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FORCE MAJEURE DUE TO COVID19 ON CONSTRUCTION CONTRACTS AND
CONTRACTOR'S ENTITLEMENT FOR TIME AND COST

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Abstract

While the novel coronavirus COVID-19 pandemic proceeds to expand globally, very many workplaces, institutions, and businesses have been locked down by authorities, state, and local quarantine measures (Bleckman & Farris, 2020). Business projects have declined excessively because of the required lockdowns and home curfew. A long period will pass before most people notice the serious impact of the economic and civil costs due to the COVID-19 outbreak (Aldhabaan, 2020). However, the widely constant current question asked by most parties is: Do this COVID-19 outbreak and the resulted interference activate the force majeure clause in particular contracts? On the other hand, do other defenses exist to inadequacies, which are likely to be used? General answers to these queries do not exist. All contracts have to be understood based on their typical contract language and laws that are stated by governing authorities. Besides, there are universal principles used to understanding force majeure clauses and general challenges that come up. Force majeure clauses in contracts assign the danger of not carrying out contractual obligations because of circumstances that are not foreseen and not controllable, leading to the suspension of performance works in the contract. These clauses are also known as "Inevitable Delay" or "Act of God" clauses (Fry, 2020).

The current eruption of the novel coronavirus COVID-19 has led to a destructive effect on the health of people and worldwide life due to significant consequences for global businesses. This study shows some of the contractual challenges faced by many organizations in concluding if their contracts allow parties to announce force majeure suspending performance of contractual obligations due to the effect of the increasing pandemic. The rights and duties of parties in a contract regarding this are a duty of the force majeure clause language, and the disagreement resolution steps acknowledged in the contract (WilmerHale, 2020). Some of the companies that

have not been impacted by the pandemic are most likely to gain from a cautious evaluation of the concessions of the contractual details in their present and examined upcoming contracts to evaluate their rights if upcoming unforeseen circumstances impact the ability of a party to carry on its contractual duties.

Force majeure

Force majeure are events that are beyond the standard order of operation of projects, unforeseeable, irresistible, and cannot be avoided. Such scenarios will occur even when the best care is taken into consideration, which incurs risks beyond reasonable control, not due to the negligence of the party suffering from them (Co, 2016). Force majeure varies among different projects about their locations in different countries. Some of the events that arise to force majeure are; wars, invasion, foreign enemies' actions, radiations, rebellions, explosives, hurricanes, earthquakes, floods, landslides, and tsunamis. Courts interpret force majeure clauses as contract clauses by the principle of interpretation of contracts. However, force majeure provisions are not applied to foreseeable events and could have been prevented if much care is taken. Force majeure clauses are categorized into two; first is exclusive clauses that specify certain circumstances and exclude others. The second is inclusive clauses that contain a universal language that doesn't limit the scope of activities (Bleckman & Farris, 2020). Application of force majeure clause considers the specific language used in a contract as the most vital factor. It is essential to understand what a contract covers and excludes since contract language widely varies. Force majeure clauses have various notice requirements and deadlines for declaration of force majeure. Force majeure depends widely on precise language drafted by different contracting parties though some jurisdictions have a right to declare force majeure into silent

contracts (Advertising, 2020). The requirement for clauses is the impossibility in preventing an event, which is a burden to contractual performance.

Clauses set additional requirements on a party that plans to declare force majeure. For example, if a force majeure event occurs, the provision will require prompt notice as soon as possible following the occurrence of a force majeure event hence simplifying mitigation of damages (ICC, 2020). A typical force majeure clause is to execute the performance of a given party. The contractual language defines the occurrence of the force majeure event. Some clauses are more visible than others when analyzing the impacts of a force majeure event and the time for which performance is not executed. Some other provisions may grant party permission to terminate the contract due to the occurrence of certain unforeseeable circumstances. Others do not include payment from the obligations which are excluded. Understanding the precise language of the clause and law that governs its applicability is critical when carrying out the force majeure clause (Bleckman & Farris, 2020). The construction sector is a unique sector that is unpredictable and incorporates different role players. Although construction claims have several issues, delay in construction projects is the most common problem and relevant issue. Due to delays in the completion of construction projects on time, owners suffer an increase in lost profits and financing costs. A significant impact is seen on many contractors of such projects since they lose opportunities and experience increased performance costs. There has been an increase in the complex nature and size of construction projects, which have made construction claims to gain much attention due to delays in the completion of projects within the specified time range. Concerning construction contracts, force majeure does not hold organizations legally responsible for unforeseen events that affect the performance of contractors (Alshammari et al., 2017).

