

# Different Types of Contracts

by Sophia



## WHAT'S COVERED

In this lesson, you will learn about the classifications of several common types of contracts and their functions. Specifically, this lesson will cover:

## 1. Contract Classifications

Contracts are not all cut from the same die. Some are written, some are oral; some are explicit, some are not.

Because contracts can be formed, expressed, and enforced in a variety of ways, a taxonomy of contracts has developed that is useful in lumping together similar legal consequences.

In general, contracts are classified along these dimensions:

- Explicitness
- Mutuality
- Enforceability
- Degree of completion

We will examine each of these concepts in turn.

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## 2. Explicitness

**Explicitness** is concerned with the degree to which the agreement is manifest to those not party to it.

Explicit contracts include:

- Express contracts
- Implied contracts
- Quasi-contracts



### TERM TO KNOW

#### **Explicitness**

The requirement that a contract, whether express or implied, be clearly stated and

understandable to those not a party to it.

## 2a. Express Contracts

An **express contract** is one in which the terms are spelled out directly.

The parties to an express contract, whether written or oral, are conscious that they are making an enforceable agreement.

➞ **EXAMPLE** An agreement to purchase your neighbor's car for \$500 and to take title next Monday is an express contract.



### TERM TO KNOW

#### Express Contract

A contract that is expressed in words, either oral or written, with all of its terms set forth.

## 2b. Implied Contracts

An **implied contract** is one that is inferred from the actions of the parties.

Although no discussion of terms took place, an implied contract exists if it is clear from the conduct of both parties that they intended there be one.

➞ **EXAMPLE** A delicatessen patron who asks for a "turkey sandwich to go" has made a contract and is obligated to pay when the sandwich is made. By ordering the food, the patron is implicitly agreeing to the price, whether posted or not.



### TERM TO KNOW

#### Implied Contract

A contract that is inferred from the parties' actions demonstrating their intent to enter into a contract but without expressing it in words. An example is ordering food in a restaurant and expecting to pay for it.

## 2c. Quasi-Contracts

Both express and implied contracts embody an actual agreement of the parties. **Quasi-contract**, by contrast, is an obligation said to be "imposed by law" in order to avoid unjust enrichment of one person at the expense of another.

In fact, a quasi-contract is not a contract at all; it is a fiction that the courts created to prevent injustice.

➞ **EXAMPLE** Suppose that a carpenter mistakenly believes you have hired him to repair your porch; in fact, it is your neighbor who has hired him. One Saturday morning, he arrives at your doorstep and begins to work. Rather than stop him, you let him proceed, pleased at the prospect of having your porch fixed for free (since you have never talked to the carpenter, you figure you need not pay his bill). Although it is true there is no contract, the law implies a contract for the value of the work.



### TERM TO KNOW

#### Quasi-Contract

A legal fiction that recognizes legal obligations even when parties did not overtly agree to a contract to avoid unjust enrichment. An example would be babysitting services provided for a

## 3. Mutuality

**Mutuality** takes into account whether promises are exchanged by two parties or only one.



### TERM TO KNOW

#### Mutuality

The requirement that a contract contain mutual promises or obligations.

### 3a. Bilateral Contracts

The garden-variety contract is a **bilateral contract**, in which the parties make mutual promises.

Each is both promisor and promisee; that is, each promises to do something and each is the recipient of such a promise.



### TERM TO KNOW

#### Bilateral Contract

A contract where both parties have an obligation to perform, as in the sale of a house where buyer pays money and seller conveys title to the house.

### 3b. Unilateral Contracts

While common, mutual promises are not necessary to constitute a contract. **Unilateral contracts**, in which only one party makes a promise, are equally valid but depend upon performance of the promise to be binding.

➞ **EXAMPLE** If Charles says to Fran, “I will pay you five dollars if you wash my car,” Charles is contractually bound to pay once Fran washes the car. Fran never makes a promise, but by actually performing, she makes Charles liable to pay.

➞ **EXAMPLE** Ella sees a sign that offers \$50 for the return of a lost dog. Ella never makes a promise to the offeror, but if she looks for the dog and finds it, she is entitled to the \$50.



### TERM TO KNOW

#### Unilateral Contract

A contract where only one party makes a promise and is not binding on the other party until performance occurs. An example would be a reward for a lost pet. No one is obligated to find the pet, but when someone does, the promise of a reward becomes binding.

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## 4. Enforceability

**Enforceability** is the degree to which a given contract is binding. Not every agreement between two people is a binding contract.



### TERM TO KNOW

## Enforceability

The degree to which a given contract is binding.

### 4a. Illegal Contracts

An agreement that is lacking one of the legal elements of a contract is said to be void— that is, not a contract at all.

➞ **EXAMPLE** A promise to commit a crime in return for a monetary payment is an **illegal agreement**; therefore, it is void.

Neither party to a void “contract” may enforce it.



