



1 - 5 OCTOBER 2019
CAPE TOWN, SOUTH AFRICA
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ABLM Session:

Managing Risk in the Contracting Process

Alison Wixley

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Cape Town, South Africa

Introduction

- Freight forwarding environment has as its foundation many inter-related, over-lapping and sometimes conflicting documents forming a contractual regime.
- As a freight forwarder, the contract with your client is one of the key documents and methods by which to manage your risk and limit your liability.
- But that contract and the process of finalizing it carries its own risks and pitfalls.
- The presentation today will provide an overview of a contracting process, the risks inherent therein, and suggestions on how to manage them.

A recent McKinsey review found that **suboptimal contract terms** and conditions combined with a **lack of effective contract management** can erode annual revenues by as much as **9% annually**





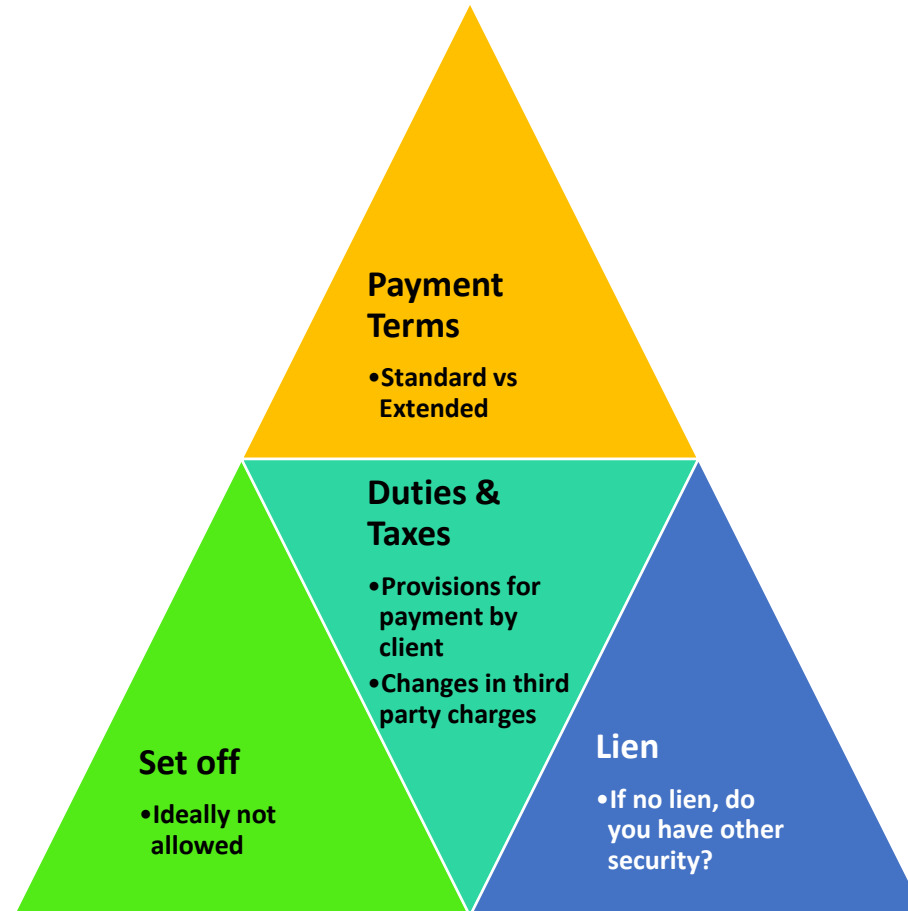
Contracting Process Risks

- ❖ Missed deadlines to the client due to lengthy negotiations
- ❖ Renewal dates passed
- ❖ Wrong level of internal review and approval
- ❖ Inadvertent contracting by email
- ❖ Commitment to obligations that are not achievable
- ❖ Commitment to liabilities that are uninsured
- ❖ Inadvertent acceptance of onerous clauses
- ❖ Inadvertent omission of essential clauses



