

# Chapter I: Contracts

## Introduction & contract formation

*What Is LAW?*

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- **Laws & regulations** consist of **enforceable rules** governing relationships among **individuals** and between individuals and their **society**
- **functions of law** : to provide **stability, predictability**, so that people can know how to order their affairs.

What is Business Law?



*WHY SHOULD BUSINESS STUDENTS  
STUDY LAW?*

# *WHY SHOULD BUSINESS STUDENTS STUDY LAW?*

- ‘Point out **legal issues** that arise in the day-to-day operation of any business **within the company** before it develops into a serious legal matter and know when to **seek legal help**.
- providing students with the ability and confidence to take greater **control of** processes of **conflict avoidance and resolution**
- **Self-Help Law** : Consulting a lawyer with the appropriate expertise **at all stages** of company development **might be ideal, but it’s neither practical nor realistic**.
  - learn the relationship of **ethics to law**, and that **ethical, responsible behavior is an excellent first line of defense for avoiding legal problems** (and may also be beneficial in dispute resolution)
  - help students become **knowledgeable and critical consumers of legal services**

# Course Scheme

1. Participation 15%
2. Presentation 20%
3. Mid Term Exam 20%
4. Paper 20%
5. Final Exam 25%



# Chapter I: Contracts

What is a Contract?

# What is a Contract?

- A contract is a **legally binding agreement** between two or more parties who agree to **perform**( sales contract) or to **refrain** from performing some act now or in the future( Non disclosure agreement).
- A contract is “a **promise** or a set of promises for the **breach of which** the law gives a **remedy**, or the **performance** of which the law in some way recognizes as a **duty**.”
- A contract can be written or oral.



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How to make a Contract?

# Requirements of a Valid Contract

- An essential element for contract formation is **agreement**—the parties must agree on the terms of the contract and manifest to each other their *mutual consent* (agreement) to the same bargain.
1. **Offer**
  2. **Acceptance.**
  3. **Consideration:** something of value received or promised, such as money, to convince a person to make a deal.
  4. **Contractual capacity:** the law must recognize both parties to the contract as possessing characteristics that qualify them as **competent parties**.
  5. **Legality:** The contract's purpose must be legal and not against public policy

# THE OFFER



# The Offer :1. Requirements

- **An offer** is a promise or **commitment** to do or refrain from doing some specified action in the future
  1. The offeror must have a **serious intention** to become **bound** by the offer.
  2. The **terms** of the offer must be reasonably **definite**, so that the parties and the court can find out the terms of the contract.
  3. The offer must be **communicated** to the offeree

**The receipt rule:** the offer is communicated to the offeree when it 's made **orally** to the offeree or is **delivered by any other means to him personally** , to his place of business or mailing address or habitual residence.

# The offer: 2. critical cases “not offers”

- ***AN INVITATION TO TREAT is not an offer*** : ex ( Advertisement ,Brochures ,Price list, shop displays / shop windows/supermarket shelves, Websites ,Tenders ,Auctions)
  - ***except: ADS WITH REWARDS amount to be an offer.***  
ex: an ad offering a reward for the return of a lost dog.
- ***Expressions of Opinion are not offers***: *does not indicate an intention to enter into a binding agreement.*
- ***Statements of Future Intent are not offers***: *not a promise*
- ***Preliminary Negotiations are not offers***: *It only expresses a willingness to discuss the possibility of entering into a contract.*

# Case

- the ad by A was as following: Saturday 9 a.m. sharp: 3 brand new fur coats worth to 100\$ . First come first served. 1\$ each. but A denied any liability to deliver the coats to B who comes at 9 a.m. sharp. **Is there a contract?**

# Answer

- Yes , there's a contract because A made an offer in his ad promising to deliver three precious fur coats worth to 100\$ to the first person who comes on Saturday at 9 a.m. for 1\$ each. B accepts the offer by fulfilling all the required conditions in the ad, so the contract is made and A cannot deny the existence of a valid enforceable contract.

