

Basic Elements of Any Contract



- Contract:** An agreement that has specific terms between two parties, both acting in good faith, in which there is a promise to do something in return for a valuable benefit. A contract is generally an understanding, contract where two parties have a meeting of minds in exchange things of value.
- Agreement:** An understanding or contract between two parties with regard for a subject, interest, or thing; for this to occur, generally three criteria must be met:
 - A person offers to contract (e.g., an interest).
 - A person offers to be contracted with (e.g., one cannot contract with someone who is not of sound mind).
 - A thing to be contracted for, which must be something legal (e.g., one cannot contract legally to sell a book with someone).
 - A valid purpose (e.g., a constitution).
 - The power of the contracting parties (there must be a clear agreement to enter in the bargain).
- Consent:** The highest understanding between parties that each party will give that other what is bargained for and that each is working in a straightforward manner to implement the terms of the contract.
- Offer:** The manifestation of a desire and willingness to enter into a bargain, which induces the other party that there is no need for that bargain to be made.
 - Acceptance:** The act of agreeing to something that is offered by another party; this acceptance can be shown in a variety of ways:
 - Express (i.e., an open declaration of acceptance).
 - Implied (i.e., where a party acts as if they have accepted an offer).
 - The offer and acceptance must be in clear form of communication that is understood by both parties whether it is a written agreement, an oral agreement, or some form of legally understood symbolic agreement, like a handshake.
- Consideration:** An inducement, price, or motive that causes a party to enter into an agreement or contract; it can take a variety of forms:
 - A price paid in money.
 - The performance by one of the parties (e.g., the loss of an ability to sell something for a period of time).
 - A binding promise or oath.
 - NOTE:** Any promise made in consideration must be able to be fulfilled in the agreement or deal.
- Obligation to perform (i.e., a duty):** The ability for parties entering an agreement or agreement to engage in legal action must be free of legal impediment of sound mind to engage in a contract.
- Enforceable promise:** Your contract contains a contract that is designed to break the law.



Watch for Oral Contracts



- Oral contracts are generally enforceable, however, it can be extremely difficult to prove what a period of time what was agreed to by both parties.
- Enforceable promises to the agreement will need to be provided by some performance; faulty memories are often at issue with oral contracts.
- Oral contracts are not enforceable in certain instances that violate the Statute of Frauds (e.g., real estate transactions involving the transfer of land must be in writing).

How to Avoid Common Business Contract Pitfalls, Errors & Mistakes

- Keep contract documents short and clear to avoid confusion:**
 - Start with a clear and concise paragraph explaining who is doing what to do what and for how long, include the date as well as the names and addresses of both parties.
 - The agreement is entered into on this 1st day of January 2011 by John Jones, 100 East Main Street, Chicago, IL 60612 (hereinafter "John"), and Jane Doe, 200 West First Avenue, Chicago, IL 60614 (hereinafter "Jane").
 - There shall have a period not provided in the agreement will need to be the longest period.
 - Use and revise until the language is easy and simple to understand.
 - The clear document is preferable and avoid clutter, repeated phrases or unclear phrases can cause confusion; also, be careful with comparisons (e.g., using "and" instead of "or" or vice versa).
 - Clarify the contract terms, and state that both agree to understand under the agreement.
 - NOTE:** In order to make a contract from them, the agreement should state that both clearly as well as neither are responsible for either party from having to use another, there may consider it advisable that, as part of the agreement, John is agreeing to have the business (which both individuals own) when and only, that a person who is making the agreement during the time that not within that time is a business, "business" and "not", indicate the agreement for any work obligations.
- Define payment terms and timing:**
 - NOTE:** If John is to pay Jane \$1000 once a month, no later than the 1st of every month, it should be stated clearly if the agreement is made for a certain period of time (e.g., a year), that should be stated as well. There should consider whether the only change from a time for if the term is determined later than the day of the month, there should also consider what the means to be able to do that have specified in the event that John does not pay at all.
 - Try to document.
 - Remembering can be difficult to forget.
- Make sure all party names are accurate, and avoid the use of ambiguous phrases:**
 - When there are two people or more in part of an agreement, the use of the words "he" or "she" can be confusing.
 - Use last names, or in a clear where there are multiple persons with the same last name, use that that last name.
 - If the gender of the person is to be clearly not ambiguous, use "his" or "her."
- Finalized and with carefully:**
 - The agreement needs to read as a clear contract for all parties to understand what is agreed to.
 - Every contract will be useful and useful will use everyone's words to make it more or less clear.
 - Carefully reviewed and communicated with the other party to ensure what was stated by either party or phrase and determine whether the language is useful.
- Summarize all page:**
 - Page numbering helps to keep track of the document with the document.
 - Numbered pages allow anyone reviewing the contract to determine whether any pages are missing.



Business Contracts Tips And Terminology Quick Study Business

Pasquale De Marco



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