Onerous and Essential Clauses

Credit Risk



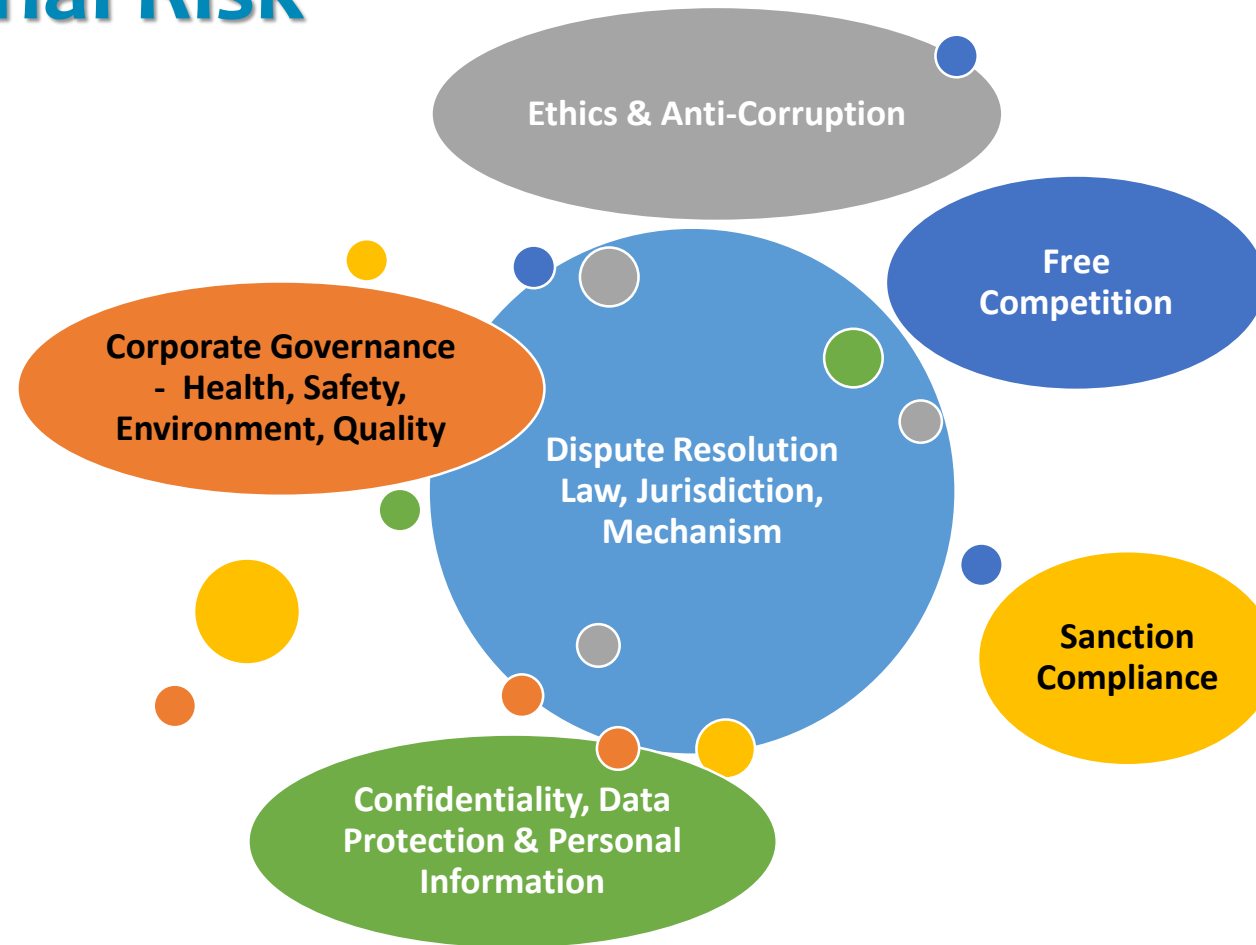
Onerous and Essential Clauses

Liability Risk



Onerous and Essential Clauses

Reputational Risk



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The Contracting Process

Receipt

- Who receives the contract?
- Who manages the process?

Review

- Are all stakeholders included?
- Are all external requirements met?
- Can all terms be complied with?
- Have onerous and essential clauses been noted?

Negotiation

- Who are you dealing with at the client?
- Is there a practical solution to resolve disagreement on terms?

