

## Understanding Education Abroad Vendor Contracts: What You Need to Know

Education Abroad professionals benefit from having some basic knowledge of legal terminology and contract components as they negotiate and sign vendor-type contracts that support opportunities abroad. This handout is designed to help you negotiate contracts that are more equitable for both partners and that reduce risk to institutions, organizations, students, faculty, and staff while facilitating education abroad programming.

*(NOTE: These prompts are meant to start your inquiry and negotiation processes and are not meant to be comprehensive or proscriptive. We suggest that you speak with your institution's/organization's counsel for more specifics.)*

### Examples of language and sections to look for:

- indemnification clauses and limitations of liability
- insurance requirements
- confidentiality - and protection - of data
- choice of law/forum venue
- notifications - names, contact info, acceptable methods and time frames
- termination clauses
- which party is assuming which risks
- vague language

### Questions to ask about institutional/organizational requirements, process, & culture:

- Make a list of the types of contracts, MOUs, and other agreements your office considers regularly or might soon be reviewing/soliciting.
- Meet with your institution's/organization's counsel.
  - Clarify what they see as their responsibility vs. your office's.
  - Clarify what they need to review, would like to review, and don't need to review.
  - Clarify what they expect you to have investigated or negotiated before approaching them.
- Understand where each type of contract is housed from a university/organization perspective and who has access.
- Understand who in your organization has the authority to sign various types of contracts.

### Reasons to negotiate:

- Clarify language that is confusing or vague (and thereby clarify operational processes)
- Move more of the risk to your partner or make the risk equitable for each party
- Change/add/delete language that your institution/organization finds problematic

### Content to negotiate for:

- mutual indemnification/liability
- clarity on deadlines and consequences of missing them
- sharing of risks (e.g., currency fluctuations, low/high enrollment, student cancellation, faculty emergencies, student emergencies, medical issues, natural disasters, political unrest, etc.)
- costs, deposits, refund policies and other numbers
- clarity on termination and renewal options and processes
- data protection/student privacy language

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### Increasing your leverage:

- Be creative when you assess that your partner has more power. Consider what your partner needs, then find a way to offer that to get what you need.
- Commit to specific numbers or exclusivity (e.g., we commit to pay for a minimum of 10 students each term for the next 3 years if we can get a reduced rate, or we can offer you better accommodations if you can move the program by three weeks, or we won't partner with someone else for [x type of program] for ## years if you can provide more flexibility in course offerings or the reverse)
- Have concrete alternatives in hand.

### General suggestions:

- READ the contracts and note anything that is unclear or problematic.
- Before any contract negotiation:
  - Be sure to identify your office's/institution's/organization's goals in seeking the partnership. Why is this partnership important? What value does it bring?
  - Identify specific areas that you'd like to change and prioritize them. Be clear on what you're willing to give, in addition to what you want.
- Consider the power dynamic and what you know about your negotiation partner. Where is your leverage? What is important to your partner?
- If you need your partner to move in a certain direction, start higher/lower than where you want to finish.
- Start negotiations early; the closer you are to your deadline, the less leverage you have.
- If you get to a sticking point, you can ask your partner what's important to them to help you find a solution.
- Remember that cultural differences may influence negotiating style and expectations.

### Reduce the need for negotiation:

- Create an RFP (Request for Proposal) that specifies what types of information you need. RFPs can also be used to solicit multiple proposals, potentially increasing your leverage.
- Be clear at the beginning of the relationship about anything that is non-negotiable for you and ask for the same from your partner.

### Resources:

- COMING SOON! Forum on Education Abroad "Guidelines for Good Business Partnerships":  
<https://forumea.org/resources/guidelines/>
- Your institution's/organization's legal counsel
- Contract language:
  - <https://www.upcounsel.com/contract-clauses-explained>
  - <https://www.thebalancesmb.com/reading-business-contract-397812>
  - <https://smallbusiness.findlaw.com/business-contracts-forms/contract-terms-checklist.html>
- Session PPT slides and handout available for download in NAFSA conference app and at [www.greatcircleglobal.com/resources.html#EAcontracts2019](http://www.greatcircleglobal.com/resources.html#EAcontracts2019)

### Presenters:

Jennifer Becnel-Guzzo, AVP and Deputy General Counsel, University of Delaware, [jbg@udel.edu](mailto:jbg@udel.edu)  
Lisa Chieffo, Associate Director of Study Abroad, University of Delaware, [lchieffo@udel.edu](mailto:lchieffo@udel.edu)  
Scott Manning, Dean of Global Programs, Susquehanna University, [manning@susqu.edu](mailto:manning@susqu.edu)  
Sandy S Tennes, Great Circle Global Education Consulting, [sandyt@greatcircleglobal.com](mailto:sandyt@greatcircleglobal.com)