

# Index

## **ACCELERATED PAYMENT OR PERFORMANCE**

Construction and interpretation,  
**10:11, 10:12**

## **ACCEPTANCE**

Buyer's remedies, **25:8**  
**Buyer's Remedies** (this index)  
**Contract of Sale** (this index)  
Seller's remedies after buyer's  
breach, **24:6, 24:22-24:26**  
**Statute of Frauds** (this index)  
Title, **23:21**  
**Uniform Sales Act** (this index)

## **ACCEPTED GOODS**

Buyer's remedies, **25:41, 25:42**

## **ACCIDENT**

Fitness for particular purpose,  
implied warranty of, **19:24**

## **ACCRUAL OF CAUSE OF ACTION**

**Buyer's Remedies** (this index)  
Title, warranty of, **15:19, 16:9**

## **ACCURACY**

Statute of Frauds, **14:113**

## **ACKNOWLEDGMENTS AND RECEIPTS**

Parol evidence, **13:30**

## **ACTUAL RECEIPT**

**Uniform Sales Act** (this index)

## **ADDICTION**

**Intoxicated or Addicted Persons**  
(this index)

## **ADDITIONAL TERMS**

Contract of sale, **7:35**  
**Parol Evidence** (this index)  
Statute of Frauds, **14:122**

## **ADEQUATELY CONTAINED, PACKAGED AND LABELED**

Merchantability, warranty of, **18:17-18:19**

## **ADHESION CONTRACTS**

Unconscionability, **11:12**

## **ADMISSIONS**

**Statute of Frauds** (this index)

## **ADVANCES**

Infants, **4:19**

## **ADVERTISEMENTS**

Express warranties, § 2-313B, **17:14**

## **AFFIRMANCE AND DISAFFIRMANCE**

Infants, **4:8-4:11**  
Intoxicated or addicted persons, **4:35**  
Mentally ill or incompetent persons,  
**4:28**

## **AFFIRMATION OF FACT OR PROMISE**

**Express Warranties** (this index)

## **AGE**

Infants, **4:21**

## **AGED PERSONS**

Capacity of parties, **4:40**

## **AGENTS AND AGENCY**

Express warranties, **17:22**  
Infants, agency to bind parents, **4:22**  
Statute of Frauds, **14:77, 14:101, 14:102, 14:106**  
Title, warranty of, **16:15**  
Uniform Commercial Code (UCC),  
sales distinguished, **2:1, 2:2**  
Uniform Sales Act, **14:10, 14:29**