The recent outbreak of a global pandemic of the novel pandemic coronavirus COVID-19 that was first detected in Wuhan, China, in December 2019 has a devastating impact on people's lives and human health globally (WilmerHale, 2020). However, in the early times of the novel coronavirus COVID19 outbreak, it was hard to tell if it was just an epidemic or a pandemic. The novel coronavirus COVID19 was categorized as a pandemic by the World Health Organization (WHO) on the 11th of March 2020 when it struck globally, affecting the global social-economic sector in many countries (Culp, 2020). Several countries declared states of emergency by locking down the country to fight the novel coronavirus COVID19 pandemic. Activities of very many areas were affected, giving the construction sector no exception from this. At the same time, most companies have been left with no option but to suspend all the contractual obligations of project works performance. Most companies have faced several contractual issues, whether their companies or their counterparts permit them to declare force majeure to excuse the obligations due to the impact of the increasing epidemic globally (Dentons, 2020).

The outbreak of novel coronavirus COVID19 pandemic has made many authorities to debate whether it should be invoked as a force majeure event. However, before it is considered as a force majeure event, observations must be made. Some of these observations include; first, it is essential to determine the extent to which contractual obligations' performance is impossible. In this way, it can be considered a force majeure event (Aldhabaan, 2020). The absence of restrictions on shipping and movement of materials and other goods, as indicated in the contract, should not make the performance of obligations impossible. In the construction sector, the outbreak of the novel coronavirus COVID-19 pandemic has caused a socioeconomic outfall; hence it is a great challenge for all the people involved, i.e., employees, subcontractors, suppliers, contractors, and workers (Bleckman & Farris, 2020). This is due to an enormous

disruption in many projects in construction and engineering works that have faced delays in completion, site closure, and curfew, where most workers have to work from home. Government and epidemic measures put in place have significantly impacted directly and indirectly global sectors that are mining, construction, transport, among others (Fry, 2020). Due to this, many organizations and companies are declaring a force majeure because of the inability to perform the obligations of their contracts. To rely on force majeure clause due to the current novel COVID19 epidemic, the inflicted party has to clearly show that the primary reason for not being able to meet its obligations under the contract is due to the result of the outbreak of the pandemic. This event should be the only cause for the inability to execute the contract (Neill, 2020).

In construction, the delay is analyzed in three types. These include; non-excusable delays that occur due to a contractor's actions and do not permit a contractor to recover the damages; hence, the contractor is held liable for the occurrences; excusable non-compensable delays allow a contractor extra time for the period when the delay occurred. It should be equivalent since the contractor was not the cause of the delay, excusable delays caused by the owners, and therefore entitle the contractors to compensation of additional time and delay damages (ICC, 2020). Excusable non-compensable delays result from the occurrence of force majeure events excusing the liability of extension of time but without reward. In case the contract is in civil jurisdiction, the force majeure clause is most likely not included as a concept of force majeure must be recognized in the civil code. Contractors can be entitled to additional time in case of a delay due to force majeure event occurrence and other claims for financial relief if the contract includes a hardship clause (Lumpur et al., 2020). Contractors are provided another alternative of applying to the courts; this is because of exceptional events if the hardship clause is not expressed in the

contract. In case the contract is in a common-law jurisdiction, it includes a force majeure clause that contractors rely on to get additional time and costs in case of a delay.

Additionally, there are opportunities for financial relief due to economic consequences, and claims are allowed in case there are changes in law or the contract has been terminated (Wilsoncroft, 2020). Contractors must ensure that upcoming deals include the novel coronavirus COVID19 pandemic in their contract language since force majeure is only applied where the contract is executed before the force majeure event occurs. This is to prevent the current situation in which many contractors in countries which have been slightly or not affected by the epidemic use it as an excuse to delay the fulfillment of their contract obligations.

