

## **BA.LL.B (HONS.) – VIII-SEMESTER**

### **BUSINESS FORMATION AND CONTRACT DRAFTING**

#### **COURSE CODE:**

**Course Objective:** The main objective of the course is to develop a comprehensive understanding of essentials of a Business Formation and Contract Drafting from the perspective of the corporate sector. This course will cover all the significant elements to establish a Business entity including the key components of Drafting of business agreements.

#### **Course Outcomes:**

1. To understand the basic principles in Business Formation process, types of business entities
2. To analyse the legal and procedural aspects of Business Formation
3. To analyse and interpret the regulatory framework of Business Formation
4. To identify the best practices in Contract Drafting by referring to case studies
5. To identify and be able to do research on emerging skills in Contract Drafting

**UNIT-I:** Introduction; Business Lawyer's Approach, Role, Skills-Base & Value Adds; Contract Building Blocks and Drafting Essentials & Techniques; Primer on Negotiation Skills; Model for Developing/Improving Drafting Skills, Introduction: Business/Transactional Lawyer's Approach, Mindset, Skills-Base, Tool Kit and Value Adds (Business Lawyer's Role as Strategist, Translator, Drafter, Advocate, Negotiator, Risk/Compliance Advisor, Choreographer & Trusted Counselor), Fundamentals of Proficient Contract Drafting and Effective Transaction Negotiation; Client-Centered Approach – Assessing, Creating and Adding Value Early, Often and Throughout, Building Blocks and Critical Provisions of Contracts and Business Documents, Negotiating Contracts & Transactions – The Art & Craft of Negotiation through Drafting, Leveraging Information and Utilizing Qualification, Limitation and Exception Tools & Resources, Primer on (and the Importance of) Term Sheets & Letters of Intent (LOIs), A Model for Developing and Improving Contract

**UNIT-II:** Organizing and Working with Business Entities and their Constituent, Primer on Business Entity Selection Considerations, Primer on Florida's New Revised LLC Act (and its Default Provisions), Keys to Effective Org Doc Drafting: Importance of State Statute(s), "Default" and Procedural Provisions, and Terms that may not be Altered or Modified, Keys to preparing/Drafting Principal LLC Formation Documents, In-Class Drafting Exercise (B) – Drafting Key Provisions of a Multi-Member, LLC Operating Agreement (re: Manager Duties), Organizing and Working with (and the Principal Documents and Agreements Essential to Corporations and Other Business Entities, Working and Contracting with Different Forms of Business Entities, Keys to Preparing/Drafting Principal Corporate Organizational Documents, Articles/Certificate of Incorporation and Bylaws, Organizational Actions (Election of Board, Appointment of Officers, etc.), Minutes, Authorizing Resolutions and Actions by Written Consent, Fundamentals of and Key Considerations in Drafting and Negotiating Corporate Shareholders' Agreements – Up Close

**UNIT-III:** Agreements with Management and Key Employees; Executive and Employee Incentive Compensation Plans and Agreements, Critical Importance of Retaining, Incenting and Motivating Key Employees (including through employee agreements and plans), Primer

on Employee Contracts and Plans, Compensation, Severance & Termination Provisions, Restrictive Covenants & Tax Considerations, Keys to Preparing and Drafting Employee Agreements/Documents, Employment Agreements (including "At Will" agreements) and Incentive Compensation (including Stock Option) Plans and Agreements, Non-compete, Non-solicitation, Invention Assignment and Confidentiality Agreements, Termination & Severance Considerations

**UNIT-IV:** Subscription, Purchase & Sale of Stock and Equity Interests, Establishing the Client Relationship and Funding a Start-Up Business, Offer, Issuance & Sale of Equity Interests in a New Business – Legal & Practical Considerations, Role of the Business Lawyer (including junior associates), Importance of Understanding Business, Financial Statements & Key Accounting Matters, Establishing and Maintaining a Lawyer-Client Relationship, Understanding and Meeting Client Expectations, Professional Obligations, Keys to Effective Client Interviews, Meetings and Counselling in Business, Finance and Transactional Engagements, In-Class Drafting Exercise (D-1 and D-2) – Client Pre-Engagement and Engagement Letters, Funding a Start-Up Business – Sale and Issuance of Equity Interests – The Entrepreneur and the Investor: How to Align Their Interests

**UNIT-V:** Commercial Loans, Notes & Debt Financing Transactions –Promissory Notes, Credit/Loan Agreements and Security Agreements, Primer on Documentation of Commercial Loans and Debt Financing Transactions, including Credit/Loan Agreements (Term and Revolver), Notes/Debentures, and Inter creditor/Subordination and Security Agreements, Understanding and Drafting the Key Provisions of Loan Agreements (including Covenants, Default Provisions, Remedial Provisions, Subordination and Guarantees), Issues, Approaches & Tactics in Drafting Complex Loan Agreements and Documents – The Good, Bad & Ugly, Resources for Loan-Related Documents and Drafting/Negotiation Pointers

**Text Books:**

1. Bhumesh Verma, "Practical Guide to Drafting Commercial Contracts", Second Edition Paperback – 1 January 2021
2. Ravi Singhania,"Drafting of Contracts-Templates with Drafting Notes: (Second Edition) Hardcover – 15 February 2020
3. Ashwin Madhavan, "Legal Writing and Contract Drafting", Paperback – 1 January 2018

**Reference Books:**

1. Course Materials Book (Volumes I and II) (compiled and edited by Daniel H. Aronson)
2. Charles M. Fox, Working with Contracts: What Law School Doesn't Teach You (2nd Ed. 2008)