CLIENT ALERTS & INSIGHTS

Navigating Price Risk in Long-Term Vendor Contracts: Drafting Strategies and Adjustment Mechanisms for an Uncertain Market

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Featured Practices: Vendor Disputes, Litigation

Featured Industries: Retail & E-Commerce

Key Takeaways

- In today's environment of tariff uncertainty, inflation, supply chain disruptions, and shifting labor costs, long-term vendor contracts that rely on fixed pricing can quickly become misaligned with economic reality, turning a fixed-price contract from a competitive advantage into a financial burden if pricing risks are not addressed upfront.
- Once a contract is signed, the options for relief may be far more limited than many businesses realize. While businesses often assume they can renegotiate if circumstances change, courts generally enforce fixed-price agreements as written, making proactive risk allocation far more effective than relying on litigation or equitable remedies after costs rise.
- Companies should review both new and existing vendor agreements to ensure pricing risk is intentionally addressed through objective adjustment mechanisms, clearly defined renegotiation triggers and other contractual tools that provide flexibility when market conditions change.

In today’s business environment-marked by tariff volatility, supply chain disruption and sustained inflation-long-term vendor contracts present both opportunity and risk. A well-structured agreement protects both buyers and sellers from the unexpected, while a poorly drafted one can leave either party trapped in an arrangement that no longer makes economic sense. This article offers practical guidance in two parts: first, how to draft contracts that address price uncertainty from the start; and second, what options exist when an existing fixed-price agreement becomes inequitable due to changed circumstances.

Part 1: Best Practices for Drafting a Long-Term Vendor Contract for Goods or Services

When businesses enter contracts lasting several years-whether for raw materials, manufacturing, logistics, or professional services-they face inherent uncertainty. Labor costs shift; commodity prices fluctuate; new tariffs, regulations or taxes emerge. A fixed price gives the buyer budget certainty, but places the full risk of cost increases on the seller. The good news: parties can address these risks upfront during the drafting process, when both sides are motivated to reach a fair deal.

Identify Your Key Cost Drivers

Before signing any long-term agreement, both parties should identify which costs are most likely to change. Common drivers include raw materials and commodities; labor and staffing; transportation and shipping; energy; and tariffs, import duties, taxes, and regulatory compliance costs. Understanding these drivers allows parties to craft mechanisms targeting the most likely sources of disruption rather than relying on vague, catch-all language.

Build in Price Adjustment Mechanisms

A thoughtfully drafted contract does not simply lock in a price and hope for the best. It includes mechanisms to recalibrate pricing as circumstances evolve:

- **Index-Based Adjustments.** Tie price changes to objective, published data-such as the U.S. Bureau of Labor Statistics' Producer Price Index (PPI) or Consumer Price Index (CPI). This removes subjectivity and gives both parties a neutral reference point.
- **Scheduled Adjustments.** Set predetermined review dates (annually or semi-annually) when prices will be reconsidered based on agreed criteria.
- **Cost-Based Adjustments.** Allow price changes when documented costs exceed a defined threshold (e.g., a material cost increase exceeding 5%), with the requesting party providing supporting documentation.
- **Tariff and Regulatory Pass-Throughs.** Explicitly allocate the risk of new tariffs or regulatory costs-specifying whether they pass through to the buyer, are shared or remain with the seller.
- **Renegotiation Windows.** Include periodic renegotiation rights at defined intervals. For instance, certain energy contracts provide for renegotiation every five years with a "competitive offer" mechanism as a fallback if the parties cannot agree.

Practical Drafting Tips

- **Define "material change" with specificity**-tie it to concrete numbers (e.g., "a cost increase exceeding 10% from baseline").
- **Require documentation** from any party requesting a price adjustment, backed by verifiable cost data.
- **Use objective data sources**-government-published indices and recognized market benchmarks-rather than either party's internal cost reports.
- **Include a fast-track dispute process for pricing** (mediation or expert determination) so pricing disagreements do not disrupt the entire contract.
- **Address what happens if no agreement is reached**

-include an off-ramp such as a right to terminate on reasonable notice.