Force majeure event has to be unforeseeable to inflicted parties, as confirmed by the court of cassation in the United Arab Emirates. The United Arab Emirates does not have a clear definition of force majeure through Article 273 of the UAE Civil Code (Federal Law No 8 of 1985). It needs a party to be in a binding contract in which the force majeure event makes execution of contract obligations impossible (Eversheds, 2020).

Suspension of works due to force majeure/epidemic and contractor's entitlement for cost and time

The outbreak of novel coronavirus COVID19 pandemic has consequently forced very many contractors to suspend their works. The right to suspend the performance of contract obligations as described in Article 247 of Federal Law No. 5 of 1985 and must be carefully applied with honesty and sincerity (Co, 2016). If a right of suspension is to be enforced, it should be equitable to the party's percentage to perform its contractual obligations. The UAE's civil law

system gives parties the freedom to agree with the contractual terms that they will use to govern their relationships as long as it doesn't oppose the provision of UAE law and morals. Suspension clauses grant parties the right to suspend their contractual obligations for some time due to force majeure events (Eversheds, 2020). However, a party must critically understand its contractual obligations and the rights stated in the contractual suspension clause. A party that is suspending its contractual obligations must consider the additional costs it will incur in the contract if it decides to suspend the performance of the projects. It should know, at which point, the other party will be legally awarded justice due to the suspension of works. There are suspensions of work clauses that permit termination of the project after a given period. Many contractors tend to suspend works on a project, although the work clause's suspension is not included in the contract (Richard & Lynsey, 2009). These contractors put themselves to a material breach of such agreements and face the consequences, which can even lead to termination of their licenses. Government-mandated policies and duties stoppage on private works in construction projects may not be categorized in the standard suspension of the work clause.

Parties that are considering suspension of work on their projects must provide the relevant notice provisions. Many contracts require a party to give the other party with a notice that is formally written, indicating the rights in suspending the works on the project (Purpose, 2007). Once the receiving party receives the formal announcement, it is expected to stop work on a project, as stated by the suspension. The receiving party is also likely to incur the costs and damages caused during the period of suspension (Neill, 2020). Contractors are most likely to recover from increasing costs and losses of performance works, which occur during a suspension period that is not reasonable, excluding the profits unlike in private construction projects. However, if the contractors cannot show the unreasonable period of suspension of works on a

project by the federal government, the contractor does not recover anything. Reasonable and unjustified suspension of tasks on a project as mandated by the federal government due to the outbreak of the novel coronavirus COVID19 pandemic is not precise (Bleckman & Farris, 2020). The explosion of the unique coronavirus COVID19 pandemic has given many parties that don't have a suspension of work clause stated in their contracts the permission to set agreements with the other parties on negotiations of suspension of works a project. This clarifies to the party will to suspend the works on a project the risks of costs and damages due to extended time and the one who suffers them. This has improved the relationships between parties that have had agreements on the impact novel coronavirus COVID19 pandemic has laid towards projects' performance works (WilmerHale, 2020). Parties must document all the events that result in the suspension of works on projects. In the case of government contracts, the contractors have to document all the activities that sum up to result in the suspension of works on the project if the suspension clause states unreasonable suspension by the government.

There several situations in which a contractor is entitled to the additional time. Delay in the Engineer's provision of drawings and instructions, errors in the employer's requirements, time delay by the employer to hand over the site to the contractor, and appearance of unforeseen and unavoidable physical conditions at the site (Lumpur et al., 2020). Other situations may include; claims from the Engineer or the employer for additional tests about the specifications, contradicting orders from the employer or the Engineer, and harsh exceptional climatic conditions. Unforeseen shortages in labor provision, delays caused by the employer's other contractors on the site, delays caused by other authorities, delays caused by changes in legislation may also be a bottleneck. These are common issues that may occur amidst the

implementation of the contract. Situations in which a contractor is entitled to costs are very many, and most are the same as entitlement to time.

