

Contracts: Mini

I. Applicable Law (UCC → sale of goods, or Common Law)

II. Formation

- A. Offer:** expression of a promise to enter into a K, contains definite terms, communicated to offeree
1. advertisements → invitations to deal
 2. Revocable unless consideration was paid, firm offer (merchant signs a written offer assuring it will be held open), offeror could reasonably believe that offeree would rely to his detriment, unilateral K and performance has begun.
- B. Acceptance:**
1. only party to whom an offer has been addressed may accept.
 2. CL: mirror image rule, acceptance identical to offer or else no K formed
 3. UCC: promise to ship or by prompt shipment. K formed even if additional or different terms.
 - a. Additional terms part of K? If one is not a merchant, terms of offer control, if both parties merchants new terms part of K unless materially alter, offer expressly limits acceptance on terms, or offeror objects within a reasonable time.
- C. Rules:**
1. Offers, rejections and revocations are effective when received
 2. Mailbox Rule: acceptance is generally effective when sent.
 3. If offeree sends a rejection and then an acceptance, first received is effective.
 4. If offeree sends acceptance and then rejection, usually effective when acceptance sent unless offeree receives rejection first and changes her position in reliance on it.
- D. Consideration**
1. Bargained for exchange between the parties of something of legal value.
 2. Modifications: CL → if preexisting duty to perform, attempt to modify needs new consideration. UCC → modification enforceable w/o consideration as long as it was sought in good faith.
 3. IF no consideration think promissory estoppel.
- E. Statute of Frauds:**
1. To be enforceable a K w/in the SOF must be in writing and signed by the party to be charged.
 2. K w/in: Promises creating an interest in land, promises that by their terms cannot be performed within one year, and sale of goods for \$500 or more (unless merchants and confirmation memo; party admits in court or pleadings; part payment or acceptance, specially manufactured goods).

III. Defenses:

- A. Unconscionability:** K void where clauses are extremely on sided or unfair when made
- B. Mistake:** defense to formation if mutual mistake that goes to basic assumption, material effect on K, and adversely affected arty didn't assume such risk
- C. Parol Evidence Rule:** prohibits introduction into evidence prior or contemporaneous oral statements that seek to vary the terms of a fully integrated written K, exceptions: attack on validity, reformation, interpretation (usage of trade, course of dealings, prior course of performance)
- D. Condition:** event that must occur or fail to occur unless excused before performance becomes do; benefiting party may waive.
- E. Impossibility:** arises after K was entered into, i.e. death/incapacity, subsequent enacted law, subsequent destruction of subject matter.
- F. Impracticability:** extreme, unreasonable difficulty in performing or much greater expense that anticipated
- G. Frustration of Purpose:** performance is pointless.

IV. Breach

- A. Material** → Common law
- B. Perfect Tender Rule:** UCC, buyer can reject any non-conformity, seller has right to cure

V. Damages

- A. Risk of Loss:** K may say; FOB: when reach destination; shipment: when seller turn over to common carrier; non-shipment: merchant → on deliver, non-merchant → when seller tenders
- B. Expectation:** giver party benefit of bargain
- C. Incidental:** expenses non-breach party incurred in dealing with breach
- D. Consequential:** damages that are a reasonably foreseeable result of breach
- E. Specific Performance, Duty to Mitigate, Quasi-K relief (unjust enrichment)**