
CHAMBERS GLOBAL PRACTICE GUIDES

Commercial Contracts 2025

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UAE: Law & Practice

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Law and Practice

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Alsuwaidi & Company is a full-service UAE law firm with particular strength in corporate and commercial law, commercial contracts and dispute resolution. The firm advises domestic and international clients on a wide range of commercial arrangements, including joint ventures, shareholder agreements, agency and distribution matters, and regulatory compliance. The team combines transactional capability with extensive experience in litigation and arbitration, reg-

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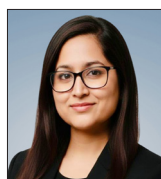
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1. General Overview of Regulatory Field

1.1 Applicable Law

In the UAE, the rule on choosing the governing law comes not from the UAE Commercial Code (Federal Decree-Law No 50 of 2022) but from the UAE Civil Code (Federal Law No 5 of 1985, as amended). The UAE Commercial Code sets out substantive commercial rules for traders and commercial acts; it does not contain the state's private international law framework. By design, the UAE's conflict of laws rules sit in the UAE Civil Code.

- In the context of UAE law, party choice of governing law is recognised and applied in commercial contracts, consistent with Articles 257 and 246 of the UAE Civil Code.
- Article 19 of the UAE Civil Code defaults to the law of the parties' common residence, or, if different, the law of the place of contracting unless circumstances indicate another law should apply.
- Article 27 of the UAE Civil Code prevents the application of a foreign law if it contradicts Sharia, UAE public policy or morals.
- Article 21 further states the legal principle governing territorial jurisdiction and procedure, namely *lex fori* (law of the forum), which provides that the forum's own laws control court procedure.
- Article 22 prioritises overriding mandatory rules found in special statutes and in applicable treaties.
- Articles 26 and 28: Article 26 requires applying the foreign law's internal (domestic) rules and permits a

renvoi back to UAE law; Article 28 defaults to UAE law where the content of the foreign law cannot be ascertained.

- Commercial Agency Code (Federal Law No 3 of 2022): where a qualifying franchise or distributorship is registered with the Ministry of Economy, its protections may displace a conflicting foreign governing-law clause.

1.2 Form

Under UAE legal framework, freedom of form prevails: a contract is valid with offer and acceptance, a lawful and defined or definable subject, and a lawful cause. Therefore, form is generally not a condition of validity.

However, specific statutes impose formalities for certain transactions, such as the following:

- real estate disposals (sales, mortgages, usufructs and long leases) must be in writing and registered with the competent land department to be effective against third parties;
- commercial agency agreements must be written, notarised and registered with the Ministry of Economy to obtain statutory protection;
- transfers or pledges of a business (commercial establishment) require notarisation and entry in the Commercial Register; and
- certain share transfers, share pledges and security instruments must be notarised and, where applicable, filed with the relevant corporate registrar or free-zone authority.

1.3 Application of Local Legislation to Commercial Contracts

Commercial contracts are mainly governed by the UAE Civil Code, which contains the core rules on:

- formation;
- interpretation;
- performance in good faith;
- breach; and
- remedies.

The UAE Commercial Code provides substantive rules for traders and commercial acts. Choice of law and other conflict rules are in the UAE Civil Code and sector-specific statutes including consumer protection, VAT, electronic transactions, and the UAE Commercial Agency Code for registered distribution and franchise, may impose mandatory provisions that prevail.

The United Nations Convention on Contracts for the International Sale of Goods (CISG) provides a uniform regime for international sales of goods, and the UAE is not a contracting state. Accordingly, it engages UAE-related transactions only by party election of the CISG itself or by selecting the law of a CISG state without excluding the Convention. Substantively, while the CISG dispenses with formalities and has no writing requirement, UAE practice may expect Arabic language documentation and defined formalities for certain filings and transactions. The CISG also imposes a structured conformity regime requiring examination and timely notice of non-conformity with specified consequences; whereas UAE law proceeds via implied warranties and hidden defect rules with prompt notice anchored in statute and custom. Finally, the CISG foregrounds specific performance, damage, price reduction and avoidance for fundamental breach. UAE law, on the other hand, provides termination and damages under civil law principles and permits judicial adjustment of agreed damages.