## **AGE OF MAJORITY**

Generally, **4:3**

**AIRCRAFT**

Title, **23:31**

**ALCOHOL OR SUBSTANCE**

**ABUSE**

**Intoxicated or Addicted Persons**  
(this index)

**ALTERATIONS**

Contract of sale, **7:37**

**AMBIGUITY**

Contract of sale, **7:12**

**Indefiniteness of Terms** (this index)

Parol evidence, **13:14, 13:37**

**AMENDED ARTICLE 2 OF UCC**

**Uniform Commercial Code (UCC)**  
(this index)

**ANTICIPATORY REPUDIATION**

Seller's remedies after buyer's  
breach, **24:5**

**APPRAISALS**

Statute of Frauds, **14:85**

**APPROVAL**

Express warranties, **17:16**

Title, **23:26**

**ARISTOTLE**

Unconscionability, **11:2**

**ARTICLE 1**

**Uniform Commercial Code (UCC)**  
(this index)

**ARTICLE 2**

**Uniform Commercial Code (UCC)**  
(this index)

**ARTICLE 9**

Title, **23:9, 23:10**

**AS IS**

Implied warranties (UCC  
§ 2-316(3)(a)), **20:14, 20:15**

**ASSENT**

Contract of sale, **7:5**

**ASSERT FACT**

Express warranties, **15:8**

**ASSIGNMENT**

Generally, **10:13-10:27**

Common law, **10:14**

Construction and interpretation  
generally, **10:13-10:27**

Amended Article 2 (2003), **10:27**

Amended Article 2 (pre-2001) and  
former Article 9, **10:23-10:26**

Article 9 and pre-2001 Amended  
Article 2, **10:23-10:26**

common law, **10:14**

enforcement of warranties, **10:25**

form of assignment, **10:22**

future rights, **10:19**

limitations, **10:15, 10:16**

notice, **10:17**

personal contracts, **10:16**

post-assignment status of assignor,  
**10:20**

provisions in contract, **10:18**

Restatement, **10:21, 10:22**

UCC, **10:23-10:27**

unassignable contracts, **10:16**

waiver of defenses, **10:24**

Defenses, **10:24**

Enforcement of warranties, **10:25**

Form of assignment, **10:22**

Future rights, **10:19**

Limitations, **10:15, 10:16**

Notice, **10:17**

Parties, **10:20**

Personal contracts, **10:16**

Restatement, **10:21, 10:22**

UCC, **10:23-10:27**

Waiver of defenses, **10:24**

Warranties, **10:25**

**AT WILL**

Construction and interpretation,  
**10:11, 10:12**

**AUCTIONEERS**

Statute of Frauds, **14:105**

**AUCTION SALE**

Title, **23:24**

**AUTHORIZED AGENT**

Statute of Frauds, **14:101, 14:102**

## INDEX

### **AUTOMATIC INCLUSION**

Title, warranty of, **16:10**

### **AVOIDABLE CONSEQUENCES DEFENSE**

Express warranties, defenses of seller  
under UCC, **17:23**

### **AVOIDANCE**

Infants, **4:5, 4:6**

Mentally ill or incompetent persons,  
**4:29**

### **BAILMENT**

Merchantability, warranty of, **18:10**

Title, **23:18**

Uniform Commercial Code (UCC),  
sales distinguished, **2:3**

### **BARGAIN**

**Express Warranties** (this index)

Intoxicated or addicted persons, **4:34**

Mentally ill or incompetent persons,  
**4:32**

UCC, **20:33**

### **BARTER CONTRACTS**

Statute of Frauds, **14:72**

### **BENEFICIARIES**

**Third Party Beneficiaries** (this  
index)

### **BILLS OF LADING**

Parol evidence, **13:31**

### **BILLS OF SALE AND INVOICES**

Parol evidence, **13:33**

### **BONA FIDE PURCHASER**

Intoxicated or addicted persons, **4:36**

Mentally ill or incompetent persons,  
**4:27**

### **BROCHURES**

Express warranties (UCC § 2-313A),  
**17:15**

Statute of Frauds, **14:85**

### **BROKERS**

Statute of Frauds, **14:103**

### **BURDEN OF PROOF**

Buyer's remedies, **25:32**

Merchantability, warranty of, **15:35**

### **BURDEN OF PROOF—Cont'd**

Title, **23:13**

### **BUYER-SELLER RELATIONSHIP**

Uniform Commercial Code (UCC),  
Article 2, **5:4**

### **BUYER'S REMEDIES**

Generally, **25:1 et seq.**

Acceptance

generally, **25:8**

revocation of acceptance, below

Accepted goods, **25:41, 25:42**

Accrual of cause of action. Limita-  
tion of actions, below

Actions by seller giving buyer right  
