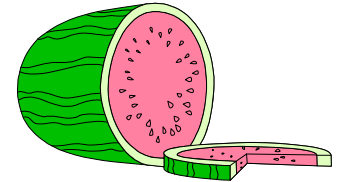




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“Tip of the Month”

GET IT IN WRITING

“If it ain’t in writing, it’s not worth the paper it’s not written on.” This might be said of any verbal agreement after the deal has gone sour. Although verbal agreements can be enforceable, it is almost always better to **get it in writing**.

A written contract does not need to be anything fancy. It can be written by hand on the back of an envelope. It need only identify the parties and the terms of their agreement. The contract must represent some kind of exchange, give and take, something for something. This is called the “consideration” or *quid pro quo* of the contract. Here are some other things that might be included:

Dates and deadlines, if they are important, should be in the contract. Sometimes penalties can apply if deadlines are missed. Sometimes the contract can be terminated, especially if “time is of the essence.”

Money is usually important. Payments are often tied to dates. If a payment is late, interest can accrue. There can be bad check or late payment penalties. Consider the cost of collecting a delinquent payment. Attorney fees for collection will usually not be allowed unless they are part of the written agreement.

Conditions are things that must happen to trigger performance. For example, most contracts to buy a house are conditioned on the buyer getting financing. A contract to continue paying for software development might be conditioned on a satisfactory beta test by a certain date. A contract to buy a business might be conditioned on a satisfactory review of the seller’s accounting books.

Attachments are sometimes referenced to be made part of the contract. For example, a construction contract might reference the attached blueprints. A lease might reference a floor plan.

A software development agreement might have attached schedules for the dates of development stages and payments.

Designing a written agreement can be as simple or sophisticated as the deal requires. If you need help designing your contract, please give us a call.