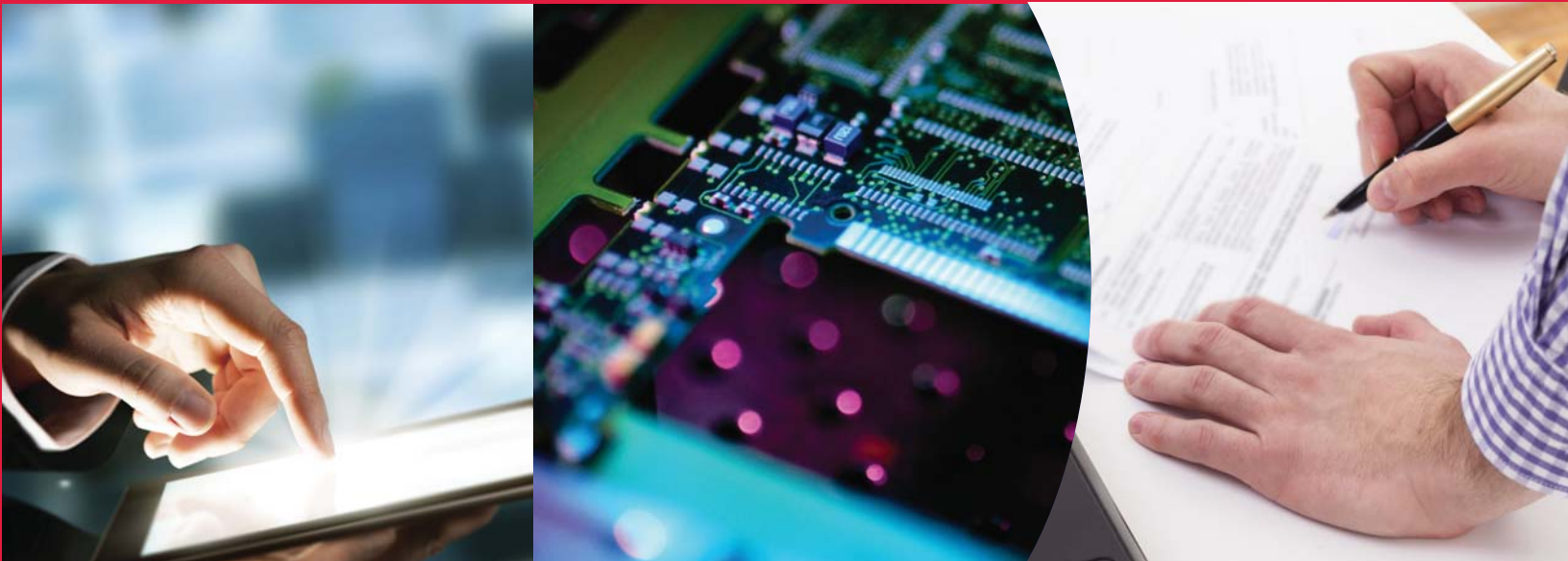


With unique learn-by-doing  
drafting and negotiation  
workshops



# The *Osgoode* Certificate in Negotiating and Drafting IT Agreements

This practical and intensive program will give you the knowledge and skills you need  
to successfully structure, negotiate and draft IT agreements

WEBCAST  
AVAILABLE

4 One-day Modules | February 11 - April 18, 2016 | Toronto, Canada



# Do you have the skills and confidence needed to negotiate and draft an effective IT agreement?

## Program Details

### Dates

Module 1  
February 11, 2016

Module 2  
February 19, 2016

Module 3  
April 1, 2016

Module 4  
April 18, 2016

The program will be held at  
*Osgoode Professional Development's*  
Downtown Toronto Conference  
Centre.

### For Further Program-Related Information

Please contact:  
Jessica Foster  
Program Lawyer  
at 416.673.4673 or  
email [jfoster@osgoode.yorku.ca](mailto:jfoster@osgoode.yorku.ca)

*Osgoode's Certificate in Negotiating and Drafting IT Agreements* is an innovative course offering a deep dive into all aspects of structuring, negotiating and drafting IT agreements.

Led by P. Bradley Limpert, an expert faculty of legal and IT specialists from leading technology companies will provide you with the knowledge and practical skills you need to competently and confidently negotiate and draft IT agreements. Over four intensive days you will acquire a comprehensive overview of key factors relevant to structuring an IT agreement, and practical tools which will enable you to draft and negotiate the contentious clauses. You will also learn the critical business, technological, and IP aspects underlying IT agreements, so that you can approach your contracts with a thorough grounding in fundamental concepts.

Reinforce your understanding of key concepts by applying what you've learned in small group "learn-by-doing" drafting and negotiation workshops. Benefit from personalized feedback from our experienced experts.