to remedies, **25:1**

Amended UCC Article 2

post-2003 amended Article 2,  
below

pre-2003 amended Article 2, below

Breach of warranty. Notice require-  
ments, below

Burden of proof, **25:32**

Cancellation, **25:19**

Cause of action. Limitation of  
actions, below

Consequential damages, **25:46,**  
**25:47, 25:49-25:51**

Continuance of action, **25:77**

Contracts and agreements, **25:63**

Cover, **25:20-25:23**

Cover damages, **25:34, 25:35**

Damages

generally, **25:33-25:52**

accepted goods, **25:41, 25:42**

amended Article 2, **25:33, 25:36,**  
**25:37, 25:43**

consequential damages, **25:46,**  
**25:47, 25:49-25:51**

cover damages, **25:34, 25:35**

direct damages, generally, **25:33-**  
**25:45**

incidental damages, **25:46-25:48**

lost profits, **25:50**

market value, proof of, **25:38,**  
**25:39**

mitigation of damages, **25:44**

**BUYER'S REMEDIES—Cont'd**

Damages—Cont'd

nondelivery (pre- and post-2003 amended Article 2), **25:36-25:39**  
 personal injuries, **25:51**  
 post-2003 amended Article 2, **25:37, 25:43**  
 punitive damages, **25:52**  
 purchase price, recovery of (pre- and post-2003 amended Article 2), **25:33**  
 repudiation of seller (pre- and post-2003 amended Article 2), **25:36-25:39**  
 resale damages, **25:40**  
 set off, **25:45**  
 UCC, generally, **25:35**  
 Uniform Sales Act, **25:34**  
 warranty, breach of, **25:42**  
 Defects, **25:68**  
 Defenses of seller, **25:24**  
 Definition of cover, **25:21**  
 Delivery, **25:36-25:39, 25:65**  
 Direct damages. Damages, above  
 Discontinuance of action and refile, **25:77**  
 Discovery of defect, **25:68**  
 Election of remedies, **25:4, 25:5**  
 Equitable remedies  
   generally, **25:53-25:59**  
   replevin, **25:58**  
   rescission, **25:59**  
   specific performance  
     generally, **25:53-25:57**  
     prerequisites, **25:55**  
     UCC, generally, **25:53**  
     uniqueness, **25:56**  
 Evidence, **25:32, 25:38, 25:39**  
 Exception, **25:66**  
 Express warranty, breach (post-2003 amended Article 2), **25:72**  
 Form of notice, **25:29, 25:30**  
 Future performance exception, **25:66**  
 Goods  
   damages, **25:41, 25:42**  
   pre- and post-2003 amended Article 2, **25:16**  
   rejection of goods, **25:6, 25:7**

**BUYER'S REMEDIES—Cont'd**

Goods—Cont'd

  revocation of acceptance, **25:16, 25:18**  
 Implied warranty, breach statute of limitations under post-2003 amended Article 2, **25:72**  
 Incidental damages, **25:46-25:48**  
 Infringement, breach of warranty title and against (post-2003 amended Article 2)—statute of limitations, **25:74**  
 Injury, time of, **25:67**  
 Limitation of actions  
   post-2003 amended Article 2, below  
   pre-2003 amended Article 2, below  
 Lost profits, **25:50**  
 Market value, proof of, **25:38, 25:39**  
 Mitigation of damages, **25:44**  
 Nondelivery (pre- and post-2003 amended Article 2), **25:36-25:39**  
 Notice requirements  
   breach of warranty  
     generally, **25:25-22:32**  
     burden of proof, **25:32**  
     contents, **25:31**  
     form of notice, **25:29, 25:30**  
     necessity for notice, **25:27**  
     timeliness, **25:28**  
     Uniform Sales Act, **25:29**  
   revocation of acceptance, **25:14**  
 Performance. Equitable remedies, above  
 Personal injuries, **25:51**  
 Post-2003 amended Article 2  
   breach of obligations, **25:43**  
   damages, **25:33, 25:37, 25:43**  
   express warranty, breach, **25:72**  
   implied warranty, breach, **25:72**  
   infringement, breach of warranty title and against, **25:74**  
   limitation of actions  
     generally, **25:69-25:77**  
     action other than breach of warranty or obligation, **25:71**  
     breach, generally, **25:72 et seq.**

