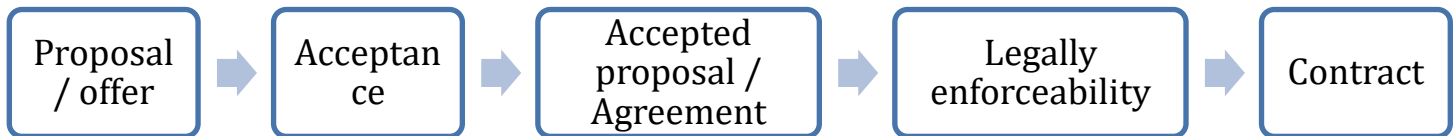


What is Contract?

An agreement enforceable by law

Formation of Contract



Type of Contract

Types of Contracts on the basis of

| Validity or enforceability | Formation | Performance | |
|----------------------------|------------------|---------------------|--------------------|
| Valid contracts | Express contract | Executed contract | |
| Void contracts | Implied contract | Executory contract | |
| Voidable contracts | Quasi-contract | Unilateral contract | Bilateral contract |
| Illegal agreements | E.com. contracts | | |
| Unenforceable contracts | | | |

Type of Contract

| | |
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| Valid Contract | An agreement which is binding and enforceable is a valid contract |
| | Element of Valid Contract |
| | Offer and acceptance, Intention to create legal relationship, Lawful consideration, Capacity of parties, Legal formalities, Not declared to be void, possibility of performance, certainty of meaning, |

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| | lawful object, free consent |
| Void Contract | A contract which ceases (come to an end/stop) to be enforceable by law becomes void when it ceases to be enforceable |
| | A contract with Mr. X (owner of the factory) for the supply of 100 tons of salt. But before the supply of 100 ton salt, the fire caught in the factory and everything was destroyed. Here the contract becomes void. |
| Voidable Contract | An agreement which is enforceable by law at the option of one or more parties thereto, but not at the option of the other or others is a voidable contract |
| Illegal Contract | It is a contract which the law forbids to be made |
| | Contract to kill someone. |
| | All illegal agreements are void but all void agreements are not necessarily illegal. |
| Unenforceable Contract | Where a contract is good in substance but because of some technical defect i.e. absence in writing, barred by limitation etc. one or both the parties cannot sue upon it, it is described as an unenforceable contract. |
| Express Contract | A contract would be an express contract if the terms are expressed by words or in writing. |
| Implied Contracts | Implied contracts in contrast come into existence by implication. Most often the implication is by law and or by action. |

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| | Where a coolie in uniform picks up the luggage of A to be carried out of the railway station without being asked by A and A allows him to do so, it is an implied contract and A must pay for the services of the coolie detailed by him |
| Quasi-Contract | It is a contract in which there is no intention on part of either party to make a contract but law imposes a contract upon the parties. |
| | Mr. A, a tradesman, leaves goods at Mr. B's house by mistake. Mr. B treats the goods as his own. Mr. B is bound to pay for the goods. |
| Executed Contract | The consideration in a given contract could be an act or forbearance. When the act is done or executed or the forbearance is brought on record, then the contract is an executed contract. |
| | When a grocer sells a salt on cash payment it is an executed contract because both the parties have done what they were to do under the contract. |
| Executory Contract | In an executory contract the consideration is reciprocal promise or obligation. Such consideration is to be performed in future only and therefore these contracts are described as executory contracts. |
| | Where Mr. A agrees to take the tuition of Mr. B, a pre-engineering student, from the next month and Mr. B in consideration promises to pay Mr. A Rs. 1,000 per month, the contract is executory because it is yet to be carried out |

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| Unilateral Contract | It is a one sided contract in which one party has performed his duty or obligation and the other party's obligation is outstanding. |
| Bilateral Contract | A Bilateral contract is one where the obligation or promise is outstanding on the part of both the parties |

Consideration

- It is a price for the promise of the other party and it may either be in the form of 'benefit' or some 'detriment' to the parties;
- Consideration must be legal;
- The general rule of law is "No Consideration, No Contract" but there are a few exceptional cases where a contract, even though without consideration is valid.

Capacity of Parties

- It means the competence of the parties to make a contract;
- Competence person: Above 18 years, Sound mind, Not disqualified from contracting by any law
- Not Competence person: Minor, Foreign Sovereigns and Ambassadors, Alien enemy, Corporations, Convicts, Insolvent

Free Consent

- Two or more persons are said to consent when they agree upon the same thing in the same sense

| | | | | |
|--|-----------------|-------|-------------------|------------------|
| Consent is not free when it is caused by | | | | |
| Coercion | Undue Influence | Fraud | Misrepresentation | Mistake |
| Contract is Voidable | | | | Contract is Void |

- **Coercion** – committing (entrust), or threatening to commit, any act forbidden by the Indian Penal Code or the unlawful detaining, or threatening to detain any property, to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement.
- **Undue influence** - A contract is said to be induced by 'undue influence' where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other and he uses that position to obtain an unfair advantage over the other.
- **Fraud** – It means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent, with an intent to deceive another party thereto or his agent, or to induce him to enter into the contract:
 1. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;
 2. The active concealment of a fact by one having knowledge or belief of the fact;
 3. A promise made without any intention of performing it;
 4. Any other act fitted to deceive (misleading);
 5. Any such act or omission as the law specially declares to be fraudulent.
- **Misrepresentation** - statement of fact, which of false, would constitute misrepresentation if the maker believes it to be true but which is not justified by the information he possesses.
- **Mistake** - It may be defined as innocent or erroneous belief which leads the party to misunderstand the others. Mistake may be either Bilateral or Unilateral.

Performance of Contract

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| Performance of Contract | By Whom | |
| | Liability of Joint Promisor & Promisee | Rights of Joint Promises |
| | Time & Place of Performance of Promise | |
| | Performance of Reciprocal Promises | Agreement to do Impossible Acts |
| | Appropriation of Payments | |
| | Contracts which need not be Performed | |
| | Discharge of a Contract | |

Breach of Contract



Contingent Contract

A contract to do or not to do something, if some event, collateral to such contract, does or does not happen.

- A contingent contract is Voidable Contract.
- Contracts of Insurance, indemnity and guarantee fall under this category.
- Mr. A contracts to pay Mr. B Rs. 1,00,000, if Mr. B's house is burnt.
- Mr. A agrees to pay one lakh rupees to Mr. B, if he brings on earth a star from sky. This is a **contingent contract** and **void contract**.

Key Points

- A void agreement is one which is not enforceable in a court of law.
- An agreement which is enforceable by law at the option of one or more of the parties thereon but not at the option of the other or others is a **voidable contract**.
- When the consent of a party is not free, the contract is voidable.
- A proposal when accepted becomes a promise.
- An offer may lapse by rejection of offer by offeree.
- In case of illegal agreements, the collateral agreements are void.
- Consideration may be past, present or future.
- When the consent of a party is obtained by fraud, the contract is voidable.
- The threat to commit suicide amounts to coercion.
- Moral pressure is involved in the case of undue influence.
- On the valid performance of the contractual obligations by the parties, the contract is discharged.
- A contract is discharged by rescission which means the cancellation of the existing contract.