Part 2: How Parties Modify a Fixed-Price Contract When It Is No Longer Equitable

What happens when a contract is already signed, the price is fixed and then unexpected events-a pandemic, a tariff war, a supply chain collapse-make performance far more expensive than anticipated? As one leading legal publication recently observed: “Supply chain disruption, geopolitical instability, and sustained cost inflation have made price pressure an unavoidable reality. The starting point is always the same: the contract.”[1]

Start with the Contract Itself

Before pursuing any other remedy, review the existing agreement carefully. Look for price adjustment or escalation clauses; force majeure provisions addressing extraordinary events beyond the parties’ control; material adverse change clauses permitting renegotiation or termination; and termination for convenience provisions. Recent court decisions have confirmed that force majeure clauses allocate risk between parties and are not limited to a breaching party’s defense-so review these provisions carefully.[2]

Voluntary Renegotiation: The Most Practical Path

In most cases, the most effective remedy is to negotiate. If both parties value the relationship, a voluntary modification-adjusting price, scope, timing or quantity-is often preferable to litigation. For contracts governed by the Uniform Commercial Code, contract modifications are enforceable without additional consideration, though written contracts with “no oral modification” clauses should be amended in writing.

Practical Tip: Document what changed, when, the resulting costs and any steps taken to mitigate those costs. Consider creative alternatives-adjusting delivery schedules, reducing quantities or modifying scope-rather than demanding a straightforward price increase.

Legal Doctrines: A Last Resort, Not a Backup Plan

When negotiation fails, parties sometimes turn to legal doctrines for relief:

- **Commercial Impracticability** (UCC § 2-615): May excuse performance when an unforeseen event makes it impracticable-but increased costs or reduced profitability alone are generally not enough.
- **Frustration of Purpose:** Requires that the frustrating event was unforeseeable and that the value of the contract was totally or near-totally destroyed-a very high bar.[3]
- **Impossibility:** Applies when performance has become impossible, not merely more expensive.

The Reality: Courts overwhelmingly enforce fixed-price terms as written. As one federal appeals court explained, a fixed-price contract is itself an explicit assignment of risk-the seller bears rising costs, the buyer bears falling market prices.[4]

Courts will not use equitable doctrines to undo that allocation simply because one party made a bad bargain, and are particularly skeptical of sophisticated commercial parties who failed to negotiate price protections when they had the opportunity.

Key Insights

1. Address pricing risk at the drafting stage-it is far easier and less costly than seeking legal relief later.
2. Use objective, government-published indices (CPI, PPI) rather than either party's internal data.
3. Build in periodic review windows and clear renegotiation triggers with defined thresholds.
4. Include a streamlined dispute resolution process specifically for pricing disagreements.
5. If already in a fixed-price contract, document the cost changes and mitigation efforts, and explore practical, creative alternatives before demanding price increases.
6. Do not rely on legal doctrines like impracticability as a backup plan-courts set very high thresholds and rarely grant relief to sophisticated parties.

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[1] Lucy Pringle, "Managing price increases in volatile markets," Chambers (May 12, 2026), *available at* https://chambers.com/articles/managing-price-increases-in-volatile-markets.

[2] *Mufaddal Real Est. Fund, LLC v. Vara Sch. Pros., Inc.*, 2024 IL App (3d) 220499, ¶ 27 ("by definition, force majeure clauses allocate the risks between parties to a contract in the face of certain intervening events that interfere with the parties' performance of lease obligations. They are not limited in use or application to a breaching party's defense.").

[3] *See, e.g.*, *United States v. Sw. Elec. Co-op., Inc.*, 869 F.2d 310 (7th Cir. 1989); *United States v. Sw. Elec. Co-op., Inc.*, 869 F.2d 310 (7th Cir. 1989); *Siegal v. GEICO Cas. Co.*, 523 F. Supp. 3d 1032 (N.D. Ill. 2021).

[4] *N. Indiana Pub. Serv. Co. v. Carbon Cnty. Coal Co.*, 799 F.2d 265, 278 (7th Cir. 1986).