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MASTERING COMMERCIAL CONTRACTS

March 23-24, 2023 (Thai)
March 30-31, 2023 (English)
Centara Grand at Central Plaza Ladprao

Drafting, Risk Management and Tax Aspects



PDPA CONTRACTS

EQUIP

yourself with
ESSENTIAL SKILLS and **TECHNIQUES**
to draft **WATERTIGHT** commercial contracts
that meet today's **BUSINESS CHALLENGES**

"Good seminar, enjoy it!"
AVL Sea & Australia

"Good coverage of many topics..."
Draeger Safety (Thailand)

"....can be applied to daily work."
Kaeser Kompressoren (Thailand)

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Program Agenda

DAY 1

0830 Registration & Morning Coffee

0900 Legal Framework of Commercial Contracts

- Introduction to Thai Contract Law
- Types of Commercial Contracts
- Crucial Issues in Contract Formation:
 - Offer
 - Acceptance
 - Formality
 - Enforceability
 - Court's Power to Scale Down Contractual Provisions
 - Legal Capacity
 - Consideration/Contract Price
 - Applicability of Statutory Arrangements/Implied Terms
 - Opting Out of Statutory Arrangements

Case Law
Updates
on Unfair
Contract
Terms Act

1030 Morning Refreshment

1045 Common Features of Commercial Contract - Boiler Plate - PART 1

- Witnesseth/Recitals
- Representations & Warranties (Qualified vs. Unqualified)
- Obligations of Parties
- Condition Precedent
- Term/Period of Contract
- Liquidated Damages (Penalty)
- Termination (Breach of Contract & Consequences of Breach)
- Indemnification
- Limited Liability Provisions
- Force Majeure
- Disclaimer

1200 Lunch

1300 Common Features of Commercial Contract - Boiler Plate - PART 2

- Non-waiver
- Assignment
- Entire Agreement
- Confidentiality Clause
- Choice of Law
- Choice of Jurisdiction (Forum Selection Clause)
- Arbitration & Mediation
- Notice
- Severability
- Signature Section
- Schedules or Appendices

Updates on Forum
(Court) Selection Clause
Case Law and Mediation
Development

1415 Afternoon Refreshment

1430 Mastering Drafting & Reviewing Skills and Contract Management

- Points to Consider when Drafting & Reviewing Contracts
- Practical Tips when Reviewing Contract
- Duly Naming a Commercial Contract
- Beware of Common Contract Pitfalls
- Contract Terminology and Interpretation (Legal English 101)
- Critical Aspects of Contract Signing (Post-Pandemic Practice)
- Statutory Provisions Affecting Future Contract Interpretation
- Risk Management in Commercial Contracts (i.e. Practical Tips in Handling/Rejecting a Claim and Pre-Litigation Strategy)

Legalistic
Language
Drafting Tips

1545 Q&A and Course Round-Up

DAY 2

0830 Registration & Morning Coffee

0900 Drawing Up & Revising Commercial Contracts to Crack the PDPA

- PDPA Overview
- Understanding the PDPA Terms (i.e. the Personal Data, the Data Subject/Owner, the Data Controller & the Data Processor)
- Legal Bases for Processing the Personal Data (i.e. Contractual Performance, Legal Obligation, Legitimate Interest and Consent)
- Adopting Mandatory Contracts for PDPA Compliance
- Traditional Non-Disclosure Agreement & Personal Data Protection Agreement
- Practical Dilemma with Getting the Data Processing Agreement Signed
- How to Design Commercial Contracts to Crack the PDPA
- Other Myths about PDPA

NEW
SESSION

Case Law
Update
on GDPR

1030 Morning Refreshment

1045 Key Considerations of Sales and Supply Contracts

- Sales Contract vs. Supply Contract (Hire of Work)
- Identifying the Critical Provisions of Sales Contract
- Transfer of Risk of Loss/Damage and Transfer of Title
- Understanding Different Types of Supply Contract (Hire of Work)
- Designing Critical Provisions in Supply Contract
- Practical Problems in Sales and Supply Contracts
- Case Study: Key Legal Obstacle for Making any Claim under Sale Contract or Supply Contract (Hire of Work)

Practical Tips
& Insights

1200 Lunch

1300 Techniques for Drafting & Structuring Shareholders Agreement

- Overview of Company Law & Its Limitations
- Understanding Statutory Arrangements (Implied Terms or Default Terms) & a Concept of Majority Rule
- Concerns of Majority Shareholders and Minority Shareholders
- Key Provisions of Shareholders Agreement
- Practical Tips to Avoid Pitfalls
- Importance of Articles of Association and Corporate Formalities
- Contractual Mechanisms to Deal with Shareholders Dispute
- Tax Strategy for Structuring the Jointly Owned Company

