

**21st** Applicable toward CPD Requirement

**Two-Day Event!**

# Negotiating and Drafting Major Business Agreements

Current, practical advice on the structure of key business deals

## Workshop Included:

JOINT VENTURE & STRATEGIC ALLIANCE AGREEMENTS

## Participating organizations

- Aecon Group Inc.
- Bankers Petroleum Ltd.
- Bennett Jones LLP
- Blake Cassels & Graydon LLP
- Cassels Brock and Blackwell LLP
- CH2M HILL Canada Limited
- Citibank Canada
- City of Mississauga
- E.I. du Pont Canada Company
- Fasken Martineau DuMoulin LLP
- Federal Express Canada Ltd.
- Goodmans LLP
- MacDonald Dettwiler and Associates Inc.
- Sim & McBurney / Sim Lowman Ashton & McKay LLP
- Valeant Pharmaceuticals International Inc.
- Willbros Canada

## Who should attend

Corporate Counsel, Legal Services VPs & Directors, Lawyers, Corporate Executives, Contract Managers, Corporate Secretaries, Commercial & Investment Bankers, Consultants, Brokers, Private Equity Investors

## Course highlights

- Mastering key drafting and negotiating skills
- Determining what to disclose
- Complying with electronic contract formalities
- Understanding intellectual property rights
- Realizing effective employment agreements
- Crafting cross-border contracts strategically
- Negotiating shareholders agreements
- Planning for acquisitions and closing the deal



Course Leader  
Frank DeLuca,  
Cassels Brock and  
Blackwell LLP



Course Leader  
Mark D. Penner,  
Fasken Martineau  
DuMoulin LLP



Charles G. Alexander,  
Citibank Canada



Alejandro Beltran,  
Bankers Petroleum  
Ltd.



Richard F.D. Corley,  
Goodmans LLP



Paula Irwin,  
MacDonald Dettwiler  
and Associates Inc.



Carolyn Francis,  
CH2M HILL Canada  
Limited



Martina Nikolic Doyle,  
Aecon Group Inc.



Wendy Law,  
City of Mississauga



David Shaw,  
Blakes Cassels &  
Graydon LLP



Gary Solway,  
Bennett Jones LLP



Brian D. Wylynko,  
Federal Express  
Canada Ltd.



Andrew Jones,  
Sim & McBurney /  
Sim Lowman Ashton  
& McKay LLP



Taralee Zimmerman,  
Willbros Canada



Daniel Yelin,  
Valeant  
Pharmaceuticals  
International Inc.



Paul Klasios,  
E.I. du Pont Canada  
Company

## COURSE LEADERS

### FRANK DELUCA

Frank DeLuca is a Partner at **Cassels Brock & Blackwell LLP**. His practice is focused on M&As, corporate finance, corporate governance and continuous disclosure.

### MARK D. PENNER

Mark Penner is a Partner **Fasken Martineau DuMoulin LLP**. He has expertise in the acquisition, protection and enforcement of IP rights.

### MARTINA NIKOLIC DOYLE

Martina Nikolic Doyle is Corporate Counsel at **Aecon Group Inc.** Her work focuses on a variety of public company matters.

### CAROLYN FRANCIS

Carolyn Francis is Director of Contracts, Canada at **CH2M HILL Canada Limited**. She has knowledge in both the commercial & government sectors and on an international basis.

### PAULA IRWIN

Paula Irwin is Manager, Contracts & Subcontracts at **MacDonald Dettwiler and Associates Inc.** She is responsible for all aspects of contracts management.

### ANDREW JONES

Andrew Jones is a Partner at **Sim & McBurney / Sim Lowman Ashton & McKay LLP**. He practices IP and commercial litigation.

### PAUL KLASIOS

Paul Klasios is Associate General Counsel, Secretary and Director for **E. I. du Pont Canada Company** and its Canadian agriculture bio-tech affiliate, DuPont Pioneer.

### WENDY LAW

Wendy Law is Deputy City Solicitor - Municipal Law at the **City of Mississauga**. She and her

team are responsible for providing legal advice to council and City departments.

### DAVID SHAW

David Shaw is a Partner at **Blake Cassels & Graydon LLP**. His practice focuses on joint ventures, M&As, franchising & distribution arrangements and reorganizations.

### GARY SOLWAY

Gary Solway is a Partner at **Bennett Jones LLP**. His practice focuses on corporate/commercial, corporate governance, special committee & securities work.

### BRIAN D. WYLYNKO

Brian Wylynko is Managing Director, Regional Counsel & Corporate Secretary at **Federal Express Canada Ltd.**, responsible for all legal, government relations & regulatory matters.

### DANIEL YELIN

Daniel Yelin is Senior Director, Business & Legal Affairs at **Valeant Pharmaceuticals International, Inc.**

### TARALEE ZIMMERMAN

Taralee Zimmerman is the Contracts Manager for **Willbros Canada**, and has worked in the fields of oil and gas, law and construction for over ten years.