However, some of these situations include,

- Incurring costs as a result of a delay in the provision of Engineer's drawings in time
- Costs incurred due to searching for any anomaly by the directives of the employer that are proved not to be caused by the contractor
- Costs incurred due to delay in the provision of test results by the employer
- Incurring losses due to the suspension of works as a result of the employer's delayed payment
- Incurring costs when fixing the contractor is the damages caused by the employer
- Costs that are incurred by the contractor due to denial of permission to access the site for project investigation
- Expenses incurred as a result of the omission of some works due to variations.
- Costs incurred due to errors in the employer's requirements.
- Costs incurred due to unforeseen and unavoidable physical conditions at a particular site
- Expenses incurred when the employer involves him or self in part of the work, which is not included in the contract, and the contractor has agreed to it
- Costs incurred due to changes which are connected to the employer's proposal that are under the value of Engineering
- Costs incurred due to the presence of fossil fuels at the site
- Costs incurred as a result of the consequences of (rebellions, civil wars within the nation. contamination due to radioactivity, damage from explosives, and so many others).

The contractor mostly benefits entitlement to time and cost because they are obligated to perform all the projects necessary to complete the projects compared to the employer. However, it has to be critically analyzed before it is invoked (Lumpur et al., 2020).

Permissible duration limit for suspension of work due to force majeure

Many force majeure clauses specify the duration in which obligations which were suspended can last. Other clauses may also provide the parties with permission to revisit the terms and conditions of the project and make the required changes due to the occurrence of a force majeure event (Advertising, 2020). The cause of suspension of work due to force majeure must be considered before giving directives on the duration in which the suspension of the work will last. This is because some force majeure events can significantly impact the works of a given contract, which may need more time duration of the suspension of the works as compared to others. In the case of novel coronavirus COVID19 pandemic, many parties have faced a big challenge in deciding the time duration for suspending their contractual obligations depending on the extent to which the pandemic disrupts the effective performance of works on a project. The parties have to critically understand the clauses which permit suspension before making final decisions on the duration limit for suspension of contractual obligations due to the occurrence of a force majeure event (Trenor & Lim, 2020).

Contractors may have no permission to request an additional time extension after the agreed period of suspension of the works due to the occurrence of a force majeure event that can lead to damages and more costs. However, if other days by the contractor has extended the

duration limit of suspension of work due to occurrence of a force majeure event, he or she has to give notice to the employer as soon as possible to prevent breaching the terms and conditions under a particular contract (Bremen, 2020). Parties must also consider that prolonged extension of suspension time beyond the permitted duration limit of work suspension due to prolonged occurrence of a force majeure event can lead to termination of contractual obligations to project works performance.

Limitation to bear the mitigate cost due to force majeure impact during suspension time.

Parties that want to suspend the contractual obligations of works on project performance must note that additional costs and extension of time result from the suspension. Although a force majeure event may lead to serious damage to a given party, there must be efforts undertaken to resolve such consequences, and these efforts should be honestly implemented (Bleckman & Farris, 2020). This is shown in an example where a contractor has to get extra labor temporary or decide to prolong working hours of the existing labor if the provision of labor to increase the performance of contractual obligations is low. In scenarios where performance cannot be done, the party which does not fulfill its performance must mitigate all the claimed costs incurred as a result of the consequences due to force majeure events. Parties should not take advantage of the novel coronavirus COVID19 pandemic outbreak to declare a force majeure is hence suspending works on a project before enforcing measures to mitigate the situation. However, parties must keep records of all mitigation measures and costs to avoid disagreements and conflicts between the parties. Delayed submission of the well-documented claims for the

costs incurred by a particular time during the suspension period of the works on the project makes it difficult for another party to mitigate the costs (Trenor & Lim, 2020).

In case the causes of consequences that occur due to the outbreak of a force majeure event which led to the suspension of the works on a particular contract are not indicated on the claim notice, the costs incurred by one party may not be mitigated easily (Co, 2016). In some scenarios, changes in government laws contradict the terms and conditions set between parties. Hardships and disagreements are encountered during the mitigation of costs that were resulted from a force majeure impact during the period when contractual obligations were suspended. In a situation where operations of forces of nature are foreseeable, and the contractor was not able to carry out during the suspension time of contractual obligations may arise to conflicting arguments when mitigating the costs incurred from the damages that were resulted due to the occurrence of a force majeure event (A&L, 2020). The existence of certain catastrophic events, such as tsunamis, floods, earthquakes, landslides, and others concerning other force majeure events, may lead to ambiguous damages and high costs that are not easily assessed. In such scenarios, even the circumstances which were part of the suspension of works on a particular project can be covered up by the party which is responsible and hence doesn't be part of the mitigation team for the costs during the suspension period (Majeure, 2012).

