

Unilateral Contract

A unilateral contract is a contract where the acceptance/communication, consideration, and performance are all a single act.

Unilateral contracts are where one party makes a promise to do something, if the other party does something also.

It is different from a bilateral contract in the sense that it is not a mutual exchange of promises. There is no “counter-promise” or reciprocal obligation that arise from the contract on the offeror.

A unilateral contract may grow into a bilateral contract at the point where the promisor specifically accepts a unilateral offer and does the thing required for that, which may bring an obligation on the other to enter into a contract – but until there is that exchange of promises, the contract is just unilateral.

Difference between Unilateral Contracts and a Condition Gift Promise

A *conditional gift promise* is a promise to transfer property if a particular thing or event happens. There is no implied request for the promisee to do an act or fulfil a condition.

A *unilateral contract*, by contrast, has an express or implied request for the promisee to do an act or fulfil a condition.

Approach with “Contract (A)” and “Contract (B)”

This is a common form of commercial unilateral contract.

In essence, there are two contracts that are the subject of the arrangements:

- a) Is a unilateral process contract where: “if you submit an offer” then “I will consider awarding another contract to you” – or whatever other conditions apply.
- b) This is the substance contract – the one that is awarded to you, bilateral obligations, and is the result of the first contract.

Structure

- a. Is there the grounding of a unilateral offer?
 - An offer to do something in return for someone else doing something, with no additional obligations arising for the other party.
- b. From the eyes of the reasonable person, was there an offer to make a unilateral contract, with an intention to be bound?
 - What was the offer for?
 - What was the acceptance, performance, and consideration?
 - When was the offer open to?
 - If relevant, when did the offer crystallise into the second contract?
 - o Was the crystallisation contingent on some other condition that did away with a need for communication?
 - *Markholm Construction* – the ballot did away with a need for communication and the moment it was drawn.
 - o Was there still a need for communication?
 - Consider –
 - o The wording of the offer, and the nature of the transaction – *Carlill*
 - o Consider the nature of the wording, the language of the wording, the advertisement and nature of documents, whether there was anything more to be negotiated – *Markholm Construction*

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- The “express words of the tender or the circumstances surrounding it” including – who approached whom, any other obligations they had, and what the intention behind different terms were – *Blackpool*
- c. Was there proper acceptance of that offer?
- d. If there was proper acceptance of that offer, what were the obligations on each party and what was each party free to do?