

# Capitalizing on SaaS Sales Opportunities During the Coronavirus Crisis Without Creating New Legal Risks

Although many businesses are concerned about the potential economic fallout of recent shelter-in-place orders in Silicon Valley as well as more limited office and business closings across the United States, the coronavirus crisis is presenting a unique sales opportunity to savvy SaaS companies, given the fact that much of the United States workforce has suddenly been forced to work remotely.

How can your company capitalize on the sales opportunities now presented by the increased demand for SaaS and other tech solutions while avoiding the legal pitfalls that can arise from economic uncertainty?

First and foremost, increased customer demand presents an opportunity to improve poorly drafted contracts, which can be more easily renegotiated in conjunction with a customer-initiated request. If your customer is looking to add user access or other services as a result of the new focus on a remote workforce, then you may want to update your customer contract at the same time, particularly given all the predictions of a post-coronavirus recession. It would be in your company's best interests to have a strong contract in place with your customers in the event of any recession, since poor economic conditions tend to result in contract cancellations by customers. If you have never had your customer contract reviewed by a lawyer with SaaS contract expertise, now might be a perfect time to do so in conjunction with meeting any new customer demand, so that your business is better prepared to weather an economic downturn and customers

looking for loopholes to walk away from your agreement.

Second, if your customer is looking to add authorized users at new locations, ensure that you are addressing the new sales by properly amending your existing contract as contemplated by the SaaS lawyer who originally drafted the contract. More often than not, I see companies making huge mistakes with subsequent SaaS sales, where they execute amendments that incorrectly override key terms in their original contracts or add significant legal loopholes into the original contracts. Obviously a poorly drafted amendment can completely undo any investment you made in a well written original agreement, and can create legal disputes where you previously had none. So, you definitely want to exercise a high degree of care to ensure that any new sales are appropriately addressed by a correctly drafted amendment.

Additionally, you need to consider whether any implementation services will be required to make these additions, whether the possibility of future implementations was contemplated by the original contract, and how the delivery of implementation services might be impacted as a result of the coronavirus pandemic or any economic conditions that might arise as a result of the pandemic. In the prior recession, implementation was one of the most commonly disputed issues between software companies and customers.

Third, if your customer has gone entirely remote, you need to anticipate a greater demand for various types of support services, which also creates new customer sales opportunities. For example, perhaps instead of one-size-fits-all free standard support, there may now be a customer demand for multiple levels of paid, enhanced support services. However, if your company suddenly decides to completely revamp support services in response to new customer demand, you definitely need to make sure such changes have been contemplated in your original contract, and to the extent they have not, make sure the contract again is appropriately amended to address a

complete revamp of your support offering.

Fourth, you may find that your customer now has new custom functionality or feature development needs in response to changing service demands by the customer's own client base, which is similarly responding and trying to adapt to the same crisis. If you are fortunate enough to have this type of opportunity arise, then you need to ensure that ownership of custom functionality features was sufficiently contemplated by the original contract with your customer, not only with respect to whether or not those features can subsequently be made available to your entire customer base but also with respect to the specific terms for costs, timetable, and specifications for development. To the extent these issues are not fully addressed by your original contract, you will want to make sure they are properly addressed by separate agreement. In light of the current crisis, you will want to ensure that any potential delays that might arise due to the coronavirus crisis have been properly addressed in the terms.

Fifth, the new circumstances may present new customer demands for live and recorded remote training that did not exist previously, which may be able to be sold at different price-points. However, again, if such an opportunity for sales presents itself, you should ensure that your original contract contemplated the possibility of different levels of training for a fee being purchased by the customer. If not, then you will want to ensure that your agreement is properly amended to reflect the new training service offerings. And of course, if your customer is seeking training to be provided by a particular instructor, you will want to ensure that the possibility of that instructor falling seriously ill to coronavirus has been contemplated and any risks properly addressed.

Sixth, the new remote circumstances may present customer demands for enhanced levels of service in terms of available bandwidth and other service enhancements, which you also may

be able to make available to customers at different price-points. Should this arise, you will again need to ensure that the possibility of different levels of service was contemplated by the original agreement, and if not, appropriately amend the agreement to address this possibility.

Finally, the new remote circumstances may present opportunities to sell new professional services to your customers that you had not previously considered. Should an opportunity of this nature arise, then you will need to ensure that the possibility of future professional services was contemplated by the original agreement, and if not appropriately amend the agreement to address this possibility and then potentially draft a separate professional service agreement that addresses the contemplated services required by the customer.

All in all, the coronavirus crisis is presenting a unique business opportunity for cloud-based SaaS providers to deliver more services to a workforce suddenly forced to work remotely. However, to capitalize on the opportunity to meet the demands of a newly remote workforce, SaaS companies will need to apply a high level of care to the technical drafting of their contracts. Otherwise, to the extent they cut corners, they are likely to pay the price by attracting customer disputes in a subsequent weak economy.

To explore how you might capitalize on SaaS sales opportunities in the current business climate, please schedule a consultation today at <https://calendly.com/prinzlawoffice>.