



# **Contract Law: From Eh to Zed**

**Ultimate Guide to  
Almost Everything  
You Might Want to  
Know about  
Canadian Contracts**

**Levine  
Law**

## Alternative Dispute Resolution (ADR)

- ▶ Methods of attempting to resolve a dispute without going to court. Arbitration, Mediation and negotiation are types of ADR. Contracts may contain a clause requiring the Parties to that contract to follow specific processes if a contract-related disagreement occurs. Such a clause may prevent a Party from starting court proceedings at all or without first following the prescribed process.

## Arbitration

- ▶ A method of dispute resolution where a private tribunal determines the resolution of a dispute between the Parties to a contract.

## Arbitration

- ▶ Failure by a Party to a contract to comply with one or more Conditions of the contract. A breach of contract will make the whole thing Void and can lead to Damages being awarded against the breaching Party.

## Defined Terms

- ▶ A word or a group of words can be defined to have specific meaning in a contract, to prevent misinterpretation of that word or group of words. By convention, such definitions are indicated by capitalising the first letter of each word in the term, such as 'Building' or 'High Value Property'. The definitions may be pre-defined, appearing in a specific definitions clause, where each defined term is followed by the desired meaning of that term. Definitions may also or instead be post-defined, appearing in the body of any particular clause after a group of words, such as 'Duties are to commence between 6am and 8am ('Start Time')'.

## Condition

- ▶ An essential or fundamental term in a contract. Failure of a condition results in Breach of Contract.

## Confidential

- ▶ A secret or something that should not be disclosed except under specified circumstances.

## Consideration

- ▶ The benefit given by each Party to a contract to the other Party in exchange for the contractual promise of another Party to the contract. The benefit exchanged can be something physical like equipment, monetary, behavioural like an action or inaction, anything that has some value to the provider of the benefit.

## Counterpart

- ▶ A copy of a contract, often created so that each Party to the contract may have its own copy. A contract may contain a Counterparts clause allowing the Parties to each sign their own copy of the contract rather than require all Parties to sign the one copy.

## Cure Period

- ▶ when a Default occurs, the breaching Party may have a certain period of time to cure the Default before the non-breaching Party is allowed to exercise Remedies. The non-breaching Party may need to give notice to the breaching Party before the time period.

## **Damages**

- ▶ An amount of money sought or awarded to a Party to a contract to compensate for the loss that Party has suffered due to a Breach of Contract.

## **Deed**

- ▶ A special type of legally binding and enforceable contract that does not require Consideration to pass from one Party to another.

## **Default**

- ▶ The circumstances where a Party to a contract is considered to be in Breach of Contract.

## **Deliverables**

- ▶ A collective name for all those tangible things that a Party to a contract is required to supply, often by an agreed date.

## **Entire Agreement**

- ▶ A clause in a contract stating that the written document is the complete understanding between the Parties. Any statement or promise made by a Party to the contract that is not in that written document will not be considered part of the legally binding contract, and cannot be relied upon in relation to the contract.

## **Express Terms**

- ▶ The terms actually written in a contract or verbally agreed before or at the time the contract is made. See Implied Terms.

## Force Majeure

- ▶ The circumstances or situations described in a contract that may prevent one or more of the Parties to the contract from performing their contractual obligations. The occurrence of such circumstances or situations may excuse the affected Party.

## Governing Law

- ▶ The union, country or state / provincial laws applicable to a contract. The Governing Law will be used by the courts to interpret and make decisions about the contract in the event of a contractual dispute where the Parties are not based in the same union, country or state / province. This clause is normally coupled with a Jurisdiction clause.

## Implied Terms

- ▶ The terms that are implied in a contract by law, custom and practice without actually being mentioned in writing or verbally by any Party to the contract. Terms implied by custom and practice can always be overridden by Express Terms, but some terms implied by law cannot be overridden at all.

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## **Indemnity**

- ▶ A contractual obligation on a Party to a contract to compensate for any loss another Party to the contract may suffer in the circumstances that are the subject of the Indemnity, such as payment of reasonable court costs in the settlement of a contractual dispute.

## **Injunction:**

- ▶ A court order sought by a Party to a contract to make another Party to the contract do or stop doing something. It is sought urgently where the whole purpose of the contract would be defeated and Damages would not adequately compensate the Party seeking the Injunction for the loss it is likely to suffer from the other Party's actions or omissions.

## **Insolvency**

- ▶ The situation where a person or business is unable to meet their financial obligations. See Bankruptcy, Liquidation and Receivership.

## **Intellectual Property Rights (IPR)**

- ▶ Legal rights relating to the ownership of intellectual, industrial or artistic work, including, Inter Alia, patents (inventions), designs (graphics), trademarks (names or marks used to identify goods) and copyrights (rights of authorship).

## **Joint and Several Liability**

- ▶ In a contract where the Parties act together as partners, as well as being responsible together, each Party is also individually liable for the entire contract.

## **Jurisdiction**

- ▶ The place where a Party to a contract without any Alternative Dispute Resolution clause must bring court proceedings if there is a dispute about the contract.

## **Key Performance Indicator (KPI)**

- ▶ A qualitative or quantitative factor that can be measured to assist in determining whether or not a contract is, or is on track for, meeting its objectives. KPIs should be regularly and systematically reviewed in order to identify any issues or concerns as early as possible.

## **Liability**

- ▶ A Party to a contract's legal obligation, on its Breach of Contract, to compensate another Party to the contract for any harm so caused.