## CO-LECTURERS

### CHARLES G. ALEXANDER

Charles Alexander is General Counsel & Corporate Secretary of **Citibank Canada**, a wholly owned subsidiary of Citibank, N.A.

### ALEJANDRO BELTRAN

Alejandro Beltran is a Contracts Manager at **Bankers Petroleum Ltd.**, where he leads the contracts team of the company in Canada and Albania.

### RICHARD F.D. CORLEY

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

# COURSE PROGRAM

## PANEL: PRACTICAL NEGOTIATING STRATEGIES AND TECHNIQUES FOR CONTRACTS & AGREEMENTS

This panel discussion will share ideas and approaches on effective negotiating strategies and techniques when drafting major business agreements.

- Having a game plan
- Knowing who you are negotiating with
- Knowing your goals in advance
- Being reasonable & practical
- Understanding the big picture
- Achieving a win/win result

## PRACTICAL DRAFTING TECHNIQUES FOR CONTRACTS & AGREEMENTS

This session will discuss the up-front considerations and practical drafting techniques that are important in creating a formal written agreement that reflects conceptually agreed to business principles.

- Key considerations underlying good drafting
- Effective use of boilerplate provisions and template agreements
- Risk and responsibilities: assessment allocation
- Common pitfalls to avoid

## DRAFTING AND NEGOTIATING SUCCESSFUL SERVICE AND SERVICE LEVEL AGREEMENTS

- Identifying the business interests that SLAs are intended to advance
- Establishing appropriate SLA incentives & enforcement terms
- Identifying appropriate SLA metrics & measurement methodologies

# 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 12 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

# COURSE PROGRAM

- Assessment and monitoring requirements
- Identifying risks including cyber risks
- Remedial activities to result from the SLA breaches
- Default and termination as a result of SLA breaches

## NEGOTIATING SHAREHOLDERS' AGREEMENTS

- Checklist of issues to consider
- Unanimous vs. non-unanimous shareholders agreements
- Rights to nominate directors
- Governance and control issues, including veto rights
- Transfer restrictions, pre-emptive rights, exit strategies
- Dispute resolution, non-compete and confidential information provisions
- Veto rights

## OUTSOURCING AGREEMENT NEGOTIATIONS

- Basic elements of outsourcing transactions
- Customer goals and contractual requirements
- Specification of services, service level expectations and service level remedies
- Order flexibility and change process
- Jurisdictional and offshoring complexity
- Regulatory issues
- Indemnities, limitations of liability, representations and warranties
- Invoicing, payment, performance incentives, gain sharing, adjustments and credits
- Audit rights
- IP ownership protection and licensing
- Confidentiality, privacy and security

## CONFIDENTIALITY AGREEMENTS

- Determining what to disclose
- Timing of disclosure
- Two-way disclosure considerations
- Required disclosure to third parties
- Practical drafting considerations

## LETTERS OF INTENT

In commercial transactions, letters of intent focus the parties on forging a deal, provide a helpful record of agreed terms, establish negotiation parameters and pave the way to efficient execution. This session will provide practical tips in negotiating and drafting effective letters of intent while highlighting recent legal developments interpreting them.

- Using letters of intent to save time and expense
- Fundamental elements of letters of intent: key terms to include
- Agreements to agree and enforceable obligations: the latest legal developments
- Confidentiality, assignment, no shop and standstill provisions
- Reliance on letters of intent
- Public disclosure obligations

## NEGOTIATING ACQUISITION AGREEMENTS

- Essential steps in a purchase transaction
- Contract structure and essential terms
- Asset purchases, stock purchases and merger agreements
- Basic tax consideration in structuring acquisitions
- Representations and warranties and covenants
- Closing the deal: conditions, pitfalls, risk, material change, termination provisions

## IP LICENSING AGREEMENTS

- What IP rights can be licensed?
- Key components of the license grant
- Avoiding common problems in the license grant
- Improvements: ownership and licensing
- Scope of license: avoiding common problems
- Term and termination
- Restrictions on assignment

- Licensing trademarks: the importance of quality control
- Licensing trade secrets: maintaining confidentiality
- Common representations and warranties
- Apportioning risk: indemnification and limitation of liability

## LIMITATION & LIABILITY INDEMNITIES

Limitation of liability and indemnity provisions are included in most types of contracts and can have a significant impact on the remedies available as they may expand or limit exposure to risk over the course of the contract. The session will examine key considerations in the negotiation and drafting of these clauses.

