

Not Just Piece of Paper but Powerful Weapon in Professional Practice – The Contract

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Abstract: Paper focus on the powerful tool “contract” in the professional practice for successful completion of project. Architecture is very Nobel profession composes of three interlinked parts. These includes the discipline i.e. rules to pursue the practice 2) practice: that define experiential and agreed upon practice and most important part profession that combine both the elements of both to provide a consistent view of the field and the expected outcome from client point of view. Certain ethics has to be followed in the profession while imparting the specialize knowledge to society. While executing the project both the parties have some goals and expectation. Contracts are also an excellent way to communicate and educate those goals. They can make explicit what might otherwise be unsaid and make clear what might be misunderstood. Architects often get work by responding to a request for proposals. Many times, architects feel compelled to begin work before a contract is finalized. Performing services without a written agreement can be quite risky and it leads to certain disputes. If things do not proceed as planned, a court or arbiter may find that the parties did not intend to be bound until the formal agreement was signed. The research focuses on importance of contract in professional practice and act as a safe guard for the both by legal support

Keywords : Architect, Contract, Ethics, Agreement etc.

Introduction:-

spaces for serving the multifarious activities of human beings and for meeting their specific needs in a meaningful built environment. Architecture comprises various skills, which required executing the project from small scale to big one. When various engineering services are rationally combined with Architecture's basic elements of Space, Structure and Form, the performance of human functions and the operation of mechanical utilities become efficient, pleasant and fulfilling. However, in its broadened scope and baffling complexity, Architecture has generated specializations such as Structural Design, Urban Design, City Planning, Landscape Architecture and Interior Architecture. Retrofitting of Buildings, Architectural Conservation, Construction Management, acoustics have also lately emerged as specializations. Each of these compliments and supports each other. Architects have to meticulously fulfilled the entire requirement and satisfy the client throughout the executing right from designing to completion. For which he /she has to acquire for originality, creativity, conceptualization, perception, aesthetic values, and a holistic judgment of people, places, objects and events.

The architect /engineers have major role to play while making contract .the Indian institute of architects has given the standard form of contract along with the reference of Indian contract act 1872.so with the help of this act architect /engineers can make the contract without any lacuna.in today’s competitive world contract can found in many economic activities.

Aim and objective:

The aim of the research paper is to emphasis written document mutually agreed by both the parties while executing the project.

Objectives

- To provide written evidence mutually agreed by both along with terms and condition for it.
- To provide the detail specification and requirement for the project for the resolution of disputes arising from the services.
- It should give clear insight for the overall project.

The **purpose of a contract** is to establish the agreement that the parties have made and to fix their rights and duties in accordance with that agreement. The courts must enforce a valid **contract** as it is made, unless there are grounds that bar its enforcement. The purpose of the construction contract is to (1) Allocate the duties between the parties,

(2) Recognize and allocate the risk to the different parties,

(3) Reduce the uncertainty surrounding the project and allow the parties to plan for the project and the future

What is contract?

A **contract** is a voluntary arrangement between two or more parties that is enforceable by law as a binding legal **agreement**. Contract is a branch of the law of obligations in jurisdictions of the civil law tradition.

A contract arises when the parties agree that there is an **agreement**.

When we are going for building contract we need to consider whether the contract is item rate contract ,lump sum contract ,or schedule of rate with variation in percentage according to Indian contract act 1872 section 2(h)and section 2)(e) are very important which states that contract as agreement enforceable at law .

And agreement as every promise mutually agreed by both the parties .and section 10 which illustrate some major factors for contract as free consent ,parties competent to contract .lawful consideration and object. And very important factor i.e Agreement must not be expressly declared to be void.

After an offer has been made by one party and accepted by the other). Something of value must be exchanged for ex.such as cash, services, or goods or a promise to exchange such an item for something else of value.

