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10 PRACTICAL TIPS FOR NEW NEGOTIATORS

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“*INGENUITY*, RATHER THAN CONFRONTATION, WILL SOLVE THE PROBLEM THAT APPEARS TO BE INSURMOUNTABLE.”

EN

ABOUT F1F9

F1F9 provides financial modelling and business forecasting support to blue chip clients and medium-sized corporates. We also teach financial modelling skills to companies around the world. Our clients have access to high quality, low-cost modelling support delivered by over 40 professional modellers.

F1F9 co-developed the FAST Standard that allows modellers and non-modellers to work together and understand financial models. Transparency is the core value that drives our modelling and our business activities.

F1F9 ENERGY & NATURAL RESOURCES TEAM

F1F9's dedicated Energy & Natural Resources modelling team is led by Daniel Prinsloo. Daniel has more than 20 years of Energy & Natural Resources experience. With a strong technical background in chemical and process engineering and a further qualification in computer science, Daniel has worked in a number of major commercial functions and gained extensive experience in strategy development, project evaluation, business development and commercial agreements.

Daniel's commercial negotiation and valuation experience covers Algeria, Australia, China, Iran, Latvia, Lithuania, Malaysia, Netherlands, Nigeria, Qatar, Russia, South Africa, Tanzania and the United Kingdom. He has a proven ability in the development of multibillion dollar energy investment opportunities and providing the financial models used to support these investments while ensuring high standards of quality control are maintained.

DANIEL PRINSLOO
DIRECTOR, ENERGY & NATURAL RESOURCES

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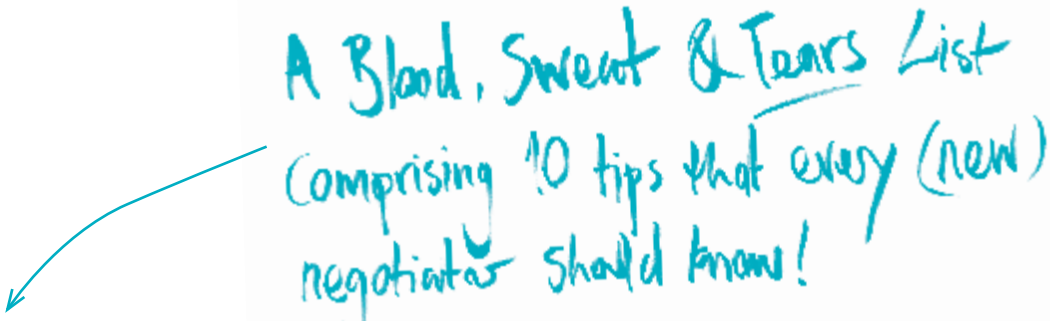

INTRODUCTION

A commercial manager recently approached me asking if I had any practical tips for new negotiators since most literature discusses ideals rather than the real world.

I have spent most of my career in the oil and gas sector either supporting or leading negotiations. Oil and Gas deals tend to be long term and have a high monetary value.

Add to this the diverse corporate personalities and cultures of the major oil and gas companies, the independent exploration and production companies and government entities – to name but a few key stakeholders. The dynamic is always interesting, challenging and at times nerve-wracking.

I have been lucky to have the opportunity to assess what does and does not work. Perhaps you might think there is a winning recipe or a secret ingredient of success.

Unfortunately, there is no one correct way. However, I have taken my learning and turned it into this; a blood, sweat and tears list comprising 10 negotiation tips that every new negotiator should know.

It could easily be a much longer list. However, if you keep these 10 points in mind, I think you might increase your chances of achieving a successful deal.

Let us look at it from a "glass is half empty" perspective; bad negotiators can cause significant financial loss to their company and also reputational damage.

Such damage is not always publicised, but when I open a newspaper and read an article about a permit that a government has withdrawn, followed by an announcement that parties have reached a new deal – or that a company has revalued a recently signed deal – then I assume as a starting point that somewhere during the negotiations things have gone awry.

I hope you find these 10 practical tips valuable as you embark on your journey as a negotiator.

