



Civil Dispute Resolution

Litigation
 State & Supreme Court
 Cost ↑
 No consent needed
Small Claims Tribunal
 Less than \$20,000
 \$30,000 if both agree in writing
 No lawyers involved

Arbitration
 Singapore International Arbitration Centre
 Cheaper & Faster
 Informal & Privacy
 Both must agree
 Contractually obliged
BINDING

Mediation
 Singapore Mediation Centre
 International enforceability
 Arbitrator impartiality
 ↳ More creative settlement
 Both must agree

UNLIMITED LIABILITY Business Structure

Sole Proprietorship

- 1 person

Partnership

- 2-20 people generally

- share profit/loss equally

- equal right to manage business

- dissolved upon death/agreement

- all partnership property belongs to partners

→ fiduciary duty

Authority

Actual written

Implied Usually does

Apparent Appears to

Limited Partnership

- Mix of both
- min 1 general partner
1 limited partner
- not separate entity

GENERAL PARTNER

- unlimited liability

- Limited by agreed contribution

- Cannot take part in management

LIMITED PARTNER

- Limited by agreed contribution

- Cannot take part in management

LIMITED LIABILITY CRIMINAL LIABILITY

Companies

- Complex & Expensive
- Can own property in its name
- Debts belong to company
- Perpetual succession
- Sue and be sued in its name

Private

- <50 people, share transfer limited
- Limited by shares
- Public

Branch Some legal entity

Subsidiary Separate legal entity

Limited Liability Partnership

- >2 people
- Internally like partnership
- Externally like company

Contract

Offer + **Acceptance**

need not written

clear intention
of being bound

X Invitation to
treat

- Advert
- Display goods
- Tender

Termination

- withdrawal
- counter-offer
- lapse of time
- condition not satisfied

Acceptance

communicated

X silence

Consideration

- do something for other party's promise
- need not be adequate
- not needed if deed under seal

**Intention to
create legal
relations**

X domestic

X subject to contract

X letter of intent

X MOU

Variation

- If original contract expressly states allowed
or

Offer & Acceptance

Consideration

Fresh Consideration

Seal or Deed

Promissory Estoppel

X initiates change, Y agrees

- clear representation by Y
- X acted on information
- unfair or inequitable to X

TERMS

Express

Parol Evidence Rule

Need not be fair

Implied

Statutes

Acts

Custom

long-standing,
well established
custom in industry

Courts

obvious & goes
without saying
or
necessary for
business viability

RESTRAINT OF TRADE

★ reasonableness

- legitimate reason
 - ↳ trade secret / confidential info
 - ↳ pull away customers
- area / time / scope

EXCLUSION

- introduced when contract made
- reasonable notice
- cannot exclude death / injury
- exclude loss / damage reasonably
 - ↳ bargained strength equal
 - ↳ ought to know clause
 - ↳ not easy to insure loss

Factors

Illegality

- * Case Law
 - contact to commit crime
 - contact prejudicial to administration of justice
- * Statute Law
 - innocent party still has rights

Undue Influence

- * Nature of relationship
 - ↳ one party dependent on another
- * Background
 - ↳ old / illiterate
 - ↳ independent legal advice given
 - * "Victim" suffer detriment
 - * "Perpetrator" receive unfair benefit
 - ↳ deal grossly unfair

Duress

- * Violence
- * Threat of violence
- * Unlawful commercial pressure (Economic duress)
 - ↳ No choice
 - ↳ Agree under protest
 - ↳ Lack of good faith

Mistake

- ↳ Both parties mistake something fundamental
- ↳ One party under pressure takes advantage about something fundamental

MISREPRESENTATION

False statement of fact

- X Sales talk
- X Opinion
 - ↳ Unless maker never believed opinion
- X Silence
 - ↳ Unless half-truth

Inducement

- * relied on false statement before entering contract
- + need not be sole factor

Exclusion Reasonable

Types

- Fraudulent
- Negligent
- Innocent

Remedies

- Rescind contract
 - ↳ Physically impossible
 - ↳ Lapse of time
 - Sue for damages

Parties

only parties to a contract can sue & be sued

Agents

- ↳ intention
- ↳ contact wording
- ↳ informed on arrangements
- ↳ 3rd party's knowledge of you
- ↳ who's name
- ↳ method of payment (lump sum vs commission)

Assignment

- Transfer of contractual rights
- ↳ cannot transfer liability

Rights of Third Parties

- If he is conferred a benefit

Termination

Performance

- * When the job is done
- * Payment on complete performance
 - ↳ Substantial performance
 - ↳ Divisible contract

Agreement

- * Express clause provision
- * Parties agree
- * Implied clause allowing termination

Frustration

- * Illegal
- * Impossible
- * Radically different from both parties envisaged
 - X Less profitable
 - X Self-induced

Force Majeure

- ↳ Which events
- ↳ Period of suspension

Fundamental Breach

- * Expressly states you can be terminated for breach
- * Substantially deprived of whole benefit of contract
- * "Condition" is breached
 - ↳ fundamental
 - X "warranty"
 - ↳ trivial

Breach

Unliquidated damages

- Must have suffered loss
- Cannot claim profits
- Cannot ask for punitive damages
- Cannot sue for distress
- Cannot be remote / far-fetched
- Must be mitigated
 - ↳ Reasonable steps to minimize losses

Type

- Expectation
- Future profit
- Reliance
- Expense before breach
- Consequential / Incidental
- Expense after breach

Liquidated damages

- Pre-agreed in contract
- Must not be extravagant
- Amount vary according to extent of loss vs single amount
- Valid → only can claim stated
- Invalid → still can claim actual loss

Injunctions

- Court order or negative covenant
o.e. not to do something

Specific Performance

- Court order for contract to be carried out
- Not granted when
 - ↳ damages will be adequate
 - ↳ contracts of personal service e.g. painting

Generally claims within 6 years of breach

Longer: fraud/mistake

Shorter: misrepresentation / specific performance