1415 Afternoon Refreshment

1430 Tax Aspects of International Contracts

- Potential Tax and Civil Liabilities for Signing a Contract for the Offshore Party
- Tax Efficient Contract Split between Sales Contract and Services Agreement
- Use of Double Taxation Agreement
- Business Profit vs. Royalty
- Tax Considerations in Wordings the Cross Border Services Agreement
- VAT on Cross Border Transactions (New VAT Law on e-Service)
- Stamp Duty on International Contracts

Detailed
Calculation
& Update on
New Law on
e-Service VAT

1545 Q&A and Course Round-Up

Key Benefits of This 2 Day Intensive Training



Understand the legal framework and crucial issues in contract formation

Key boilerplate terms to ensure agreements are precise and meeting your business objectives

Harness latest case law updates on the Force Majeure Clause and the Personal Data Protection Act

Get-to-Grips with important legal clauses and how to effectively apply in your own contracts

Learn cutting-edge strategies for managing different types of contracts

Identify early contractual risks and how to successfully avoid pitfalls

Gain valuable tax knowledge in dealing with shareholders agreement, international contracts and double taxation treaty

Absorb insightful viewpoints from expert trainer's real world experience

Dear Executive

Is everyone in your organization developing solid legal knowledge that is required to manage commercial contracts in today's highly competitive business environment? They should be. None should underestimate the importance of a bulletproof commercial contract in protecting companies against damages, claims and losses. A commercial contract is a crucial part of the business world, but largely ignored or puzzled by many business professionals in this part of the world.

Why a commercial contract is crucial?

This is because one clause in a commercial contract can make a whole lot difference between winning and losing when a dispute cannot be amicably settled. The thin line between winning and losing often translates into making or losing a lot of money. This is what counts.

As a matter of fact, **a properly drafted contract** can help you achieve a lot of purposes:

- ✓ it helps you advance your own agenda;
- ✓ it protects your interest; and
- ✓ it mitigates or even eliminates any potential risk on your side.

Understanding a legal framework of commercial contracts is important even for non-lawyers. As a business professional, almost everyday you negotiate with customers, suppliers, business partners, business associates and colleagues. Of course you would try to negotiate to the best of your ability and document whatever you agree with your counterparty. But how do you know whatever you put in a contract will be upheld in the court of law? It is not uncommon for a court to strike down any poorly or wrongly worded clause in a commercial contract.

**To become a better negotiator in business in Thailand,
you need to know what can be agreed and what cannot be agreed
in a commercial contract under Thai law.**

This course will walk you through commonly used techniques that mitigate or even eliminate any potential risk and highlight contractual provisions that are unlikely be upheld in court. The knowledge of commercial contracts will definitely make you a powerful negotiator.

This course will also explore in detail crucial terms and conditions of the sales contract, the supply contract (hire of work contract), which are ones of the most used commercial contracts. Also, one new session is added to discuss technical issues of the PDPA & commercial contracts.

Last but not least, the last session will cover tax aspects of international contracts. The contract split is used in a cross border transaction as a way to minimize Thai tax. The DTA exempts Thai tax on the business profit for an offshore company, but does not exempt Thai tax on the royalty. Obviously, the types of income are terribly important here. How do you word the cross border services agreement so that the tax authority is likely to recognize its income as the business profit, not the royalty?

Program & Sessions

This program is run in 2 sessions, i.e. Session 1 in Thai and Session 2 in English, with the schedule as follows:

Session 1 THAI Thurs - Fri, March 23-24, 2023

Session 2 ENGLISH Thurs - Fri, March 30-31, 2023

All presentation slides are in English.



Location

Centara Grand at Central Plaza Ladprao
1695 Phaholyothin Road, Chatuchak,
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Tel : +66 (0) 2541 1234
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B 2,500**

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About the Expert Trainer



NARIT DIREKWATTANACHAI, the founder and principal of NARIT & Associates, is an attorney specializing in corporate & commercial, tax and commercial disputes. Narit regularly serves clients on acquisitions/sales of local companies, formation of JV companies, investment/divestment, international sales, distributorship, franchise, cross border tax planning, transfer pricing, remittance of profit,

shareholders/partners disputes and other commercial disputes. His client list includes publicly held companies (or their Thai subsidiaries) listed in New York Stock Exchange, Frankfurt Stock Exchange, Tokyo Stock Exchange, Singapore Exchange, and Stock Exchange of Thailand, Thai subsidiaries of multinational corporations, Thai owned companies and foreign investors.

Narit holds an LLB (1st class honors) from Chulalongkorn University, an LLM from Wolfson College, the University of Cambridge, England, and an MBA in finance from the Georgia Institute of Technology, Georgia, USA. Narit commenced his legal career at Baker & McKenzie, Bangkok office. He also worked at Baker & McKenzie, Sydney office, Australia and the Investment Banking Group - Telecom, Media and Technology at DBS Bank, Singapore.

Narit is the author of "What Every Executive Needs to Know about Thailand Tax" and "Legal Guide to Doing Business in Thailand", and the contributor of Thailand Chapter of "Force Majeure and Hardship in the Asia-Pacific Region" published by JURIS.

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Thai Attorney & Author of
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