## INDEX

### BUYER'S REMEDIES—Cont'd

#### Post-2003 amended Article 2

##### —Cont'd

##### limitation of actions—Cont'd

discontinuance of action and  
refiling, **25:77**

express warranty, breach, **25:72**

implied warranty, breach, **25:72**

infringement, breach of war-  
ranty title and against,  
**25:74**

promise, breach other than,  
**25:73**

reduction of period by agree-  
ment, **25:75**

remedial promise, breach other  
than, **25:73**

sections 2-313A and 2-313B,  
generally, **25:73**

text of provision, **25:69**

time of accrual of cause of  
action, generally, **25:71-  
25:74**

tolling of statute, **25:76**

nondelivery or seller's repudiation,  
**25:37**

price, **25:33**

promise, breach other than, **25:73**

reduction of limitations period by  
agreement, **25:75**

revocation of acceptance, **25:16**

title, breach of warranty title and  
against infringement, **25:74**

#### Pre-2003 amended Article 2

damages, **25:33, 25:36**

##### limitation of actions

generally, **25:60-25:77**

discovery of defect, **25:68**

future performance exception,  
**25:66**

injury, time of, **25:67**

reduction of period by agree-  
ment, **25:63**

tender of delivery, **25:65**

time of accrual of cause of  
action, generally, **25:64-  
25:68**

UCC, generally, **25:60**

warranty, breach of, **25:64-  
25:68**

### BUYER'S REMEDIES—Cont'd

#### Pre-2003 amended Article 2—Cont'd

nondelivery or seller's repudiation,  
**25:36**

price, **25:33**

revocation of acceptance, **25:16**

statute of limitations. Limitation of  
actions, above in this group

Price (pre- and post-2003 amended  
Article 2), **25:33**

Profits, **25:50**

Promise, breach other than (post-  
2003 amended Article 2), **25:73**

Punitive damages, **25:52**

Purchase price, recovery of (pre- and  
post-2003 amended Article 2),  
**25:33**

Reasonable time, **25:13**

Reduction of limitations period by  
agreement, **25:75**

Reduction of period by agreement,  
**25:63**

Refiling, **25:77**

Rejection, **25:6, 25:7, 25:17, 25:18**

Replevin, **25:58**

Repudiation of seller (pre- and post-  
2003 amended Article 2), **25:36-  
25:39**

Resale damages, **25:40**

Rescission, **25:12, 25:59**

##### Revocation of acceptance

generally, **25:9-25:16**

elements, **25:11**

notice, **25:14**

reasonable time, **25:13**

rescission versus, **25:12**

rights and duties of buyer after  
rightful rejection or revoca-  
tion, **25:17, 25:18**

security interest in goods, **25:18**

substantial impairment of value,  
**25:15**

UCC, generally, **25:9**

use of goods by buyer after revoca-  
tion, pre- and post-2003  
amended Article 2, **25:16**

Security interest in goods, **25:18**

Set off, **25:45**

Specific performance. Equitable rem-  
edies, above

**BUYER'S REMEDIES—Cont'd**

Substantial impairment of value, **25:15**  
 Tender of delivery, **25:65**  
 Time, **25:13**  
 Timeliness, **25:28**  
 Title, breach of warranty title and against infringement (post-2003 amended Article 2)—statute of limitations, **25:74**  
 Tolling of statute, **25:76**  
 UCC, generally, **25:2, 25:6-25:23, 25:25-22:32**  
 Uniform Sales Act, **25:29, 25:34**  
 Use of goods by buyer after revocation, pre- and post-2003 amended Article 2, **25:16**  
 Value, **25:15, 25:38, 25:39**  
 Warranty, breach of, **25:42, 25:64-25:68**

**BYSTANDERS**

Third party beneficiaries, **22:21**

**BY THE PARTY TO BE CHARGED**

Uniform Sales Act, **14:28**

**CANCELLATION**

Buyer's remedies, **25:19**  
 Seller's remedies after buyer's breach, **24:30, 24:31**  
 Uniform Commercial Code (UCC), Article 2, **5:15, 5:16**