The parties involved in the suspension of contractual obligations must understand that they are not above the law and regulations that are implemented by the government. Therefore, if a force majeure event that caused the suspension of works on a particular project is conflicting with the government's laws and regulations, mitigating the costs due to damages from the force majeure event is not easily attained (Overy, 2012). The contractor is therefore required to show the evidence that costs incurred due to a force majeure event during the suspension period are

due to changes in laws and regulations of government Contractors are required to ensure the provision of protection to the suspended works of contractual obligations on project performance from damage, and decline (Rahman, 2020). The contractor is also required to show that the costs incurred when complying with contractual obligations result in suspending the works on a project. Mitigation of the expenses during the suspension period is affected in a scenario in which there are equivalent adjustments under the contract made to encounter the charges resulting from damages due to the occurrence of a force majeure event.

Termination of contract due to force majeure and contractor entitlement for cost claim

Although individual events arise that impact performance of works on a project, a party should consider termination of the contract as the last option because it can lead to reputational and high economic consequences (Dentons, 2020). However, specific scenarios give parties no decision to overcome them when the contract's termination is the best option. Article 893 under the UAE Civil code guarantees either of the contracting parties the ability to terminate an agreement in case certain events strike, which prevents parties from performing their contractual obligations. Article 893 under the UAE Civil code can be used by both parties (that is the contractor and the employer) (Aldhabaan, 2020). Entitlement for cost claim is in Article 894 under the UAE Civil code guarantees the contractor to claim for payment for the works he performed until the performance of tasks on a project became implementable due to force majeure events. This claim in Article 894 under the UAE Civil code can only be won if the contractor proves to have no part in the circumstances that prevent the completion of works on a project. A contractor can invoke Article 893 under the UAE Civil code to terminate works on a

project if the employer fails to make payments to the contractor and also doesn't give evidence of the capability to pay in the agreed contract time (Gravan, 2012). A prolonged suspension of works on a project beyond the agreed time limits permits a contractor to terminate works on that particular project.

Termination of works on a project happens if parties have been stopped under the law to continue the performance of their contractual obligations (Gravan, 2012). Some employers have issues with the solvency of plans, which can make contractors terminate the project's works. Concerning the coronavirus COVID 19 pandemic, many parties may take longer to suffer the economic effects due to the time which is interfaced during the application of this right (Bremen, 2020). Under the UAE Civil code, the prospects of an employer to the effect of the termination of works on a project are generally not many. The employer is mandated to prove that the terminations of actions on a project due to unavoidable and unforeseen factors are due to the employer's inability to perform his or her contractual obligations towards completion of the plan (Rahman, 2020). In most cases, it is difficult to satisfy such scenarios for the coronavirus COVID 19 epidemic; hence the contractor's obligations are most likely to be widely affected.

When submitting the notification of claims, contractors have to consider complying within the given time limits to prevent employers from getting negotiable points due to delayed submission of the request. The contractors must also clearly indicate that the basis of asking for a claim is legal and genuine. When claiming prolongation costs, the contractor is obligated to clearly show the difference between the various costs such that the indirect damages are left out (Hasweh, 2016). In the case of claims for disruption costs, the contractor must carry out record-keeping of the areas disrupted during performance works on a particular project. These include the number of people mobilized to provide labor on specific days, the types of tasks being

performed, the kind of disruption encountered (for example; non-continuous work front, stacking of trades, and others), and the quantity of achieved output in certain areas during given durations of work performance on projects. Although such scenarios can exist and are open to an employer, the employer must consider that most contractors in the construction sector have been enormously affected by the outbreak of coronavirus COVID 19 pandemic. Many construction companies have joined their efforts to fight for an understanding of the hardships they have encountered to perform their contractual obligations due to this global outbreak (Culp, 2020).