# The offer:3. Termination by parties

1. **Revocation of the Offer by the Offeror:** the offeror **usually can** revoke the offer as long as the **revocation is received** by the offeree **before the offeree accepts** by the express or implied act.
  - **Except Irrevocable Offers** when an offeror promises to hold an offer open for a specified period of time in return for a payment (consideration) given by the offeree.
2. **Rejection of the Offer by the Offeree** (inquiring about an offer does not constitute rejection)
3. **Counteroffer by the Offeree.** A counteroffer is a **rejection of the original offer** and the simultaneous **making of a new offer**.

## Advice John, Mary , Charles to whether they have entered into any binding contract.

- John run a shop selling Perfumes. He placed an advertisement in Monday's edition of Perfume Lovers stating that he had 10 bottles of **Chanel grand extrait** for only 3000\$ a bottle.
- On Tuesday, Marry sees the advertisement and immediately telephones John to inform him that she wishes to purchase all the 10 bottles for the price stated. As Mary cannot go through to John, she leaves a message on his voicemail.
- On Wednesday, Charles also sees the advertisement and immediately telephones John. When John answers. Charles states: " I accept your offer, I will buy all the ten bottles for the price stated in your advertisement" John replies:" I have changed my mind, the price is now 3500 \$ " Charles is furious and threatens legal action against John.

# Answer

- **Marry: No contract** The ad is just an invitation to treat not an offer, waiting for customers offers. So Marry made an offer to John by leaving a message on his voicemail to purchase all the 10 bottles for the price stated. There is no contract as long as John didn't accept that offer.
- **Charles: No contract** The ad is just an invitation to treat not an offer, waiting for customers offers. So Charles made an offer to John to purchase all the 10 bottles for the price stated. That Offer was rejected by John who made a counteroffer with a new price rejected by Charles.

## The offer: 4. Termination by operation of law

1. **Lapse of time.**
2. **Destruction** of the specific subject matter of the offer.
3. **Death** or **incompetence** of the offeror or the offeree.
4. Supervening **illegality** of the proposed contract.



# THE ACCEPTANCE

# The Acceptance: 1. Features

- Definition : a **voluntary act by the offeree** that **shows consent** (agreement) to the terms of an offer.
- **UNEQUIVOCAL ACCEPTANCE**: The **mirror image rule** requires the offeree's acceptance to match the offeror's offer exactly
- **SILENCE cannot** constitute acceptance, **except** when an offeree takes the benefit of offered services.

# The Acceptance: 2.COMMUNICATION

1. **Mailbox Rule:** if the authorized mode of communication is the mail, then an **acceptance** becomes valid **when** it is **dispatched** (placed in the control of the U.S. Postal Service)—not when it is received by the offeror.
2. **Immediately:** For instantaneous forms of communication, such as when the parties are **dealing face to face**, by telephone, or by fax.
3. **Authorized Means of Acceptance:** When **an offeror specifies** how acceptance should be made (for example, by Fedex delivery), **If the offeror does not expressly authorize a certain mode of acceptance**, then acceptance can be made by any **reasonable mean**.

# Was there a contract?

- A had for some time supplied coal as and when required by B. The parties decided to enter into a long term agreement. After negotiation, a draft drawn up by B and sent to A. A filled in the name of an arbitrator marked the draft as approved and returned it to B. B's manager satisfied with the draft put it into a file. He did not communicate his acceptance of the additions to A. The parties start performance. Dispute arises out. Was there a contract?
- A had offered to sell potatoes at a price of 400 \$ per ton. B replied asking whether A would accept the price over two months, or if not, the longest limit he could give him. Was there a contract?

# Answer

- Yes, there's a contract as there's an offer by the supplier of coal to supply it to the factory who accepted by his conduct of accepting performance by the supplier.
- No, there's no contract as B didn't accept the offer explicitly or implicitly. However, he didn't reject the offer as he had only asked information about the offer so the offer remains for him and when he accepted it, the contract is formed.