Daniel Prinsloo

1 START WITH THE *END* IN MIND

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START WITH THE *END* IN MIND

HAVE A CLEAR MANDATE

Your mandate is the range of parameters or outcomes within which you can negotiate.

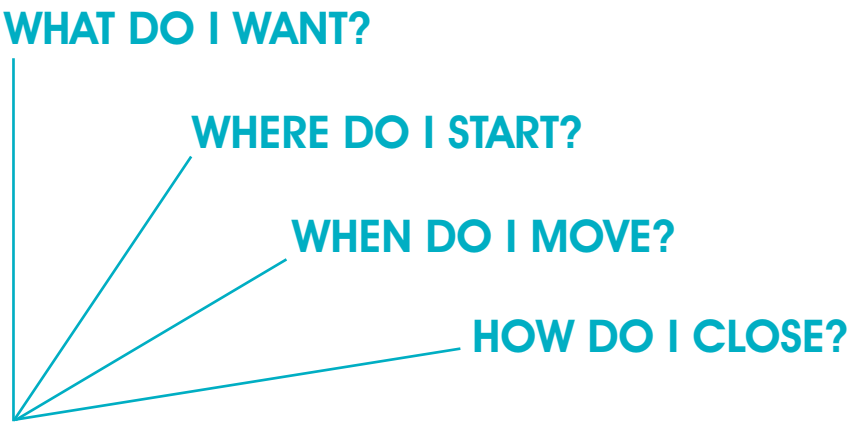
You need to be very clear in your negotiations about what you are, and what you are not, allowed to negotiate.

The benefit of knowing your remit is:

You will take pressure off yourself. You stop worrying whether you should have done something or not. You focus better on the deal.

You maintain credibility and save the phrase "I need to check with my manager…" for when you really need it.

Not knowing your mandate may result in a sub-standard deal or, even worse, no deal at all for your company.



4 KEY QUESTIONS

2 PROTOCOL—GET IT RIGHT

[Make sure that meetings are attended by the right people...]

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PROTOCOL—GET IT RIGHT

MOST ORGANISATIONS AND GOVERNMENTS ARE SENSITIVE TO PROTOCOL.

Make sure that meetings are attended by the right people – sending those with inappropriate levels of authority can be seen as a negative.

Have clear objectives for each meeting.

Develop a communications protocol to ensure the consistency of your message is delivered.

Identify key decision makers and those who might block key decisions.

Understand the organisational structure.

Assign responsibility for relationships.

Manage the agenda.

Invite senior management to early meetings so that they may agree boundaries.

Clearly identify what will be discussed so that you are properly prepared and the right people are attending the discussions with you.

Listening *is a vital part of communication.*

3 ROUND TABLE

[Lone Ranger Vs The A-Team]

[THE A-TEAM]

