation  
Fidelity National Information Services, Inc.  
Goodmans LLP  
Grant Thornton LLP  
MacDonald Dettwiler and Associates Inc.  
Mann Symons LLP  
McCarthy Tétrault LLP  
Metrolinx  
TELUS Communications Company  
The Regional Municipality of York  
Via Rail Canada Inc.

## Who should attend

Private & Public Sector In-house counsel, Executives, Directors & Managers involved in: procurement, asset management, contract management, IM/IT and outsourcing; lawyers; consultants

## Course highlights

- Learn how Telus has successfully developed a strategy to deal with risk in contract negotiation
- Find out how to navigate the vendor relationship life cycle
- Discover how MacDonald, Dettwiler protects its intellectual property when negotiating contracts
- Explore best practices in avoiding and detecting contract fraud
- Learn about negotiating the contract terms to increase contract performance enforceability
- Minimize your risks by establishing effective risk resolution practices
- Keep up to date with essential elements needed in today's IT contracts

## COURSE LEADERS

### ELISABETH SYMONS

Elisabeth Symons is a Partner at **Mann Symons LLP**. She draws on her background in technology and law to help private and public sector organizations to understand the legal issues that they face relating to technology and address them in creative and practical ways that help them to meet their objectives.

### RICHARD CORLEY

Richard Corley is a Partner at **Goodmans LLP**. He has over 25 years of experience in complex outsourcing transactions, technology M&A, joint ventures, cleantech and technology competition law matters.

## CO-LECTURERS

### DIDHITI BHOUMIK

Didhiti Bhoumik is the Senior Director of Vendor Management and Office Services at **McCarthy Tétrault LLP**, and she has more than 15 years of experience in vendor, project and facilities management in a variety of industries.

### SHEHRYAR BUTT

Shehryar Butt is a Senior Contracts Specialist at **MacDonald Dettwiler and Associates Inc.** He is responsible for negotiating and

concluding IP licensing transactions pertaining to the International Space Station and Canadarm technology.

### HUGH F. HAMILTON

Hugh F. Hamilton is Senior Vice President, Deputy General Counsel at **Fidelity National Information Services, Inc.** He is mainly involved in large scale, international technology transactions in countries around the world.

### CAROLINE HILLYARD

Caroline Hillyard is Senior Manager at **Grant Thornton LLP**. She specializes in providing forensic accounting services to a diverse client base and has also conducted a wide range of anti-fraud work.

### CAROLINE JACQUES

Caroline Jacques is Senior Counsel Canada, International Legal Operations at **AbbVie Inc.**

### DONALD B. JOHNSTON

Donald B. Johnston is Partner at **Aird & Berlis LLP**. He leads the Technology Law Group and is a member of its Corporate Commercial Law Practice Group with nearly 20 years of experience in technology procurement, licensing and related transactions.

### RODGER MADDEN

Rodger Madden is Associate General Counsel with the Legal Services Department at

**TELUS Communications Company**. He provides legal advice in the negotiation, closing and implementation of large enterprise, public sector and small business customer and partner transactions.

### DAVID MALAMED

David Malamed is a Partner Forensics and Dispute Resolution at **Grant Thornton LLP**. He has investigated, reported and managed many civil and criminal fraud allegations.

### JOHN-NICOLAS MORELLO

John Nicolas Morello is Senior Legal Counsel at **VIA Rail Canada Inc.** He has held important company portfolios in contacts, procurement & capital projects, civil, commercial and employment litigation, regulatory matters, access and privacy.

### HEATHER PLATT

Heather Platt is Senior Legal Counsel at **Metrolinx**.

### ZELLA K. PHILLIPS

Zella Phillips is the Associate Solicitor for the **Regional Municipality of York**. Her practice includes procurement law.

### ELISABETH S. PRESTON

Elisabeth S. Preston is Chief Lgl. Officer, Gen Counsel, VP- Corporate Affairs & Corp. Secretary at **Allen-Vanguard Corporation**.

