

Σ

**Placing Contracts-
What you should know**

Chartered Institute of Arbitrators - London
Tuesday 26 January 2010

Presented By
Richard Silver LLB(Hons), MRICS, ADBM, MCIOB, MCI Arb,
MEWI, MInstCES, Barrister*, Solicitor

*Non practising

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Silver Shemmings Solicitors

Σ

**Placing Contracts-
What you should know**

Has a Contract been entered
into?

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Silver Shemmings Solicitors

Σ

**Placing Contracts-
What you should know**

Has a Contract been entered
into?

A Letter Of Intent Often Doesn't
Constitute A Contract

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Silver Shemmings Solicitors

Σ
Silver Shemmings Solicitors

**Placing Contracts-
What you should know**

A Letter Of Intent Often Doesn't
Constitute A Contract

Why are Letters of Intent issued?

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

**Placing Contracts-
What you should know**

A Letter Of Intent Often Doesn't
Constitute A Contract

- When it includes a 'cap'
- When it states that a matter has still to be agreed
- When it states that its terms are different to the future Contract

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

**Placing Contracts-
What you should know**

What Is The Significance That
The Letter Of Intent Does Not
Constitute A Contract?

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

What Is The Significance That The Letter Of Intent Does Not Constitute A Contract?

- No Completion Date
- No Provisions For Liquidated Damages
- No Provisions For Extensions Of Time
- No Commitment to Complete Works
- Entitlement To Quantum Meruit

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Choosing the appropriate Form of Contract

Matters to be considered:

- Which party is to be responsible for design

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contract- What you should know

Choosing the appropriate Form of Contract

Matters to be considered:

- Certainty of price

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

**Placing Contracts-
What you should know**

Choosing the appropriate Form of Contract

Matters to be considered:

- Certainty of employer's requirements

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

**Placing Contracts-
What you should know**

Choosing the appropriate Form of Contract

Matters to be considered:

- Operating restrictions

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

**Placing Contracts-
What you should know**

Choosing the appropriate Form of Contract

Matters to be considered:

- Date for commencement or completion

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

**Placing Contracts-
What you should know**

Choosing the appropriate Form of Contract

Matters to be considered:

- flexibility

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

**Placing Contracts-
What you should know**

Choosing the appropriate Form of Contract

JCT, NEC, GC/Works, ICE 5th/6th/7th,
PPC

Understand the Form

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

**Placing Contracts-
What you should know**

Choosing the appropriate Form of Contract

JCT, NEC, GC/Works, ICE 5th/6th/7th,
PPC

Does the Contract meet the requirements
of the Employer?

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

**Placing Contracts-
What you should know**

Choosing the appropriate Form of Contract
JCT, NEC, GC/Works, ICE 5th/6th/7th,
PPC

Does the Contract meet the requirements
of the Employer?

Administrative/Payment Requirements

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

**Placing Contracts-
What you should know**

Amending the form of Contract

- The allocation of risk –

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

**Placing Contracts-
What you should know**

Amending the form of Contract

- The allocation of risk –
the best party to manage it?

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The allocation of risk –
 - design

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The allocation of risk –
 - design
 - Employer's Requirements

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The allocation of risk –
 - design
 - Employer's Requirements
 - Ambiguities in Employer's Requirements

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The allocation of risk –
 - design
 - Employer's Requirements
 - Ambiguities in Employer's Requirements
 - Conflict with Contractor's Proposals

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The allocation of risk –
 - design
 - Employer's Requirements
 - Ambiguities in Employer's Requirements
 - Conflict with Contractor's Proposals
 - Changes post the base date

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The allocation of risk –
 - valuing variations

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The allocation of risk –
 - valuing variations
 - Need pricing document

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The allocation of risk –
 - valuing variations
 - Need pricing document
 - Need Preliminary breakdown

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The allocation of risk –
 - entitlement to additional time
 - events

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The allocation of risk –
 - entitlement to loss and/or expense
 - events

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Key People

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Master programme in electronic format

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Master programme in electronic format
 - Issued as part as tender

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Master programme in electronic format
 - Issued as part of tender
 - Full critical path analysis

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Master programme in electronic format
 - Issued as part of tender
 - Full critical path analysis
 - With float

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Master programme in electronic format
 - Up-dated on monthly basis showing as built

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Master programme in electronic format
 - Up-dated on monthly basis showing as built
 - Progress Reports

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Master programme in electronic format
 - Up-dated on monthly basis showing as built
 - Progress Reports
 - Current delays

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Master programme in electronic format
 - Up-dated on monthly basis showing as built
 - Progress Reports
 - Current delays
 - Outstanding information/date required

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Master programme in electronic format
 - Up-dated on monthly basis showing as built
 - Progress Reports
 - Current delays
 - Outstanding information/date required
 - Additional expenditure

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Master programme in electronic format
 - Up-dated on monthly basis showing as built
 - Progress Reports
 - Monthly site meetings

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Record Keeping

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Record Keeping
 - Photos

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Record Keeping
 - Photos
 - Time sheets/labour returns

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Record Keeping
 - Photos
 - Time sheets/labour returns
 - Correspondence

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Failure to comply – no monies fall due/appoint others

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Completion

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Completion – prior notice required

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Completion
 - Snagging

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - Completion
 - Snagging
 - Making good

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - The Housing Grants, Construction and Regeneration Act 1996

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ

Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - The Housing Grants, Construction and Regeneration Act 1996
 - Notice Requirements

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Amending the form of Contract

- The procedures under the Contract
 - The Housing Grants, Construction and Regeneration Act 1996
 - Notice Requirements
 - Adjudication Provisions

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

- Completing the Contract Documents properly

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Completing the Contract Documents properly

- Properly filled out

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Completing the Contract Documents properly

- Properly filled out
- Documents properly incorporated

Seminar 26.01.10 www.silver-shemmingsllp.co.uk

Σ
Silver Shemmings Solicitors

Placing Contracts- What you should know

Completing the Contract Documents properly

- Properly filled out
- Documents properly incorporated
- Certainty of terms used

Seminar 26.01.10 www.silver-shemmingsllp.co.uk
