1. Objectives

The purpose of Contracts II is to expose the student to the doctrinal foundations and practical consequences of the requirement of writing, the interpretation and construction of contracts, performance, remedies, mistake, impracticability, mistake, frustration, third party beneficiaries, assignment, and delegation.

The focus of the course will be on commercial contractual relationships rather than the theoretical bases of contact formation addressed in Contracts I.

The goals of the course are to acquaint students with principles of analysis of specific problems and issues, drafting, comprehension of the law of a particular case, formulation of a synthesis of related case law in regards to a particular issue, and utilization of the Uniform Commercial Code which will receive considerable attention.

2. Materials

a. Case Book

The case materials are contained in Scott and Kraus, Contract Law and Theory (Lexis/Nexus 4th ed.) which is the same casebook as was required for Contracts I.

From time to time additional materials may also be required or provided.

b. Statutes and Restatements

Recourse to the American Law Institute’s Restatement of Contracts (Second), Uniform Commercial Code Article 2 (Sales), and the UN Sales Convention is required. They are contained in Restatement 2d Contracts & US UCC Article 2: 4th Edition published by the Institute of International Baking Law & Practice.

Students are encouraged to download the UNIDROIT Principles of Contract Law from the UNIDROIT website.

These materials may be taken into the examination and the examination questions will be based on the assumption that the student has access to them during the examination.
c. **Supplemental Materials**

It is also suggested that the student find and have recourse to a reliable source of model clauses or contract forms for reference. The law library contains several. Such clauses may not, however, be brought into the examination.

There are a number of treatises, study aids, and professional tools available to assist your understanding of contracts and the law of sales. Two well known examples are Farnsworth, *Contracts* (Aspen Press 4th ed. 2004) and Rohwer and Skroki, *Contracts* (5th Ed. 1997). The Farnsworth treatise is highly recommended.

3. **Exercises**

a. **Drafting & Litigation Exercises.** Students are required to participate in various drafting and litigation exercises. These exercises are explained in a specific Memo posted on the TWEN website.

b. **Judicial Session.** Attendance at a judicial session or the equivalent and preparation of a brief written report is required. Details of this Courtroom Attendance assignment are explained in a specific Memo posted on the TWEN website. Note: The Judicial Attendance Exercise is the equivalent of one class session. It will constitute the class scheduled for Monday 22 April 2013.

c. Failure to fulfill the exercise requirements may result in the reduction of a grade by one point as is permitted under the Academic Regulations.

4. **Grades & Examination**

Grading will be based upon a three hour final examination which is scheduled to take place on Saturday 27 April 2013, beginning at 12:00 Noon (12.00 hours).

The examination will (1) fairly reflect the material treated in the course; (2) test skills of organization of facts, analysis and statement of issues, and their resolution; (3) test theoretical knowledge, practical skills and the ability to address specific problems in a successful manner; and (4) test ability to function and perform under time pressure.

The examination will consist of multiple choice and essay questions in a proportion to be determined.
For the essay portion, where a problem is given, a superior answer will not only state applicable rules and identify issues, but will apply the rules to the issues in the context of the factual problem to obtain a principled resolution.

A correct multiple choice answer will be the best answer among the choices given.

The examination will require familiarity with the doctrinal materials covered relating to the reading assignments whether or not discussed in class, the matters covered in class, relevant provisions of current Articles 1, 2, and 2A of the Uniform Commercial Code as well as the Restatement (Second) of Contracts, any designated state and federal statutes from the statutory supplements, the United Nations Convention on the International Sale of Goods, and the UNIDROIT Principles.

If the Law School makes available a program of computerized examinations, students may use it. If computerized examinations are permitted, students will be advised by the Records Office regarding details.

Rescheduling of the Examination. Requests for rescheduling of the examination must be made directly to the Records Office and not to the Instructor.

Examination Review. No student may communicate about the examination with the instructor before the grade key is released. All examination reviews will be conducted according to a written procedure that will be posted. Interviews with the instructor will only be given pursuant to this procedure.

5. **Materials permitted to be Taken into Examination**

Only the following materials may be taken into the examination: *Restatement 2d Contracts and U.S. UCC Article 2* including the text of the UN Sales Convention, the UNIDROIT Principles (should you download it), and other statutory handouts, if any. In order to facilitate consultation of UCC Article 2, the Restatement 2d Contracts, and the UN Sales Convention, a physically separate photocopy of their Table of Contents may be made and used. No other materials may be brought into the examination.

These materials may be annotated. “Annotated” means the emphasis of certain portions of the material or its explanation in the material itself by cross-references to other statutory or regulatory provisions, by a comment or gloss, or by reference to a case or hypothetical. The focus of the annotation should be on the meaning of the particular provision or section being annotated. The insertion in the statutory material of outlines, extensive lists of questions and answers, or general information does not constitute an annotation which may be used on the examination.
Any questions regarding the meaning or interpretation of this policy must be given to the instructor in writing so as to avoid confusion and all answers (as well as questions) will be publicly posted. So as to permit all students to benefit from this process, the deadline for such questions is one day prior to the last class for the semester.