# COURSE PROGRAM

## MANAGING CONTRACTUAL RISK

Perhaps the most important function of a contract is its role in managing risk. Risk allocation practices seek to distribute specific risks based on an analysis of which party is best able to evaluate, control, manage and assume the risk. This session will look at how to develop a proactive strategy to deal with risk in your contracts.

- Risk identification
- Assessing risks
- Evaluating and estimating contractual risk management issues
- Practices for risk avoidance and mitigation
- Risk sharing by outsourcing or insurance
- Risk management throughout the contract life cycle: monitoring controlling risk

## OUTSOURCING CONTRACTS

With technologies, company objectives and the economic environment constantly changing, committing to a successful long-term outsourcing relationship requires a flexible and innovative contract. Unfortunately, many outsourcing deals are structured with fundamental flaws that limit the potential for success and makes change more difficult to achieve. This session will explore proper contracting for achieving service delivery objectives within a complex, multi-vendor outsourced environment.

- Negotiating outsourcing agreements that reflect your strategy & objectives
- Adding flexibility and scalability to your outsourcing contracts
- Establishing effective governance processes
- Measuring performance of service providers & linking it to contractual remedies
- Avoiding the most common pitfall of outsourcing

webcast



While nothing compares to the experience of attending the live event, with its enhanced networking opportunities and direct contact with leading experts, for those unable to attend in person FP provides a convenient option to still benefit from this unsurpassed learning experience:

FP's live interactive Webcasts allow you to actively participate in events, from downloading all material distributed by lecturers to asking speakers questions.

- This program can be applied towards 9 of the 12 hours of annual Continuing Professional Development (CPD) required by the Law Society of Upper Canada. Please note that these CPD hours are not accredited for the New Member Requirement.
- For Alberta lawyers, consider including this course as a CPD learning activity in your mandatory annual Continuing Professional Development Plan as required by the Law Society of Alberta.
- Attendance at this course can be reported as 11 hours of Continuing Professional Development (CPD) to the Law Society of B.C.
- The Barreau du Québec automatically accredits training activities held outside the Province of Quebec and accredited by another Law Society which has adopted MCLE for its members

## CONTRACT TERMS TO ENFORCE PERFORMANCE

Commercial contracts should clarify each party's role in the business relationship and establish effective means to enforce performance. Good enforcement procedures enhance predictability in commercial agreements. This discussion details key terms and conditions to be negotiated for effective contract enforcement.

- Main contract enforcement mechanisms
- Drafting enforceable rights, obligation and exclusion/limitation clauses
- Establishing the terms for termination
- Setting up effective terms for warranties and indemnities
- Monitoring contract performance
- Focusing on the scope, validity and enforceability of clauses

## RESOLVING DISPUTES

With the growing complexity of commercial contracts, it is prudent to establish clear and effective strategies for resolving disputes in commercial agreements, as contract disputes are the most problematic aspects of contract administration. This session will explore how to minimize the risk of future disputes in business contracts and the best way to resolve disputes should they arise.

- Drafting dispute resolution clauses: deciding on a model
- Creating a dispute resolution mechanism
- Negotiating & drafting of commercial arbitration clauses
- Resolving business disputes through litigation or alternatives
- Workings of the doctrine of frustration
- Inclusion of constructive performance obligations

## CYBER-SECURITY RISKS

Businesses and government are attempting to enhance cyber security within their supply chains. This session will examine how to manage the risks associated with cyber attacks.

- Managing cyber security requirements for IT systems, software and networks
- Key drivers of supply chain cyber risks
- Developing mitigation strategies to minimize financial impact
- Identifying and assessing risks during proposal review and response
- Risk identification & risk monitoring
- Adapting your security efforts to today's business: legal and privacy trends

## UNDERSTANDING, PREVENTING & DETECTING FRAUD

Procurement and contract-related fraud costs government, businesses and individuals countless amounts of money. However, it is often difficult to detect, as it can take on numerous forms, such as inflated purchase prices, phantom purchases, bribery, corruption, kickbacks, conflicts of interest, performance issues and predatory practices. This session will explore best practices for preventing and detecting contract and procurement fraud.

