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## THE ENFORCEMENT OF CONTRACTS

**By: Frank A. Natoli, Esq.**

Contracts are legally enforceable when they comply with state law. By definition, contracts are enforceable agreements which people enter so that each party has the reassurance that his or her interests are legally protected. In order for each party's interests to be protected, the agreement must be a legal contract, as that term is defined by state law.

### The Elements of a Contract

Generally, the elements of a contract discussed below must be fulfilled if an agreement is to be considered a legally binding contract in a court of law:

1. **Offer and Acceptance:** a party must make an offer to do something or provide something to the other party and the other party must accept that offer.
2. **Legal Consideration:** Each party must provide something of value. In many contracts this means that one party will provide a service (such as car maintenance) or a product (such as a car) in exchange for money.
3. **Capacity to Create a Contract:** each party must have the legal capacity to enter a contract and in most jurisdictions that means that they must be at least a certain age and of sound mind. For companies it may mean that the individual is given express authority to enter a contract in the company's bylaws or other formal documents.
4. **Legal formalities, if any:** some types of contracts require certain formalities such as witnesses in order to be valid.

### Verbal Contracts May be Binding

Despite the required elements of the contract, there is no general requirement that contracts be in writing unless an exception is explicitly created by law. Therefore, oral contracts may be binding in many circumstances.

### Enforceable Contracts are Important

Contracts provide parties with the assurance that their agreement will be honored or that they will be entitled to damages for the other party's failure to honor the agreement. They provide security to our business relationships and encourage people to honor their commitments. Therefore, it is important that contracts be properly drafted so that they are enforceable in a court of law. Never just assume that a document you copied off the internet or a template provided by a non-lawyer source will protect your interests adequately.

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