Contract Liability Negotiation Course: Caps, Exclusions, Indemnities and Cover

11 – 15 January 2027
Amsterdam

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Programme Summary

Contract liability is the subject of this one-week training course for contract, commercial and risk managers, ending in a contract liability negotiation pack for one contract. Liability clauses are often agreed late and read once, yet they decide who pays when delivery fails. Caps, exclusions, indemnities and insurance can contradict each other, leaving gaps nobody notices until a claim arrives. The programme moves from who carries which loss, through caps and indemnities, to matching cover and a negotiation position. Mars Training Centre UK delivers this programme on contract liability to mixed-organisation cohorts.

The Business Case

Construction, energy, technology and healthcare contracts place large losses on one party or the other. A cap set without reference to the real loss, or an indemnity that insurance does not cover, turns a manageable incident into a balance sheet problem. Contract liability work gives negotiators a clear position before talks begin and a record that explains each choice to colleagues.

- Uninsured Exposure: Falls when liability terms are checked against the cover actually held.
- Negotiation Time: Shortens when positions and fallbacks are prepared per clause.
- Claim Recovery: Improves when notice duties and conduct of claims are followed.

Principles and Evidence Base

- Risk Transfer Hierarchy: Orders responses as avoid, reduce, retain or transfer, applied in Sessions 1 and 4 to decide where each loss should sit.
- Likelihood and Impact Rating: Ranks losses on a common scale, applied in Sessions 1 and 2 to set cap levels.
- Cover-to-Clause Mapping: Matches each contractual promise to a policy term, applied in Session 4 to find gaps.

Intended Participants

- Contract managers who negotiate and administer liability terms.
- Commercial managers who agree prices that depend on the risk accepted.
- Risk and insurance managers who confirm that cover matches the contract.
- Legal advisers who need an operational view of how clauses behave in a claim.

Typical settings include construction, energy, technology and healthcare.

Learning Outcomes

1. Participants will be able to evaluate who carries each type of loss under a contract.
2. Participants will be able to construct a cap and exclusion position supported by a loss scenario.
3. Participants will be able to diagnose conflicts between an indemnity and a limit of liability.
4. Participants will be able to design insurance requirements that match the promises in a contract.
5. Participants will be able to prioritise concessions and fallbacks in a liability negotiation.
6. Participants will be able to justify a liability position to an executive sponsor.

Programme Structure

Day 1: Contract Liability and Risk Transfer Foundations

Who carries which loss under the contract, and why?

- Liability Allocation Grid
- Risk Transfer Hierarchy
- Likelihood and Impact Rating
- Loss Type Glossary
- Exposure Scenario Set

Day 2: Caps and Exclusions

How much can be claimed, and which losses are shut out?

- Cap Level Calculator
- Excluded Loss Review
- Claim Time Limit Sheet
- Carve-Out Test
- Liability Position Sheet

Day 3: Indemnities and Their Interaction with Caps

When does an indemnity sit inside a cap, and when outside it?

- Indemnity Trigger Map
- Indemnity and Cap Interaction Table
- Third-Party Claim Handling Steps
- Conduct of Claims Clause Review
- Counter-Indemnity Options

Day 4: Insurance Cover and Claims

Does the insurance held match what the contract promises?

- Cover-to-Clause Mapping
- Policy Requirement Checklist
- Insurance Evidence Tracker
- Deductible and Gap Review
- Claims Notification Routine

Day 5: Contract Liability Negotiation Pack for One Contract

Do the earlier tools join into a pack a sponsor can approve?

- Applying the Session 1 Liability Allocation Grid
- Testing the Session 2 Liability Position Sheet
- Checking the Session 3 Interaction Table
- Rehearsing the Session 4 Claims Notification Routine
- Completing the Contract Liability Negotiation Pack

Methodology

The programme uses case analysis and negotiation exercises on prepared material for two contracts, a plant maintenance agreement and a software services agreement, each with draft liability clauses, loss scenarios and policy summaries. Participants work in groups, test clauses against scenarios, take opposing sides in short negotiations and defend their pack to peers acting as a sponsor.

- Suggested activity: Running one loss scenario through the cap, the indemnity and the policy to see who pays.
- Suggested activity: Trading a higher cap for a narrower indemnity in a timed negotiation.
- Suggested activity: Redrafting an insurance requirement that the supplier cannot meet.

Capstone Output

Each participant completes a contract liability negotiation pack for one contract. It holds a liability allocation grid, a position sheet with fallbacks, an indemnity and cap table and an insurance requirement list. The pack is used at work to brief a sponsor before talks, to guide colleagues in the room and to answer questions at renewal.

Frequently Asked Questions

Is a programme on contract liability suitable for managers who are not lawyers?

Yes. Contract liability is taught through prepared cases and templates in plain terms. The programme assumes you take part in contract negotiation or administration, but needs no legal qualification.

Which models does contract liability work rest on?

Contract liability work rests on the risk transfer hierarchy, likelihood and impact rating and cover-to-clause mapping, applied to prepared clauses, scenarios and policy summaries.

How is the pack from contract liability used at work?

You use the contract liability negotiation pack to brief your sponsor before talks, hold agreed fallbacks in the room and check insurance requirements at renewal.

How does contract liability differ from a programme on contract drafting?

Contract liability concentrates on who bears loss and how that is negotiated and insured, while a drafting programme concentrates on wording the whole agreement.