**CAPACITY OF PARTIES**

Generally, **4:1 et seq.**  
 Additions. **Intoxicated or Addicted Persons** (this index)  
 Aged persons, **4:40**  
 Convicts, **4:40**  
 Corporations, **4:39**  
 Incompetence. **Mentally Ill or Incompetent Persons** (this index)  
**Infants** (this index)  
**Intoxicated or Addicted Persons** (this index)  
 Limited capacity to contract, **4:2**  
**Married Women** (this index)  
**Mentally Ill or Incompetent Persons** (this index)  
 Native Americans, **4:40**

**CAPACITY OF PARTIES—Cont'd**

Spendthrifts, **4:40**  
 Women. **Married Women** (this index)

**CARRIER**

Title, **23:16**  
 Uniform Sales Act, **14:44**

**CASE LAW**

Henningsen v. Bloomfield Motors, Inc., **22:12**  
 Jones v. Just, **15:21**  
 Third party beneficiaries, **22:12**

**CASH SALES**

Title, **23:39-23:42**

**CAUSE OF ACTION**

**Buyer's Remedies** (this index)  
 Title, warranty of, **15:19, 16:9**

**CAVEAT EMPTOR**

Quality, warranty of, **15:21**

**CERTAINTY AND DEFINITENESS**

**Indefiniteness of Terms** (this index)

**CERTIFICATES**

Title, **23:29, 23:30**

**CHALLENGES**

Title, **23:13**

**CHANGE AND MODIFICATION**

Generally, **12:1-12:12**  
 Common law, **12:4-12:6**  
 Conditions precedent, **12:6**  
 Course of performance, role of, **12:10**  
 Defective modification as waiver, **12:28**  
 Executory and nonexecutory contracts, **12:4, 12:5**  
 Express warranties, **17:2**  
 Frauds, **12:11**  
**Implied Warranties** (this index)  
 Model Written Obligations Act, **12:7**  
 Preexisting duty rule, origins of, **12:3**  
 Restatement of Contracts, **12:8**  
 Statute of Frauds requirement, **12:11, 12:12, 14:75**  
 Third party beneficiaries, **22:37**  
 Title, warranty of, **16:6**

## INDEX

### CHANGE AND MODIFICATION

#### —Cont'd

- Uniform Commercial Code (UCC)
  - generally, **12:1, 12:9**
  - course of performance, role of, **12:10**
  - defective modification as rescission, **12:28**
  - Statute of Frauds, modification of existing contract, **14:75**
- Uniform Sales Act, **12:7**
- Waiver, **12:28**
- Warranties** (this index)
- Written acts and matters, **12:7**

### CHECKLISTS

- Uniform commercial code (ucc),
  - checklist of likely issues governing sales transactions, **3:1**

### CHECKS

- Statute of Frauds, **14:83**
- Title, **23:22, 23:38**

### CHILDREN

- Infants** (this index)

### CHOICE

- Unconscionability, **11:21**

### CHOSSES IN ACTION

- Uniform Sales Act, **14:18, 14:48**

### CIRCUMSTANCES JUSTIFYING

- Rescission, **12:16**

### CIVIL PROCEDURE

- Unconscionability, **11:13**

### COMMENDATION

- Express warranties, **17:12**

### COMMERCIAL

#### REASONABLENESS

- Seller's remedies after buyer's breach, **24:21**

### COMMERCIAL UNITS

- Uniform Commercial Code (UCC),
  - Article 2, **5:13**

### COMMITMENT FOR PROCUREMENT

- Statute of Frauds, **14:136**

### COMMODITY

- Uniform Sales Act, **14:17**

### COMMON LAW

- Assignment, **10:14**
- Merchantability, warranty of, **18:22**
- Modification, **12:4-12:6**
- Rescission, **12:14-12:17**
- Waiver, **12:21-12:24**

