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Alliance contracts: Utility and enforceability – Trevor Thomas

This article considers the objectives of alliance contracts as well as some of the potential difficulties they pose. In particular, it addresses the enforceability of “no blame, no dispute” clauses by considering whether such clauses could evidence a lack of intent to create legal relations; whether they could render the consideration under an alliance agreement illusory; whether they can be effective as exclusion clauses; and whether they could constitute an attempt to oust the jurisdiction of the courts. The article also considers the potential implications of a duty of good faith between alliance participants and whether alliance agreements have the potential to give rise to fiduciary duties. 329

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