- Determining what indemnities to include
- Exclusions and limitation of liability clauses, and appropriateness of certain exceptions
- Key considerations for indemnification clauses
- Reviewing indemnities and limitations of liability clauses in tandem

## DRAFTING EFFECTIVE EMPLOYMENT AGREEMENTS

This discussion will look at recent developments in the area of employment law and the impact that the evolving legal landscape has had on the negotiation, drafting and management of employment contracts, including:

- Business strategies regarding employment agreements, particularly in the context of the sale of a business
- Strategies for protection of IP and goodwill of the business in an employment context
- Special clauses such as non-competes, non-solicit and change of control provisions
- Termination provisions, notices and releases
- Dispute resolution and enforcement of rights

## TAKING EXCEPTION TO RFP TERMS AND CONDITIONS

- Raising concerns about the provisions of the RFP prior to the deadline for submission of proposals
- Steps in effectively taking exception to RFP terms and conditions
- Common grounds for taking exception
- Providing alternative language for those provisions
- How to avoid providing grounds to reject the proposal

## INTERNATIONAL & CROSS-BORDER AGREEMENTS

- Pre-negotiation due diligence and preparations: local laws, regulatory compliance, local customs and culture
- Use of local and Canadian counsel
- Key contract terms and provisions: choice of law, choice of jurisdiction, risk and indemnification, conflict and dispute resolution and client protection strategies
- Strategies for cross-jurisdictional joint ventures
- Effectively dealing with local laws and governmental requirements
- Identifying and managing special risks in international transactions
- Negotiating with non-English speakers

## WORKSHOP

### JOINT VENTURE & STRATEGIC ALLIANCE AGREEMENTS

- Complexities inherent in negotiating and drafting joint venture documents
- Legal forms of joint ventures
- Common elements of joint venture agreements
- Defining the scope of the venture
- Degree of participation and management of roles of each party
- Contribution of capital and ownership rights to property
- Division of the profits and losses
- Transferability of joint venture interests
- Exit strategies and consequences of termination
- Dispute resolution

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.

**IP Licensing Agreements**  
Kenneth McKay  
Sim & McBurney Sim, Lowman, Ashton & McKay LLP

**Managing contractual risk**  
Rodger Madden  
TELUS Communications Company

**Outsourcing Agreement negotiations**  
Lisa K. Abe-Oldenburg  
Bennett Jones LLP

**Managing risk in International & Cross-Border Agreements**  
Derek S.T. Baldwin  
IBIS Corporation

**IT Contracts**  
Elisabeth Symons  
Mann Symons LLP

**Drafting effective Employment Agreement**  
Abdul-Basit Khan  
WeirFoulds LLP

**Limitation & liability indemnity**  
Bradley Limpert  
Ridout & Maybee LLP

**Confidentiality agreements and letters of intent**  
Martina Nikolic  
Aecon Group Inc.

**Electronic contracts**

Parna Sabet-Stephenson  
Blake, Cassels & Graydon LLP

**Negotiating technology consulting agreements**  
Robert C. Piasentin  
Sierra Systems Group Inc.

**Practical negotiating techniques for contracts & agreements**  
Donald Eng  
Overwaitea Food Group

**Negotiating shareholder's agreements**  
Daniel Steiner  
Stikeman Elliot LLP Barristers & Solicitors

**Dispute resolutions**  
Susan Tomaine  
Blake Cassels & Graydon LLP

**Joint venture & strategic alliance agreements**  
Corin Bowman  
Westport Innovations Inc.

**International & cross-border agreements**  
Jonathan C. Lotz  
Lotz & Company

**Various approaches to the negotiation of complex IT agreements**  
J. Fraser Mann  
Mann Symons LLP

**Key components of the license grant**  
Janet Grove

Bull, Housser & Tupper LLP

**Negotiating preliminary agreements**  
Steven Robertson  
Goodmans LLP

**Negotiating IT contracts Accenture way Advanced strategies toolkit**  
Elena V. Reshetnikova  
Accenture Inc.

**Drafting and negotiating a successful service level agreement**  
Jessica J.N. Van Hoogevest  
Eigen Development Ltd.

**Managing vendor relationships & performance**  
Lula Kosanic  
CIBC

**Understanding, preventing & detecting fraud**  
Caroline Hillyard  
Grant Thornton LLP

**Intellectual property clauses**  
Shehryar Butt  
MacDonald, Dettwiler & Associates Inc.

**Resolving disputes**  
Daniel Chitiz  
Chitiz Pathak LLP

**Contract project management**  
Danielle Sanagan  
PPI Consulting

**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 September 24, 2015. No refunds will be issued after this date.

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## TO REGISTER FOR 21ST NEGOTIATING & DRAFTING MAJOR BUSINESS AGREEMENTS

Name \_\_\_\_\_  
 Title \_\_\_\_\_ Department \_\_\_\_\_  
 Approving Manager Name \_\_\_\_\_  
 Approving Manager Title \_\_\_\_\_  
 Organization \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_  
 Telephone \_\_\_\_\_ Fax \_\_\_\_\_ e-mail \_\_\_\_\_  
 Please bill my credit card: AMEX VISA Mastercard  
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 Signature: \_\_\_\_\_  
 Payment enclosed: Please invoice. PO Number: \_\_\_\_\_

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