## **License**

- ▶ A method by which the owner of physical or Intellectual Property (the licensor) allows someone else (the licensee) to use it in some prescribed manner, typically but not always for a royalty or a fee.

## **Limited liability**

- ▶ A Party to a contract's financial liability may be limited to a fixed sum, commonly some fraction or multiple of the value of the fees paid by another Party to the contract over the preceding 12 months.

## Liquidated Damages

- ▶ A contract provision that estimates and fixes in advance the sum payable as Damages for a Party to the contract's Breach of Contract.

## Liquidation

- ▶ the formal dissolution of a business by the sale or transfer of its assets to pay a debt. This often occurs as a result of Insolvency, but a solvent business can be liquidated if it no longer wishes to continue trading.

## Litigation

- ▶ The conduct of court proceedings to resolve a dispute.

## Material Breach

- ▶ A Breach of Contract which has a serious, not merely trivial or inconsequential, effect on the benefit which the non-breaching Party to the contract would otherwise have gained from the contract.

## Mediation

- ▶ A form of Alternative Dispute Resolution where an independent person meets with the Parties to a contract to help them formulate their own resolution to a conflict.

## Obligation

- ▶ Something which must or must not be done by one or more Parties to a contract.



## Party

- ▶ Any individual, group or organisation participating in a contract. 'Parties' has a corresponding meaning.

## Period

- ▶ The length of time a contract is expected to be in force (see also 'Term')

## Recitals

- ▶ A section in a contract that states who the Parties are and their reasons for entering into the contract. Sometimes called 'Background' or 'Preamble'.

## Remedies

- ▶ The measures, including Damages and Injunctions, that can be taken by a court to help a Party to a contract in the event of Breach of Contract by another Party to the contract.

## Representations

- ▶ Statements or promises made as a fact by one Party to a contract to another Party to the contract.

## Rights

- ▶ The things a Party to a contract is entitled to do or not do as the case may be.

## **Risk**

- ▶ Refers to the possibility of loss or damage that might arise during the performance or execution of a contract.

## **Services**

- ▶ Refer to actions or tasks performed by one party (the service provider) in exchange for consideration (usually payment) from another party (the client or customer).

## **Services Level Agreement**

- ▶ A contractual document that specifies the standards of service that a provider agrees to deliver to a client. It outlines key performance indicators (KPIs), benchmarks for service quality, timelines, and remedies for failure to meet the agreed-upon standards.

## **Severability**

- ▶ The allowance a contract for removal or correction of portions of the contract that are incorrectly or illegally drawn up, allowing the remainder of the contract to be valid and enforceable.

## **Term**

- ▶ Either (a) the length of time for which a contract operates (see Period) or (b) any contract clause (see Condition).

## Termination for cause

- ▶ A contract may identify the conditions under which a Party to the contract could terminate a contract due to another Party's material breach of the contract, such as becoming bankrupt or insolvent, failing to comply with confidentiality provisions, or failing to perform obligations due to a force majeure event. Depending on the nature of the breach, the non-breaching Party may terminate the contract immediately with or without notice, or provide the breaching Party with prior notice and an opportunity to cure the breach within a certain time frame, after which the contract may be terminated if the breach remains uncured.

## Termination for convenience

- ▶ A contract may allow one or more Parties to the contract to unilaterally terminate the contract without providing the other Parties to the contract with any reason. Such termination may only be allowed at certain times such as on the contract anniversary or following the end of any initial term, may require some minimum notice period, and could require payment of an early termination fee by the 'buying' Party or the refund by the 'selling' Party of the unused portion of any prepaid fees.

## Third Party

- ▶ An individual, group, organisation or other legal entity (eg. a company) that is not a Party.

## **Time is of the Essence**

- ▶ A statement indicating that the times specified in a contract are so critical that if one Party to the contract does not comply with the timing requirements, another Party to the contract can immediately Terminate for Cause.

## **Variation**

- ▶ The method agreed by the Parties to a contract for making changes to the contract after it has been signed. It usually requires that any change to the contract be in writing signed by all Parties.

## **Void**

- ▶ Making a contract unenforceable in law.

## **Waiver**

- ▶ An intentional surrendering of rights by a Party to a contract. A 'no waiver' clause can be agreed stating that no provision in the contract may be waived, except by means of a writing signed by the Party to the contract against whom a waiver is sought.

## **Warranties**

- ▶ Promises made in a contract. Failure of a warranty results in liability to pay Damages.

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Massive Value: We understand and focus on protecting the interests of small and medium-sized business

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# What Clients Value **About Levine Law**

Our systematic approach to delivering quality legal services is centered on understanding and addressing every aspect of our clients' legal matters. Clients working with us can trust that we leave no detail overlooked. Our thorough, strategic process is designed to ensure that all legal aspects are meticulously handled, giving our clients the confidence to focus on what they do best—running their business.

## **Expertise**

- ▶ Our deep understanding of corporate and contract law ensures that each client's business structure and transactions are both legally sound and strategically advantageous.

## **Personalized Service**

- ▶ We customize our services to meet the unique needs of each client's business, offering tailored advice and representation.

## **Ongoing Support**

- ▶ Our commitment to our clients extends beyond the initial engagement. We provide continued advice and make necessary adjustments as your business evolves, ensuring that your legal framework remains optimal.



*"Levine Law made the complex process of structuring my business simple and straightforward. Their strategic approach and attention to detail gave me confidence in my company's future."*

**Jonathan Mitchell**

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