### COMPLETED TRANSACTION

- Statute of Frauds, **14:120**

### COMPLETION OF PERFORMANCE

- Title, **23:14**

### CONDITIONAL ACTS AND MATTERS

- Contract of sale, **7:29, 7:34, 23:25**
- Title, **23:25**

### CONDITIONS

- Third party beneficiaries, **22:37**
- Title (this index)

### CONDITIONS PRECEDENT

- Modification, **12:6**
- Parol evidence, **13:9, 13:19, 13:27**
- Statute of Frauds, **14:94**

### CONDITIONS SUBSEQUENT

- Parol evidence, **13:10**

### CONDUCT

- Contract of sale, **7:6, 7:15, 7:39**
- Statute of Frauds, contracts formed by conduct, **14:74**
- Uniform Commercial Code (UCC),
  - Article 2, **5:14**
- Waiver, **12:24**

### CONFIRMATION

- Contract of sale, **7:33, 7:41**

### CONFIRMATION SLIPS

- Parol evidence, **13:34**

### CONFIRMATORY WRITING

- Statute of Frauds (this index)

### CONFLICT OF LAWS

- Statute of Frauds, **14:130**
- Third party beneficiaries, **22:35**

**CONFLICT OF WARRANTIES**

Warranties (this index)

**CONFLICTS OF LAW**

Contract of sale, **7:16**

**CONFORMING GOODS AND CONDUCT**

Uniform Commercial Code (UCC),  
Article 2, **5:14**

**CONFORMITY**

Merchantability, warranty of, **18:20**

**CONSEQUENTIAL DAMAGES**

Buyer's remedies, **25:46, 25:47, 25:49-25:51**  
Seller's remedies after buyer's  
breach, types of items recover-  
able under post-2003 amended  
Article 2, **24:37**

**CONSIDERATION**

Contract of sale, **7:3, 7:19**  
Infants, **4:12, 4:13**  
Mentally ill or incompetent persons,  
**4:29**  
Parol evidence, **13:12**  
Uniform Commercial Code (UCC),  
Article 2, **5:5**  
Uniform Sales Act, **14:25**  
Waiver, **12:22**

**CONSIGNMENT**

Uniform Commercial Code (UCC),  
sales distinguished, **2:2**

**CONSISTENCY**

Uniform Sales Act, **14:32**

**CONSISTENT CONSTRUCTION**

Warranties, **21:1**

**CONSPICUOUSNESS**

Implied warranties, **20:18-20:20**

**CONSTRUCTION AND INTERPRETATION**

Generally, **10:1 et seq.**  
Acceleration, **10:11, 10:12**  
Agreement or contract, **3:8**  
**Assignment** (this index)  
At will, **10:11, 10:12**

**CONSTRUCTION AND**

**INTERPRETATION—Cont'd**

Contract. Output, requirements,  
contract, and exclusive dealings  
contracts, below  
Course of dealings, **10:3-10:5**  
Course of performance, **10:3-10:5**  
**Definitions** (this index)  
Delegation of performance. **Assign-  
ment** (this index)  
Exclusive dealings contracts. Output,  
requirements, contract, and  
exclusive dealings contracts,  
below  
Express terms, **10:2**  
Express warranties, **15:10**  
Fitness for particular purpose,  
implied warranty of, **19:6**  
Implied warranties, **20:12**  
New business, **10:10**  
Non-Code law  
    course of dealings, **10:4**  
    course of performance, **10:4**  
    output, requirements, contract, and  
    exclusive dealings contracts,  
    **10:7**  
    usage of trade, **10:4**  
Option at will to accelerate payment  
or performance, **10:11, 10:12**  
Output, requirements, contract, and  
exclusive dealings contracts  
    generally, **10:6-10:10**  
    non-Code law, **10:7**  
    reduce requirements, ability to,  
    **10:9**  
    start new business, duty to, **10:10**  
    stay in business, duty to, **10:9**  
    UCC, **10:8-10:10**  
Parol evidence, **13:18**  
Payments, **10:11, 10:12**  
Performance  
    course of, **10:3-10:5**  
    delegation of. **Assignment** (this  
    index)  
    option at will to accelerate, **10:11,  
    10:12**  
Requirements. Output, requirements,  
contract, and exclusive dealings  
contracts, above  
Restatement of Contracts (2d), **13:18**



