



Presented by
Falconbury

Negotiation Skills for Contracts and Commercial Managers

25 September 2024
+ 10 December 2024

This highly interactive course has been specially developed for contracts and commercial managers, focussing on a negotiation methodology specific to this challenging role.



Format:
Live online



CPD:
6 hours for your records



Certificate of
completion

Course overview

This highly interactive course emphasises why it is so important to engage in the battle of the forms and achieve agreement between the contracting parties. It explains how a well negotiated contract can add value and minimise exposure to potential risks and later disputes / litigation. It also covers how a well negotiated contract can add value and strengthen a long-term relationship, developing collaboration to realise opportunities and make the management of projects easier, with fewer risks and less delays.

This course will give delegates the methodology to prepare for negotiation in a thorough, comprehensive and structured manner, and enable them to have clarity in what they aim to achieve from the negotiation and identify the best approach.

This course combines theory with practical application, giving delegates structure to how they approach a contract negotiation so that they are fully informed, which in turn instills confidence ready to achieve results.

This course will look at the content of the negotiation and the process of the negotiation, without the use of legal jargon.

Benefits of attending

By attending this course you will develop your skills to:

- **Plan** the best way to prepare for a negotiation
- **Understand** how to add value and minimise exposure to risks
- **Get to grips** with the best techniques to achieve positive outcomes
- **Learn** how to build and sustain relationships with key stakeholders
- **Use** best practice techniques to undertake the negotiation
- **Evaluate** outcomes and reach formal written agreement

Who should attend?

All those who need to gain the latest knowledge and skills to succeed in negotiating contracts, including:

- Contracts and commercial managers and engineers
- Business development managers
- Project and procurement managers
- All those involved in the negotiation and management of commercial business contracts

Programme

Introduction

Ensuring the outcome of the negotiation is legally binding

- Legal protection
 - Exercise – *Co-op v ILC (International Computers Limited now part of Fujitsu)*
 - Creating a legally binding contract – LILAC
 - Legality (including Bribery Act, Competition Act, Unfair Contract Terms Act, Misrepresentation / Duress)
 - Intent
 - Legal capacity v Power of attorney
 - Agreement (Offer & Acceptance, battle of the forms. Invitation to treat v offer. Letter of Intent. Authority to proceed)
 - Consideration, legal value (FOC offerings / project reviews and amendments to scope)
- What, and why, are we negotiating
 - Understanding the relationship between implied term and express terms in Contract law
 - Shape and form of a contract
 - Implied terms (statute, Acts of Parliament)
 - Express terms (negotiated terms agreed verbally, in writing or by conduct)
- Understanding the starting position in statute (Implied terms) and how, and why, Express terms amend or deviate from the Implied terms. Focus of the 'why' being:
 - Clarity - removing 'one size fits all' subjective, ambiguous elements of implied terms, i.e. acceptance criteria revised from 'satisfactory quality' to quantitative measurements, e.g. KPI's /service levels etc
 - Implications of the 'Reasonable' rule in English contract law
 - Meaning of 'best endeavours' and 'reasonable endeavours'
 - Importance of using the 'Definitions' section in the contract
- Proactive risk management – allocating ownership of contractual promises and liability if contract is breached / contractual promise broken.
 - Placing risk with party best able to manage it
 - Monetary compensation v practical solutions / remedies e.g. 'solutions not problems',
 - Plan Bs / contingency plans to move the project forward. Avoid litigation
 - Take advantage of stronger bargaining position to reduce own liability / risk exposure
 - Transparency to enable effective Supply Chain Management (SCM)
 - Relationship management: 'win-win' for long term gains. Realising opportunities
 - Exercise – *Review of sample Express term clauses*

