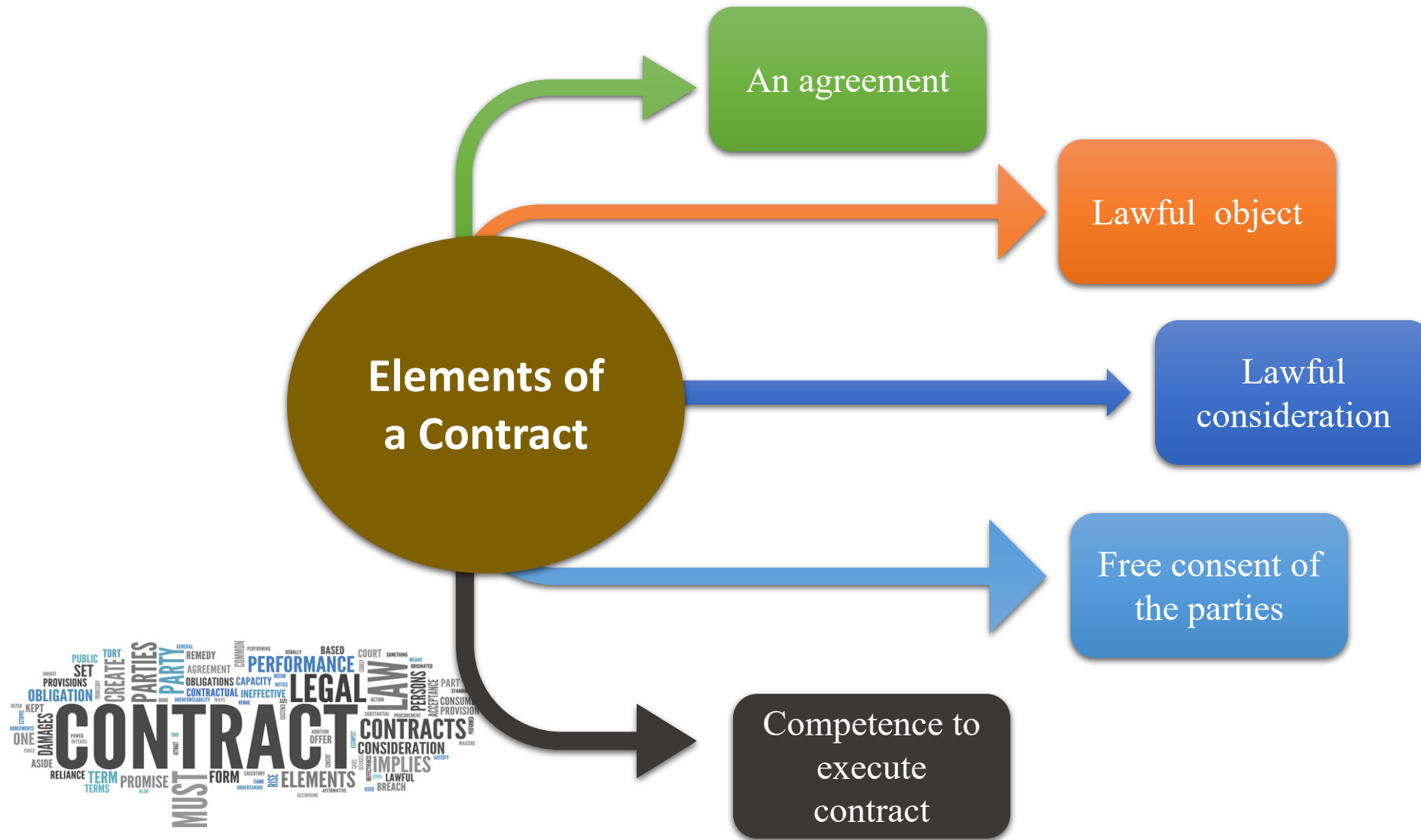




# Agreements and Contractual Arrangements

## The principle of freedom of contract



## The principle of freedom of contract (cont.)

**The Contract Act 1872** governs the provisions that there is no restriction on the freedom of contract, including contracts related to:



**The Competition Act 2012** prohibits anti-competition practices regarding determining purchase or sale prices, limiting or controlling production, etc.

**Foreign Exchange Regulation Act 1947, Guidelines for Foreign Exchange Transactions 2018** and **BIDA Act 2016** govern the remittance of royalty for granted to franchise – 6% of the total annual revenue and new companies 6% of the total capital invested.

## Regulation of marketing agreements

The **restriction** and **indemnification** are governed in accordance with the terms and conditions of the agreement and the parties are free to include or expressly exclude clauses related to indemnification, termination, damages etc..



## SOME BASIC CONTRACTUAL DOCUMENTATION

## ***Confidentiality and Non-Disclosure Agreement (NDA)***

- A. Where a business shares with another party information about its business affairs, customers, plans, trade secrets, products, software or effectively anything that is vital to the growth of the company, it is important to ensure that the receiving party does not disclose such information without permission from the disclosing party and that the information remain protected.

B. The key terms of NDA are:



- i. Definition of “confidential information”;
- ii. Purpose for which the confidential information is shared;
- iii. Provisions regarding the obligation of the use of confidential information;
- iv. Ensuring that the information is disclosed by the recipient only on need to know basis and that anyone with whom the information is shared further, also abides by the recipient’s obligations;
- v. Adherence by a receiving party to a reasonable standard of care relating to maintain the confidentiality of information.

