

## [Contract Lawyers Melbourne](#)

Contract law is a cornerstone of the society we enjoy today, ensuring that all those engaging in commerce and trade have the right to enforce their lawful position in court. For this reason, [commercial lawyers Melbourne](#) are required to maintain a comprehensive knowledge of contracts and the relevant legislation as it applies to their clients. LGM Advisors, are the commercial lawyers Melbourne, has over 20 years experience in advising and assisting businesses, organizations, and individuals alike in all manner of contract law matters. Businesses rely on the services of commercial lawyers to draft and review contracts, negotiate alterations or amendments, and enforce the terms or conditions of contracts.

### **How Do I Know If a Contract Has Been Entered?**

We are all familiar with the act of signing written documents, known as contracts, throughout our daily lives. It is important to remember that not all contracts are laid out in written documents, and no signature is required in order for a valid and binding contract to exist. The written documents we are familiar with serve as a means of insurance, providing a written record of the exact terms and conditions agreed to between the parties.

A verbal contract is also legally binding, and can be enforced so long as the relevant party is able to produce evidence of the contract's existence. These subtleties make access to quality legal advice very important, as contractual disputes can be incredibly costly and time consuming to rectify. For businesses, this is particularly important. Failure to issue lawful and fair contracts to stakeholders is a poor reflection on any enterprise.

### **So What *Is* a Contract?**

As mentioned above, a contract is any agreement between parties that contains certain terms or and consideration. Consideration refers to money or other goods and services rendered in exchange for something.

For a legally-binding and enforceable contract to exist, the following have to be satisfied:

- An intention to enter into a binding agreement, that is, a promise has been made between parties to honor the terms and conditions of their agreement or transaction. In written contracts, this is often explicitly stated, but it can be implied in many cases.
- Each party to the agreement must reasonably understand who the other party is and their obligations to that party.
- An offer or promise to offer some kind of consideration (money, goods, services etc.) has been extended by one of the parties and accepted by the others.
- Each party must have offered or given something as part of the agreement, and received something in return.
- Parties to the contract are clearly and reasonably aware of the terms and conditions comprising the agreement, and have an understanding of their obligations to the other party.

Any agreement, transaction, offer, promise etc. that was demonstrably based upon a misunderstanding or miscommunication is inherently void and therefore not enforceable or binding. This offers protection to parties targeted with unscrupulous dealings, ensuring that they are not bound by the terms of an unfair/void contract and liable to fulfill its terms and conditions.

### **Breach of Contract**

As we mentioned earlier, a contract must contain clear terms and conditions that set out the rights and obligations of the parties involved. This can be as simple as the implied understanding present in any transaction; that upon paying for something, you will receive the specified item in return and it will be in the condition that the seller said it would be.

A contract is breached when one or both parties act in contravention of these terms and fail to fulfil their obligations under the contract. This can be difficult to prove for informal or verbal contracts, but for written contracts (documents that serve as evidence of the agreed terms and conditions), it is possible to demonstrate an explicit breach of a particular term or condition.

When this happens, the affected party may attempt to resolve the issue informally by requesting that the other party rectify their breach. In the event that this is not possible, the affected party may choose to have the contract enforced through the legal system, which has the power to deliver a binding resolution to rectify the breach.

In the event that the affected party has suffered some kind of loss or detriment as a result of the breach, a court or tribunal may award monetary or other damages, and issue an order of specific performance requiring the other party to carry out their obligations.

### **What Makes an Effective Contract?**

With the assistance of a commercial lawyer, a written contract is drafted in such a way that clearly identifies the parties and their respective obligations under the agreement. All terms and conditions of the agreement will be clearly stated in plain English, ensuring that they cannot be misinterpreted or misconstrued by those bound to the agreement.

An effective contract, one that will allow the parties to fulfil their mutual obligations and enjoy a successful transaction, will also contain provisions for disputes or breaches in the event that they occur. This is managed by the inclusion of a dispute resolution clause, which states that the parties are required to attempt to find a resolution outside of court before legal action can commence.

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Keeping all this in mind is vital for any business, organization, or individual who wishes to engage other parties through enterprise or cooperation. Contract law provides a consistent and enforceable means of keeping promises and honoring agreements, and its value should not be understated. By ensuring any contracts issued are lawful and valid,

they can be enforced in the event of a breach or dispute. Likewise, if you are required to sign an important contract, it is vital that you have the documentation and details of the agreement scrutinized by a contract lawyer to ensure it is free of unfair or invalid terms.

Our commercial lawyers have more than two decades of experience in a wide range of contract matters, giving us a breadth of experience that is matched only by our commitment to professionalism and outstanding customer service.

Contact LGM Advisors today on (03) 9832 0608, or email us at [marketing@lgmadvisors.com.au](mailto:marketing@lgmadvisors.com.au).

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