Preparing for the negotiation

- Negotiation is two fold: content and process.
Step 1: content
 - Greenhalgh Negotiation model – Preparation, Relationship, Information gathering, Information using, Closing, Implementing the Agreement
- Understanding your strategy – objectives / goals
 - Establishing the drivers influencing you:
 - Company policy / mission
 - Relationship (with other party) or Task (achieving the best outcome for you)
 - Win/Win v Win/Lose. Carter's pie theory: increasing pie size or getting largest slice.
 - Time v Quality v Price (Slack, Chambers & Johnson's Iron Triangle)
 - Attitude to risk: risk minimisation or sharing risk. Risk Management Strategies: 4T's (Tolerate; Transfer; Terminate; Treat)
 - Methodology for determining priorities: MIL, Must have; Intent to have; Like to have
 - Methodology for cost v benefit analysis of amount of time and effort give to negotiation reflecting the criticality of the outcome: Kraljic matrix – leverage; strategic; non-critical; bottleneck
 - Exercise – *Price v Scope or Risk*
 - Exercise - *Preparing your MIL*
 - Exercise – *Drafting potential settlement zones. 4T's*

Programme

Determining your bargaining position

- Different theories / methodologies, same logic:
 - Determining the bargaining power of each of the negotiating parties.
 - Difference sources of power: Reward; Coercive; Expert; Informational; Referent; Legitimate
 - "BRA": Best Realistic Alternative / "BATNA": Best Alternative To a Negotiated Agreement
 - Porter's 5 Force: Bargaining power of suppliers; of buyers; threat of new entrants; threat of substitutes; industry rivalry
 - Porter's Generic Strategies for Competitive Advantage model: cost leadership; cost focus; differentiation; differentiation focus.
 - Steel & Court's Supplier Preferencing model – Development; Core Business; Nuisance; Exploitable. Attractiveness of buyer's organisation and value of buyer's business to the supplier
 - SWOT analysis: Strengths; Weaknesses; Opportunities; Threats
 - Cox's Power and Dependency matrix
 - Exercise – Porter's Generic Strategies

Undertaking the negotiation

- Negotiation is two-fold: content and process. Step 2: process
 - Greenhalgh Negotiation model – Preparation, Relationship, Information gathering, Information using, Closing, Implementing the Agreement
 - Aligning your negotiation style and tactics to your bargaining position and strategy

Negotiation style

- Exercise – negotiation questionnaire identifying delegates default style
- Different theories, same message:
 - 6 styles theory: Acceptance, Compromise, Threat, Emotion, Bargain, Logic.
 - Cooperative (bargaining & logic) v Competitive (threats).
 - 3 C's: Compromise, Compete, Collaborate
 - 3 types – Assertive (aggressive), Accommodator (relationship oriented), Analyst (conflict avoidant)
 - Thomas–Kilmann dual concern model: Competing, Accommodating, Avoiding, Compromising or Collaborate.
 - Constructive v Destructive
 - Push (exerting power) / Pull (persuasion) influences during a negotiation
 - Rational compromise
- Consciously selecting an appropriate style to achieve objectives
- Exercise – 'Push' / 'Pull' and 'Constructive' / 'Destructive' approaches

Negotiation tactics

- Confidence v arrogance
- Honest and trust, more than just rapport. Relationship values and drivers. Avoiding getting trapped in the 'vicious circle of blame'
- Acknowledgement of past interactions – good or bad
- 'Framing' the negotiations
- Opening the negotiation / effective listening & asking questions, gaining insight
- Exchange of information / being aware of your own disclosures
- Getting a reply: 'rephrasing / reframing' the same question
- Use of empathy for 'win-win' and/or to encourage disclosure of information
- Ury & Fisher's - 'Getting to Yes': separating people from the problem; focusing on interest rather than position (Not what but why, reasons behind stance); generating options; focus on objectives
- Body language
- Silence tactic – using it / diffusing it
- Breaking deadlock and moving negotiations forward
- Exercise – Effective questioning

Programme

Approach and environment to reflect objectives and maximise desired outcome

- Timing
- Mode / venue
- Environment
- Atmosphere
- Attendees

Structuring negotiations and good 'housekeeping'