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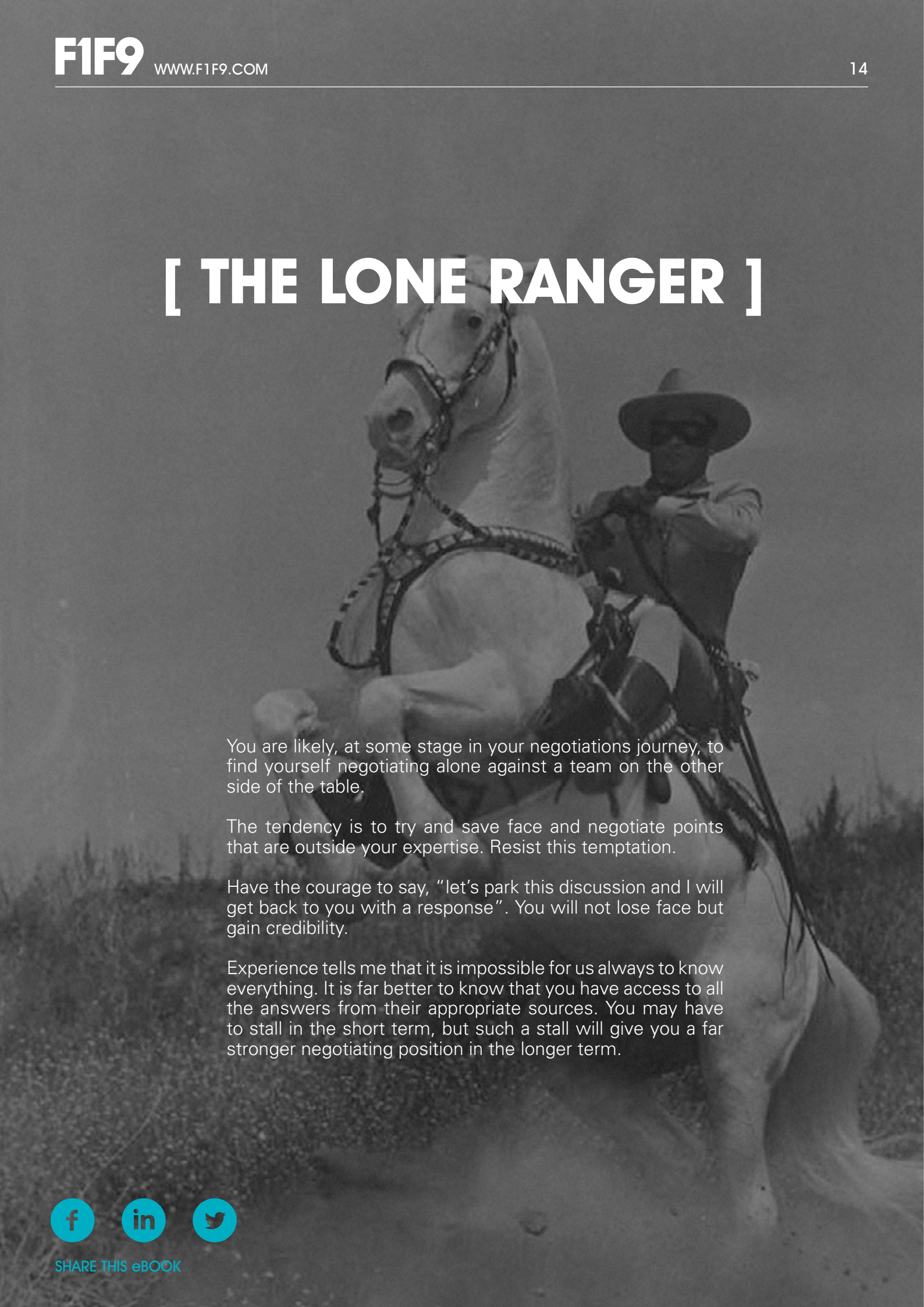
[THE LONE RANGER]



You are likely, at some stage in your negotiations journey, to find yourself negotiating alone against a team on the other side of the table.

The tendency is to try and save face and negotiate points that are outside your expertise. Resist this temptation.

Have the courage to say, "let's park this discussion and I will get back to you with a response". You will not lose face but gain credibility.

Experience tells me that it is impossible for us always to know everything. It is far better to know that you have access to all the answers from their appropriate sources. You may have to stall in the short term, but such a stall will give you a far stronger negotiating position in the longer term.

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4 IT TAKES TWO TO TANGO

[...do not feel obliged to move your position.]

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IT TAKES TWO TO TANGO

IF THE OPPOSITE PARTY REFUSES TO MOVE ON A POINT THEN DO NOT FEEL OBLIGED TO MOVE YOUR POSITION.

Too often I have seen one party refusing to provide a counter offer to another party's initial offer. The party with the initial offer then feels obliged to move from their position.

If you continue to make proposals while the other party resists making counter offers, then you risk compromising your negotiating position.

A good way to make progress is to:

Listen to the other side.

Make your position clear.

Make rational arguments.

Ingenuity, rather than confrontation, will solve the problem that appears to be insurmountable.

If all else fails *then say, "we will continue this discussion once we have received your counter offer…"*

5 BE PRACTICAL

[Who will clean up after you?]

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BE PRACTICAL

WHEN YOU NEGOTIATE, ALWAYS ASK YOURSELF THE QUESTION: "HOW WILL THIS BE IMPLEMENTED ONCE THE CONTRACT IS SIGNED?"

