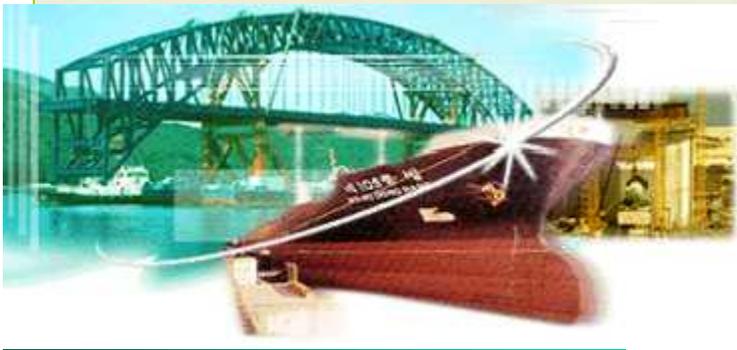




제4장 Offer and Order (제9주)



유 하상

3-1. Nature of Contract

■ Offer and Order

p.81

1.1 Offer

Offer and Acceptance are the essential factors of the formation of a contract.

An offer is proposal by one party to the other to enter into a legally binding contract, and an acceptance is the act of assenting to the offer.

To create a contract the acceptance must be made while the offer subsists.

Therefore, an offer is a proposal to supply someone with (1) certain goods or service (2) at a certain price (3) within a certain definite period.

Formation: 형성, 성립

assenting to : 요구에 따른다. 동의, 찬성하다.

Subsists : 살아가다. 존재하다. 존속하다.

definite period. : 규정짓다. 한정하다. 명확한 일정한 기간

3-1. Nature of Contract

■ Agreement on General Terms and Conditions of Business p.81

1.2.1 Firm Offer

A Firm Offer is the definite offering of one person to another the opportunity of his buying certain goods at a given price within a given time.

Until the time specified expires, or until the possible acceptor of the firm offer refuses the option, the offer cannot be withdrawn.

If the offer is not accepted within the time specified, it is understood to be withdrawn.

A firm offer, however may be revoked or withdrawn by the offeror within the time stipulated, but the revocation must reach the offeree before he dispatches his acceptance.

The time limit of the firm offer should be indicated in either each offer or general agreement as: "We offer you firm, subject to your reply being received here within one week including the day cabled."

"All firm offers made by cable, unless otherwise stipulated, shall remain in force for three days including the day cabled. Sundays and official Bank Holidays shall not be counted as days."

Possible : 후보자, 보결자

Withdrawn : 철회하다, to(cased to) move away or back, 거두어 들이다

Revoked : 무효로 하다, 해약하다. To put an end to(a law, decision, permission etc)

Stipulate : 규정하다. 명문화하다. 규정하다. 명기하다

in force : 유효하여, 실시 중으로

3-1. Nature of Contract

■ Agreement on General Terms and Conditions of Business p.81

1.2.2 Counter Offer

A Counter Offer is a proposal against a firm offer. If the offeree cannot accept a firm offer tendered, he may propose an alternative at once, setting forth some revised terms and conditions.

It is rather rare that acceptance is made just correspondingly in reply to an initial firm offer.

1.2.3 Free Offer

A Free Offer is an offer open for a reasonable time in which the offeror merely states the terms and conditions on which he sells certain merchandise without binding the offeree to accept it within a specified period.

Tender : 제출, 제공, 신청하다.

setting forth : 출발하다. 발표하다. 설명하다. 의견을 말하다.

at once : 즉시

Alternative : 대안

Rare : 드문, 진기한 희박한

Correspondingly : 대응하여, 상응하는, 부합하는. 일치하는

Open : 열려있는, 이용 가능한

3-1. Nature of Contract

■ Agreement on General Terms and Conditions of Business p.81

1.2.4 Offer without Engagement, or Offer subject to Market Fluctuation

This term means that the quotation the offeror gives is the market price of the day, and he does not bind himself to accept an offer at the said price without further negotiation.

It is often used (by traders) in their Price List when quoting the price of certain articles liable to sudden market fluctuation.

Offer without Engagement : 예약불능 청약 , 불확정 청약, 시황변동이 있으면 언제라도 자유롭게 조건을 변경할 수 있는 청약= Offer subject to Market Fluctuation =offer subject to seller's final confirmation

Liable : 책임을 져야 할, ~하기 쉬운

3-1. Nature of Contract

■ Agreement on General Terms and Conditions of Business p.81

1.2.5 Offer on Approval

According to the common law of most nations, dispatching of telegraph or letter of the acceptance against an offer constitutes a contract.

In the U. S. A. however, the laws of the separate states differ as to the acceptance of offers.

For instance, the laws of the State of New York provide that the acceptance is complete immediately after it has been telegraphed or mailed, but the laws of Massachusetts hold that the acceptance is not complete until the telegraph or letter is received by or arrives at the offeror.

According to : ~에 따라서, ~에 의하면

Constitutes : 구성하다. 조직하다. 제정하다. 설립하다.

Provide : 제공하다. 규정하다.

Hold : 주장하다. 생각하다. 평가하다. 붙들다.