

### **Suggestions when drafting any form or agreement.**

- A contract or written agreement is a way to create your own law for a specific situation not contemplated by your elected lawmakers. It is personal to you.
- The basic contract has three elements: (1) an offer; (2) an acceptance; (3) some legal consideration (e.g. cash payment), or legal detriment (e.g. giving up something you have a right or entitlement to).
- Make sure that all parties know what they want, what their goals are, what they are expressly asking for in the agreement, and know what they are expressly going to get from entering into the agreement. Be specific!
- Better to include all deal points than leave anything vague. This includes anything that the parties discussed, no matter how customary or obvious it is that a deal point is part of the agreement. If it's not mentioned, it may not be enforceable. Be specific!
- Allow each party to spend a reasonable amount of time reviewing the agreement and/or consult with an attorney. If anyone feels rushed, that person will be the first to cry foul if there is a bump in the road later.
- Better to have a "win-win" agreement rather than a one-sided agreement. Every party is likely to give up a little something to make the agreement work, but if one party feels taken advantage of, the chances are the terms of agreement will eventually be breached.
- Make sure that all of the parties to the agreement have the capacity to enter into the contract. This means that all individuals are of age (usually 18, but check local law to be sure!), are not deemed incompetent, and for an entity (corporation, LLC, non-profit, etc.), that the person signing as a representative of the entity has the authority from the entity to enter into the contract. If you are not sure, get a personal guarantee.
- Make sure that nothing about the agreement is illegal or seems morally repugnant or wrong, chances are that anything like that will make the agreement illegal, void, voidable, or unenforceable.
- A little extra work up-front can prevent expensive lawsuits later.
- Format the document so that there are no "orphan" pages. (i.e. make sure that the signature page(s) have part of the body of the agreement included on the page). This helps prevent a challenge at a later date that the signature page may have been fraudulently replaced.
- Sign multiple copies of the agreement, one for each party to the agreement.
- Depending on the nature of the agreement, its signing may, by law, be required to be witnessed or notarized. Check before signing. You may want to have an agreement witnessed or notarized, even when not required by law, as this may prevent later challenges to the validity of the agreement, or the signature of a party.
- If you find that you are confused, or that a form may not be sufficient, or flexible enough to memorialize your agreement, by all means, contact an attorney!