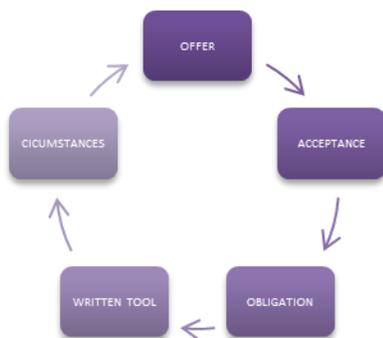
These include 'general conditions' which are common to all types of contracts, as well as 'special conditions', which are peculiar to a specific contract. Special conditions includes payment condition, price acceleration, delay penalty, conditions of contract etc.in the building contract

Construction “Contract Documents” are the written documents that define the roles, responsibilities, and “Work” under the construction Contract, and are legally binding on the parties that is Owner and Contractor. Set of written document along with terms and condition are contract. Contracts can secure payment. No one likes to be stiffed for work performed and a binding contract provides a written legal document establishing an agreement to be paid for services rendered. Contracts provide recourse when the relationship falters. The business environment is full of agreements between businesses and individuals written contract provides individuals and business with legal document for avoid disputes between both.in other word we can simply say contract is an elaborate legal document which is signed by both the parties contractor and contractee stating all typical details and covering all typical details in all possible situation and their outcome i.e. till the project is done. So if we follow guideline given in contract act 1872 we can execute contract systematically and what articles is to be included in contract.

In professional practice architect has to follow some ethics while executing the project .he has

A breach of contract gives a right to sue against another party for damages. Amount of loss can be claimed merely because the contract has been breached. However, damage cost could be claimed only specific loss, which is related to the breach of contract.

There are six elements of contract, which are very important:



A1: Figure showing elements of contract

In contract offer depends on nature of project according to type of project architect can jolt down the requirement which are acceptable by both the parties.it is binding as it is in black and

white supported by legal tool. We can say these five elements are playing key role when we entire in the process of contract.

Issues related with the contract :

Contract is the complete set of document which define entire nature about the project .it includes name of both parties, location detail of property as well as overall area of property moreover the important part of contract includes requirement of project along with specification .for ex.if flooring is given in Requirement it's specification along with size, colour and brand should be stated clearly .following chart will brief some of the examples about requirement and its specification.

- Impossibility of Performance.
- Breach of Contract/fraud

A breach can occur when a party fails to perform on time, does not perform in accordance with the terms of the agreement, or does not perform at all. If you breach a contract, the other party may have legal rights under the

The root cause of disputes and complaints against architect is usually insufficient understanding about his role and responsibilities. If there is lack of mis- Client has to monitor budgetary aspect and if it does not achieve goal disputes starts and it effect performance of architect as well as contractor. Let us summaries main cause for creating issues in contract.



A2: Figure shows issues in contract.

The other party may threaten or go through with a lawsuit to force you to do what the contract states that you will do. A record of the lawsuit may follow you longer than you intended. Money damages, restitution, rescission, reformation and specific performance. A money damage award includes a sum of money that is given as compensation for financial losses caused by a breach of contract.

Disputes can arise over contracts, and one party communication between client and architect mistakes happens in understanding specification. The client; architect and contractor have very specific role and expectation in entire process of execution. Client has to monitor budgetary aspect and if it does not achieve goal disputes starts and it affect performance of architect as well as contractor. Let us summaries main cause for creating issues in contract

Type of contract	Observation	Type of contract
Contract between Architect and client	Stage wise Schedule of payment and schedule for completion should be very clear .	Lumsum /item rate contract
Contract between contractor and architect	Responsibility of contractor should be clearly mentioned till the completion of project .and payment schedule.	Item rate contract
Contract between contractor and labour	Stages for execution of project and skill labour should be clearly mention.	Item rate contract

Table A-1, Types of Contract

SIGNIFICANCE

Contracts also are legally enforceable in a court of law. A **contract** is a legally binding or valid agreement between two parties. The law will consider a **contract** to be valid if the agreement contains all of the following elements: offer and acceptance; ... genuine consent of the parties; to be legally valid, most **contracts** must contain two elements: All parties must agree about an offer made by one party and accepted by the other. Something of value must be exchanged for something else of value. This can include goods, cash, services etc. The following are the brief reasons for:

Contracts provide a written document that outlines the full understanding of the business relationship and scope of the work so that no one can claim any misunderstandings later down the road.

- Contract is power fool tool for lawful consideration and lawful object.
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- They specify exactly what rights are being purchased and what rights you're retaining.
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- They stipulate how and when you get paid, what needs to trigger that payment, and what recourses you have if the client stiffs you.
- They minimize risk.

OBSERVATIONS/INFERENCES

Contract should be written in clear and concise language to avoid disputes or misunderstanding. According to type of contract specific terms and condition should be clearly mentions.

Contract should be done with the competent parties to avoid non-performance while execution.

Penalty terms should specify clearly for delay to avoid losses.

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