In other words, who will clean up after you?

I had the opportunity to work with a seasoned negotiator in my early days and one of his more memorable quotes was, "if they have to appoint a team to manage the agreement, then I have failed as a negotiator".

KEEP THINGS SIMPLE.

Speak to the people who will be affected by the contract. It is important to be clear on how the contract will be implemented. For example: how do you raise invoices? Do you have the information you need when you need it?

If you cannot make a contract work once it has been signed then the door might be opened for a renegotiation or, even worse, a dispute.

Identify an implementation team who will focus on contract compliance and avoid penalties.

I was involved recently in a deal looking at the practical implementation of a contract. It became evident that the negotiating team had never discussed the contract with their finance department. What was agreed could not be implemented and the other party to the contract used this to renegotiate the whole deal.

Ask the following: *"Who is going to do what you have documented?"*
"What are the procedures and work instructions?"

6 DRAFTING

[Avoid the temptation of just fixing the *pot holes*...]

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DRAFTING

The world is changing with remarkable speed and so too is the business environment. Contracts are likely to require amendments during the negotiation process.

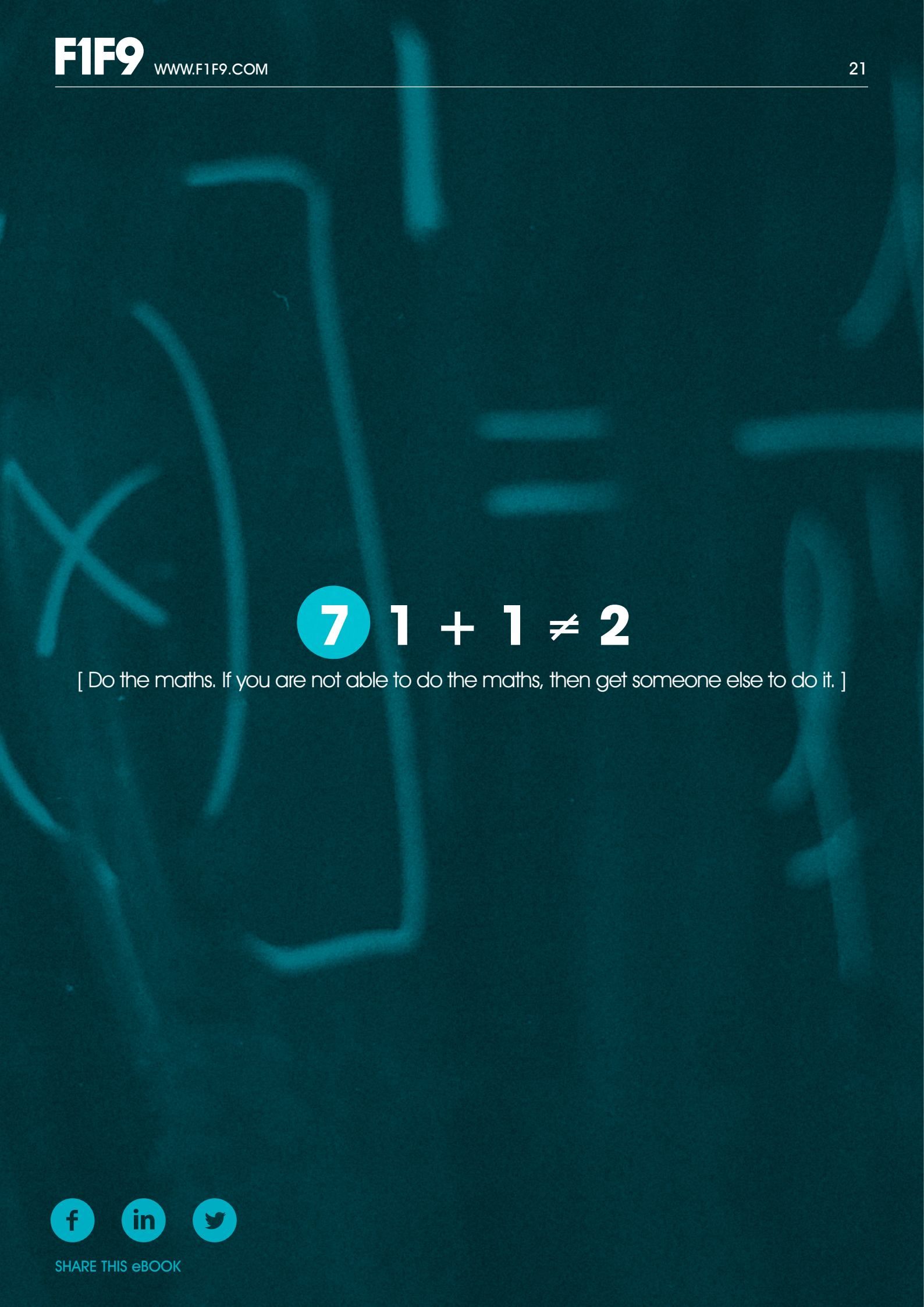
Avoid the temptation of just fixing the "pot holes" i.e. the one or two clauses you need to change. Take the opportunity to revisit the whole contract (since the small changes may have had a bigger impact on the risk-reward profile of the original deal).

