

LW5303: COMMERCIAL CONTRACTS

Effective Term

Semester B 2024/25

Part I Course Overview

Course Title

Commercial Contracts

Subject Code

LW - Law

Course Number

5303

Academic Unit

School of Law (FL)

College/School

School of Law (FL)

Course Duration

One Semester

Credit Units

3

Level

P5, P6 - Postgraduate Degree

Medium of Instruction

English

Medium of Assessment

English

Prerequisites

Nil

Precursors

Nil

Equivalent Courses

Nil

Exclusive Courses

Nil

Part II Course Details

Abstract

The aim of this course is to provide to non-exempt postgraduate degree students (i.e., generally those without a formal legal background, legal degree or legal qualifications) an intensive introduction to the theory and principles of contract law in

Hong Kong and its practical application in the commercial context. Active participation, preparation and diligence in class as well as for assessment tasks is important in order for students to master the course materials and progress to higher level courses in the LLMArbDR programme.

Course Intended Learning Outcomes (CILOs)

CILOs		Weighting (if app.)	DEC-A1	DEC-A2	DEC-A3
1	Identify and explain principles of contract law as well as the relationship between different contract law components.		x	x	x
2	Resolve contract law problems by: - Reading and interpreting commercial contract law cases - Understanding relevant statutes - Linking contractual interpretation with its commercial context - Conducting independent legal research to solve problems - Developing arguments by the use of appropriate legal authorities		x	x	x
3	Use legal principles, doctrines in the law of contract and the policy objectives of the law to analyse commercial contracts and critically evaluate the process followed in doing so.		x	x	x

A1: Attitude

Develop an attitude of discovery/innovation/creativity, as demonstrated by students possessing a strong sense of curiosity, asking questions actively, challenging assumptions or engaging in inquiry together with teachers.

A2: Ability

Develop the ability/skill needed to discover/innovate/create, as demonstrated by students possessing critical thinking skills to assess ideas, acquiring research skills, synthesizing knowledge across disciplines or applying academic knowledge to real-life problems.

A3: Accomplishments

Demonstrate accomplishment of discovery/innovation/creativity through producing /constructing creative works/new artefacts, effective solutions to real-life problems or new processes.

Learning and Teaching Activities (LTAs)

LTAs		Brief Description	CILO No.	Hours/week (if applicable)
1	Seminars	Students will engage in interactive classes on the substantive issues of Commercial Contract Law, its concepts and its application.	1, 2, 3	2 hours/week

2	Tutorials	Students will integrate their substantive knowledge and develop functional skills and deeper understanding through discussion of practical problems and case studies.	1, 2, 3	0.75 hour/week
3	Guided individual studying	Students will develop basic independent research and critical assessment skills.	1, 2, 3	
4	Formative work	Students will apply legal principles and knowledge to practical situations.	1, 2, 3	0.25 hour/week

Assessment Tasks / Activities (ATs)

ATs		CILO No.	Weighting (%)	Remarks (e.g. Parameter for GenAI use)
1	Class participation (Active involvement in class, which includes consistent attendance, engaging in thoughtful discussion, and maintaining focused attention during lectures).	1, 2, 3	20	The use of Generative AI tools is not allowed.
2	Mid-term quiz	1, 2, 3	10	The use of Generative AI tools is not allowed.

Continuous Assessment (%)

30

Examination (%)

70

Examination Duration (Hours)

2

Additional Information for ATs

The use of Generative AI tools is not allowed.

The examination in the course is assessed by a 2-hour computer-based examination in a Computer Lab. The exam is an open book exam. Students can bring a USB or other data storage and have access to all the course materials, their notes and their books on this USB, as well as in hard copy, during the exam as well as access to one language dictionary.

Applicable to students admitted before Semester A 2022/23 or in Semester A 2024/25 & thereafter

A student must obtain a minimum mark of 40% in both coursework and examination and an overall mark of 40% in order to pass a course.

Applicable to students admitted in Semester A 2022/23 to Summer Term 2024

A student must obtain a minimum mark of 50% in both coursework and examination and an overall mark of 50% in order to pass a course.

The HKSAR Government's Continuing Education Fund (CEF) recognizes the LLMArbDR individual courses (i.e. LW5303, LW6401, LW6405, LW6406, LW6407). The minimum attendance requirement for all CEF courses is 70%. For the purpose of claiming reimbursement of CEF course fee or the professional recognition, please note that it is the students' own responsibility to attend every class and examination during the teaching and examination periods.

