

### 1.) Firm Offer Rule

**UCC rule** - the firm offer rule, a promise to keep an offer open that is revocable, the promise to keep an offer open becomes irrevocable even though it is not an option or considered by consideration. If three basic requirements are satisfied:

- (1) the offeror must be a merchant- does not apply to lay persons
- (2) the offer must be in writing, and signed by the merchant
- (3) the promise or assurance to keep the offer open must be part of the written offer.

If the three conditions are satisfied then the offer remains open for the time period of the assurance, but never more than 3 months.

Ex. TV sales man (merchant, can't be a lay person) says he will keep an offer on a TV open to you for 60 days, not enforceable because it is not in writing

### 2.) General Differences Between Common Law and UCC Rules

**Common Law - TECHNICAL** (mirror rule) - if the offeree wants to accept the offer he has the accept the offer as stated (has to accept a mirror image of the offer)

**UCC - PRACTICAL** if the offeree makes additional changes to the offer, as long as they do not materially change the nature of the offer, they become part of the contract.

### 3.) Sale or Return Contract

Ex. RCA sells 2,000 TV's to QC on sale or return then if QC doesn't sell all by a certain date than QC can return to RCA. QC has title and risk of loss

A Sale or Return Contract is a type of contract by which the buyer (usually a merchant) purchases goods primarily for resale, but has the right to return part or all of the goods (undo the sale) in lieu of payment if the goods fail to be resold. (CONSIGNMENT)

### 4.) Sale on Approval

**SALE ON APPROVAL** - when a seller offers to sell goods to a buyer and sends the goods to the buyer on a trial basis, a sale on approval is made. Essentially, the seller in such contracts delivers the goods primarily so that the prospective buyer (usually not a merchant) can use the goods and be convinced of their appearance or performance. The term sale is misleading, however, because only an offer to sell has been made. Title and risk of loss remain with the seller until the buyer accepts the offer.

### 5.) COD Contracts

**COD contract** (Cash-on-delivery) states that the buyer must pay for the goods before accepting the goods and before inspecting the goods. This is an example of a contract stating otherwise so you can't inspect. Very dangerous transactions.

### 6.) Rules if the Seller Ships Non-Conforming Goods

**Revocation of acceptance** - the buyer can revoke acceptance of non-conforming goods where (1) the non-conformity substantially impairs the value of the goods where and (2) the buyer accepted the goods without knowledge of the non-conformity or the buyer accepted the goods with assurances from the seller that the non-conformity would be correct. (It takes both requirements)

Ex. You purchase a new car from a dealer, and the dealer gives you a warranty and you drive the car off the lot and you get to 185 and to get on you have to accelerate and when you put the pedal to the floor the motor kicks off. Any time you really have to accelerate the motor goes out. This is a substantial impairment so you can revoke your acceptance of the vehicle because you bought the car under the assumption that anytime you accelerated the motor would not go out (1) it is substantial impairment (2) w/out knowledge OR (situation 2) You buy this car with this problem and the seller has insured you he will correct this problem. He will fix this substantial impairment and it is not corrected.

**Improper Delivery** - if there is an installment deliver the buyer must be very careful because if he accepts the goods on the first installment and there is a defect he may have waived his right to claim that defect on the second or third deliver. So every deliver of the goods you must inspect those goods and notify immediately.

# Business Law 3150 Study Guide

**Lingjun Ying**

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