

CONTRACTS



WHAT IS A CONTRACT?

- A contract is an agreement voluntarily entered into, which the parties intend to be enforceable at law.
- If the agreement is not fulfilled, both of the parties would be able to either enforce performance or obtain some other legal remedy to make sure that the other keeps the obligation.

TYPES OF CONTRACTS

Bilateral	The parties to the agreement exchange promises to do some future act • In essence, it is a promise for a promise, including rights and duties on each side
Constructive	Similar to an implied contract, where the circumstances are such that the intent of the creation of a contract may be inferred
Executed	All the terms of the agreement have been completed by all parties involved
Executory	All or part of the terms of the agreement remain to be performed
Express	The terms of the contract are stated, orally or in writing, by the parties
Implied	The contract is inferred from the conduct of the parties, although not spelled out in words
Simple	The contract may be in written, spoken, or implied form, but is not under seal and requires no special form to be enforceable • Implied actions include shaking hands or any physical movement that leads the other party to assume a contract has been made
Specialty	This contract pertains to a special formal deed and, as such, must be in writing and under seal • A wax seal used to be required in the sealing of a contract, but it has been replaced by a red ink or the word "SEAL" is printed next to where the parties sign
Unenforceable	The law will not permit enforcement of this contract because some additional requirements outside of the common-law elements of the contract are missing
Unilateral	This contract comes into existence when one party makes a promise and, instead of receiving a promise in return, is the recipient of an act by the other party
Void	The acts, conduct, and writings of the parties does not bring about a change in their legal status • In essence, there is no contract
Voidable	Voidability exists where either of the parties has the power to avoid the legal requirements created by a valid agreement simply by electing to disaffirm the contract

STATUTE OF FRAUDS

- This statute targets specific contracts which must be made in writing
- Agreements may be deemed as void or voidable if they do not contain the necessary writing
- If, by the terms of an oral agreement, there is a possibility of performance within a year, it is said to be not within the statute
- Oral agreements: not invalid

REQUIREMENTS

- A written contract, or some note or memorandum of it, that contains at least the bare essential terms
- The writing must be signed in some form or another by the party against whom the agreement is sought to be enforced

DOCTRINE OF PART PERFORMANCE

- Where a contract has been partly carried out by one of the parties, the other cannot use the absence of a written contract as an excuse not to pay for work done
- The courts will not waive the normal requirement to have certain contracts in writing when they meet the standards of the Statute of Frauds

UNIFORM COMMERCIAL CODE

- This covers various types of contracts for the sale of goods of a certain value and makes them enforceable without a signed writing
- According to the Merchant's Firm Offer Rule, a written offer held open by the merchant is irrevocable for the stated, or reasonable, amount of time, but not longer than three months without consideration

GLOSSARY OF TERMS

Beneficiary	Person who benefits from the fulfillment of a contract
Breach	Failure, without legal excuse, to perform any promise which forms a whole or part of a contract
Obligate	One to whom another is obligated
Obligor	One who is bound by a legal obligation
Offeree	The party that accepts the contract
Offeror	The party that tenders the contract
Party	Includes human beings and any legal entity recognized by the law as being able to enter into a contract in its own right
Rescission	Cancellation or annulment of a contract

Notes: Please be advised that this chart does not account for jurisdictional differences • It is an informational tool which should be supplemented by more comprehensive materials and/or professional legal advice

- Various states have enacted "plain language" laws, which relate to the writing required for certain contracts
- Personal services: considered to be not within the statute if they can be performed within one year
- Joint obligation: not an undertaking by one to answer for the debt of the other

SMALL PRINT

- In general, parties are bound by the printed terms on the document whether they read it or not
- However, the fine print must be brought to the offeree's attention by the offeror

TYPES OF CONTRACTS

- Long-term leases
- Contracts that cannot be completed within one year of the making
- Promises to pay another person's debt
- Agreements to marriage
- Agreements to convey interests in real property, except for leases for less than one year

PAROL EVIDENCE RULE

- Where there is a dispute concerning a written contract, the court will consider only the terms of the contract
- No matter what has been said between the parties, the court will only enforce what is put down in writing
- Oral evidence may be used to show that written contract is not entire contract

Contract Reference Guide

**United States. Defense Contract Audit
Agency**

A red circular graphic with a gradient, appearing as a partial circle or a thick curved line, located to the right of the text box.

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