- Identifying fraud exposures and symptoms related to contracting and procurement
- Recognizing the red flags of procurement and contracting fraud
- Proactive fraud prevention and detection tools
- Options in organizational design, technology and processes to prevent and detect fraud
- Practical approaches to investigating fraud in contracts and procurement
- Processes used to detect fraud in routine audit activity

## INTELLECTUAL PROPERTY CLAUSES

There is a wide range of challenges facing contract management executives when negotiating deals involving intellectual property. IP becomes a crucial issue in many types of deals, with the contractual issues relating to ownership, use and disclosure of IP are often confusing and confused. This presentation will zero in on these issues.

- Collaboration/joint ownership and title/ownership Issues

- Release of IP
- Infringement warranties
- Scope of Indemnity
- IP ownership, customer and supplier agreements
- Improvements and grant back

## IT CONTRACTS

Developing a better understanding of what remains the same and what changes in the variety of IT contracts that are in use today will help you to ensure that the technology tools used by your organization support its business objectives rather than causing problems. This session will examine a variety of types of IT agreements, their key provisions and related risks including risks relating to:

- Data protection
- Licensing agreements
- Multiple jurisdictions
- Termination
- Third-party rights

## NEGOTIATING AND ADMINISTERING INTERNATIONAL CONTRACTS

This presentation will provide practical advice on negotiating international agreements as well as best practices for carrying out the responsibilities and duties associated with contract administration and the handling of the challenges that typically arise during the life of an international contract.

- Negotiating and structuring international acquisitions
- Key issues when entering into international contractual relationships
- Common provisions that govern international contractual relationships
- Corruption and other legal considerations
- Impact of treaties and conventions on business agreements
- Managing risk in international business transactions
- Dispute resolution for international transactions

## MANAGING CONTRACTS IN UNCERTAIN TIMES

This session will explore how TELUS identifies, monitors and manages risk and uncertainty over the life of a contract.

- Identifying, analyzing, responding to and controlling risks inherent in contracts
- Creating, maintaining, and improving good commercial contractual risk management processes
- Assessing risks prior to entering contracts
- Risk identification and assessment techniques
- Risk monitoring to control risk throughout the contract life cycle

## WORKSHOP

### MANAGING VENDOR RELATIONSHIPS & PERFORMANCE

Managing vendor relationships throughout the contract life cycle, from negotiations through to implementation and delivery is a key accountability of supplier management. This workshop will examine best practices for how you manage your supplier relationships through effective governance models. Developing a governance model and ensuring that you have an understanding of your arrangement is key to being able to proactively stay on top of your contract.

- Establishing the right model to manage the
- Establishing the right model to manage the contract obligations and changes
- Identify the skills you need to source to execute on the model
- How to provide effective transparency of the state of the relationship within your organization
- Examine terms for flexibility to exit or introduce competition with other suppliers
- Identify key drivers of value-add in the process



The "Proceedings" is your Web repository of learning resources for this event. It includes:

- the recording of the lectures at the forthcoming event itself, including documentation, slides and audio-visual;
- 25 or more carefully selected additional lectures (below), which are intended as a recommended enrichment of the course content, with many additional topics covered.

The price of the Proceedings (one user licence) is \$299 if you are attending in person or by Webcast; or \$799 otherwise.

