



Contracts Douglas A.S. Paterson, Q.C.

The world as we know it would be difficult to imagine without an invention known as ‘The Contract.’

Contracts are agreements between legal entities, who are competent to make those agreements, involving a promise for a promise, a promise of payment for a promise of delivery of something. A form of payment or valuable consideration is needed. They should be in writing although oral contracts are enforceable.

A good contract is done carefully, accurately, and thoroughly. Its language is direct and precise given the facts and agreement at play. It sets out the basic facts, the intentions of the Parties, anticipates any future concerns and has a formula for dealing with those concerns. In short, within the 4 corners of a good contract, is the who, what, when, where, and why of the transaction, along with penalty clauses.

A ‘contract under seal’ is usually just an expression of

intent or a promise by someone and really is not a modern contract at all.

A simple contract must have an offer and acceptance. So if you go into the corner garage and tell the clerk you want a jug of oil and flash \$10.00 at her, that is only the offer stage. She need not accept the offer. Only when the clerk says okay and takes the money is the contract complete and acted on fully when you receive the oil.

Conditions of a contract are extremely important. Read and understand all contracts before you sign one. If you need a new truck capable of hauling four tons, communicate this specific need to the vendor and insist it be written into the contract of sale, otherwise you could be in trouble if its only good to haul three tons. The court may not be sympathetic.

A contract is binding and there are only a few grounds to set aside a contract, such as fraud, breach of fundamental condition, fundamental mistakes (the parties never really had a meeting of the

minds after all) and frustration (where a fire totally destroys a car just before it changes owners). Illegality can also void a contract - for example where one party does not dump nuclear waste in the Assiniboine River, the other party would not be able to enforce that provision.