

Agreements

An agreement is the cornerstone of business relations. It regulates the cooperation between the parties to it and is the basis for resolving any disputes or claims that may arise from it. A badly written agreement may drive a company out of business, while a well written managerial agreement may give you a golden parachute, or severance package, so big that you may not have to work for quite a long time. Agreements are formal in tone and state what the parties have to do, in other words what obligations they have, what they have the right to, or what their entitlements under the agreement are, and what will happen if they don't do as the agreement says, or to put it differently what the contractual penalties for breaches shall be.

In well developed business cultures oral agreements, also known as gentlemen's agreements, are honoured and binding. The parties to them usually say that their word is their bond and no other paperwork is required for them to do as agreed upon. Otherwise, agreements are made in writing, normally in several conforming copies, one for each party. This is done so that everyone has an identical version of it on file.

There are a couple of things you can do with an agreement. First of all, you enter into it for an obligation to even start taking place. In most cases signing an agreement is tantamount to entering into it. Once concluded, an agreement is usually observed, but sometimes it is violated or breached and lawyers have to take action. It oftentimes so happens that the subject matter of the agreement is different from what the parties thought it would be. In such cases, one party may withdraw from the agreement. In other events, for instance not doing anything that was agreed upon, known as non-performance, one party may terminate the agreement and demand compensation. If, finally, some conditions for an agreement to be binding on the parties are not met, it is considered null and void - it couldn't have been legally made in the first place. Some agreements are made for a definite time after which they expire.

Typically, an agreement should state what the parties undertake, represent, warrant, and obligate themselves (or are obliged) to do. Also, an agreement ought to state which law will be applied when resolving issues and disputes, in other words which jurisdiction will govern it, and which court will hear cases related to it. Some agreements are standard form, which means that you have very little room for amendments and negotiation. Some agreements, referred to as remote-parties agreements, don't even require the parties to physically meet as they may be concluded, for example, over the phone (e.g. telemarketers).

Ex. 1 Find the words or expressions in the text which mean the following:

- 1) the basic element of sth: _____
- 2) one of the *sides* of an agreement: _____
- 3) money you're given when you are fired: _____
- 4) sth you have to do under an agreement: _____
- 5) sth you have the right to under an agreement: _____
- 6) legally valid and having effect: _____
- 7) identical: _____
- 8) equal to: _____
- 9) the thing because of which an agreement is made: _____
- 10) to walk away from an agreement: _____
- 11) to become invalid because some time has passed: _____
- 12) to voluntarily state that you will do sth: _____

Ex. 2 Match the expressions from the two columns into logical collocations:

- | | |
|---------------------|---------------------------|
| 1) a remote | parachute |
| 2) to drive | into an agreement |
| 3) a golden | an issue |
| 4) a contractual | null and void |
| 5) my word is | parties agreement |
| 6) to enter | penalty |
| 7) to take | a company out of business |
| 8) non- | my bond |
| 9) to resolve | action |
| 10)to be considered | performance |

Ex. 3 Provide English equivalents of these expressions:

1) oświadczyć	7) zmiana umowy
2) zapewnić	8) pod rygorem nieważności
3) zobowiązać się	9) jednobrzmiące egzemplarze
4) prawo właściwe	10)odprawa
5) rozpoznać sprawę	11)równoznaczne z
6) standardowa umowa	12)zawrzeć umowę

Grammar corner...

... what the contractual penalties for breaches shall be.

The language of agreements is very specific and requires you to know several grammatical tricks to write and understand them correctly. The word **SHALL** is very often used whenever you want to state something with force. What it means in this case is: something **IS** or **WILL BE SO**. Also, you can't just say *I promise to do so*. You must be impersonal and instead say, *the Party undertakes to do sth*. You can also use the **PASSIVE VOICE** to do it, e.g. *the Parties shall be obliged to do sth*, *the Agreement shall be deemed null and void*, etc. Speaking of null and void, the language of agreements, and legal English in general, often uses doubled phrases, for instance *null and void* (invalid), *cease and desist* (stop), *by and between* (by), *necessary and proper* (required). Generally it's good to remember that an agreement is very formal.

Ex. 4 Imagine you're a lawyer and you are drawing up an agreement for your client based on the notes they sent you.

- 1) If they don't make the agreement in writing, I'm not honouring it! => The Agreement shall be made in writing, otherwise it ...
- 2) If they don't stop breaching the agreement, I'll have them pay! => In the event that the breaching Party does not ..., contractual penalties shall apply.
- 3) So me and the other guys are making this agreement. => This Agreement is ... the following Parties:
- 4) I consider it their job to do it! => It ... the obligation of the other Party to do so.
- 5) They have to do everything else I tell them to that will be important to the project! => The other Party shall take any other action that is ...

GLOSSARY	
on file	w aktach
voluntarily	dobrowolnie
under	zgodnie z (np. umową)
to demand compensation	żądać zadośćuczynienia
to be referred to as	być zwanym
to conclude an agreement / to enter into an agreement	zawrzeć umowę
my word is my bond	moje słowo jest święte
to draw up an agreement	sporządzić umowę
the cornerstone of sth	podstawa czegoś
a severance package / a golden parachute	odprawa
an obligation	zobowiązanie
an entitlement	uprawnienie
binding	wiążące
conforming	jednobrzmiące
tantamount to	równoznaczne z
the subject matter of the agreement	przedmiot umowy
to withdraw from the agreement	odstąpić od umowy
to expire	wygasnąć
to undertake	zobowiązać się
a remote parties agreement	umowa zdalna
non-performance	niewywiązanie się z umowy
null and void	pod rygorem nieważności
to represent / to warrant / to oblige oneself	oświadczać / gwarantować / zobowiązać się do
a standard form agreement	umowa standardowa

to drive a company out of business	doprowadzić do bankructwa firmy
to take action	podjąć działania
a contractual penalty	kara umowna
an amendment	zmiana

ANSWER KEY:

Ex. 1

- 1) the cornerstone of sth
- 2) a party to an agreement
- 3) a severance package
- 4) an obligation
- 5) an entitlement
- 6) binding
- 7) conforming
- 8) tantamount to
- 9) the subject matter of the agreement
- 10) to withdraw from the agreement
- 11) to expire
- 12) to undertake

Ex. 2

- 1) a remote parties agreement
- 2) to drive a company out of business
- 3) a golden parachute
- 4) a contractual penalty
- 5) my word is my bond
- 6) to enter into an agreement
- 7) to take action
- 8) non-performance
- 9) to resolve an issue
- 10) to be considered null and void

Ex. 3

- 1) to represent
- 2) to warrant
- 3) to undertake
- 4) jurisdiction
- 5) to hear a case
- 6) a standard form agreement
- 7) an amendment to an agreement
- 8) null and void
- 9) counterparts
- 10) a golden parachute / a severance package
- 11) tantamount to
- 12) to conclude an agreement

Ex. 4

- 1) ... shall be deemed null and void.
- 2) ... cease and desist breaching the Agreement, ...
- 3) ... entered into by and between ...
- 4) ... is considered ...
- 5) ... necessary and proper for (the completion of) the project