

# CASE FOR REFUGEES

*Centre for advocacy, support and education for refugees*

## Understanding Contracts Fact Sheet

### What is a Contract?

A contract is an agreement that is made between two or more people which is intended to be legally enforceable. It creates an obligation to do, or not to do, certain things. Some examples of contracts include leases, employment agreements and sale of goods agreements.

We recommend you seek legal advice before entering into a contract. In particular, you should seek legal advice if there is something in the contract which you do not understand.

If you need to prepare a contract, we strongly recommend you get a lawyer to do this for you. The cost of professional advice may be insignificant when you consider a lawyer will prepare the contract which may allow you to trade profitably, better suit your business, and reduce the likelihood of costly disputes in the future.

### What are the Features of a Contract?

A contract must contain four essential elements:

1. **Offer** – there must be a clearly stated offer to do or not do something;
2. **Acceptance** – there must be an acceptance of the offer on the terms set out by the offer. The acceptance of the offer must not change the material terms of the offer (for example, by changing the price for goods);
3. **Intention to create legal intentions** – the parties must intend to enter into a legally binding agreement;

4. **Consideration** – there must be valuable consideration for the promises made under the contract. Consideration is what each party gives the other as the agreed price for the other person's promises. Consideration does not have to be the payment of money. It can be, for example, a promise not to do something.

The parties to a contract must have full legal capacity, which means that the parties must be over the age of 18 years of age (with some exceptions) and of sound mind.

A contract is normally in writing but can be verbal, for example, when you pay cash for food at the shop.

It is prudent to put all contracts for the provision of significant goods or services in writing. A written agreement will be proof of what was agreed upon and prevents misunderstanding. It also prevents either party from forgetting or changing the terms of the contract later.

### Terms and Conditions of a Contract

The terms and conditions of a contract are the statements which describe the rights and obligations of each party to the contract. They set out all the issues agreed between the parties about what is to be done, how it will be done, and under what circumstances.

You should always ensure that you understand all the terms and conditions of the contract and make sure they reflect your understanding of what each party must do under the contract. If you do not understand anything in the contract or do not believe that the contract reflects what you are

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agreeing to do or not do, then you should seek the advice of a lawyer.

## Conduct Which Affects the Validity of a Contract

If a contract involves unfair commercial practices such as misleading or deceptive conduct, duress, or unconscionable conduct, then it may be invalid. Some examples of this conduct include if you are bullied or forced into entering into a contract, or if a seller advertises that goods are suitable for a particular purpose and they are not.

A contract is always invalid if its purpose is illegal, for example, if it involves the sale of drugs.

## What You Should Consider Before Signing a Contract

You should always read the contract carefully, including any fine print and attachments, and make sure that you understand and agree with all the terms and conditions before you accept it. Take the contract away with you and read it before signing it to make sure you are not pressured into signing it on the spot.

Never sign a blank contract or allow details to be filled in later by a salesperson.

Keep a copy of all documents signed and keep a receipt for any money paid.

Seek legal advice if you do not understand any part of the contract.

## Where to Go to Get Help

CASE for Refugees Inc. is a non-government, non-religious community legal centre that provides migration and general legal services to the culturally and linguistically diverse (CaLD) communities of Western Australia. CASE for

Refugees Inc. can assist you by providing you advice regarding a contract or preparing a contract on your behalf.

All services are free of charge, although donations from individuals and organisations are gratefully accepted. All donations of more than AUD\$2.00 are tax deductible.

The contact details for CASE for Refugees Inc. are as follows:

245 Stirling Street, Perth

Western Australia 6000

Tel: (08) 9227 7311

Fax: (08) 9227 7188

Email: [admin@caseforrefugees.org.au](mailto:admin@caseforrefugees.org.au)



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