

The International Contract Checklist

5 Clauses Every Cross-Border Deal Needs

Cross-border contracts fail at the clauses parties skip when the deal feels friendly. Before you sign, confirm each of the five protections below is in writing. Prepared by Transnational Matters PLLC, an international litigation and arbitration firm based in Miami.

1. Dispute Resolution & Arbitration Clause

Decide now where and how you will fight later. Courts in your counterparty's home country are rarely a neutral forum.

- Named institution (ICC, LCIA, AAA/ICDR) and rules version
- Seat of arbitration and language of proceedings
- Number of arbitrators and method of appointment
- Confidentiality of the proceedings stated expressly

2. Governing Law Clause

The same contract can produce opposite results under different laws. Choose the substantive law and say whether treaties such as the CISG apply.

- Substantive governing law named (not just the forum)
- CISG expressly included or excluded
- Mandatory local-law carve-outs identified

3. Payment Security & Letters of Credit

Getting paid across borders is a legal problem before it is a banking problem. Secure payment before performance.

- Payment instrument defined (LC, SBLC, escrow, guarantee)
- UCP 600 / ISP98 rules referenced for any credit
- Currency, conversion date, and who bears FX risk
- Late payment interest and suspension rights

4. Force Majeure & Sanctions Compliance

Tariffs, sanctions, and export controls change faster than contracts. Allocate the risk in advance.

- Force majeure list covers government action, embargoes, sanctions
- OFAC / export-control compliance representations from both sides
- Termination and cost allocation if performance becomes illegal

5. Non-Circumvention & Confidentiality

Introductions and know-how are assets. Stop counterparties from going around you once they know your sources and clients.

- Non-circumvention obligation with a defined term
- Confidentiality surviving termination
- Remedies: injunctive relief and agreed damages stated

Before your next cross-border deal, have the clauses reviewed by counsel who litigates them.

Transnational Matters PLLC represents businesses and investors in international arbitration, trade disputes, and investor-state claims.

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