

# CONTRACT

A contract is a legally enforceable agreement.  
**Promise + Consideration = K**  
*Promise + Detrimental Reliance = K*

## PROMISE

A promise is the *manifestation of intent* to act or refrain from acting in a specified way

A promise or performance must offer some *legal detriment*, i.e. something of value or some form of freedom

## CONSIDERATION

To constitute consideration, a performance or promise must be *bargained for*, i.e. *sought in exchange* for another performance or a return promise

Each party has the duty to bargain in *good faith*

### DETRIMENTAL RELIANCE

In some instances, detrimental reliance acts in place of consideration.

### UNENFORCEABLE

#### Conditional & Illusory Promises

An agreement that depends on the *wish, will, or pleasure* of one of the parties will not be enforced.

#### No Commitment

One party cannot convert what both parties knew to be a joke into a serious transaction simply by claiming it to be so.

There must be a *meeting of the minds*.

### DISCRETIONARY

#### Vague & Indefinite Terms

*Six Ways of Interpreting a Term:*

The Courts use these to determine INTENT

- (1) Language of the K
- (2) Dictionary
- (3) Prior Negotiations Between the Parties
- (4) Trade Usage
- (5) Standards incorporated by Reference
- (6) The Conduct of the Parties

Other relevant factors:  
Evidence; Subject Matter

### ENFORCEABLE

#### Satisfaction Clauses

Two Categories:

- (1) Objective test: *Reasonable person standard*, where "satisfaction" can be ascertained to something measurable
- (2) Subjective test: *Good faith standard*, where "satisfaction" is determined by the fancy, taste, or judgment of the parties

#### Exclusivity:

**Good Faith & Reasonable Efforts**  
Implied Promises = A promise may be lacking, and yet the whole K may be "instinct with an obligation, imperfectly expressed." In these situations the court *reads in the promise* through *good faith* and *reasonable efforts* by both parties.

# Business Law Contracts Study Guide

**James Marson, Katy Ferris**



## **Business Law Contracts Study Guide:**

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