Signature

- Are authority levels in place & widely known?

Storage

- Are any onerous terms communicated to the business?
- Are contract rates review and termination dates flagged?





Receipt

- Who receives the contract?
- Who manages the process?

Risks

- Missed deadlines
- Wrong level of review
- No records

Management

- Central point

Review

- Are all stakeholders included?
- Are all external requirements met?
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- Have onerous and essential clauses been noted?



Risks

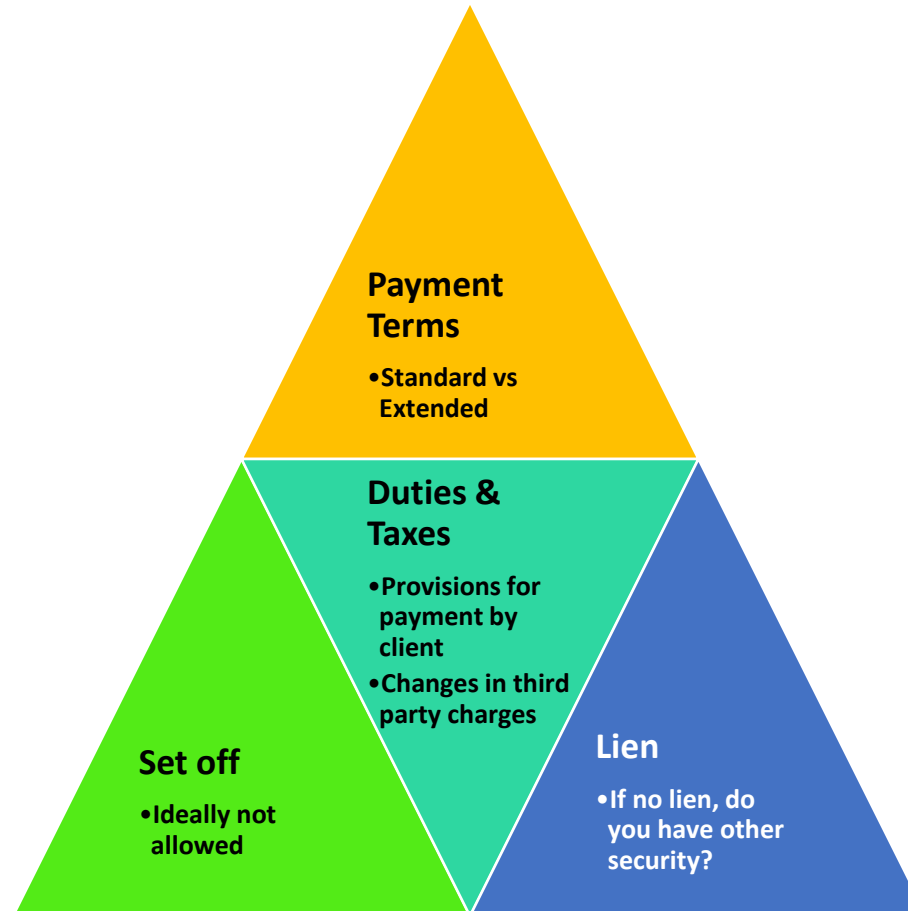
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Management

- Review run through central contact point
- Ensure that all relevant internal stakeholders are included (e.g. operations, HR, IT, credit / finance, legal / insurance)
- Benefit of inhouse counsel (depending on volume and complexity)
- Onerous and Essential clauses

