

## Binding Agreement – a Contract

1. All Contracts are agreements but not all agreements are Contracts.

Agreements that are not Contracts are arrangements between two or more parties to do, or not to do, something. These arrangements are built on trust and are not binding or legally enforceable.

Agreements that are Contracts have a legal objective and are made with the free consent of two or more competent Parties who exchange legal consideration. Contracts are binding and legally enforceable.

2. Contracts must have four essential elements:

### **Offer – Acceptance – Consideration - Intention to Create Legal Relations**

**Offer:** One Party's willingness to do (or refrain from doing) something, or to exchange something.

**Acceptance:** One Party's willing consent of another Party's willing offer. This must take place while the offer is still standing, and on the same terms as the Offer was made.

**Consideration:** The exchange of something with value to both parties agreed to at the time of Offer and Acceptance. (Note: A contract is void if no legal consideration is exchanged.)

**Intention to enter into Legal Relations:** At the time of the Offer and Acceptance, both Parties must have intended to create a Binding Contract. Often this can be determined by the conduct of the Parties. (Note: Minors or unfit persons - mentally disabled or intoxicated - cannot enter into Legal Relations.)

3. Contracts may be deemed to be invalid. If terms or conditions are uncertain, the agreement is rendered void. When the objective of the contract is prohibited by a Law, the agreement is rendered void (this includes an agreement in restraint of trade).
4. Contracts with an independent contractor may be deemed to be invalid. Just because one Party is acting and operating as an independent contractor doesn't mean they are one. The CRA may judge an independent contractor to be an employee.