

Galvanize Law

TRADECRAFT INDUSTRIES

LUNCH & LEARN SERIES

BY GALVANIZE LAW

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*Contracting for Success:
Understanding Risk Allocation in Contracts*



ATTORNEY PROFILE



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Named in the inaugural class of “Best Lawyers: Ones to Watch” in both Construction Law and Product Liability, Mr. Krueger is an experienced attorney handling all phases of high-stakes litigation, risk-management, contract negotiation and drafting, and business transactions. His experience includes shepherding and litigating all phases of complex disputes in state and federal courts and he advises sophisticated clients on business transactions and risk management.

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ABOUT GALVANIZE LAW

A PROGRESSIVE LAW FIRM SERVING THE CONSTRUCTION INDUSTRY

Galvanize Law Group, LLC is a progressive law firm focused on serving the needs of the construction industry. We are passionate counselors and advocates who enjoy learning about our clients and offering them real solutions as they build their companies and navigate both simple and complex legal issues.

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Why contracts are an important risk management practice



- **Sets Parties' expectations**
- **Acts as a menu during disputes**
- **Payment**
- **Dispute Resolution**
- **Attorney's fees**



What is the right contract for you?



- **Fixed Fee**
- **Cost-Plus**
- **GMP**
- **Master Service Agreements**
- **Other types**



Fixed Fee



- **Set time and price**
- **Risk is primarily borne by contractor**
- **Utilizes change orders**
- **Simplified billing**



Cost Plus

- **Price is not set; time may be set**
- **Risk is shared by contractor and owner**
- **Change orders not necessary**
- **Billing must show work**



Guaranteed Maximum Price



- Do not exceed price; time may be negotiable
- Risk is borne more by contractor
- Change orders necessary if changing maximum price
- Billing must show work



Master Service Agreements



- **Utilized between contractors**
- **“Master” agreement**
- **Each job has its own proposal/work authorization**
- **Necessary essential terms**
- **Renewals and Termination**



Other Types of Contracts

- **Non-disclosure agreements**
- **Confidentiality agreements**
- **Partnership agreements**
- **Operating agreements**
- **Sales contracts**
- **Warranty**
- **Commissions**



Key Risk-Management Provisions in Every Contract

- Contract Price
- Time of performance
- Payment and Billing Procedures
- Force Majeure/Cost Escalation
- Effective Date
- Termination
- Warranty provisions
- Insurance
- Dispute resolution
- Available Damages
- Attorney's Fees



QUESTIONS?





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