Abstract. Although many derivations have occurred over the years with contract writing it has always been agreed that a Contract is a binding legal document between at least two parties. In ancient times we see similar structure to the yet modern version of US law and that of the English Law. We will explore briefly the earlier contracts and their contents but concentrate on a modern day acceptable contract with the specific terms required in order to conduct business relationships.

Objective. The objective here is to assist Supply Managers to understand the origins of contracts and what are the key components necessary to enter into a “valid and binding” contractual agreement.

Our story begins in Ancient times where historical and anthropology records clearly date back to the time of 2250 BC. We hope to discover helpful terms, which will eventually evolve into a modern day form of contractual agreement.

Mesopotamia. Historical records tend to support that the Evolution of Contracts Writing has its roots as far back as Mesopotamia in 2250 BC with a simple type of contract law, which dealt with mainly the public and the governing ruler. Some of the records are somewhat difficult to read and translate but anthropologist and historians have located some documents. The laws or contracts tend to govern both public and private lives. What is interesting is the fact that the deeds or agreement seem to be drawn up by what we call a notary public in the temple area and confirmed by the ruler or god. Trade was prevalent thus leading to examples, which set the foundations of our modern day Supply Chain Management functions.

One good example of the law is: When a merchant gives to his clerk grain, wool, oil, or some other merchandise for sale, the clerk shall give a strict account and turn in the money to the merchant: and the merchant shall give to the clerk a receipt for the money paid over to him.

Hammurabi. Then we see a more advanced legal system and advanced contractual documents sometime during the rule of Hammurabi in 1780 whereby the entire ancient legal system was revised. He created the first metropolis. His records are the first records that date that show a ruler proclaiming an entire concept of the law. His code was carved on a black stone monument for public view. Such items as an “eye for an eye” and things that seemed to identify the culture and the feeling of the people of the times such as the law: If a man builds a house badly, and the house falls and kills the owner, the builder will be slain. If the owner's son was killed, the builder's son is slain. The laws of the time seemed more of a retaliation and punishment than of a contractual consensual agreement, but we would be remiss if we did not recognize the significance of such an established legal system in ancient times.

Moses. If we skip to the time of Moses we find yet another example of a clearly stated contractual agreement that of the Ten Commandments and of course the Bible of our Lord.
The laws of this time seem to be in line with those of Hammurabi and tended to be the basis of many religious covenants.

**Law of England.** Skipping further into the 16th and 18th century the Law of England seem to have the biggest impact on Contract Writing techniques, bringing us to the American Colony laws. Some important laws were Decree of the Emperor Henry IV concerning a Truce of God 1085 AD; Constitutions of Clarendon 1164 AD; Frame of Governments of the Colony of Pennsylvania and Virginia; Fundamentals of the Constitution; History of the Britons; Laws of Richard I; Laws of William the Conqueror; Laws of Kings 753-510 BC; Magna Carter 1215; Mayflower Compact 1620; The Ordinance of Louis the Plus; and Agrarian Law 111 BC to mention a few which lead to our American laws and to the modern day version of contract writing.

Although many variations have occurred over the years but one thing remains the same that a Contract no matter the content must be a binding agreement, which is agreed to by both parties.

**Contract Writing in the 80tys and 90tys.** The experience in the 80tys was dynamic and uncertain. With the invention of the PC, and working with companies like IBM, yes they had the PC before the market was able to enjoy and reap the benefits. IBM had the first Internet so they utilized the benefits of the offerings within a closed Internet amongst selected sites. Most find that 80tys to be the time where the establishment of good common sense contractual training began. Supply Chain managers then called procurement managers, realized the need to train employees on contracts, to make this a real profession, and to form some type of database so the new generation of contract after contract was not necessary. In the 80tys it was the norm to the cut and paste of clauses and terms the same as the 70tys but they had a document saved prior to the cut and paste and thus eliminating unnecessary typing of documents. In addition to many other inventions the VM databases that would save the generated documents for audit purposes. In the 90tys with the advancement of database software like lotus contracts were a snap a customized document in a day? Not a problem. In the late 90tys and early 2000 there were even more advanced with EDI and everything streamlined and consolidated into an audit ready process. The progression has truly been an educational experience for all supply chain managers.

**Contract Writing Today.** Many supply chain professionals ponder just what is a contract? Contracts are promises that we hope the law will enforce. Another conclusion is that a contract is an agreement between two or more parties that establishes an enforceable legal relationship. Still another theory is that it is an agreement between two or more parties, which creates an obligation to do or not to do a particular thing. All contracts are agreements, but not all agreements are contracts Agreements often deal with personal or social matters that cannot be enforced by law. If an agreement imposes a legal obligation, an enforceable contract results. However, if it imposes merely a social or moral obligation, it is not a contract and so is not legally enforceable.