Non-Disclosure Agreement



# EMPLOYMENT

The recruitment and retention of skilled employees is one of the key factors in ensuring scalability of the business. As such, it is imperative to ensure that proper documentations are in place to support the employment.

	<u>Offer letter</u>	<u>Employment Contract</u>	<u>HR Policy &amp; Employee Handbook</u>	
	<p>The offer letter must briefly outline:</p> <ul style="list-style-type: none"><li>i. the terms and conditions of employment;</li><li>ii. probationary period;</li><li>iii. Remuneration, etc.</li></ul>	<p>The key terms of Employment Contract should be the following:</p> <ul style="list-style-type: none"><li>i. Term of employment</li><li>ii. Termination of employment</li><li>iii. Duties and responsibilities of the employee</li><li>iv. Conflict of interest;</li><li>v. Non-disclosure obligations;</li><li>vi. Dispute Resolutions;</li><li>vii. Assignment of intellectual rights</li></ul>	<p>The general policy on HR &amp; Employee handbook shall include -</p> <ul style="list-style-type: none"><li>Leave Policies;</li><li>Compensation Policies;</li><li>Code of Conduct;</li><li>Anti-Discrimination and Sexual Harassment policies;</li><li>Complain resolving and resolution of internal disputes;</li><li>Internet , email and computer use policies;</li><li>Anti-Drugs Policies;</li><li>Accidental and emergency policies;</li><li>Travel policies, etc.</li></ul>	

# INTELLECTUAL PROPERTY

In Bangladesh, though the copyright in the copyrightable articles vest in the Employer, all other rights such as title and interest in and to patents, rights to Inventions, copyright related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, logos, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights in specific tangible or intangible products, whether registered or unregistered, still need to be specifically assigned. To this end, intellectual property assignment agreement should be executed.

## Intellectual Property Assignment Agreement

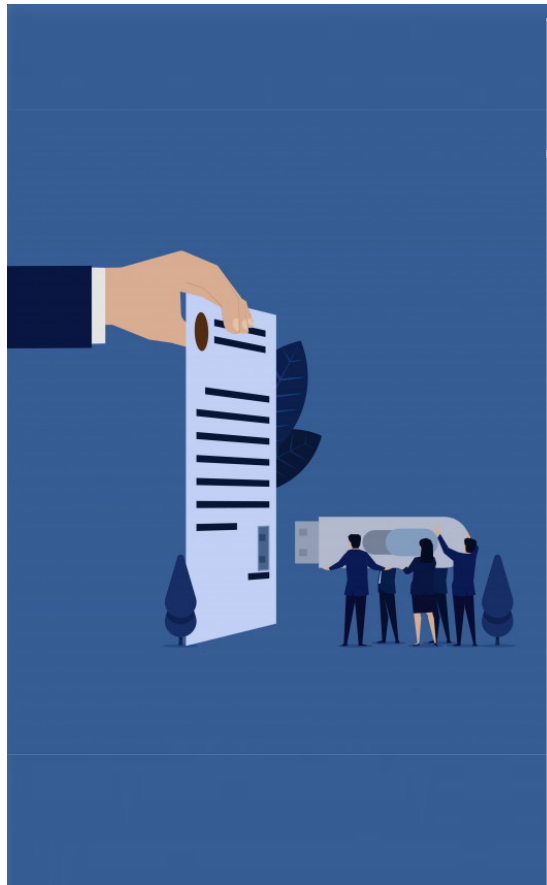
*The Key terms of the IP Assignment should include:*

- i. Covenants stating that all intellectual property developed the employee must be disclosed to the employer;
- ii. Assignment of intellectual property developed by the employee during the course of the employment;
- iii. Waiver of any rights to claim the intellectual property rights etc.



## ONLINE AGREEMENTS

When the Company is mainly providing services online, where it is not within the physical proximity of its users, it may need documentations to record the rights and obligations of the Company as well as the users as a means to ensuring that the Company remains protected from misuse of its web based resources, such documents may be include the following:-



<u>Website/App terms and conditions</u>	<u>Privacy Policy :</u>
<p>Key terms –</p> <ul style="list-style-type: none"><li>i. Rights of the Company/user to modify or withdraw access to/from the website/app;</li><li>ii. Disclaimers to minimize the company’s liability by misuse by the users;</li><li>iii. Disclaimers with regard to content and performance of the website, including any attack by viruses;</li><li>iv. The status of the IP rights of the contents of the website/app;</li><li>v. Limitations of liability;</li><li>vi. Consent to the collection of data of the users and specified use thereof .</li></ul>	<p>This should set out the statement as to collection of the users’ data, obligations of the company in protecting those data and rights of the users to withdraw the consent to the collection of data.</p>



## ***Basic Documentation - [Others]***

To deal with various other players in the market, which will include the suppliers as well as the consumers of the company, the Company may execute various agreements from time to time, which may include:

1. Software license agreement;
2. Software development agreement;
3. Leases/ Rent agreement;
4. Contract Agreements (e.g. Consultancy Contract, Construction Contract etc.)
5. Strategic Alliance Agreement (Co-Marketing Agreement, Revenue-Sharing Agreement etc.)