In addition to the comprehensive course materials, participants will receive the text *Technology Contracting: Law, Precedents and Commentary*, which includes checklists, annotated sample agreements, and precedents.

### What You Will Learn

- Fundamentals of IT system components, players and activities
- Advanced negotiation strategies and tactics
- The key IP issues that affect IT agreements
- Strategies for allocating liability in an IT contract
- Critical cross-border considerations
- Dealing with IT contracting issues in Cloud, SaaS and App environments
- Best practices for proceeding ethically in contract negotiations
- Critical security and privacy issues and how to manage them
- Addressing compliance challenges in open source software licensing
- Drafting and negotiation issues that impact IT agreements

### Who Should Attend

- Lawyers who advise on IT agreements and software licensing
- In-house counsel and executives managing software and IT services procurement
- IT managers and developers
- IT procurement professionals
- Contract managers and specialists
- Advisors to technology start-ups and entrepreneurs

Webcast is available  
for Modules 1 - 3



In four intensive one-day modules, an expert faculty of over 20 senior legal and IT specialists will equip you with the knowledge and key strategies you need to effectively structure, negotiate and draft IT agreements.

### THE CURRICULUM

#### MODULE 1

February 11, 2016, 8:45 a.m. – 5:15 p.m. EST

Module One will provide you with the foundational knowledge you need to maximize your understanding and participation in the remainder of the certificate. You will learn the critical IP and technological aspects of IT contracts, IT systems and system development, as well as the key cross-border and ethical issues that need to be considered when approaching IT agreements.

##### Essential IP Elements and Concepts

- Types of information or technology that can be protected by trade secret, copyright, patents, and trademark laws
- Intellectual property: obtaining, registering and enforcing it
- Key intellectual property considerations critical to technology agreements
  - potential pitfalls arising from joint ownership of IP
  - what rights do employees and independent contractors have in the IP they provide as part of technology development?

##### Overview of IT Systems

- Key components, players and activities in IT systems
  - IT development, deployment, integration, migration and maintenance: who does what?
  - typical life cycles of software development, licensing, customization and sale
- Understanding IT system development methodologies
  - establishing scope, planning and specifying requirements: business process, functional and non-functional
  - system design: high level versus detailed design
- Effect of technical risks and liabilities on an IT contract
  - data loss, data integrity; scope creep, integration risk
  - vendor control of technology architecture

##### Cross-Border Issues in IT Contracting

Increasingly, the scope of technology agreements extends beyond Canada and may engage foreign parties. This session will address multi-jurisdictional issues that affect IT contracts, including factors affecting the scope and terms of cross-border agreements and the protection of IP rights and confidential/personal information across jurisdictions.

##### Navigating Ethical Issues in IT Transactions

- How to address conflicts of interest, including duties of loyalty and confidence, when acting against former clients or for competitors of current clients

- Good faith in negotiations: what does it mean, and when does it apply?
- What client communications are necessary?

**\*Module 1 available by webcast**

#### MODULE 2

February 19, 2016, 9:00 a.m. – 5:15 p.m. EST

In Module 2 we will continue to examine the essential underlying concepts required for negotiating and drafting IT agreements. The discussion will drill down on strategies for allocating liability in an IT contract, and security and privacy issues. The focus will then shift towards examining specific types of IT agreements, including confidentiality, escrow and software development agreements. The day will conclude with an interactive negotiation demonstration which will highlight best practices for negotiating performance warranties and guarantee clauses.

##### Allocating Liability in the IT Contract

- Thinking through limits of liability, disclaimers, waivers and related clauses
- Liability issues associated with privacy, security and confidentiality

##### Security and Privacy Issues in IT Transactions

- Types of security risks: data integrity, transmission, access control, and more
- Methods for ensuring security of information; dealing with spyware
- Privacy traps in various IT transactions
- The impact of the *U.S. Patriot Act* and public disclosure rules: protecting business data and personal information
- Audit issues: reporting, recording and disclosure of security and privacy measures

##### Confidentiality Agreements and Escrow Agreements

This session will examine two much used but under-appreciated agreements: Non-Disclosure Agreements (NDAs) and Source Code Escrow Agreements. Learn how to minimize the risks of disclosing and receiving confidential information, as well as the common problems and pitfalls with escrow agreements.

##### Development Agreements

- A developer's perspective: what assumptions do developers make and what are their implications?

- Rates of failure in development agreements; remedies, including non-financial remedies, for developer's non-performance; providing for escalation and dispute resolution procedures
- Understanding the vendor/developer's interests: key pitfalls purchasers should watch for in the agreement
- Incorporating documents produced in the development process into the legal agreement

#### **Demonstration:**

#### **Negotiating Performance Warranties and Guarantees**

This interactive session will provide participants with an opportunity to observe a live negotiation from the supplier and customer perspectives. The panel will examine various negotiation positions, as well as provide guidance on the strategic use of language when drafting these important clauses.

