

# Study Session4

## Unit 4- Contract drafting: *producing common samples*

### Study Session Outline

- i. Contract drafting:  
producing common  
samples
- ii. Steps in drafting a  
contract
- iii. Observing and  
Contextualizing of  
Sample contracts

#### Study Session

#### Duration

This Study Session may require a  
2 hours of formal study time.

### INTRODUCTION

Dear learners, welcome to unit four under the module, under this unit, you will discuss the contract drafting procedures, and steps. More over this unit strives to equip students with practical skills of contract drafting by providing common samples.

### Learning Outcomes of Study Session 4

After finishing this study unit, you will be able to

- Appreciate the contract drafting steps
- Discuss the contents of a draft contract
- Practice contract drafting skills

## Unit-4 Contract drafting: *producing common samples*

### 4.1 Introduction

The process of contract drafting requires the gradual incorporation of particular provisions, terms, and conditions that are expressed in accordance with the interests and desires of the contracting

parties. (Entehawu, 2013). While drafting a contract, several factors can be taken in to account including the contract's subject, the commodities to be created, the amount of consideration, indemnification, and dispute resolution. Finally, after preparing the draft contract, it needs to be reviewed. It is recommended that a contract be evaluated and made clear to the signing parties before signing it and entering into an agreement with the other contracting parties (Brietzke, 1974). This form of review is referred to as pre-contract review; however, most of the time people make post-contract review.

## 4.2 Steps in contract drafting

Drafting a contract passes through several steps, these steps include:

### 4.2. Identify if all parties have the capacity to participate in a contract.

This is basically about determining the capacity of parties. Parties to a contract must not be under age (mostly above 18 years in many countries), and mentally competent to enter into a contract. This involves being free from substance abuse/alcohol, drugs /at the time of signing. Moreover, Intimidation and duress may not be used to compel the signature of a contract.

### 4.2.2 Setting the consideration of the contract.

Consideration is the amount or in-kind promise that you enter to discharge in a contract. The consideration must be specified precisely in order to conclude an effective contract.

### 2.2.3 Determining the contract's terms.

The terms in a contract should create an opportunity for both parties to attain their objectives through the contract and be reached in good faith. Moreover, such terms should be communicated in writing rather than orally, because having a record of the contract makes enforcement easier. (Whittaker, 1995).

### 4.2.4 Considering using a confidentiality clause.

A confidentiality agreement is strongly suggested if the contract contains trade secrets or other confidential information, such an agreement protects the safety of your sensitive information. (Woodhull, 2018).

#### **4.2.5 Adding a dispute resolution clause.**

Contracts may include, the dispute resolution clause which includes how to solve disputes. Parties can select a forum of their choice and to which country law they will adhere to. This can minimize the cost and time of litigation and reduces the possibility of disputes to arise between contracting parties.

#### **4.2.6 Providing a termination of contract clause.**

The duration of a contract should be specified, Moreover, the possible actions of the parties that result in the early termination of the contract should be included and sufficiently addressed. A provision may also be included in order to allow either party to terminate the contract up on notifications of the other party (often 30 days of notice), if either party is not performing its obligations without good cause (Woodhull, 2018).

#### **4.2.7 Assuring that the contract complies to the law.**

Parties to the contract should always consider that the contract that they are concluding should not deviate from the governing rules and laws of that nation or the place where they are planning to implement the contract. Otherwise, the contract will not be enforced partially or totally. (Woodhull, 2018).

#### **4.2.8 Signatures & dates**

It is difficult to put contracts in to effect, if there are no signatures of the contracting parties and dated. Both parties should understand the details of all the contents of the contract prior to the signature of the contract. If either of the parties to the agreement does not clearly understand any element of the contract, it is recommended to consult a legal counsel.

#### **4.2.9 Offer the contract for acceptance.**

After drafting a contract, you may offer the draft to the other party concerned for acceptance. If the offeree accepts the draft as it is, then it means that both parties have come to an agreement and it will be signed. If not, the contract may not be signed.

#### 4.2.10 Negotiating the terms of the contract.

The contracting parties can continuously negotiate the terms of the contract till the final agreement is reached. At every stages of the negotiation, offer and counter offer can be made till the final output of the agreement is settled and signed. (Hober, 1987).

#### 4.2.11 Signing the contract

Once a final offer is agreed upon, both parties should sign and date the contract. That means the contract will have a binding effect on both parties. Each of the contracting parties need to have a copy of the contract for their records (Hober, 1987).

### 4.3 Observing and Contextualizing of Sample contracts

Dear learners, we hope that you have discussed the common steps of contract drafting, to look how a draft contract looks like, try to see the following draft agreement

#### **CONTRACT CONCLUDED BETWEEN ABC RESEARCH CONSULTANT AND UNIVERSITY OF JUBA**

*This contract is concluded between ABC research consultant (the consultant) University of Juba (the university) in order to undertake a research project on sexual violence in Juba. This agreement is entered in to as of today January 20/2021 effective for one year.*

##### **1. Objective of the contract**

*This contract aims in order to undertake research on sexual violence in Juba and take measures of intervention by relevant governmental and non-governmental organs.*

##### **2. Obligations of the Parties to the contract**

###### **2.1 Obligations of the Consultant**

- *The consultant has the duty to undertake the research on sexual violence in all areas of Juba and report the findings to the university with in one year from the signing of this contract.*

- *The consultant has the obligations to comply with the rules and ethics of conducting research applicable in the university of juba*
- *The consultant has the obligation not to fabricate data and deliver his duties with the standards provided under the ToR of the research.*

**3. Obligations of the University**

*3.1 the university has the obligations to pay .....USD to the Consultant up on completion of the final report*

*3.2 The University has the obligation to provide all facilities for the consultant to run the research project.*

*3.3 The University has the obligation to certify the consultant upon the effective completion of the research project.*

**4. termination of the contract**

*This contract may be terminated on the following grounds*

*4.1 up on the effective completion of the research project*

*4.2 based on the agreement of both parties*

*4.3 any party who wants to terminate the contract with sufficient reason has the duty to give 30 days of notice to the other party*

***By signing below, both parties agree to the terms of the contract as written.***

<i>Printed Name consultant</i>	<i>Signature, consultant or Representative</i>	<i>Date</i>
<i>On behalf of the Juba University</i>	<i>Signature,</i>	<i>Date</i>

## Unit Summary

Under this unit students have seen the steps and how contracts are drafted. In drafting process of a contract, we have seen several stages from identifying the capacity of the parties to the contract to signature. In order to further understand the contents of a draft contract, students are provided with a sample contract.

## Unit Quizzes

2. Try to draft any type of contract?