1.4 Mandatory Rules for Specific Contracts

The UAE has no standalone franchise statute and imposes no mandatory franchise registration. Mandatory rules arise only where the arrangement is registered as a “Commercial Agency” with the Ministry of Economy under the UAE Commercial Agency Code, in which case territorial exclusivity attaches, parallel

imports are blocked, and termination and non-renewal are governed by statutory notice and compensation mechanisms, with first-instance recourse to the Commercial Agencies Committee and the possibility of arbitration thereafter. Absent such registration, franchise arrangements are considered to be “commercial contracts” subject to general tenets of the UAE law, including:

- the UAE Civil Code and the UAE Commercial Code;
- the intellectual property and consumer frameworks;
- electronic transactions and tax requirements; and
- the overarching duty of good faith.

1.5 Significant Court Decisions or Legal Developments

Over the past three years, legislative reform has materially reshaped UAE contracting practice. Core statutes have:

- refined validity, termination and reappointment mechanics for commercial agencies;
- modernised baseline commercial rules on payments, limitation and negotiable instruments; and
- streamlined service, summary orders and enforcement.

Cross-cutting regimes now commonly appear in boilerplate from tiered e-signatures to data protection and competition controls.

- Commercial Agency Code (Federal Law No 3 of 2022) tightened the formal validity and termination and clarified reappointment mechanics for registered commercial agencies.
- Commercial Code (Federal Decree-Law No 50 of 2022) provided core rules on payment obligations, limitation periods and negotiable instruments.
- Civil Procedure Law (Federal Decree-Law No 42 of 2022) streamlined service of process, summary orders and enforcement pathways.
- Electronic Transactions and Trust Services (Federal Decree-Law No 46 of 2021) enabled tiered electronic signatures and trust services now routinely hard-wired into contract boilerplate.
- Personal Data Protection Law (Federal Decree-Law No 45 of 2021) introduced baseline data-protection

obligations that inform representations, warranties and compliance clauses.

- Competition Law (Federal Decree-Law No 36 of 2023) revamped merger control and restrictive-agreements rules, increasingly reflected in covenants and conditions precedent.

Over the last twelve months, it has been observed that UAE commercial contracting has tightened around tax, compliance and digital execution:

- corporate tax hardening, which includes transfer-pricing covenants standardised under the Corporate Income Tax Law (Federal Decree-Law No 47 of 2022);
- expanded KYC/sanctions representations, audit/termination for compliance breach and ongoing monitoring/flow-downs reflecting federal updates (Federal Decree-Law No 10 of 2025); and
- increased specification on Electronic Transactions and Trust Services—compliant advanced or qualified electronic signatures, e-commerce terms and evidentiary mechanics (audit trails, time stamps, certificate validity).

2. Choice of Applicable Law and Jurisdiction

2.1 Choice of Law

Under Article 19 of UAE Civil Code, the contracting parties have the freedom to choose their governing law and the jurisdiction law (ie, forum and what law will decide the disputes). Even though the principle of party autonomy is followed in UAE, it has its limitations as well. UAE courts may dismiss a foreign law chosen by the parties if it is found to contradict UAE public order and morals, which is clearly stated in Article 27 of UAE Civil Code. It is advisable that parties choose a governing law which is suitable for them in terms of familiarity with regards to subject matter and not choose a law because it is the law of their state. The jurisdiction clause in an agreement is the determining clause on whether disputes would be settled by arbitration tribunal or the courts. Parties are advised to incorporate the appropriate dispute resolution clause in the agreement to avoid prolonged disputes and

unnecessary conflicts that might arise from ambiguity in the absence of a well-drafted clause.

If no governing law is chosen, UAE courts apply Article 19 (1) of the UAE Civil Code whereby the governing law shall be the parties' common residence, or, if they have different residences, the law of the place where the contract was concluded unless the circumstances indicate another law is more appropriate. Contracts concerning real estate are governed by the law of the property's location under Article 19 (2). Any applied foreign law remains subject to UAE public policy and Sharia limits under Article 27 of the UAE Civil Code.

2.2 Overriding Local Laws

Article 19 (1) of UAE Civil Code ensures party autonomy, and they can choose any foreign law to govern the agreement unless the foreign law contravenes Sharia, public policy or morals according to Article 27 of the UAE Civil Code. In this case, UAE law will supersede the contractually agreed foreign law if it contravenes it or if the contract relates to in rem rights, employment, registered commercial agency and contracts which are associated with UAE government entities. UAE law can prevail over a contractual foreign governing law where the party proposing that law does not substantiate a relevant nexus – this matter lies within the UAE courts' sole discretion.