**Drafting international commercial agreements**  
Hugh F. Hamilton  
Fidelity National Information Services, Inc.

**Best practices in preparing and managing RFPS**  
Didhiti Bhoumik  
McCarthy Tétrault LLP

**Outsourcing contracts**  
Charles G. Alexander  
Citibank Canada

**Legal frameworks for drafting commercial agreements**  
Marc Valencia  
Corby Distilleries Ltd.

**Risk allocation in commercial agreements**  
J.R. Beaudrie  
McMillan LLP

**Renegotiating contracts**  
Lisa K. Abe-Oldenburg  
Bennett Jones LLP

**Detecting fraud**  
David Malamed  
Grant Thornton LLP

**Complex or multi-vendor procurement projects**  
Christopher Cates  
BCE Inc.

**Managing risk in global agreements at Bombardier**  
Prakash Narayanan  
Bombardier Inc. - Aerospace

**Controlling contract costs**  
Lula Kosanic  
CIBC

**Intellectual property clauses**  
Paula Irwin  
MacDonald, Dettwiler and Associates Inc.

**Legal aspects of tenders, proposals, auctions and quotations**  
Daniel Chitiz  
Chitiz Pathak LLP

**Strategies in drafting contractual provisions**  
Frank DeLuca  
Cassels Brock & Blackwell LLP

**Drafting & use of boilerplate clauses**  
Diane Brooks  
Blaney McMurtry LLP

**Exclusion clauses: Impact of court rulings**  
Alan Gahtan  
Gahtan Law Office

**Drafting opinions for commercial transactions**  
Jill P. Fraser  
Aird & Berlis LLP

**Cyber-security risks**  
Eugene Ng  
NCI

**Contract project management**  
Patricia Skringer  
AECON Infrastructure Group

**Drafting non-competition provisions**  
Jesslyn G. Maurier  
Bennett Jones LLP

**Competition Act and Investment Canada Act provisions in M&A agreements**  
Omar Wakil  
Torys LLP

**Drafting IT agreements**  
Mark Johnson  
Infusion Development

**Case study: Practical considerations in commercial contracts**  
Sean S. Caragata  
Cisco Systems, Inc.

**Commercial contract dispute resolution**  
Julie K. Parla  
McCarthy Tétrault LLP

**Negotiating multi-jurisdictional commercial agreements**  
Chika B. Onwuekwe  
Trican Well Service Ltd.

**Drafting rights, obligations, exclusion & limitation clauses**  
Stephen D. Burns  
Bennett Jones LLP

**Registration:** To reserve your place, call Federated Press toll-free at 1-800-363-0722. In Toronto, call (416) 665-6868 or fax to (416) 665-7733. Then mail your payment along with the registration form. Places are limited. Your reservation will be confirmed before the course.

**Location:** Courtyard by Marriott Downtown Toronto, 475 Yonge Street, Toronto, ON, M4Y 1X7

**Conditions:** Registration covers attendance for one person, the supplementary course material as described in this document, lunch on both days, morning coffee on both days and refreshments during all breaks. The proceedings of the course will be captured on audio or video.

**Time:** This course is a two-day event. Registration begins at 8:00 a.m. The morning sessions start promptly at 9:00. The second day ends at 5:00 p.m.

**Cancellation:** Please note that non-attendance at the course does not entitle the registrant to a refund. In the event that a registrant becomes unable to attend following the deadline for cancellation, a substitute attendee may be delegated. Please notify Federated Press of any changes as soon as possible. Federated Press assumes no liability for changes in program content or speakers. A full refund of the attendance fee less 15% administration fee will be provided upon cancellation in writing received prior to May 26, 2015. No refunds will be issued after this date.

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## TO REGISTER FOR 4th Commercial Contract Negotiation and Administration

Name \_\_\_\_\_

Title \_\_\_\_\_ Department \_\_\_\_\_

Approving Manager Name \_\_\_\_\_

Approving Manager Title \_\_\_\_\_

Organization \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_ e-mail \_\_\_\_\_

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Payment enclosed: Please invoice. PO Number: \_\_\_\_\_

## REGISTRATION COSTS

NUMBER OF PARTICIPANTS:

COURSE: \$1975

WEBCAST: \$1575\*

\* One user licence

COURSE + PROCEEDINGS:

\$1975 + \$299 = \$ 2274

WEBCAST + PROCEEDINGS: \$1874

PROCEEDINGS: \$799\*

\* One user licence

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