6. **Class Schedule, Class Participation, & Assignments**

Class Schedule. Assignments will be posted on the class TWEN site in an Assignment Sheet. This sheet indicates that classes scheduled for Monday 15 April, Wednesday 17 April, and Monday 22 April will not be held. As indicated, the class scheduled for Monday 22 April will consist of the Judicial Attendance exercise. The Assignment Sheet contains extensions of six regularly scheduled classes which will run until either 4:00 PM (1600 hours) or 4:05 PM (1605 hours). Four of these six extended classes will make up for the classes scheduled for 15 and 17 April. The other two are scheduled in the event of a class cancellation due to weather or other causes and will meet during the normal times in the event that there is no cancellation.

Cancelled classes will be announced in advance in class whenever possible and notices posted in accordance with University policies in addition to the class TWEN site. To the extent possible, necessary make up classes will be scheduled as extensions of regularly scheduled classes.

Class Participation. It is expected that students will be regularly prepared for class as part of the attendance requirements. Reading assignments will be given in class and/or posted from time to time on the class TWEN site. The class discussion will focus on the case reports but students would be well advised to read accompanying textual material as well. Preparation includes the completion of class assignments.

As indicated above, failure to complete an assignment may result in lowering of a grade in accordance with applicable Academic Regulations.

Recording Classes. Law School policy does not permit recordation of classes absent express faculty consent. I do not permit any artificial recordation of my classes. The purpose of this policy is to encourage students to learn to take effective notes without artificial assistance. It is my opinion that this skill is essential for a junior attorney. "Recordation" includes the use of any device to tape, record, or otherwise memorialize what is said in class or to photograph, image, or otherwise record any slides, power points, or data rendered on charts or the white board. This policy also applies to the power point slides that are used in class. They will not be handed out although students may view them after class. It does not apply to the use of a computer to key notes because the computer is, in this respect, no different than a typewriter or pen. Where note taking is rendered difficult due to a disability, application for special assistance should be made to the appropriate University department.
7. **Attendance**

A seating chart will be circulated at the first class. Please select a seat. Attendance will be taken at the beginning of each class based on this chart. Any student not seated in the seat selected at the time class is scheduled to begin will be marked absent. Anyone coming to class after attendance has been taken is responsible after class for advising the instructor of his or her presence. At the discretion of the instructor, an attendance sheet may be circulated for signature in which case it is governed by the Honor Code and only the student named may indicate his or her presence by signing.

At least two questions from the examination will be taken from material covered in class and not reflected in the text or materials made available on TWEN.

The maximum number of absences permitted will be allowed for this course under law school regulations. As it is assumed that all students will conduct themselves as professionals, there is no need to advise the instructor in advance of an absence.

8. **Notices**

Notices will be posted in accordance with Law School regulations. In addition, TWEN will be utilized to send notices to students. An initial test notice will be sent from the TWEN site after the first scheduled class. If you do not receive this notice, it is your responsibility to contact me. If your email address changes, it is your responsibility to change it in the TWEN system.

9. **Office Hours and Individual Appointments**

Professor Byrne plans to remain in the classroom for one half hour after each class unless otherwise required to be elsewhere in which case notice will be given. He will answer questions and provide general comments on law school and study techniques. Students are not required to attend this after-class session.

Professor Byrne is also available to meet in person or by telephone by appointment. His email address is jbyrne@iiblp.org. He can also be contacted through Ms. Hickey, his Faculty Secretary at (703) 993-8271.
10. **Topics to be studied**

Finding the Law of a Contract  
The Statute of Frauds  
Parol Evidence Rule  
Interpretation and Construction of Contracts  
Gap Filling Provisions  
INCOTERMS & Other Delivery Terms  
Conditions  
Substantial Performance & Similar Mitigating Doctrines  
Breach  
Anticipatory Repudiation  
Mutual Mistake  
Impracticability and Impossibility  
Frustration  
Remedies  
Damages  
Limitations  
Liquidated Damages & Penalties  
Third Party Beneficiaries  
Assignment  
Delegation

11. **Pace of Reading Assignments**

The class will be conducted with a view toward mastery of concepts and techniques rather than coverage of preset materials at a preordained pace. To assist students in estimating coverage, a tentative schedule of readings will be posted but they are subject to modification. Any changes to the assignment for the next class will be announced at the end of each class and sent via TWEN to the email account that you register with it. Special assignments or those due to be submitted will be both announced in class and posted.
12. **Methods of Instruction**

The following methods of instruction will be utilized.

1. Case Analysis

   Students will be expected to answer questions about assigned cases and materials.

2. Hypothetical Problems

   Students will be expected to find principled resolutions to hypothetical questions, drawing on their mastery of the course content.

3. Drafting & Litigation Exercises

   Drafting exercises will be assigned to enable students to draft contract clauses.

4. Guest Speakers

   As schedules permit, attorneys experienced in the field will be invited to appear so that students may practice eliciting information from them.

5. Trial Exposure.

   Students will be required to attend a trial or hearing and report on it. Attention will be paid to the significance of the procedural posture of cases.

6. Writing Exercises.

   From time to time, students will be required to engage in writing exercise.

13. The class Motto is from Caesar’s *De Belli Gallico*: “Fere libenter homines id quod volunt credunt.”

14. Religious Holidays

   In the event that a class is held on a religious holiday on which work is not permitted, assistance will be given to accommodate a student’s observance. On written request, the class can be recorded or efforts made to provide notes. The instructor is also prepared to meet with students on their request in person or telephonically. If the student will miss classes in excess of 20% of the assigned classes, an additional 10% allowance can be granted in special circumstances such as religious holidays in consideration of doing substituted work on written request.