

Table of Contents

Foreword	V
Introduction	XI
List of Statutes	XIII
List of Cases	XV
Internet Resources	XVII
1. Online Dictionaries and Glossaries	XVII
2. Online General Legal References	XVII
Abbreviations	XIX
 1. Background: Anglo-American Contracts	 1
1.1. Introduction	1
1.2. Common Law Systems	2
1.3. Civil Law Systems	4
1.4. Jurisdictions and Material Law	4
1.5. Impact on Modern Business Contracts	7
1.6. Equity and Torts	10
1.6.1 Torts	10
1.6.2 Equity	11
Summary Chapter 1	13
 2. What is a "Contract"?	 15
2.1. Introduction	15
2.2. Deeds	16
2.3. Simple Contracts	19
2.3.1 Meeting of the Minds	21
2.3.2 Intention to Form a Legally-binding Relationship	22
2.3.3 Consideration	22
2.3.4 Capacity	23
Summary Chapter 2	24
 3. Contract Formation	 25
3.1. Offer and Acceptance	25
3.2. Essential Terms	26
3.3. Standard Terms and Formation	27
3.4. Writing	28
3.4.1 What is "writing"?	29
3.4.2 When is writing required	30
Summary Chapter 3	32
 4. Extra-contractual Liability	 33
4.1. Pre-contractual Documentation	33
4.1.1 Letters of Intent	33
4.1.2 Memoranda of Understanding	35
4.1.3 Heads of Agreement/Term Sheets	35
4.2. Implied Terms and Collateral Contracts	36

4.3. Types of Extra-Contractual Claims	36
4.3.1 Promissory Estoppel	37
4.3.2 Misrepresentation	38
4.3.3 Undue Enrichment	38
4.3.4 Constructive Contracts/Quasi-contracts	38
Summary Chapter 4	40
5. Legal Language of Contracts	41
5.1. Legal English	41
5.1.1 "Normal" English and "Legal" English	41
5.1.2 Legal Terminology	41
5.1.3 Characteristics of Traditional Legal English	45
5.2 Legal Drafting	47
5.2.1 Rules of Construction	47
5.2.2 Punctuation	49
5.2.3 Purpose of Modern Drafting	51
5.2.4 Drafting Hints and Guidelines	53
5.2.5 Times, Dates and Deadlines	56
5.3. Pitfalls of Cross System Contracts	57
Summary Chapter 5	62
6. Liability for Breach	63
6.1. Principles of Breach Liability	63
6.1.1 Common Law Remedies	65
6.1.2 Remedies at Equity	68
6.1.3 Remedies under Statute Law	70
6.2. Defences to Breach Liability	70
6.3. Limitations on Liability	72
6.4. Guidelines for Drafting General Limitation of Liability Clauses	74
Summary Chapter 6	78
7. Contract Structure and Organisation	79
7.1. Preamble and Recitals	79
7.2. Body	81
7.2.1 Enumeration	82
7.2.2 Headings	83
7.3. Testimonium	83
7.4. Attachments	84
Summary Chapter 7	85
8. Typical Boilerplate Clauses	87
8.1. Language, Jurisdiction, Law	87
8.2. Arbitration and Alternative Dispute Resolution	92
8.3. Liquidated Damages and Penalties	96
8.4. Force Majeure	98
8.4.1 Frustration Distinguished	98
8.4.2 Definition of the Event	99
8.4.3 Consequences	100
8.5. Indemnification	101
8.6. Warranties and Guarantees	103
8.6.1 Warranties	103
8.6.2 Guarantees	106

Table of Contents	IX
8.7. Agreements and Representations	106
8.7.1 Entire Agreement Clauses	107
8.7.2 Non-Reliance Clauses	108
8.8. Bribery	109
Summary Chapter 8	111
Appendix I: Bibliography	113
Appendix II: Statutes	115
1. Law Reform (Frustrated Contracts) Act 1943	116
2. Misrepresentation Act 1967	118
3. Unfair Contract Terms 1977	119
4. Sale of Goods Act 1979	127
5. Supply of Goods and Services Act 1982	147
6. Uniform Commercial Code, Article 2 (U. S.)	155
Appendix III: Templates	187
1. Confidentiality /Non-Disclosure Agreement	188
2. Exclusivity (and Lock-Out) Agreement	192
3. Sales Agency Agreement	196
4. Supply of Services Agreement	207
5. Terms and Conditions for the Provision of Services	213
6. Letter of Intent (English Law)	219
7. Letter of Intent (U. S.)	220
8. International Distribution Agreement	222
9. MOU (Memorandumg of Understanding) International Joint Venture	228
10. Licensing Agreement	231
11. Consultancy Agreement	239
12. Sale of Goods Agreement	243
13. Further Boilerplate Clauses	249
Appendix IV: General Glossary of Terminology	253