

## **REVIEW OF CONDITIONS IN CONTRACT / AGREEMENT POST COVID-19**

Agreement(s)/Contract(s) are a part of everyday life, be it opening a bank account, investing in mutual funds, buying a house or entering into an employment, etc.

All kind of transactions require you to enter into an Agreement, which might be oral or written...

***But what if the conditions in the Agreement / Contract become outdated with the change in outside world? In the wake of pandemic Covid-19, many things got changed. Perceptions got changed.. Do our old agreements getting outdated for now with the new perception?***

**Who thought Work from Home would become NEW NORMAL!!! And who thought meeting can be held in physical form only?**

**Does the Agreement signed by you include the clause-FORCE MAJEURE? As this is a need of an hour to every person entering into any Agreement/Contract!!**

### **IMPACT OF COVID-19 LOCKDOWN ON CONTRACTS**

#### **Force Majeure Clause**

A common clause in Contract/Agreement that essentially free's parties from liability or obligation when an extraordinary event or circumstance beyond their control happens. In the absence of a Force Majeure clause, parties to Contract/ Agreement are left to the mercy of the narrow common law contract doctrines of "impracticability" and "frustration of purpose," which result in excuse of performance.

Force Majeure, being the least used clause in a contract, *it has now become the most scrutinised and the most invoked clause of COVID-19 times*, in any contract. Often times, contract did not even incorporate a Force Majeure clause. Make sure that the Contract/Agreement has a Force Majeure clause as it cannot be implied and in the absence of it, the bar for showing frustration of a Contract/Agreement is much higher on the defaulting party.

#### **Suspension of existing Contractual Obligations**

In the situation of COVID-19, a lot of contracts got 'terminated'. The rights and obligations of the parties were brought to HALT. **Most contracts fail to provide for an exit route for a while.** In the COVID-19 scenario, it has been observed that very few contracts provide for **suspension of a contract and most of them provide for termination instead.**

### **CONTRACT/AGREEMENT IN THE POST COVID-19 ERA**

Even after the lockdown is lifted, the consequence of it shall continue to stay with us for a longer period. We can never go back to the normal life like it used to be. We will have to adapt to a new, post-COVID19 world and hence there is a need to include implementation of certain new risk analysis and risk identification

**Disclaimer: -**

The content herein is provided for understanding of Law and shall not be construed as Legal Advice or Legal Service

measures in commercial contracts. Certain steps that can be taken by businesses in the post-COVID19 era include:

**1. To include Force Majeure Clauses**

The COVID-19 Pandemic is a typical example of a force majeure event that could not have been predicted by anyone. Businesses must have comprehensive force majeure clause that specifies a certain force majeure events, in addition to other unspecified event leave a scope for protection against unpredictable events in the future and which is not rigid in nature.

**2. Including fair and practical exit mechanisms/clause in a contract**

Most of the Contracts/Agreement does have exit clause, but the same is very rigid and inflexible. The Exit clause must be fair and practical to both the parties to Contract/Agreement.

**3. Analysis to assess the rights and obligations of a party from time to time and have sufficient scope for amendment**

Uncertainty in fulfilment of obligations during pandemic COVID-19 has proved to be such a big setback factor for business. Thus having access to the rights and obligation of the parties and providing room for amendment depending upon the situation arises over a period of time is much needed today.

**4. Periodic and thorough implementation of policies that incorporate contract vetting and risk assessment of legal obligations**

This will improve the quality of contracts and ensure that a contemporary and steady safeguard mechanism exists in contracts. This will also ensure that contemporary risk management and damage control strategies can be implemented in time to anticipate contractual shortcomings.

An agreement/contract review requires diligence and an eye for detail. Managing expectations, focusing on outcomes and getting the key information are few aspects which need to be worked upon for better outcomes. **There should be someone who can examine the contract, explain the contract to you, and even suggest changes that are in your best interest.**

We are Happy to Assist You.

**Please feel free to reach out to us!!!**

<b>E-mail us at</b>	<ul style="list-style-type: none"><li>➤ <a href="mailto:kbaglacs@gmail.com">kbaglacs@gmail.com</a>,</li><li>➤ <a href="mailto:maheshgbagla@gmail.com">maheshgbagla@gmail.com</a></li></ul>
<b>Call us on</b>	<ul style="list-style-type: none"><li>➤ +91-9049000431, +91-7249136913</li><li>➤ +91-7875795779</li></ul>

Thanks and Regards

Team ~ K. Bagla & Associates

**Your Compliance Partner!**

**Disclaimer: -**

The content herein is provided for understanding of Law and shall not be construed as Legal Advice or Legal Service