2.3 Choice of Jurisdiction

Parties may stipulate that disputes be heard by a foreign court or by the Dubai International Financial Centre (DIFC) or Abu Dhabi Global Market (ADGM) courts. That choice is generally respected but UAE onshore courts retain jurisdiction over matters such as registered commercial agency disputes, rights in rem over UAE real estate and issues imbued with public policy. Where both parties are UAE-domiciled, a foreign forum clause can still be agreed yet an onshore court may decline to give effect to it if it conflicts with mandatory rules or if the selected forum has no real connection to the dispute. DIFC and ADGM provide common law venues which are frequently used for cross-border contract and onshore courts give effect to jurisdiction clauses naming those courts.

2.4 Choice of Arbitration and Overriding Laws

Parties may refer disputes to arbitration under the UAE Arbitration Law (Federal Law No 6 of 2018, as amended) or under institutional rules such as ICC, DIAC, with an onshore, DIFC, ADGM or foreign seat, and UAE onshore courts will ordinarily stay court proceedings and give effect to a valid arbitration agreement in line with the New York Convention. This is qualified by issues of non-arbitrability and overriding statutes since many consumer and most employment matters remain court-based unless a clear statutory gateway exists, and disputes under a registered commercial agency may now proceed to arbitration under the new UAE Commercial Agency Code subject to prior first-instance recourse to the Commercial Agencies Committee.

At the recognition and enforcement stage, courts will enforce awards unless a refusal ground is established, most notably a conflict with UAE public policy or subject matters not capable of arbitration. Therefore, mandatory protective provisions including those under the UAE Commercial Agency Code and the UAE Consumer Protection Law (Federal Law No 15 of 2020, as amended) may still control the outcome irrespective of the chosen seat.

3. Negotiation and Conclusion

3.1 Necessary Form

Article 129 of the UAE Civil Code provides that a contract is valid where there is offer and acceptance, a lawful and defined or definable subject, and a lawful cause; no special form is required unless a statute mandates it. Most contracts are consensual and may be oral or implied if there is evidence of assent, but certain transactions must follow prescribed formalities, and any signatory must hold proper authority. Accordingly, the following transactions must observe statutory form and filing rules.

- Commercial agency must be in writing, notarised and registered with the Ministry of Economy, otherwise it is void, pursuant to Article 4 of the UAE Commercial Agency Code.
- Transfer or pledge of a business concern requires notarisation and registration in the Commercial

Register under Articles 39 and 46 of the UAE Commercial Code.

- Real estate transfers, mortgages and leases exceeding four years must be documented and registered with the competent Land Department under applicable property legislation.
- Transfers of shares in limited liability companies, share pledges and certain security documents require notarisation and, where applicable, filing with the company's registrar.
- Electronic contracts and electronic signatures are recognised if compliant with the Electronic Transactions and Trust Services (Federal Decree-Law No 46 of 2021).
- Signatories must be duly authorised, for example by a power of attorney or a board resolution within mandate.

3.2 Concept of Culpa in Contrahendo

UAE law does not expressly codify culpa in contrahendo. However, analogous pre-contractual liability arises or can arise from good-faith pursuant to Article 246 (1) of the UAE Civil Code, the prohibition on abuse of rights as set forth in Article 106 of the UAE Civil Code and delict (tort) rules as stated in Articles 282 and 293 of the UAE Civil Code. There is no duty to conclude or to persist in negotiations; either party may withdraw. Negotiating conduct, however, must accord with good faith in contractual dealings and general tort liability attaches to unlawful acts causing damage. Where a party commits fraud, makes a misrepresentation, conceals material facts or misuses confidential information, pre-contractual liability may arise. In such cases, the innocent party may recover reliance losses (wasted costs) and, where appropriate, moral (non-pecuniary) damages. If a concluded instrument was procured by vitiated consent, the court may set it aside and order restitution. By contrast, the mere breakdown of negotiations absent wrongful conduct attracts no liability. Any agreed break fee or liquidated damages remain subject to judicial moderation to align with actual loss under the UAE Civil Code's agreed damages principles in accordance with Article 390 of the UAE Civil Code.

