

Contract Tips, Tricks and Traps

NATALIE L. ARBAUGH, TIM BIGGIO

© 2020 Winston & Strawn LLP

1

Agenda

- The Contract Marriage Life Cycle
- Limitations of Liability
- Indemnity
- Force Majeure
- ADR

© 2020 Winston & Strawn
LLP

2

2

Big Picture In-House Counsel Perspective

WINSTON
& STRAWN
LLP

© 2020 Winston & Strawn LLP

3

“Contract Storyline”

We shouldn't view provisions in isolation; Forming of a contract is the forming of a relationship.

Roles & Responsibilities

“Engagement” “Rush to Signing”

- Design, draft, negotiate approval of the contract
- Ensure that agreement reflects meeting of the minds
- Document Key Material Terms best way you can.
- Inhouse drives process.
- Outside counsel involvement is variable.

“Marriage” “Living the Contract”

- Understand & operationalize contract to avoid breach and to perform
- Contract obligations interpreted midstream to adapt to unanticipated storylines
- Communication – good/bad?
- Inhouse counsel lives this day-to-day, next to the Client
- (We hope not to need to call Outside Counsel)

“Break-Up” “Oh Crap. Now what?”

- Break-Up is imminent or Benefit of Marriage did not materialize
- Contract analyzed for contingencies, termination, etc.
- Dispute needs to be resolved
- Outside counsel brought in if break up is “bad”
- Inhouse conducts damage control

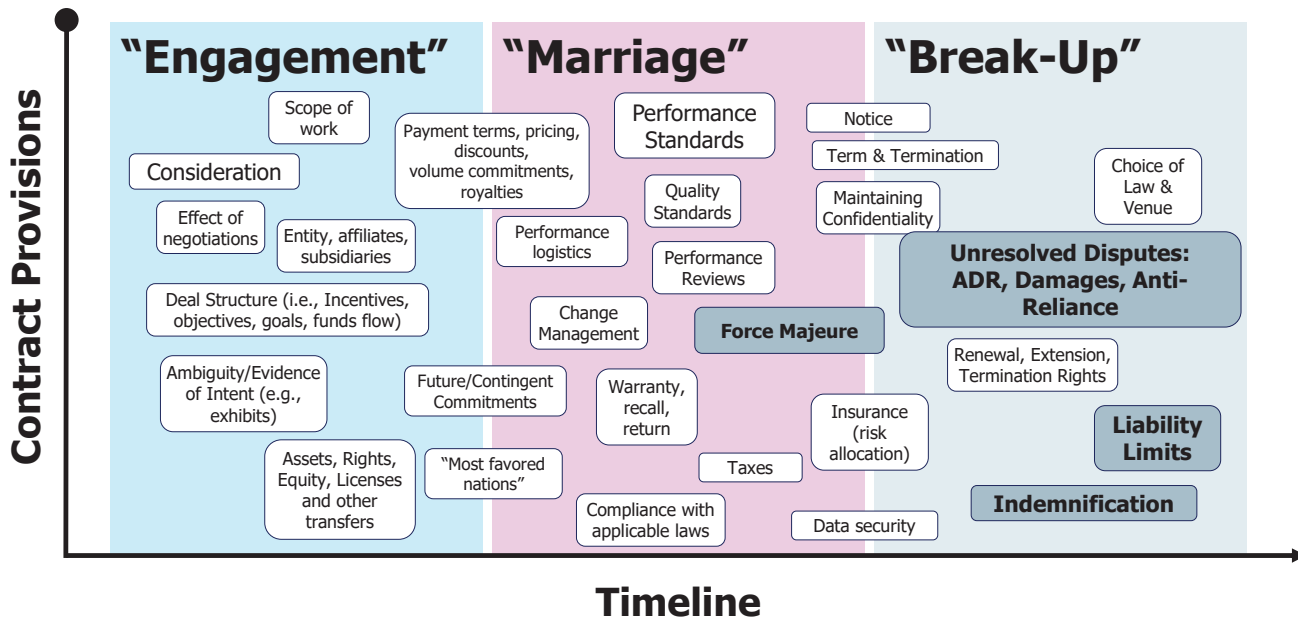
Timeline

© 2019 Albert Li & Sara Scully

4

4

Contract provisions may create varying risk-reward, importance & timing dynamics depending on the Storyline...



© 2019 Albert Li & Sara Scully 5

5

Limitations of Liability

WINSTON
& STRAWN
LLP

© 2020 Winston & Strawn LLP

6

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Contract Tips, Tricks and Traps

Also available as part of the eCourse
[2021 Corporate Counsel eConference](#)

First appeared as part of the conference materials for the
43rd Annual Corporate Counsel Institute session
"Contract Tips, Tricks and Traps"