## INDEX

### CONSTRUCTION AND

#### INTERPRETATION—Cont'd

- Start new business, duty to, **10:10**
- Stay in business, duty to, **10:9**
- Unconscionability** (this index)
- Uniform Commercial Code (UCC)
  - Article 1, **3:7**
  - course of dealings, **10:5**
  - course of performance, **10:5**
  - option at will to accelerate payment or performance, **10:12**
  - output, requirements, contract, and exclusive dealings contracts, **10:8-10:10**
  - usage of trade, **10:5**
- Usage of trade, **10:3-10:5**
- Warranties, **21:1, 21:3**

### CONSUMER PROTECTION

- Implied warranties, **20:15**
- Modification of contract, role of course of performance, **12:10**

### CONTAINED ADEQUATELY

- Merchantability, warranty of, **18:17-18:19**

### CONTAINERS

- Merchantability, warranty of, **18:19, 18:20**

### CONTINUANCE AND DISCONTINUANCE OF ACTION

- Buyer's remedies, **25:77**

### CONTINUING NEED FOR PROCESS

- Third party beneficiaries, **22:39**

### CONTRACT OF AGENCY

- Distinguished from sales under UCC, **2:1, 2:2**

### CONTRACT OF SALE

- Generally, **7:1 et seq.**
- Acceptance. Offer and acceptance, below
- Additional terms, **7:35**
- Alterations, **7:37**
- Ambiguous offers, **7:12**
- Assent, **7:5**

### CONTRACT OF SALE—Cont'd

- Breach, waiving or renouncing claim or right after breach, **3:6**
- Checklist of likely issues, **3:1**
- Conditional, expressly made, **7:34**
- Conditional acceptance, **7:29**
- Conduct
  - establishing agreement, **7:6**
  - recognizing existence of contract, **7:39**
- Confirmation
  - effect of, **7:41**
  - written, **7:33**
- Conflicts of law, contract formation and, **7:16**
- Consideration, **7:3, 7:19**
- Construction and interpretation, **3:8**
- Construction and Interpretation** (this index)
- Counteroffer. Non-mirroring offer and acceptance, below
- Definition of seal, **8:2**
- Different terms, **7:35**
- Electronic means of formation, **7:7**
- Establishing agreement, **7:6**
- Estoppel, **7:20**
- Evidenced by writing, UCC § 2-205, **7:24**
- Existence of contract, **7:39**
- Express limitations, **7:36**
- Expressly made conditional, **7:34**
- Express statement that offer will remain open, UCC § 2-205, **7:21**
- Firm offer
  - generally, **7:17-7:27**
  - consideration requirement, **7:19**
  - evidenced by writing, UCC § 2-205, **7:24**
  - express statement that offer will remain open, UCC § 2-205, **7:21**
  - impact of UCC § 2-205, **7:27**
  - merchant, offer made by, UCC § 2-205, **7:22**
  - option contracts, **7:18-7:20**
  - promissory estoppel, **7:20**
  - signed by offeror, UCC § 2-205, **7:25**