\*Module 2 available by webcast

## **MODULE 3**

April 1, 2016, 9:00 a.m. - 4:30 p.m. EST

In Module 3 we will continue to examine specific types of IT agreements, including outsourcing, support and maintenance and software licensing agreements. Rounding out the day, three expert faculty members will deliver our second interactive demonstration session, focusing on the negotiation of a License Agreement from the perspective of both supplier and customer.

#### **IT Outsourcing Agreements**

- Forms of "outsourcing", including cloud computing, SaaS, and various shared service arrangements
- Specifying service levels in the agreement; multi-sourcing and sub-contractors
- Indemnities and limitations of liability
- Change control and governance
- Benchmarking and other price/innovation clauses

#### **IT Support and Maintenance Agreements**

- How to select the type of support coverage
- Characterizing errors and problems: anticipating and avoiding disputes
- Software updates, upgrades & support for old versions; hardware support and maintenance
- Standard versus customized packages; on-line versus on-site support

#### **Software Licensing Agreements**

- Portal access license versus license agreement - pros and cons from licensee and licensor perspectives
- Software bundling: issues arising from inclusion of third party products; rights in derivative works
- Object code versus source code license agreements
- Relationship between software license, consulting services, maintenance and support

#### **Open Source Software Licensing**

- Benefits and risks of open source software – mixing open source and proprietary software
- Types of open source software licenses – addressing open source software in your business model

#### **Demonstration: Negotiating a License Agreement**

Participants will observe experienced practitioners negotiate the key elements of a License Agreement, and will learn tools to effectively address such issues as payment terms, scope, ownership of IP, strategies for negotiating value-adds, and governance provisions.

\*Module 3 available by webcast

## **MODULE 4**

April 18, 2016, 9:00 a.m. - 5:00 p.m. EST

In Module 4, you will have an opportunity to put into action what you have learned. The day will feature two small group, interactive workshops, plus a presentation on advanced negotiation techniques by leading IT and negotiation experts.

### **Drafting and Negotiation Workshops**

#### **Drafting Workshop: License Agreement**

In this hands-on, small group workshop, you will have a valuable opportunity to receive personalized feedback from our expert faculty on your drafting skills. Prior to the module, participants will be provided with a fact scenario and segments of a License Agreement and asked to re-draft and submit various key clauses for discussion in the workshop.

\*NOTE: Advance preparation is required for the drafting workshop.

#### **Advanced Negotiation Techniques for IT Agreements**

An expert panel will examine advanced negotiating skills from both the vendor and customer's perspective. The focus will be on practical skills including redirecting the negotiation through reframing; strategic use of caucuses and breaks; balancing empathy and assertiveness; and building and managing a negotiating team. You will also learn about offer-concession strategies, dealing with obstructive tactics, and best practices for closing the transaction.

#### **Tying It All Together: Mock Negotiation**

Building on the fact scenario from the morning session, you will work in small groups and engage in a mock negotiation representing the interests of either the vendor or customer. This is an interactive session in which you will receive personalized feedback and guidance from an expert facilitator.

\*NOTE: Because of the interactive nature of the day, in person attendance is required for this module.

**Module 4 is available for purchase as an individual session.**  
Check [osgoodepd.ca](http://osgoodepd.ca) for details.



## The Osgoode Certificate in Negotiating and Drafting IT Agreements draws on the expertise and experience of an outstanding faculty of senior legal and IT professionals, including:

Michael Beairsto  
Dentons Canada LLP

Jason (Jake) Bullen  
Cassels Brock & Blackwell LLP

Steve Camicata  
General Counsel, Volaris Group Inc.

Richard F.D. Corley  
Goodmans LLP

Dr. Linda Ippolito  
Senior Partner, Sheridan, Ippolito & Associates

May Jim  
Principal, May Jim Business Consulting  
& Analysis Inc.

Bernice Karn  
Cassels Brock & Blackwell LLP

John Le Blanc  
Senior Legal Counsel, Bank of Nova Scotia

Jason Leung, Leung Law PC

P. Bradley Limpert  
Limpert & Associates

Fraser Mann  
Mann Symons LLP

Andrew S. Nunes  
Fasken Martineau DuMoulin LLP

Richard Pearce  
Senior Counsel, eHealth Ontario

Robert L. Percival  
Norton Rose LLP

Thomas W.E. Prowse  
Prowse Technology Law Office

Joel Ramsey  
Torys LLP

John Sibley  
Deloitte Canada

Stephen Spracklin  
Vice President, General Counsel and  
Corporate Secretary, Sandvine Inc.