3.3 Standard Terms and Conditions

Standard terms will govern only if they are clearly incorporated at or before formation and the other

party has a genuine opportunity to review them. The cleanest approach is to annex the full text to the contract and label it as a schedule, or, for online transactions, present the terms on screen with an affirmative “I agree”. Electronic contracting is fully recognised: an electronic record can satisfy any writing requirement, offers and acceptances may be expressed electronically, and approved electronic signatures have the same legal effect as handwritten signatures provided the Electronic Transactions and Trust Services framework is met. Incorporation by reference to a website is workable if the link is specific, stable and accessible at the point of assent; a retrievable record and audit trail that meets integrity and “original” standards should be maintained and using an approved electronic delivery service to evidence dispatch and receipt should be considered. Unusual or onerous provisions should be conspicuous and expressly acknowledged. For example:

- broad exclusions;
- unilateral variation;
- automatic renewal;
- heavy liquidated damages;
- arbitration; or
- a foreign forum.

Unclear boilerplate will be construed narrowly against the proferens, and any clause that conflicts with mandatory UAE law or public policy will not take effect. It should be ensured that the signatory has actual authority to bind the entity (eg, under a power of attorney or a board resolution) and an order of precedence clause is included so that the executed conditions prevail over any later standard terms that may appear in purchase orders or correspondence.

3.4 Application of Local Law on Standard Terms

The chosen governing law applies to a contract's standard terms only if those terms are duly incorporated and brought to the counterparty's attention, and in all cases remains subject to UAE overriding mandatory rules and public order. Where UAE law governs, the UAE Civil Code rules on formation, good faith and interpretation (including looking beyond literal wording to the parties' common intention) and the UAE Commercial Code for mercantile acts will control. In addition,

sectoral statutes override inconsistent boilerplate such as, but not limited to, the following:

- Consumer Protection Law (Federal Law No 15 of 2020);
- Personal Data Protection Law (Federal Decree-Law No 45 of 2021);
- Competition Law (Federal Decree-Law No 36 of 2023);
- Commercial Agency Code (Federal Law No 3 of 2022); and
- Electronic Transactions and Trust Services (Federal Decree-Law No 46 of 2021).

If a foreign law is chosen, UAE courts will in principle apply it to the standard terms unless it conflicts with those overriding mandatory provisions or UAE public policy, in which case the offending clause is set aside to the extent of the conflict. The party invoking foreign law is generally expected to plead and prove its content; failing that, UAE law may be applied.

3.5 Ineffectiveness of Standard Terms due to Unreasonable Disadvantage

Standard terms may be denied effect or read down if they were not effectively incorporated with clear assent and any ambiguity is construed against the proponent reflecting the UAE Civil Code's rules on formation and interpretation pursuant to Article 129 and Articles 265–266. Further, these terms would be held ineffective if they disregard the duty of good faith or amount to an abuse of rights (Articles 246 and 106). Lastly, any provision that conflicts with mandatory law or public order is void pursuant to Articles 205 of the UAE Civil Code.

Hence, clauses purporting to exclude liability for fraud, wilful misconduct or gross negligence are not enforceable; “agreed damages” (liquidated damages) remain subject to judicial adjustment to actual loss under UAE Civil Code principles. In B2C contracts, any pre-drafted term that causes a significant imbalance or waives statutory consumer rights is void under the UAE Consumer Protection Law. Courts will also refuse boilerplate that undermines competition, data protection, agency registration or other peremptory statutes and will construe any residual ambiguity against the drafting party.

3.6 Battle of Forms

UAE is a civil law system and there is no “battle of forms” rule. Thus, where both parties exchange documents containing conflicting standard terms, the courts then look for evidence of agreement on essential terms and will disregard conflicting boilerplate provisions. If there is no clear meeting of minds on the standard terms, the contract is concluded on the basis of the parties’ shared intentions. The court in this case may treat conflicting standard terms as cancelled and supply the missing provisions with statutory default rules. Expressly negotiated terms override pre-printed conditions. To avoid uncertainty, parties should identify which terms control and include an order of precedence clause.

3.7 Signatures and Notarial Deeds

Most UAE contracts may be concluded in any form that evidences offer and acceptance. Certain transactions must, however, be executed in wet ink, notarised and (where applicable) registered, failing which they may be void or unregistrable. In practice, this includes:

- real estate transfers, mortgages and long leases to be recorded with the competent land department under the relevant emirate property laws;
- powers of attorney and many corporate authorisations under the Notaries Law and its regulations;
- commercial agency agreements, which must be in writing, notarised and registered with the Ministry of Economy to take effect under Article 4 of the UAE Commercial Code; and
- transfers or pledges of shares in limited liability companies, which require notarisation and registration with the competent companies registrar under the UAE Commercial Companies Law (Federal Decree-Law No 32 of 2021).

