

Table of Contents

Foreword	V
Introduction	VII
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	5
1.4. Jurisdictions and Material Law	5
1.5. Impact on Modern Business Contracts	8
1.6. Equity and Torts	11
1.6.1 Torts	11
1.6.2 Equity	12
Summary Chapter 1	14
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	37
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	70
6.2.1 Frustration	70
6.1.2 Contractual Estoppel	72
6.3. Limitations on Liability	74
6.4. Guidelines for Drafting General Limitation of Liability Clauses	76
6.5. Liability Management	79
Summary Chapter 6	83
7. Contract Structure and Organisation	85
7.1. Preamble and Recitals	85
7.2. Body	87
7.2.1 Enumeration	88
7.2.2 Headings	89
7.3. Testimonium	89
7.4. Attachments	90
Summary Chapter 7	91
8. Typical Boilerplate Clauses	93
8.1. Language, Jurisdiction, Law	93
8.2. Arbitration and Alternative Dispute Resolution	98
8.3. Liquidated Damages and Penalties	102
8.4. Force Majeure	104
8.4.1 Frustration Distinguished	104
8.4.2 Definition of the Event	105
8.4.3 Consequences	106
8.5. Indemnification	107

Table of Contents	IX
8.6. Warranties and Guarantees	109
8.6.1 Warranties	109
8.6.2 Guarantees	112
8.7. Agreements and Representations	112
8.7.1 Entire Agreement Clauses	113
8.7.2 Non-Reliance Clauses	114
8.8. Bribery	115
8.9. Grexit, Brexit and Beyond	116
Summary Chapter 8	119
Appendix I: Bibliography	121
Appendix II: Statutes	123
1. Law Reform (Frustrated Contracts) Act 1943	124
2. Misrepresentation Act 1967	126
3. Unfair Contract Terms 1977	128
4. Sale of Goods Act 1979	135
5. Supply of Goods and Services Act 1982	154
6. Uniform Commercial Code, Article 2 (U.S.)	166
Appendix III: Templates	199
1. Confidentiality/Non-Disclosure Agreement	200
2. Exclusivity (and Lock-Out) Agreement	204
3. Sales Agency Agreement	209
4. Supply of Services Agreement	219
5. Terms and Conditions for the Provision of Services	225
6. Letter of Intent (English Law)	231
7. Letter of Intent (U.S.)	232
8. International Distribution Agreement	234
9. MOU (Memorandum of Understanding) International Joint Venture	240
10. Licensing Agreement	243
11. Consultancy Agreement	251
12. Sale of Goods Agreement	255
13. Further Boilerplate Clauses	261
Appendix IV: General Glossary of Terminology	265