- Establishing power of attorney of attendees
- Ensuring confidentiality
- Keeping negotiation open until formal written agreement signed
- Focus – use of agenda: pros and cons
- Summarising and capturing the agreement accurately

Final questions

Presenter



Catherine Hurst

Catherine Hurst BSc(Hons), CIMDip, PgDL, is an independent consultant in the contract and commercial fields. She was formerly a Commercial Manager at BAe Systems, following previous contract/commercial roles with GEC and Siemens. She has extensive practical experience of bid management, contract drafting and negotiation, contract and subcontract management as well as commercial risk management, both with UK and overseas customers and suppliers, in the private and public sectors.

She is a highly experienced trainer, having a style which brings a subject to life, creating interest and stimulating the enthusiasm of delegates. She combines academic best practice with real world experience.

She lectures Chartered Institute of Procurement and Supply (CIPS) diploma, levels 4, 5 & 6 at Chichester college. As well as being a member of CIPS, Catherine has a degree in Management Studies, a Chartered Institute of Marketing diploma and more recently achieved a distinction in her Common Professional Examination (CPE)/Post-grad diploma in law, winning the prize for the highest achieving student in the contract law module.

Catherine has successfully provided training to organisations across a wide variety of industries, including:

Transport / utilities / energy / construction / engineering / IT / telecons: Network Rail, ScotRail, Balfour Beatty, London Underground, Westinghouse Springfields Fuels, General Dynamics, Siemens, Metronet, Thales, ABB, Hitachi, Jungheinrich, Honeywell, PALL Europe, Senior Aerospace BWT, RES (Renewable Energy Systems), AGI, Silvertown, QinetiQ, Clyde Pumps / Weir Pumps, Scottish Power, NCOC (North Caspian Operating Company), Computacentre, CISCO, BT, United Utilities

Health / pharmaceutical / education: Nuffield Health, Surrey PCT, Bristol Myers-Squibb, Newcastle University, Exeter University

Public: Forensic Science Services, Office for National Statistics, DARA (Defence Aviation Repair Agency), Metropolitan Police

Charity: Phoenix Futures, Homegroup

Retail: Co-op

Course dates

25 September 2024

Live online

09:30-17:15 **UK (London)** (UTC+01)

Course code 14211

GBP ~~499 599~~

EUR ~~719 859~~

USD ~~823 979~~

Until 21 Aug

10 December 2024

Live online

09:30-17:15 **UK (London)** (UTC+00)

Course code 14212

GBP ~~499 599~~

EUR ~~719 859~~

USD ~~823 979~~

Until 05 Nov

How to book



Online:

ipi.academy/2685

Alternatively contact us to book, or if you have any queries:



Email:

info@ipi.academy



Phone:

[+44 \(0\)20 7749 4749](tel:+442077494749)

Discounts

- Booking more than one delegate on any one date qualifies for a **15% discount** on the second and subsequent places.
- Most events qualify for an **early booking discount** prior to 6 weeks before the course date. Be sure to check on our website, where the latest discounts will be shown.

Further information

Fee

The fee includes all meals and refreshments for the duration of the course (for venue-based courses) and a complete set of course materials (provided electronically). If you have any particular requirements, please advise customer services when booking.

Please note

IPI Academy (and our training partners) reserve the right to change the content and timing of the programme, the speakers, the date and venue due to reasons beyond their control. In the unlikely event that the course is cancelled, we will refund the registration fee and disclaim any further liability.


Terms and conditions

The rest of our terms, the event cancellation policy and the terms and conditions are on our website, please visit ipi.academy/content/terms-and-conditions

Reviews



It was a good presentation and everything delivered was relevant to the training, the speaker has vast knowledge about this domain and she explains well with all the facts and scenarios.

 **Umer Shakeeb**
Category Manager
NTT DATA UK LTD
Apr 26 2024

Run this programme in-house for your whole team

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IPI Academy is a training initiative of Falconbury and Management Forum; leading providers of industry training for over 30 years, based in the UK.

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