These formalities may be completed before a notary public in person or, where enabled, through approved remote notarisation. For onshore notarisation and most registrations, the document must be in Arabic or accompanied by a duly certified Arabic translation (even if the parties contract in another language).

Electronic contracting is recognised and the Electronic Transactions and Trust Services framework grants legal effect to electronic records and signa-

tures where the method reliably identifies the signatory and evidences assent and preserves integrity; approved or qualified e-signatures issued by licensed trust-service providers have the same legal and probative force as handwritten signatures when statutory conditions are met. The UAE Civil Code permits formation by electronic means. That said, instruments that the law requires to be notarised or registered, including real estate dispositions, notarised powers of attorney, agency registrations and share transfers of limited liability companies (LLCs), generally cannot rely on a simple electronic signature unless the competent authority expressly allows remote notarisation or electronic execution for that document type. Parties should confirm the current practice of the relevant land department, companies’ registrar (onshore or free zone) or notarial authority before relying exclusively on electronic signatures.

3.8 Official Registration

Official registration is required in the following commercial contracts.

- Commercial agencies take effect against third parties only upon entry in the Commercial Agencies Register in the Ministry of Economy, and statutory protections enshrined in the UAE Commercial Agency Code do not attach to unregistered arrangements.
- Dispositions over real estate must be recorded with the competent land department for validity vis-à-vis third parties under the applicable emirate real property statutes and regulations.
- Security interests over movable property (tangible or intangible) are made effective against third parties primarily by registration in the Emirates Integrated Registries Company (EIRC). Unregistered security interests are generally ineffective against third parties and in insolvency pursuant to Federal Decree-Law No 4 of 2020 on Guaranteeing Rights Related to Movables. In the financial free zones (DIFC and ADGM), security interests are governed by separate legislation and recorded on their own registers.
- Transfers or pledges of shares in limited liability companies require notarisation and registration with the competent companies’ registrar/economic

department to bind third parties pursuant to the UAE Commercial Companies Law.

- Intellectual property licences with the Ministry of Economy (eg, under the Trademarks Law (Federal Decree-Law No 36 of 2021) and the Industrial Property Law (Federal Decree-Law No 11 of 2021)) establish priority and protect against adverse claims.
- Ship and aircraft mortgages become effective against third parties upon entry in the relevant maritime or aircraft register pursuant to the UAE maritime and civil aviation legislation. Absent the required registration, third parties are not bound, priority can be lost, and the arrangement may be disregarded in enforcement or insolvency.

3.9 Further Requirements

Under the UAE Civil Code, consent alone does not suffice. It provides more conditions in order to consider a contract valid. Accordingly, the contract must also have a lawful cause and an object that is possible and sufficiently defined or capable of definition. The parties must have capacity, and their consent must be free from vitiating factors such as mistake, fraud, duress or undue influence. Terms that contravene mandatory legislation or public policy are ineffective, so bargains involving gambling, usury or prohibited goods are void. Interest is regulated: compound interest is not permitted and, as a general rule, default interest on commercial debts is capped at 9% per annum under the UAE Commercial Code. Performance must accord with good faith; breach may attract damages, specific performance (where appropriate) or other remedies available at law. Certain sectors also require prior approvals or licences: for example, foreign investment clearances or regulatory consents in banking, insurance or telecoms, and contracts with government entities may be subject to procurement controls, audit oversight and additional formalities.

4. B2B and B2C Contracts

4.1 Different Laws

B2B contracts are governed primarily by the UAE Civil Code (general contract rules) and the UAE Commercial Code, with the UAE Commercial Agency Code applying where a distribution or franchise is registered

as a commercial agency. B2C contracts are subject to the same core laws but must also comply with the UAE Consumer Protection Law and its implementing regulations (including rules on disclosures, pricing, returns, warranties and unfair terms) as well as the Electronic Transactions and Trust Services framework for e-commerce.