Companies which terminate the operation of works on a project are most likely to suffer consequences of compromising the relationships of the parties and may take more time to search for a stronger financial replacement of such a contractor to carry on with the works of a project. Before termination of works on certain projects during this coronavirus COVID19 time, it is important to seek legal advice and avoid rushing into decisions just because of the existence of contractual entitlement.

Can the employer /owner use the performance bank guarantee during force majeure?

Recently, construction contracts have undertaken the development of performance bank guarantees. The implementation scope of bank guarantees has highly risen in various sectors which include, construction, international economic transactions, as a backup of transactions that are obligated both financially and non-financially (Bank, 2019). Bank guarantees are used to inform security for default concerning contracts dealing with the deliverance of goods, shipbuilding, and construction. Additionally, bank guarantees are used as security when seeking obligations that result in leases, issues from bonds, loans, commercial papers, and other forms of

financial transactions. Parties entitled to payment and parties entitled to the reception of products and services can receive security from bank guarantees. This can be shown in an example where a bank guarantee can be issued to a buyer who shows interest to ensure against the seller for failing to supply the goods (Suise, 2017). It can also be issued to a seller willing to insure against a buyer who fails to provide the money agreed in price terms and when he fails to perform his obligations as indicated in the contract of sale under the international contract of sale. Contractors have to always submit to an employer during the required time of the starting date an unconditional demanding bank guarantee that should be on a form given in the security schedule, indicating the amount shown in the schedule details and must be from a bank that the employer agrees to (District & Province, 2018).

Every bank guarantee of performance given to the employer, as stated in the clause must not expire before issuing a certificate to take over all the works that are to be performed in the accomplishing of the project during which it will depreciate by a half (Bank, 2019). Additionally, a bank guarantee of performance issued to the employer must not expire before accomplishing works on a project that must be awarded a final certificate or before any disputes between the different parties running the contract have been finally resolved. When the employer is given a bank guarantee of performance, he or she may deny or withhold giving any payments. Most contracts, the contractors have to ensure that they provide the employers with the most protection from incurring costs, charges, additional expenses, and damages since the contractor is a liability to the owner or the employer in such a contract. However, the project's employer or owner has no limits to get back the amounts lost due to those expenses if he or she decides to withhold from making payments in the bank guarantee of performance (Purpose, 2007).

An employer can use a performance bank guarantee if the bank agrees that the guarantee shall remain in full use and effective as security for making deposits for supplies, warrantees, and performance during a force majeure period. An employer can use the performance bank guarantee in a force majeure in which an employer delays performing his or her contractual obligations. Consequently, it affects works to be done by the contractor provided there is no granted extension of time and costs, which were agreed in the contract without terminating the works on a project (Bond, 2020). Employers can consider using the bank guarantee of performance due to force majeure occurrence to solve any kind of disputes that might have arisen between the different parties of the contract as a way of strengthening their relations and increasing the effectiveness of performance. Bank guarantees of performance can also be used by employers in order not to affect in any way possible the obligations under a particular project as a way of obeying the terms and conditions indicated in the contract agreement (Bank, 2019). However, the employer may retain or withhold from making use of the bank guarantee of performance if the contractor does not comply with the requirements needed during the submission of the performance bank guarantee. This can lead a contractor to suffer from breach consequences for not complying with the terms and conditions as agreed in the contract. Therefore, it is always mandatory for any of the parties to take into account a critical understanding of the terms and conditions agreed in the contract to prevent them from being caught up by the consequences for not obeying the agreements made in the contract (District & Province, 2018).

Importance of insurance policies in force during the force majeure/epidemic period.

The consequences of the novel coronavirus COVID19 pandemic on personal, government, non-government organizations projects, and the global economy cannot be predicted in the coming time but will eventually be noticed. Generally, many insurance policies in organizations, companies, industries, health sectors currently do not include the new global novel coronavirus COVID19 pandemic (Dentons, 2020). As a result of the new novel coronavirus COVID19 pandemic outbreak, companies, organizations, industries, and various sectors have to revisit their insurance policies and make adjustments to cater to this pandemic (Culp, 2020). A result of the termination of very many works on projects has left many parties to incur several losses, and many companies are invoking the insurance policies as a rescue from this terrible situation of novel coronavirus COVID19 pandemic (Gravan, 2020). Some insurance policies need to be due to government actions and other authorities like the health sector before consideration of triggering coverage. There is likely to be a difference in coverage if the company or government and health organizations decide the timing of work termination.