Contract amendments can lead to errors that cause problems in the future – for example contracts with cross-references that no longer make sense.

It is rarely a good idea to postpone the documentation of key agreements until after the start of operations.

Have a timetable and understand the relationship between agreements and where value might be extracted.

Pay attention *to the drafting!*



7 1 + 1 ≠ 2

[Do the maths. If you are not able to do the maths, then get someone else to do it.]

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1 + 1 ≠ 2

NEGOTIATING WITH A MODEL...

Contracts frequently contain formulas. These might relate to pricing, invoice amounts, indexation etc.

Do the maths. If you are not able to do the maths, then get someone else to do it. Either way, make sure that the formulas are correct – and that you understand them.

This is an area where errors frequently sneak in, for example misinterpreting units of measure.

Make sure everyone has the same understanding of how the mechanism will work. Make sure everybody reviews the mechanism and agrees to a worked example in an Excel spreadsheet.

When unsure, say ***"I want an example."***

8 LEAVE MONEY ON THE TABLE

[Negotiators are not poker players...]

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LEAVE MONEY ON THE TABLE

TO QUOTE *KA-SHING*, THE GREAT PROPERTY TYCOON:

"...leave money on the table for your partners. Not only will you be very rich, you will be very happy. If you allow your partners to benefit from the deal, they always come back and want to do business with you. There will never be a shortage of opportunity."

The phrases "leave money on the table" and "winner takes all" originate in poker.

Negotiators are not poker players. Negotiations are a process of give and take.

If the deal is too good (i.e. you have won it all) then you risk setting yourself up for future disputes and resentment.

