When and How to Use Indemnification Provisions

Description: Be able to expertly draft and negotiate indemnification provisions and understand how important these are when things inevitably go wrong.

In entering into contracts almost every day, businesses of all sizes and in all industries frequently flip right past the indemnification, insurance and limitation of liability provisions as mere boilerplate. They fail to understand that these are risk allocation provisions that can be as important as price and other deal terms. Even if they know these provisions are important, many lawyers and contract managers don't understand the pitfalls and opportunities they present.

This topic will help lawyers and non-lawyers alike understand more clearly how these provisions allocate the risks when things go wrong. With that perspective, you will be in a better position to draft and negotiate provisions that align with your business objectives, are clear to the parties, and will be enforced by the courts.

Contents: Drafting and Negotiating Indemnification Provisions
- General Purpose and Standards for Interpretation
- Anti-Indemnification Statutes and Other Enforcement Issues
- Defense and Attorney Fee Clauses
- Cautionary Tale About Forms

Relationship With Insurance Provisions
- How Indemnification and Insurance Provisions Can Affect Each Other, Including Whether an Indemnity Obligation Is Limited to What's Covered by the Required Insurance
- Insured Contract
- Additional Insured
- Cautionary Tale About Careful Drafting

Relationship With Limitation of Liability Provisions
- How Indemnification and Limitation of Liability Provisions Can Affect Each Other
- Anti-Indemnification Statutes and Other Enforcement Issues
- Sample Language

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