The global decline of the economy during the novel coronavirus COVID19 pandemic period is still being assessed (Fry, 2020). Many insured companies will be greatly impacted when making important claims related to this force majeure event. Therefore, it is of great importance if companies that have been affected by the outbreak of the novel coronavirus COVID19 pandemic to assess the impossibility to perform works before rushing to make decisions (Nations, 2012). Several insurance policies of epidemics and pandemics cover the consequences of the economic decline in a particular company, provided they are clearly stated in the contract terms and conditions of operation. As many companies consider understanding the criteria for obtaining relief support from the government, most of them have started reviewing their insurance policies to ascertain the extent and different types of protection they

will have against substantial losses of their projects. More focus is being put against claims of consequences incurred by potential employees, contractors, customers, and investors due to novel coronavirus COVID19 pandemic (Lumpur et al., 2020). Therefore, insurance policy is critically analyzed concerning both potential offensive or affirmative claims made by a particular company and as a defense mechanism invoked to deal with the potential claims of a particular company. Contractors must always consider the insurance policies of different parties before starting the operation of contractual obligations. Some of the areas which must be insured are(Rahman, 2020);

- Loss due to damage of property, construction equipment, already accomplished works of the contractor
- Insurance to both parties for the loss due to damage, death, property destruction to the 3rd parties as a result of the contractor's performance, and damage of the employer's property by the contractor.
- Insurance for both parties due to the liability of death from a party once the cause of death was the negligence of one party towards the other.

Insurance policies provide cover for the profits that are lost due to the interruption of the performance of contractual obligations resulted from damage to property. A party is most likely to be awarded an extension of time to perform is contractual obligations that got interrupted by a force majeure event (Lumpur et al., 2020). One can claim costs incurred due to a force majeure event provided it has insurance policies clearly stated. Insurance policies give companies pre-litigation measures and cover costs legally due to disruptions that arise from consequences of the pandemics and epidemics, such as termination of works on a project, delay, and failure in the provision of services, labor, and materials for work. Most people may be able

to afford any kind of medication due to their good wealth conditions. However, the COVID19 pandemic, which has left many lifeless, has made very many people understand the importance of getting health insurance since the pandemic worries very many people on the decline and destruction of the health of their family members (Culp, 2020). It also applies to organizations and companies that have to worry about losing potential skilled professionals and incur extra costs of searching and training new individuals to replace the ones that left.

Conclusion

The outbreak of the novel coronavirus COVID-19 pandemic and associated shutdowns advance highly. A circumstance, which is not currently a force majeure, is most likely to become one in the future, and vice versa (Aldhabaan, 2020). Contractual Parties must analyze their contracts cautiously and generally obtain the knowledge of their rights, duties, and the used law before announcing or mediating to a force majeure circumstance and have to respond as soon as possible to secure their interests.

Considering the construction contract widely, it is a major beginning point in informing parties on the additional expenses as a result of the COVID-19 pandemic (Fry, 2020). Additionally, there are likely to be more aspects that associate with the contractual provisions, violations that may neglect the parties' entitlement to contractual solutions. For example:

- Agreement with law legal necessities.
- Application and agreement with security measures to overcome COVID-19 impacts
- Responsibilities to sustain insurance coverage.

Additionally, the potential to make use of solutions under the contract is likely to be targeted to a necessity to recover the loss. For instance, finding out if there exist other ways to carry out contractual duties or applying better measures to reduce delay and other effects. Despite the rights that are under the contract, contractual parties have to work dynamically and cooperatively of running projects during this hard time (Aldhabaan, 2020).

Lastly, in case someone is presently agreeing on a construction contract, the novel coronavirus COVID-19 is no more an unforeseen circumstance. Therefore, different parties agreeing on the contracts have to cautiously find out how the pandemic may affect them. The contractual parties must make agreements, which are very detailed, showing mitigation measures to the occurrences, so as the agreement is correctly included in the contract.



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