4.2 Consumer Protection Rights

UAE Consumer Protection Law has provided a robust protective regime in favour of consumers that sometimes voids or overrides commercial liability limitations in B2C transactions. The law imposes strict, mandatory and non-waivable obligations on businesses. For example:

- the supplier is obligated to conform to approved standards and anything falling in the category of “unsafe goods” is prohibited (Article 20);
- the supplier is statutorily prohibited from making consumers agree to any term that may harm the latter, and any clause limiting or exempting the supplier’s obligation has been declared to be null and void under law (Article 21); and
- Article 4 specifically lists core consumer rights including accurate information, fair treatment, freedom of choice, education/awareness, and privacy and security of personal data.

Additionally, prices must be clearly displayed, invoices issued and advertising must not mislead; consumer-facing contracts and notices must be available in Arabic (other languages may be added). Overall, the regime favours consumer protection and imposes enforceable duties on suppliers to ensure safety, quality, transparency and warranty in the supply of goods and services.

5. Liability

5.1 Concept of Liability

The core concept of civil liability as provided under the UAE Civil Code is an elegantly blended doctrine, having roots in ethical mandates of Sharia and restorative principles of the civil law tradition. The overarching principle of liability is found under Article 104 of the UAE Civil Code, which sets forth that

whoever uses a lawful right is not liable for damages. Article 106 explicitly identifies when the exercise of a right becomes unlawful or tantamount to an abuse of rights, such as where there is intent to harm, pre-dominant harm versus negligible benefit, use for an unlawful purpose or excess over customary limits.

In general, civil liability in UAE is recognised on two principal bases:

- contractual liability, arising from breach of a valid agreement, leading to an obligation to compensate the injured party for fault, causation and foreseeable, direct damages; and
- tortious liability, arising from any wrongful act causing harm regardless of whether or not any contractual relation exists between parties or the act or omission is intentional or negligent.

The operative principle of both of these forms of liability is one of perfect reinstatement: the quantum of compensation must functionally and financially restore the injured party to the status quo ante, meaning the pre-harm position. UAE law compensates actual loss and, where proven with sufficient certainty, loss of profit; moral (non-pecuniary) damages may also be awarded pursuant to Article 293 of the UAE Civil Code. Punitive damages are also not generally available. The UAE Courts, as per Article 290 of the UAE Civil Code, may apportion or reduce compensation where the injured party contributed to the harm and may order specific performance where appropriate.

5.2 Punitive Damages and Liability Caps

Consistent with the principle of restorative or compensatory justice, UAE law does not recognise the concept of punitive or exemplary damages and prioritises restitution over punishment. However, the law does recognise and cover damages including loss of profits, loss of opportunity or moral damages in exceptional cases, including some elements of deterrence provided the injured party could prove that such damage was a natural result of the harmful act or breach and was foreseeable and certain to occur, rather than a mere possibility.

Due to the historic influence of Sharia law in UAE, which traditionally viewed lost profits as a non-com-

pensable element, the possibility of recovery of such damages encompasses strict judicial scrutiny, and the judicial requirement of proving certainty and foreseeability is extremely high.

UAE law puts no statutory cap on maximum liability or compensatory damages. Rather, for contractual liabilities, very similar to common law, it provides for the autonomy of parties to provide for liquidated damages or limit their liabilities. However, under Sharia influence, Article 390 (2) of the UAE Civil Code brings such liquidated damage or limitation of liability strictly subject to judicial review. Similarly, this provision also grants ultimate power to the judge to vary or adjust either by increasing or decreasing any pre-agreed amount, to ensure that the injured party can only receive compensation for the actual loss suffered. Any agreement to the contrary has been statutorily declared to be void.

5.3 Strict Liability

While the general principle of liability, either contractual or tortious, requires breach or fault, the UAE Civil Code provides for several limited categories of liability without fault (“strict liability”) as well. This concept of no-fault liability is hugely influenced by Sharia principle where the concept of *Ḍamān* recognises certain instances where a person is liable for harm irrespective of a proven intent or fault.

Most profoundly this could be found in construction-related matters as provided in Articles 880–883 of the UAE Civil Code as “decennial liability”. In construction matters, a contractor and a supervising architect are jointly liable to compensate the employer for a period of ten years from the moment the binding result is not achieved, or any total or partial defect is found, without any need to prove the fault because mere existence of defect in itself is considered a fault. Article 882 clearly provides that any condition trying to exonerate such liability is itself void. However, UAE laws recognise some exceptions. For example:

- force majeure;
- external cause; or
- caused by a third party after handover.

