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# Ramp Equipment NEWS

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**The International Airport  
Expo Las Vegas 2010**  
More details on page 8



## Your guide to the North American ramp

# Contractually speaking

Margaret Giugliano, of law firm McBreen & Kopko, suggests the adoption of a smart approach to standard forms of contract.

**W**e have all been faced with the issue of how to proceed with a relatively routine business transaction that requires the purchaser to sign a standard form contract or a purchase order with pre-printed terms and conditions on the reverse. These types of contracts are commonly used to lease vehicles or other airport equipment or to obtain other goods or services pursuant to a purchase or work order.

The use of standard form contracts and boilerplate terms and conditions keeps the cost and effort in finalising such transactions to a minimum. However, such standard or "boiler" terms and conditions are usually unfairly drafted in favour of the issuing party - and are non-negotiable.

While you may not be in a position to vary the pre-printed terms, you *are* in a position to negotiate the commercial terms, namely, price, quality, standards and duration. In using standard form contracts, you should carefully negotiate the purchase or unit price of the goods or services, paying particular attention to whether taxes, airport or licence fees, or any other additional charges are included in the base price. It is worth trying to negotiate a discount in the price based on volume, terms of payment or even renewal.

Standard form contracts generally disclaim

any express or implied warranties of fitness for a particular purpose. Therefore, the commercial terms of your contract or purchase order should also detail the specific quality of the items or services you will require, including whether the equipment is new, used or refurbished; maintenance and repair obligations; and any warranties or replacement services. To counteract the disclaimer you should also specify the performance parameters and each industry or international standard that you expect or require compliance with, such as ICAO, API, ASME, NFPA and ASTM.

Finally, you can override an ever-renewing obligation in a lease agreement by clearly indicating the duration of your obligation to purchase the goods or services by inserting a definite date for termination of the services.



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A contract that is not subject to negotiation or change and which is drafted to give the issuing company the distinct bargaining advantage may be determined to be a contract of adhesion. Under common law, such a contract is treated as any other contract, binding both signatory parties to the preprinted terms and conditions. Under certain conditions, however, there may be cause for legal redress under a contract of cohesion. In saying that, it is important to realise that each jurisdiction varies as to the level of scrutiny that will be applied to a contract determined to be a contract of cohesion, calling into question the enforceability of its terms and conditions.

Consequently, knowing how to deal with such contracts at the business level may avoid the need for legal interpretation or intervention should something unexpected occur during the contract term.



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