Assessment Rubrics (AR)

Assessment Task

Coursework (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Demonstration of ability to identify issues, current trends and practices.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Examination (for students admitted before Semester A 2022/23 and in Semester A 2024/25 & thereafter)

Criterion

Demonstration of ability to identify issues, current trends and practices.

Excellent

(A+, A, A-) Strong evidence of original thinking; good organization, capacity to analyse and synthesize; superior grasp of subject matter; evidence of extensive knowledge base.

Good

(B+, B, B-) Evidence of grasp of subject, some evidence of critical capacity and analytic ability; reasonable understanding of issues; evidence of familiarity with literature.

Fair

(C+, C, C-) Student who is profiting from the university experience; understanding of the subject; ability to develop solutions to simple problems in the material.

Marginal

(D) Sufficient familiarity with the subject matter to enable the student to progress without repeating the course.

Failure

(F) Little evidence of familiarity with the subject matter; weakness in critical and analytic skills; limited, or irrelevant use of literature.

Assessment Task

Coursework (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Demonstration of ability to identify issues, current trends and practices.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Assessment Task

Examination (for students admitted from Semester A 2022/23 to Summer Term 2024)

Criterion

Demonstration of ability to identify issues, current trends and practices.

Excellent

(A+, A, A-) High

Good

(B+, B) Significant

Marginal

(B-, C+, C) Moderate

Failure

(F) Inadequate

Part III Other Information

Keyword Syllabus

The following is a detailed syllabus for the course. Please note that syllabus may change, where and when necessary, to accommodate the course objectives.

Week 1: Introduction

Part 1: The Foundations of Commercial Contract

Week 2: The Central Role of Contract

Week 3: The Applicable Law Issue

Week 4: The Applicable Law Principles

Week 5: Choosing the Applicable Law: Practical Options

Part 2: Resolution of Commercial Contract Dispute

Week 6: The Methods of Solving Disputes

Week 7: Revision Quiz

Week 8: Litigation before Ordinary (National) Courts

Week 9: International Arbitration

Part 3: Drafting and Negotiating Commercial Contracts

Week 10: Negotiation of an International Contract

Week 11: Drafting the Contract

Week 12: Concluding the Contract

Week 13: Revision

Reading List**Compulsory Readings**

Title	
1	Ylli Dautaj and William Fox, International Commercial Agreements (Kluwer Law International, 2023) 480.
2	Giuditta Cordero-Moss, International Commercial Contracts: Applicable Sources and Enforceability (London: Cambridge University Press, 2014) 329.

Additional Readings

Title	
1	Mark Anderson and Victor Warner, Drafting and Negotiating Commercial Contracts, 4th edition (London: Bloomsbury Professional, 2016) 408 p.
2	Mark Anderson and Victor Warner, A-Z Guide to Boilerplate and Commercial Clauses, 4th edition (London: Bloomsbury Professional, 2017) 704 p.
3	Charles Chatterjee, Negotiating Techniques in International Commercial Contracts (London: Routledge, 2017) 166.
4	Eckart Broedermann, UNIDROIT Principles of International Commercial Contracts (The Hague: Kluwer, 2018) 527.
5	Giuditta Cordero-Moss (ed) Boilerplate Clauses, International Commercial Contracts and the Applicable Law (London: Cambridge University Press, 2011) 426.
6	Michael Griffiths and Stuart Williams, Commercial Contracts: A Practical Guide to Negotiating and Drafting (London: ICSA Publishing, 2013) 150.
7	Maren Heidemann and Joseph Lee, The Future of the Commercial Contract in Scholarship and Law Reform: European and Comparative Perspectives (New York: Springer, 2018) 588.
8	Richard Lawson and Susan Singleton, Commercial Contracts A Practical Guide to Standard Terms, 3rd edition (London: Bloomsbury Professional, 2011) 446.
9	Gustavo Moser and Michael McIlwraith, Negotiating International Commercial Contracts (The Hague: Boom uitgevers, 2020) 122.
10	Rex Nwakodo, Tolley's Commercial Contracts, Transactions and Precedents, 2nd edition (London: Tolley, 2015) 656.
11	Statutory provisions (e-legislation: https://www.elegislation.gov.hk/)
12	Sales of Goods Ordinance (Cap 26)
13	Supply of Services (Implied Terms) Ordinance (Cap 457)
14	Control of Exemption Clauses Ordinance (Cap 71)
15	Misrepresentation Ordinance (Cap 284)
16	Unconscionable Contracts Ordinance (Cap 458).
17	Contracts (Rights of Third Parties) Ordinance (Cap 623).