Other examples where the concept of no-fault liability is found in the UAE Civil Code include:

- Article 316, imposing strict liability on the person in charge of a thing requiring special care; and
- Article 314, imposing strict liability on the guardian of an animal for harm caused by such animal.

5.4 Contractual Limitation on Liability

UAE law generally upholds the principle of freedom of parties to contract. This allows parties to negotiate and include limitation of liability clauses in the agreement. But, similar to the common law practice, in UAE also, such freedom is subject to strict judicial scrutiny to avoid any unreasonableness. The UAE Civil Code specifies that, through contract, parties can agree on liquidated damages or limit liability, but the judge in all cases, upon application of one party, has authority to vary the agreed amount or not adhere to the liability cap in cases where the actual loss suffered so demands. It is quite often observed that such judicial scrutiny is higher and stricter in a standard form contract by virtue of the discretionary authority granted to the judge under Article 248 of the UAE Civil Code; and an interpretation favouring the injured party is preferred, given their lack of bargaining power, as compared to individually negotiated contracts.

6. Force Majeure and Hardship

6.1 Concept of Force Majeure

The local laws of UAE, primarily the UAE Civil Code, provide inherent statutory relief for circumstances beyond a party's control, specifically recognising the concept of force majeure. Article 273 of the UAE Civil Code provides that where a force majeure event occurs, making performance of the bilateral contract impossible, the corresponding obligations of the parties under contract are extinguished and the contract is rescinded ipso facto. It is important to note that such force majeure event should strictly be an incident unforeseen by the parties at the time of entering into contract, and which cannot itself (or its result) be avoided, thus making the obligation impossible. Since the provision has the impact of changing the course of the binding contract, the court will strictly require the party claiming impossibility to establish:

- impossibility;
- unforeseen nature;
- unavailability; and
- a causal link that such event is the sole reason rendering the performance impossible.

Even though there is no express statutory duty on the affected party to mitigate losses, as found under the common law system, the courts in UAE have also read such duty of mitigation on the affected party under the general mandatory principle of good faith, as provided under Article 246 of the UAE Civil Code. Absence of such mitigating steps may lead to a reduction in damages or give reason to the court to assume lack of good faith, which may lead to an adverse decision.

6.2 Force Majeure Clauses

The practice of inserting an express force majeure clause is standard in commercial contracts throughout UAE. In complex agreements, parties prefer to have an express clause that clearly defines the scope of such force majeure events, establishing the procedure and requirements for invoking such relief. This helps parties to effectively manage the immediate impact on business of such unforeseen event. Parties often agree to suspend obligations for a mutually agreed time period. This may help parties to address the automatic cancellation (as statutorily provided) and give the parties a chance to mutually navigate the situation.

Where such clause is not present in an agreement, this in no way impacts the affected party given that rescission of contract occurs by force of law ipso facto without any need for the parties' consent. However, such absence could prove to be disadvantageous at times because its absence increases the burden on affected parties to prove all the statutory requirements and will lead to automatic rescission, which could be commercially detrimental to parties.

6.3 Concept of Hardship

UAE onshore law recognises a distinctive legal principle (separate from force majeure), commonly referred to as hardship, which provides relief to the affected party in situations that may not fall within the strict rigour of force majeure but still render the performance of contract excessively onerous, with the possibility

of grave loss. Article 249 of the UAE Civil Code gives discretionary authority to the judge to reduce or adjust an oppressive obligation to a reasonable level in the interests of justice and taking into consideration the interests of both parties. The supervening event must be exceptional, unforeseeable and of a public nature rather than just being the personal circumstances of parties.

The doctrine of hardship does not confer a unilateral right to amend or reopen the bargain, nor a statutory right to renegotiate. Rather, it provides a judicial (or arbitral, where applicable) mechanism whereby the affected party may apply to the UAE court for discretionary relief under Article 249; absent such relief or a contractual hardship clause, the contract remains binding to its terms.

6.4 Hardship Clauses

The practice of including a hardship clause similar to that of force majeure is not standard practice in UAE. Such clauses are not commonly used in commercial contracts. However, it has recently been observed that their inclusion is increasing in complex transactions, especially in long-term international contracts, influenced by international model clauses that allow parties to renegotiate before escalating the matter to court.