Onerous and Essential Clauses

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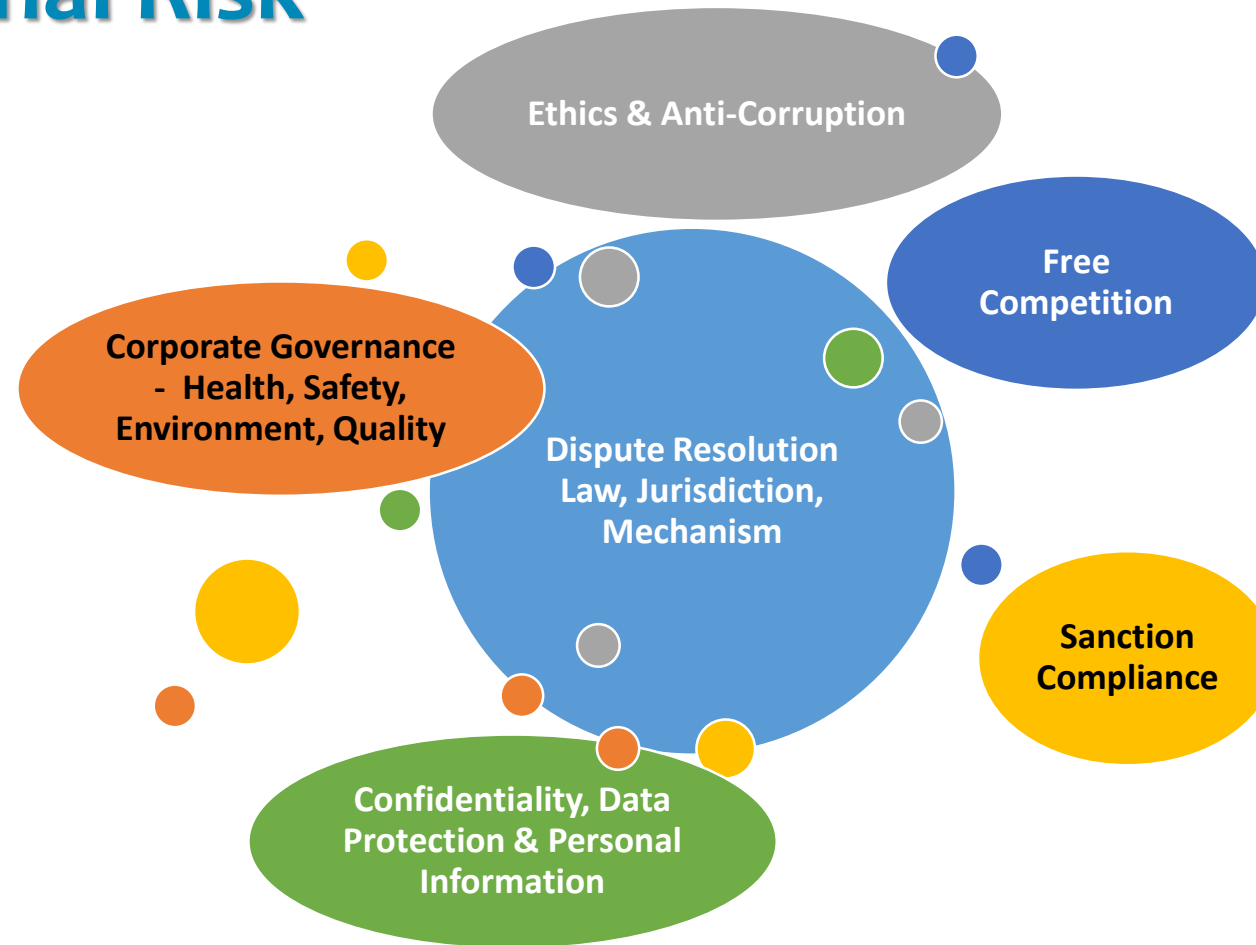
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Onerous and Essential Clauses

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Risks

- Lack of authority to agree
- Knowledge of contractual terms (procurement vs legal)
- Stalemate can mean a delay or loss of business

Management

- Involvement of legal and / or decision makers up front
- Knowledge of business of inhouse brings the ability to balance the ideal contractual terms with practical solutions
- Buy in from internal stakeholders when they know the inhouse streamlines internal discussions

Signature

- Are authority levels in place & widely known?

Risks

- Inadvertent contracting by emails
- Binding company without correct approvals
- Board resolutions may be required

Management

- Publish and distribute clear authority levels
- Short list of those authorised to sign contracts
- Contract cover sheets



Storage

- Are any onerous terms communicated to the business?
- Are contract rates review and termination dates flagged?

Risks

- Obligations taken on but operations are unaware
- Requirements and timing for rates reviews missed
- Renewal dates passed

Management

- Central database of contract details and onerous terms
- Automated reminder on review and renewal dates



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Thank you