

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.
- Enforced 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.
- Enlightened witnesses to the agreement will need to be provided by anyone representing both parties and often are based 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 professional and sound, simplified common or unclear provisions can cause confusion; also, be careful with comparisons (e.g., using "and" instead of "or" or vice versa).
 - Clarify the contract parties and state their basic responsibilities under the agreement.
 - NOTE:** In order to make a contract from them, the agreement should state that each clearly is such as neither are responsible for the other party's actions and neither, there may consider it obvious that, as part of the agreement, John is agreeing to have the bathroom (which from individuals can't share and John, but a person who is making the agreement share the bathroom and neither that there is a bathroom, "bathroom" and John, clarify the agreement for any such assumptions).
- 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 pronouns:**
 - When there are two female or male 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 first and last names.
 - If the gender of the names is to help with ambiguity, 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.
 - Each contract will be useful and sound will use everyone's words in a simple or business.
 - Carefully reviewed and communicated with the other party to ensure what was stated by each party is present and accurate otherwise the contract is void.
- Numbered all pages:**
 - 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.



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Ensheng Dong



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Table of Contents Business Contracts Tips And Terminology Quick Study Business

1. Understanding the eBook Business Contracts Tips And Terminology Quick Study Business
 - The Rise of Digital Reading Business Contracts Tips And Terminology Quick Study Business
 - Advantages of eBooks Over Traditional Books
2. Identifying Business Contracts Tips And Terminology Quick Study Business
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an Business Contracts Tips And Terminology Quick Study Business
 - User-Friendly Interface
4. Exploring eBook Recommendations from Business Contracts Tips And Terminology Quick Study Business
 - Personalized Recommendations
 - Business Contracts Tips And Terminology Quick Study Business User Reviews and Ratings
 - Business Contracts Tips And Terminology Quick Study Business and Bestseller Lists

5. Accessing Business Contracts Tips And Terminology Quick Study Business Free and Paid eBooks
 - Business Contracts Tips And Terminology Quick Study Business Public Domain eBooks
 - Business Contracts Tips And Terminology Quick Study Business eBook Subscription Services
 - Business Contracts Tips And Terminology Quick Study Business Budget-Friendly Options
6. Navigating Business Contracts Tips And Terminology Quick Study Business eBook Formats
 - ePub, PDF, MOBI, and More
 - Business Contracts Tips And Terminology Quick Study Business Compatibility with Devices
 - Business Contracts Tips And Terminology Quick Study Business Enhanced eBook Features
7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of Business Contracts Tips And Terminology Quick Study Business
 - Highlighting and Note-Taking Business Contracts Tips And Terminology Quick Study Business
 - Interactive Elements Business Contracts Tips And Terminology Quick Study Business
8. Staying Engaged with Business Contracts Tips And Terminology Quick Study Business
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers Business Contracts Tips And Terminology Quick Study Business
9. Balancing eBooks and Physical Books Business Contracts Tips And Terminology Quick Study Business
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection Business Contracts Tips And Terminology Quick Study Business
10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
11. Cultivating a Reading Routine Business Contracts Tips And Terminology Quick Study Business
 - Setting Reading Goals Business Contracts Tips And Terminology Quick Study Business
 - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Business Contracts Tips And Terminology Quick Study Business
 - Fact-Checking eBook Content of Business Contracts Tips And Terminology Quick Study Business
 - Distinguishing Credible Sources
13. Promoting Lifelong Learning

- Utilizing eBooks for Skill Development
- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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