In light of express statutory provision, such relief could only be received from the court: statute does not provide any right to parties to renegotiate or amend the agreement on their own in such circumstances. If parties have failed to include a related provision and procedure to tackle such a situation upon its occurrence, the only remedy available is through an application to court within the strict boundary of Article 249 of the UAE Civil Code – this increases the threshold for “onerous” performance and the outcome also depends on judicial discretion. Thus, including a hardship clause and clearly specifying its scope, application and related procedures is always advisable for commercial contracts, to avoid leaving the situation solely within judicial discretion.

7. Warranties and Remedies

7.1 Warranties and Remedies Under Local Law

Warranties and remedies are a cornerstone for fair dealing between parties to a contract in UAE. While warranties are often expressly agreed upon by the parties in an agreement, the UAE Civil Code also implies baseline obligations such as:

- a duty to perform the contract in good faith (Article 246);
- a duty to perform with the care of a reasonable person unless a different standard applies (Article 383 (1)); and
- non-excludable liability for fraud or gross mistake (Article 383 (2)), with any clause purporting to exclude such liability treated as ineffective.

Building on those general duties, the UAE Civil Code also provides the following implied warranties for sales of goods and services.

- Title and quiet possession – the seller must pass ownership on completion of the sale and safeguard the buyer against dispossession and defects.
- Conformity to description and specifications – the thing sold must match the agreed description or specifications, quantity and quality or conform to the sample.
- Freedom from latent defects – the subject matter must be free from hidden defects that diminish value or fitness. Under Article 544 of the UAE Civil Code, a defect is old if it: (i) existed before the sale; (ii) arose while the goods were still with the seller before delivery; or (iii) appears after purchase but stems from a pre-existing cause. A defect is hidden if it cannot be discovered by ordinary inspection and can only be detected by an expert or testing. If an old, hidden defect is established, the buyer may either rescind and return the goods or accept them at the agreed price but without any reduction. Price reduction is confined to the exceptions in Article 547–549 of the UAE particularly where: (i) the goods were consumed or lost before the buyer became aware of the defect; (ii) a new defect arose while in the buyer’s possession; or (iii) return is impossible due to inseparable additions.

- Fitness and ordinary use – fitness follows from conformity and the latent defects regime under the law of sale and may extend where purpose and specs are agreed.
- Works (muqawala) – Under the UAE Civil Code, the contractor must deliver the agreed result in accordance with the contract and applicable standards. In construction, the contractor and supervising engineer are jointly liable for ten years from handover for total or partial collapse or defects threatening structural stability or safety and any exclusion or limitation of this decennial liability is void.

As a complement to these UAE Civil Code warranties in sales and works, B2C transactions are overlaid by mandatory guarantees embodied in the UAE Consumer Protection Law that cannot be waived. In particular, the law reinforces the UAE Civil Code's implied warranty of conformity to the agreed description or specifications and protection against hidden defects and adds non-waivable assurances on quality, safety, after-sales service and repair or replacement.

Against that backdrop, the UAE Civil Code adopts a structured approach to non-fulfilment, late fulfilment or breach. Specific performance is the primary remedy where it remains possible; and if performance is impossible or refused, the debtor is ordered to pay damages or compensation pursuant to Articles 386–388 with notice rules applying. In bilateral contracts, termination or rescission with damages may be ordered as set forth in Article 272. Penalty or liquidated damages clauses are recognised in Article 390 (1) but may be judicially adjusted to reflect actual loss as per Article 390 (2).

For delays, UAE courts may award monetary damages including proven loss of profit and, in commercial cases, may also grant default interest. In sales involving a latent defect, the buyer may seek repair or replacement, a price reduction or rescission depending on the defect's seriousness and the timeliness of notice under the latent-defects regime. Courts also apply principles of causation and mitigation and may reduce or apportion recovery where the claimant contributed to the loss.

7.2 Deviation From Warranty and Remedy Provisions by Contract

The UAE Civil Code very distinctly grants freedom of contract to parties to a commercial contract, which means it gives freedom to parties to deviate from statutory warranties and remedies. However, the general mandatory requirement still remains for contractual terms to stay compliant with public policy, Sharia principles or any other mandatory laws. Thus, within the bounds of public policy, Sharia principles and other mandatory provision of laws, parties could limit warranties, cap damages or specify substitute remedies alongside dispute resolution mechanisms such as good faith escalation, mediation or arbitration.

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