#### TERM TO KNOW

#### Illegal Agreement

A contract that is not valid or enforceable since its object is illegal, as in a promise of payment for doing something illegal. Such a contract is void.

### 4b. Voidable Contracts

By contrast, a **voidable contract** is one that is unenforceable by one party but enforceable by the other.

A minor (any person under eighteen, in most states) may “avoid” a contract with an adult; the adult may not enforce the contract against the minor if the minor refuses to carry out the bargain. But the adult has no choice if the minor wishes the contract to be performed. Note, however, that a contract may be voidable by both parties if both are minors.

Ordinarily, the parties to a voidable contract are entitled to be restored to their original condition.

➞ **EXAMPLE** Suppose you agree to buy your seventeen-year-old neighbor’s car. He delivers it to you in exchange for your agreement to pay him next week. He has the legal right to terminate the deal and recover the car, in which case you will of course have no obligation to pay him. If you have already paid him, he still may legally demand a return to the status quo ante (previous state of affairs). You must return the car to him; he must return the cash to you.

A voidable contract remains a valid contract until it is voided. Thus, a contract with a minor remains in force unless the minor decides he does not wish to be bound by it. When the minor reaches his majority, he may “ratify” the contract - that is, agree to be bound by it - in which case the contract will no longer be voidable and will thereafter be fully enforceable.



#### TERM TO KNOW

#### Voidable Contract

A contract that is unenforceable by one party but enforceable by the other party, as in a contract made with a minor.

### 4c. Unenforceable Contracts

An unenforceable contract is one that some rule of law bars a court from enforcing.

➞ **EXAMPLE** Tom owes Pete money, but Pete has waited too long to collect it and the statute of limitations has run out. The contract for repayment is unenforceable and Pete is out of luck, unless Tom makes a new promise to pay or actually pays part of the debt. However, if Pete is holding collateral as security for the debt, he is entitled to keep it; not all rights are extinguished because a contract is unenforceable.

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## 5. Degree of Completion

Completion considers whether the contract is yet to be performed or the obligations have been fully discharged by one or both parties.

➞ **EXAMPLE** Suppose John agrees to sell Humphrey a quantity of wheat in one month. On the appointed day, Humphrey refuses to take the wheat or to pay. The law of contracts holds that a valid contract exists and that Humphrey is required to pay John.

### 5a. Executory Contract

An agreement consisting of a set of promises is called an **executory contract** before either promise is carried out. Most executory contracts are enforceable.

If one promise or set of terms has been fulfilled (e.g., if John had delivered the wheat to Humphrey), the contract is called partially executed. A contract that has been carried out fully by both parties is called an **executed contract**.



#### TERMS TO KNOW

##### Executory Contract

A contract for which performance has not yet been completed.

##### Executed Contract

A contract that has been carried out fully by both parties.



#### SUMMARY

In this lesson, you learned that **contracts are classified** based on their **explicitness, mutuality, enforceability, and degree of completion**. Contracts have different degrees of explicitness, or clarity and apparentness to third parties, that range from **express** to **implied**. **Quasi-contracts**, however, represent legal obligations rather than actual agreements.

Contracts also have different degrees of mutuality, because they can be either **bilateral** or **unilateral**. Enforceability is a third dimension by which contracts are classified. Most contracts are binding unless they are **illegal**, but some are **voidable** or **unenforceable** in certain circumstances. Lastly, contracts differ based on their degree of completion, meaning whether they are **executory** or executed.

Best of luck in your learning!

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**Bilateral Contract**

A contract where both parties have an obligation to perform, as in the sale of a house where buyer pays money and seller conveys title to the house.

**Enforceability**

The degree to which a given contract is binding.

**Executed Contract**

A contract that has been carried out fully by both parties.

**Executory Contract**

A contract for which performance has not yet been completed.

**Explicitness**

The requirement that a contract, whether express or implied, be clearly stated and understandable to those not a party to it.

**Express Contract**

A contract that is expressed in words, either oral or written, with all of its terms set forth.

**Illegal Agreement**

A contract that is not valid or enforceable since its object is illegal, as in a promise of payment for doing something illegal. Such a contract is void.

**Implied Contract**

A contract that is inferred from the parties' actions demonstrating their intent to enter into a contract but without expressing it in words. An example is ordering food in a restaurant and expecting to pay for it.

**Mutuality**

The requirement that a contract contain mutual promises or obligations.

**Quasi-Contract**

A legal fiction that recognizes legal obligations even when parties did not overtly agree to a contract to avoid unjust enrichment. An example would be babysitting services provided for a parent who had to be rushed to a hospital.

**Unilateral Contract**

A contract where only one party makes a promise and is not binding on the other party until performance occurs. An example would be a reward for a lost pet. No one is obligated to find the pet, but when someone does, the promise of a reward becomes binding.

**Voidable Contract**

A contract that is unenforceable by one party but enforceable by the other party, as in a contract made with a minor.