**Why is a Contract Necessary?** The contract defines each party’s commitment to the relationship by establishing: Rights and obligations of the buyer and seller; Completion criteria agreed to by both buyer and seller; Basis for pricing; Basis of settlement of any future disputes.
What are the Elements of a Contract? Elements of a contract include the following:

- Offer
- Acceptance
- Reality of consent
- Consideration
- Legality of the subject matter
- Capacity of the parties
- Proper form

(i) Elements of a contract (1.) In respect to an Offer this is the Proposal made by the Offeror to the Offeree, indicating willingness to enter into a contract. To be valid it must be Definite and certain, communicated to the Offeree, made with the intention that the Offeror will be bound by it, a call for bids for materials or future work to be done is not usually considered offer but rather a request for an offer. Some offers may be terminated by: A lapse of time, or revocation - before acceptance, or Rejection, or Counter offer, or by the law. Some offers cannot be revoked.

An Option contracts whereby the Offeree gives consideration to Offeror to hold offer open. There are Firm Offers for sale of goods requires Offeror's signed writing stating will hold offer open for a stated period of time or reasonable time, if none stated. Where Offeror could reasonably expect Offeree to rely to their detriment on the offer. Offer can only be accepted by performance and Offeree has begun to perform

(ii) Additional elements of a contract are (2.) In respect to Acceptance there must be Compliance by the Offeree with the terms and conditions of the offer constitutes acceptance of the contract. Only Offeree (the person to whom offer made) can accept a contract is formed when an offer is accepted. In order for acceptance to be valid, it must be: Communicated, and Unconditional. Acceptance is effective when mailed, unless offer states on receipt of document.

(iii) Additional elements of a contract (3.) In respect to the Reality of consent every contract must have mutual consent = meeting of the minds. Same bargain at the same time consent must be voluntary: any force or deception by either party to obtain agreement of the other party and the contract may be voided by injured party. There will be a Voidable contract if agreement of either party obtained through: Fraud; Misrepresentation; Mistake; Undue influence Duress; if the contract is unconscionable.

(iv) Additional elements of a contract. (4.) In respect to Consideration each party must Promise to give up something of value that they have a legal right to keep, or Agree to do something that they are not otherwise legally required to do Promissory Estoppel (Detrimental Reliance) and Court ignores lack of consideration if necessary to prevent injustice

(v) Additional elements of a contract (5.) Legality of the subject matter the Purpose of the contract must not violate the law and the Elements of a contract.
(vi) Additional elements of a contract (6.) Competent parties except for minors, imprisoned felons and those adjudicated incompetent, all persons have the power/capacity to contract = know what they are doing. Some classes of persons are protected such as Minors, those incapable of understanding the nature of the contract due to mental disease, drugs, alcohol, etc. All of these may disaffirm contract - so you need to avoid them.

(vii) Additional elements of a contract. (7.) The essential of the Proper form: contains certain contracts must be in writing to be legally enforceable. This includes Oral Contracts. Most contracts in business and in private life are simple, unwritten contracts resulting from conversation between the parties. A person who makes a purchase, pays cash for it, and takes it with them is making an oral contract. We make many such contracts in a day, and each simple transaction contains all the elements of a contract. It is just as binding as a written contract.

We also have Written Contracts and it is always advisable to put a contract in writing if the transaction seems to be important or complicated, or involves a large sum of money, or it will extend over a long period of time. Agreements should be in writing to insure that it will protect the parties involved prevent a later disagreement over the terms. That no particular form or language required, and Parties clearly express themselves in understandable language. A written contract can be a hand written note, a printed statement or form, a typewritten letter or any other memorandum containing the terms of the agreement - as long as it is signed by the parties to be bound by the contract. However, in the event of a dispute involving an oral contract the parties must depend on circumstances or testimony of witnesses to determine the rights of the parties. Whereas a dispute with a written contract all the rights of the parties are determined by the written documents.

Summary: To summarize we have taken you for a quick visit to ancient lands and civilizations to the modern day environment for contracts. What have we learned thus far? We have learned the origins of many of our Agreements and Laws. We have learned better and more improved processes, which will assist us to generate award winning and comprehensive contracts, which will allow all of us to conduct business transactions in a comprehensive and ethical manner. We must always remember that both parties need to come to agreement on terms and conditions prior to establishing any relationship and the failure to do so up front may result in a very hostile and very short term business relationship between the parties. We have discussed an appropriate framework for the contract and some basic terminology for a contract. The next step well of course we should sit down and write our contract, statement of works, special provisions for software and patents, clauses and actually doing an agreement and insure that the basic elements and main protective terms are presented in a user friendly format in order that the parties can and will reach an amicable agreement. That will be our part II. For now this concludes this portion of our Evolution of Contracts Writing material.

References
(2) Claude Hermann Walter Johns, The Encyclopaedia Britannica 11th ed, 1910