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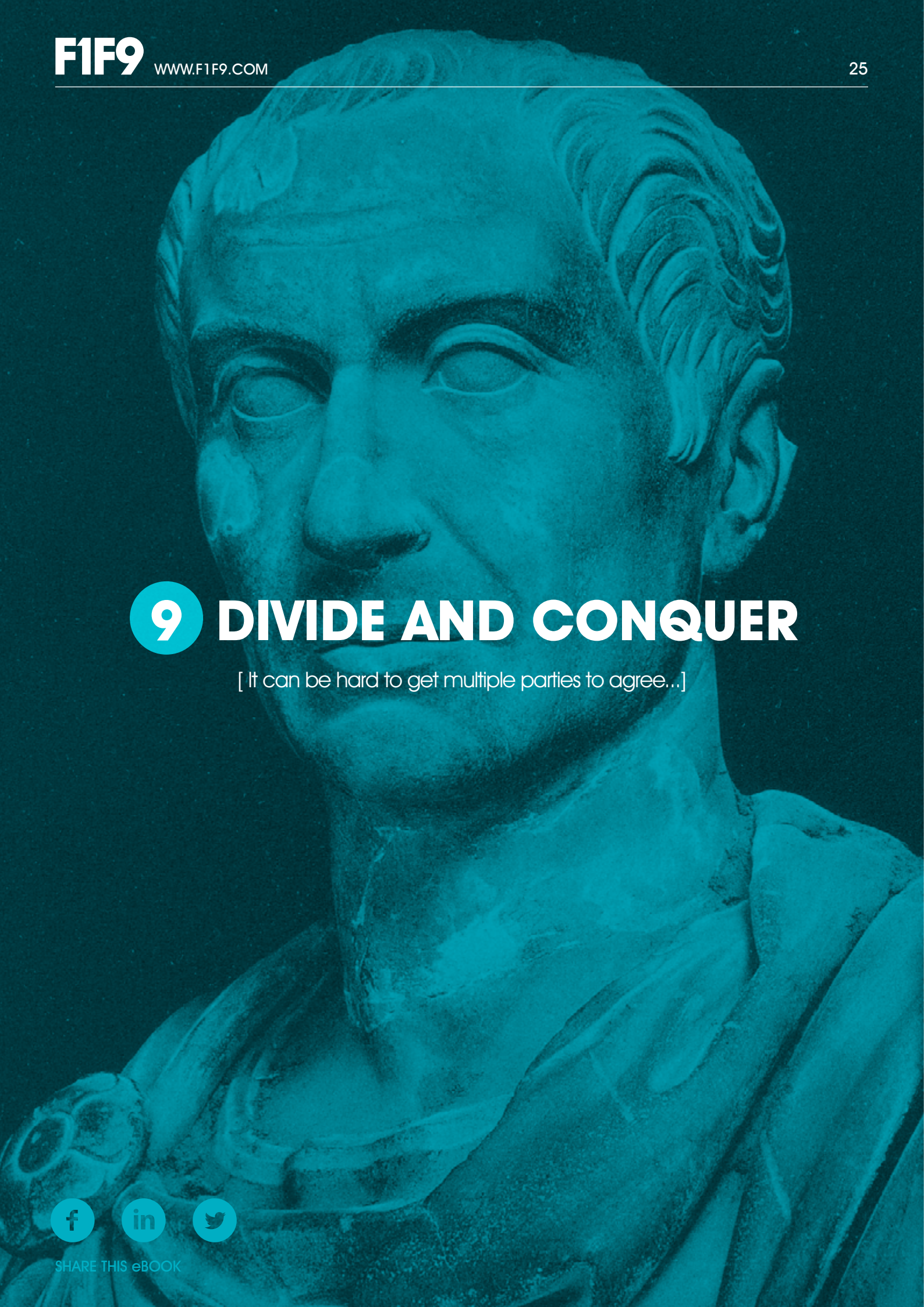

9 DIVIDE AND CONQUER

[It can be hard to get multiple parties to agree...]

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DIVIDE AND CONQUER

CLASSIC MILITARY "DIVIDE AND CONQUER" STRATEGIES SPLIT ENEMIES INTO TWO OR MORE GROUPS TO INCREASE THEIR VULNERABILITY TO ATTACK.

Neither rush the end game nor delay it interminably. It is frequently thought that having all parties in one room will save time. However, it can be hard to get multiple parties to agree, often owing to the number of strong personalities in the room.

You risk placing yourself in a "one vs. many" position and you might lose the benefit of trading one party's position against another's.

Perceived scarcity *generates demand.*

10 THE HANDSHAKE

[Think twice before you go back on something...]

THE HANDSHAKE

AIM FOR A 'WISE AGREEMENT'...

Meet the legitimate interests of each side to the greatest extent possible. By doing this, you build the foundation of your negotiation on your personal integrity.

When I was much younger, I had the opportunity to be part of a gas price negotiation and the Chief Operating Officer agreed a pricing formula with his counter party.

Soon after, the counter party reneged on other clauses in the contract. This justified re-opening the gas price formula. The Chief Operating Officer chose not to re-open discussions.

When I asked him why he left the pricing formula as it was, he replied, "my integrity is worth more".

In the process of reaching a final deal you will have agreed many points. Think twice before you go back on something that both parties have accepted as final.

*You will be judged on your **integrity.***

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