

# 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

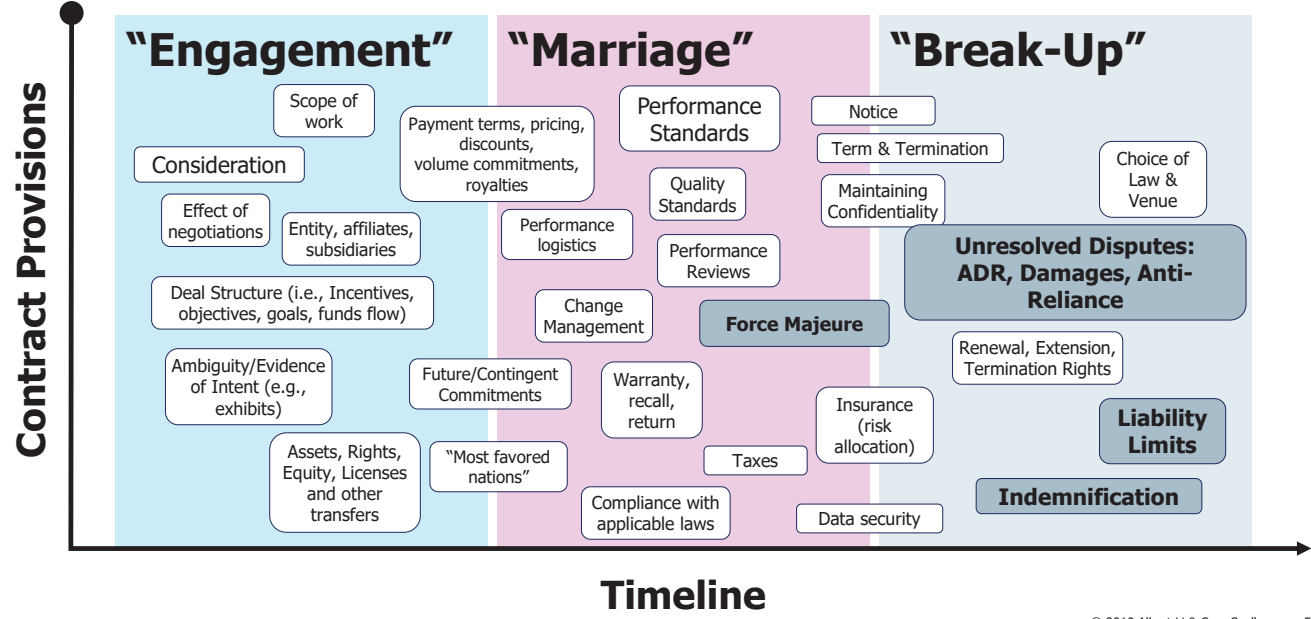
**Timeline**

© 2019 Albert Li & Sara Scully

4

4

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



# Limitations of Liability

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

43<sup>rd</sup> Annual Corporate Counsel Institute session

"Contract Tips, Tricks and Traps"