



Welcome!

How to Navigate Business Contracts

March 28, 2024



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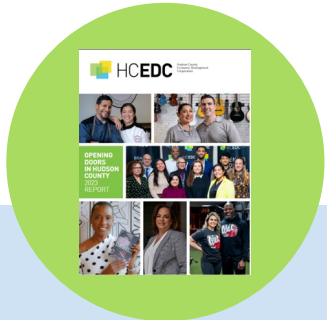
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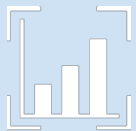


What We Do

Access to Capital, Education & Information



Check out the 2023 Annual Report and Business Spotlights [HERE](#).



Loans

We've partnered with a dedicated team of lenders to provide a wide variety of loans to help you grow your business.



Education

Whether you're a business-savvy expert or looking to start a new venture, we can help you sharpen your skills to take your business to the next level.



Information

We're dedicated to providing ongoing education and assistance to local businesses seeking to better understand the timely programs and relevant changes impacting Hudson County.

Contracts: Key Provisions and Their Significance and Relevance

By: The Rutgers Community and
Transactional Lawyering Clinic

The Rutgers Community and Transactional Lawyering Clinic:

Law Clinic based out of Rutgers Law School in Newark

Work on variety of transactional matters in business law

- Examples: entity formation, contract drafting

Work under the supervision of Professor Saul to represent clients



What is a Contract?

A contract is an agreement between parties, creating mutual obligations that are enforceable by law.

If a promise is breached, the law provides remedies to the harmed party, often in the form of monetary damages.

Types of Contracts You May Encounter:

- Service Contracts
- Employment Contracts
- Independent Contractor or Subcontractor Agreements
- Leases
- Sales or Purchase Contracts
- Financial Contracts (ie. Loan Agreements)

Common Elements in Contracts, What They Mean, & Other Considerations:

- Identifying the Parties
 - Clearly define who is entering into the contract
 - Use their legal names
- Term
 - How long does the contract last?
 - Is it evergreen?
 - Is there a defined term? Is it renewable?
- Scope of Services
 - States what the parties are agreeing to do together - the purpose of the contract
 - Be specific - Is there a deliverable? What particular services are being performed? Timeline?
 - Is there a way for the parties to add responsibilities?



Common Elements in Contracts, What They Mean, & Other Considerations, Continued:

- **Payment**
 - What are the fees? How are they calculated?
 - How will the money be transmitted between the parties?
 - Is there a possibility for a refund?
- **Indemnification**
 - Shifts risks or potential costs from one party to another
 - One party to the contract promises to defend and pay costs and expenses of the other, if specific circumstances arise (often a claim or dispute with a third party to the contract)
 - This clause can also set limits for how much one party will indemnify another

Common Elements in Contracts, What They Mean, & Other Considerations, Continued:

- Termination or Assignability of a Contract
 - How are the parties going to tell each other the contract is ending or being assigned to another person?
 - Articulate appropriate reasons for termination
 - Usually common for the parties to want advance written notice
 - Sometime, the ability to consent (in terms of an assignment) is also seen
- Damages
 - A remedy for a wrongful contract termination or breach
 - Damages are one remedy available for the party “to be made whole”
 - Usually monetary damages
 - Usually determined in a court proceeding (ie. mediation or settlement negotiation)

Contract Deal Breakers:

- Highly individual may vary from contract to contract
- A business decision that you, as a contractor or vendor, must make when assessing risk
- Must always consider
 - What is being required of you
 - What the risks are in accepting the terms • whether it's in your best interest to accept the terms
 - If NOT, be disciplined enough to walk away
- Otherwise agreeing to a contract can make you vulnerable to
 - Litigation
 - Financial penalties
 - Reputational damage
 - Possible criminal ramifications

Contract Deal Breaker and Red Flag Examples:

- **Identifying the Parties**
 - Vagueness when identifying the parties
 - Reluctant to include their contact information or principal place of business in the document
- **Term**
 - Automatic renewal
- **Scope of Services**
 - Vagueness when describing the work each party is responsible for
 - Not including certain obligations that were orally discussed in the written contract
 - Whether or not you want to continue working if there is an ongoing contract dispute
 - Will you be on the hook for payment if there is a delay?

Contract Dealbreaker and Red Flag Examples:

- Payment

- The form and method of payment
 - Lump sum, arrears
 - Via wire transfer, check
- Payment schedule
 - Trying to pay after services have been rendered
 - Should try to get some payment upfront
 - If there is a delay, what happens? Late payment fees, percentage of amount owed as a late payment fee

- Indemnification

- Look at the scope
 - Want to make sure it's not broader or narrower than you would be comfortable with
- Clearly identified means of compensation regarding third party issues
- Make sure the amount of liability is similar – mirroring
- Negotiating tactic – limit liability where you can; only when you do something wrong

Contract Deal Breaker and Red Flag Examples:

- Termination or Assignability of a Contract
 - Are there specific conditions for termination?
 - Do you have a right to get out of the contract if it is assigned to someone you don't want to work with?
- Boilerplate items
 - Still read them
 - Includes things like choice of law provisions, attorney fees, arbitration, severability
 - Make sure court proceedings are in the state your business in unless otherwise agreed
 - Make sure you are not randomly on the hook for the other side's lawyer fees
 - Make sure if the agreement is severed, all the important parts to you remain intact and enforceable.

Pop-Up Clinic

- April 18, 2024 - 10 AM-11:30 AM
- Eligible to participate in the Pop-Up by your participation in this information session!
- 2 half hour sessions
- When signing up for the clinic, you will submit a copy of your contract and your question. You will receive your appointment and then you just need to join the Zoom at the appropriate time.



Questions?



What's Next?

Stay connected

Find all of HCEDC's upcoming programs [HERE](#)

One-on-One with HCEDC:

1. Fill out the intake form [HERE](#)
2. Schedule a meeting with Nina Johnson; Business Engagement Manager [HERE](#)

Sign Up to Keep Up!

Be the first to know:

- Empowering business and training programs
- Upcoming networking sessions
- Accessible loan options
- Incentives and more!

[Sign Up HERE!](#)



Thank you!



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www.hudsonedc.org

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