Gabriel M.A. Stern  
Fasken Martineau DuMoulin LLP

Trevor J. Unruh  
Assistant General Counsel  
Open Text Corporation

Craig Wilson  
Craig Wilson & Company Inc.

### PROGRAM DIRECTOR

P. Bradley Limpert  
Limpert & Associates

Mr. Limpert is recognized by Intellectual Asset Management of London, UK as one of the world's leading technology licensing and litigation lawyers. Prior to practicing law, Mr. Limpert worked as a software developer, project manager and marketing rep. He is also a Certified Licensing Professional and a Patent Agent.

Osgoode Hall Law School's *Osgoode Professional Development* offers both credit and non-credit programming to meet the life-long learning needs of lawyers and other professionals who need legal information. Osgoode Hall Law School is one of the world's pre-eminent law schools. *Osgoode Professional Development* embodies the law school's commitment to meeting the educational needs of the broader community and has offered many continuing legal education programs for health care, law enforcement and other professionals.

## Here's what participants have said about past Osgoode IT Agreement programs:

*"The course provided value from start to finish, covering both negotiation and drafting in depth and with a good variety of subject expert presenters."*

Robb Baird, McInnes Cooper

*"Negotiating and Drafting IT Agreements provided an insightful series of discussions into the trends, topics and developments that are shaping the future of IT contracting and IT transactions. The sessions were led by a very impressive list of panelists and speakers who provided practical and informative advice throughout."*

Nathan Schissel, MacPherson Leslie & Tyerman LLP



# THE OSGOODE CERTIFICATE IN NEGOTIATING AND DRAFTING IT AGREEMENTS WINTER 2016

Acquire the knowledge and skills you need to  
confidently advise on and execute IT agreements

I will attend: ☐ Modules 1-4 On-site ☐ Modules 1-3 by webcast (single viewer) & Module 4 on-site

Name:	Title:								
Firm/Company:	Practice Area:								
Address:									
City:	Province:	Postal Code:							
Email:									
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- ☐ Please add me to your mailing list.  
☐ Please delete me from your mailing list.  
☐ If you do not wish to be contacted by e-mail, indicate here.

## Fee Per Delegate

\$2,495 plus HST

Fees include attendance, program materials, continental breakfast, lunch and refreshments for each of the 4 days of the program. The price does not include accommodations. Please inquire about group discounts and financial assistance. Dress is business casual.

Payment Options – Payment must be made prior to the program

- ☐ Cheque enclosed (payable to York University – GST# R119306736)  
☐ Bill my credit card: ☐ VISA ☐ Mastercard

Card#

Expiry:

Signature:

Payment Amount:

## Cancellations/Rainchecks/Substitutions

If you are unable to attend the program your organization may name a replacement. A full refund will be issued for cancellations received a minimum of 21 days before the program start date. Written cancellations received after January 21, 2016 will be subject to an administration charge of \$700. Non-attendance or withdrawal after the program start date will incur a full program fee. Payment must be received by January 28, 2016.

## Location

Osgoode Professional Development  
Downtown Toronto Conference Centre  
1 Dundas St. W., 26th Floor  
Toronto, ON, M5G 1Z3

## Program Changes

We will make every effort to present the certificate program as advertised, but it may be necessary to change the dates, location, speakers or content with little or no notice. In the event of program cancellation, York University and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.



### CPD Credits



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSUC.

Eligible CPD/MCLE hours: **LSUC (ON):** 28.75 CPD Hours (25.75 Substantive; 3.0 Professionalism); **NY CLE Board:** 32.0 credit hours in the Areas of Professional Practice for Transitional and Non-Transitional Lawyers (on-site only).

OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian jurisdictions. To inquire about credit eligibility, please contact [cpd@osgoode.yorku.ca](mailto:cpd@osgoode.yorku.ca).

## For Further Program-Related Information

Please contact: Jessica Foster, Program Lawyer at 416.673.4673 or email [jfoster@osgoode.yorku.ca](mailto:jfoster@osgoode.yorku.ca).

## Certificate of Program Completion

You will receive the Osgoode Certificate upon completion of the program (which includes attending all 4 modules, and participating in the drafting workshop and mock negotiation). Please note that modules 1-3 may be completed in person or by webcast. However, all registrants must attend module 4 in person.

Public CLE Seminars

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Professional LLM

## 4 Convenient Ways to Register

1. **MAIL** your registration form to:  
Osgoode Professional Development  
Downtown Toronto Conference Centre  
1 Dundas St. W., 26th Floor  
Toronto, ON M5G 1Z3
2. **ONLINE** at [www.osgoodepd.ca](http://www.osgoodepd.ca)
3. **FAX** your registration to 416.597.9736
4. **CALL US** at 416.597.9724

