



International Dispute Resolution 2.0: Innovative Tools to Empower Clients

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Contract disputes in the life sciences sector can be complex, costly, and disruptive. Clients turn to Sidley for guidance, knowing we are able to help them both avoid and resolve such disputes efficiently and successfully. We have recently developed three innovative tools that enable our clients to build robust dispute resolution clauses, rigorously evaluate claims, effectively present complex issues of damages, and make recovery decisions. These tools can be tailored to a wide spectrum of scenarios, quickly arming clients with the information they need to make sound dispute resolution decisions.

Developed by Sidley's Geneva-based International Arbitration team and in-house economists, our signature tools use multiple-choice questions to generate user-friendly analyses that empower our clients to take on three critically important challenges:

- (1) choosing the best dispute resolution clauses for contracts
- (2) deciding whether to settle or litigate contract claims
- (3) calculating damages for complex claims

Tool 1: Arbitration Clause Builder

A robust dispute resolution clause, or arbitration clause, is an important risk management tool that protects the business deal secured in a contract. Our Arbitration Clause Builder enables contract negotiators to easily draft dispute resolution clauses for any situation, giving clients peace of mind that their dispute resolution policies are implemented correctly.

The tool is individually built for each client based on an analysis of the client's policies and preferences. It asks some easy, client-specific multiple-choice questions about the contract. Once all questions are answered, the tool builds a dispute resolution clause that includes key elements such as the institutional rules chosen, the seat and language of the arbitration, and the number of arbitrators. It can also include provisions on amicable settlement and applicable rules of privilege. The tool proposes a fallback clause in the event that the counterparty objects to the primary clause.

Please [click here](#) to see an example of Tool 1: Arbitration Clause Builder.

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Tool 2: Risk-Based Claim Calculator

When contract disputes arise, life sciences companies must decide at an early stage whether to litigate or agree to a settlement. Our Risk-Based Claim Calculator helps clients make informed dispute resolution decisions. The tool enables a client to assess the chances of success for each key question of liability and damages, and on that basis, it automatically calculates the probability of different claim outcomes and a net claim value that estimates the client's overall risk.

In doing so, the tool helps in-house counsel communicate effectively with their internal clients, facilitates the evaluation of settlement offers, and allows for a meaningful cost-benefit analysis of litigating.

This tool is typically developed as part of an early case assessment exercise, where we analyze the key factual and legal issues in dispute, review the relevant documentation, and conduct interviews of potential witnesses. At the end of this exercise, we can make better-informed recommendations about next steps and the costs and benefits of pursuing litigation versus settling the claim.

Please [click here](#) to see an example of Tool 2: Risk-Based Claim Calculator.

Tool 3: Damages Calculator

Companies face enormous challenges in presenting complex claims for damages in a compelling and easy-to-understand manner. For example, in development and licensing cases, numerous issues in dispute may each have an impact on quantum. Our Damages Calculator enables claimants to provide arbitral tribunals with a user-friendly tool that makes it easier to reach correct and favorable decisions on issues of quantum. Depending on the answer to each question, the tool automatically adjusts the subsequent questions in order to correctly proceed through the analysis and accurately calculates the claim amount. This tool can complement the very substantial expert reports on damages that parties frequently submit in arbitration and can help simplify the damage calculations for the arbitral tribunal.

Please [click here](#) to see an example of Tool 3: Damages Calculator.

If you would like to discuss how your company can benefit from these signature dispute resolution tools, please contact your Sidley relationship partner or one of the authors of this article.