Some theoretical perspectives to consider:

“...[I]t is arguable that, if contracts become as shaky as marriage, then our society will be in danger of collapse. That is to say, ordinary contractual regulation may be more important to social order in a complex society than to the enforcement of any particular possible convention on sexual and familial relations.” Russell Hardin, Trust and Trustworthiness (2002) p. 48.

“The obligation to keep a promise is grounded not in arguments of utility but in respect for individual autonomy and in trust... The utilitarian counting the advantages affirms the general importance of enforcing contracts. The moralist of duty, however, sees promising as a device that free, moral individuals have fashioned on the premise of mutual trust, and which gathers its moral force from that premise. The moralist of duty thus posits a general obligation to keep promises, of which the obligation of contract will be only a special case—that special case in which certain promises have attained legal as well as moral force. But since a contract is first of all a promise, the contract must be kept because a promise must be kept.” Charles Fried, Contract as Promise (1981), pp. 16-17.

And a practical outline:

Was there a deal?
What did it say?
Can I get out of it?
What do I have to pay?

Office Hours: before class M, W. If you need to reach me quickly, email is by far the most reliable method. (Please—if you haven’t heard back from me in 24 hours, just resend the email. It may have gotten lost somewhere in cyberspace, and I don’t mind a reminder in any case.)

Class Schedule: my apologies, but because of membership on a federal advisory committee, as well as several meetings, I have some days on which I will be out of town. Instead of rescheduling classes, which I know will be difficult, I am creating alternatives that will not require scheduled makeup classes. PLEASE FOLLOW THE SYLLABUS WITH CARE.

Exam: 8:00 a.m., Thursday, Dec. 8, 8 hour take home (due at 5 p.m.). There will also be a scheduled practice exam (to be announced). Points on the practice exam may (but need not) be used to replace the score on your lowest-scoring question on the final exam. Additional requirement: a “natural history of a contract.” For this assignment, worth 25% of your grade,
you are to identify a contract into which you have entered. You will be asked to provide me with a copy of the contract (it can be scanned as a .pdf) and an analysis of the contract which provides analytic answers to these questions: what is the offer? What is the acceptance? What is the consideration? Are there ambiguities of language in the contract? Anticipate and explain one likely theory that you (or the other party) might use to get out of the deal? Anticipate and explain one likely breach of contract and what the remedy for that breach would be? Drafts of the NH can be turned in to me for review/comment before the Thanksgiving break; final drafts will be due with the final exam.

Here’s how to figure your assignments and final grade:

Practice exam: 25 points total; may replace one score for one question on the final (schedule to be announced by the COL)
NH of contract: 25 points, due with the final exam (Dec. 8th), first draft may be turned in for review over the Thanksgiving break
Final exam: 75 points (three questions, worth 25 points each; score on one question may be replaced by score on practice exam) (Dec. 8th, 8 hour takehome)

Required texts:
KNAPP, CRYSTAL & PRINCE, PROBLEMS IN CONTRACT LAW (Aspen 6th ed. 2007)
("KC&P")
Any method (online, purchased supplement) of access to the Restatement of Contracts (2d), e.g. at http://caseandcontroversy.com/Statutes/restat.pdf, and to the UCC Articles 1 and 2 as revised (eg. at http://www.law.cornell.edu/ucc/ucc.table.html)

WAS THERE A DEAL?
Aug. 23. CH 1. Introduction: How are we going to approach the study of contract law? Read KC&P, Preface & Ch. 1 for background.
   CH 2. The Basis of Contractual Obligation: Mutual Assent and Consideration
   A. Mutual assent
Aug. 24
Aug. 29
Aug. 30
   B. Consideration
Aug. 31
Sept. 6. I will be out of town. Recorded class activities will be available on the web. You will also be welcome to attend Prof. Peterson’s class on this day.

C. Issues in applying mutual assent

Sept 7. I will be out of town. Recorded class activities will be available on the web. You will also be welcome to attend Prof. Peterson’s class on this day.

There is no assigned additional reading for today; today’s exercises will be reviewing and outlining.

Sept. 12

Sept. 13

Sept. 14

Sept. 19

Sept. 20
CH 3. Liability without a Bargain: Promissory Estoppel and Restitution

Sept. 21. I will be out of town today. We will have an informal dinner at my house, selected at a time that works for the class and significant others invited as well, to replace this class.

Sept. 26

Sept. 27

Sept. 28
WHAT DID IT SAY?

Oct. 3
CH 5. The meaning of the agreement

Oct. 4

Oct. 5

[Oct. 10, 11, 12—no class; fall break]. Fall break assignment: The Statute of Frauds. You should read the chapter over, paying particular attention to the problems, 4-1 and 4-1.

Oct. 17
CH 6. Supplementing the Agreement: The Obligation of Good Faith and Other Implied Terms
A. Implied Terms

Oct. 18
B. The Implied Obligation of Good Faith

Oct. 19

Oct. 24
C. Warranties

CAN I GET OUT OF IT?

Oct. 25
CH 7. B. Duress and Undue Influence

Oct. 26
C. Misrepresentation and Non-Disclosure

Oct. 31 [Wear your unconscionability mask]
D. Unconscionability
KC&P, 584-632: Williams v. Walker-Thomas Furniture Co., 350 F.2d 445 (D.C. Cir.1965); Higgins v. Superior Court of Los Angeles County, 45 Ca. Rptr. 293 (Cal. App. 2006);

Nov. 1
E. Public Policy
KC&P, 632-661: Problem 7-2; Valley Medical Specialists v. Farber, 982 P.2d 1277 (Az. 1999); R.R. v. M.H. & another, 689 N.E.2d 790 (Mass. 1998); Problems 7-3, 7-4

Nov. 2
CH 8. Justification for Nonperformance
A. Mistake

Nov. 6
B. Changed Circumstances, Impracticability, and Frustration

Nov. 7
C. Modification

Nov. 8
CH 9. Consequences of Nonperformance
A. Express Conditions

Nov. 13
B. Material Breach

Nov. 14
C. Anticipatory Repudiation

[Nov. 15: no class; I will be out of town. This class will be replaced by the scheduled review session below.]

WHAT DO I HAVE TO PAY?
Nov. 21
CH 11. Remedies
A. Expectation Damages—Computing and justifying
KC&P, 845-868: Roesch v. Bray, 545 N.E.2d 1301 (Ohio App. 1988); Handicapped Children’s Education Board v. Lukaszewski (332 N.W.2d 774 (Wisc.1983); American Standard,
KC&P, 946-964.

Nov. 22
B. Restrictions on Expectation Damages: foreseeability, certainty, and causation

Nov. 28
C. Restrictions on Expectation Damages: mitigation

Nov. 29
D. Remedies under the UCC
KC&P, 938-946: Problems 11-2, 11-3

Nov. 30
CH 12. Alternatives to Expectation Damages

Dec. 5: Scheduled exam review session, at regular class time.