**CONTRACT OF SALE—Cont'd**

Firm offer—Cont'd  
 three-month limitation, UCC  
     § 2-205, **7:26**  
 UCC § 2-205, generally, **7:21-7:27**  
 Formation  
     generally, **7:2**  
     electronic means, **7:7**  
     intent. Intent to form contract,  
       below  
 Forming contract, **7:16**  
 Forms, **7:30**  
 Frauds, Statute of, **7:4**  
 General principles governing sales  
   transactions  
     agreement and contract, defined,  
       **3:8**  
     applicability of Code and other  
       laws, **3:3, 3:4**  
     breach, waiving or renouncing  
       claim or right after, **3:6**  
     checklist of likely issues, **3:1**  
     definitions and principles of inter-  
       pretation, **3:7-3:9**  
     good faith, defined, **3:9**  
     new provisions on scope of Article  
       1, **3:4**  
     parties ability to vary effect of  
       Code, **3:5**  
     purpose and general means of  
       application of Code, **3:2**  
     waiving or renouncing claim or  
       right after breach, **3:6**  
 Historical development, **7:3, 7:4**  
**Indefiniteness of Terms** (this index)  
 Inoperative, **8:1**  
 Intent to form contract  
     generally, **7:2-7:12**  
     conduct establishing agreement,  
       **7:6**  
     historical development, **7:3, 7:4**  
     indefiniteness of contract terms,  
       **7:9**  
     mutual assent, **7:5**  
     mutual promises as consideration,  
       **7:3**  
     omission of contract terms, **7:9**  
     Statute of Frauds, **7:4**  
     time of making, **7:8**

**CONTRACT OF SALE—Cont'd**

Lapse of offer, **7:14**  
 Limitations and restrictions, **7:26, 7:36**  
 Materially alter, **7:37**  
 Merchant, offer made by, UCC  
     § 2-205, **7:22**  
 Merchantability, warranty of, **18:8-18:11**  
 Mutual assent, **7:5**  
 Mutual promises as consideration,  
     **7:3**  
 Non-Code law, **7:29, 7:30**  
 Non-mirroring offer and acceptance  
   generally, **7:28-7:40**  
     acceptance expressly limited to  
       terms of offer, **7:36**  
     additional terms, **7:35**  
     battle of forms, **7:30**  
     conditional acceptance, **7:29**  
     conduct recognizing existence of  
       contract, **7:39**  
     different terms, **7:35**  
     expressly made conditional, **7:34**  
     forms, battle of, **7:30**  
     materially alter, **7:37**  
     non-Code law, **7:29, 7:30**  
     notice of objection, **7:38**  
     post-2003 Amended UCC § 2-207,  
       **7:41**  
     pre-2003 Amended UCC § 2-207,  
       **7:31-7:40**  
     seasonable expression of accep-  
       tance, **7:32**  
     summary, **7:40**  
     written confirmation, **7:33**  
 Notice of objection, **7:38**  
 Objections, **7:38**  
 Offer and acceptance  
   generally, **7:10-7:16**  
   ambiguous offers, **7:12**  
   conflicts of law, contract formation  
     and, **7:16**  
   firm offer, above  
   lapse of offer, **7:14**  
   manners of acceptance, **7:12**  
   non-Code law, **7:11**  
   non-mirroring offer and accep-  
     tance, above

## INDEX

### **CONTRACT OF SALE—Cont'd**

Offer and acceptance—Cont'd  
shipment, acceptance by, **7:13**  
unilateral contract ploy, **7:13**  
written record, acceptance through, **7:15**  
Omission of contract terms, **7:9**  
Open offer, **7:23**  
Option contracts, **7:18-7:20**  
Promises, **7:3**  
Promissory estoppel, **7:20**  
Recognizing existence of contract, **7:39**  
Seal  
generally, **8:1-8:4**  
alternatives, **8:4**  
definition, **8:2**  
effect, **8:3**  
inoperative, **8:1**  
Seasonable expression of acceptance, **7:32**  
Signed by offeror, UCC § 2-205, **7:25**  
Statements, **7:23**  
Statute of Frauds, **7:4**  
Terms  
acceptance expressly limited to terms of offer, **7:36**  
additional or different terms, **7:35**  
**Indefiniteness of Terms** (this index)  
omission of, **7:9**  
post-2003 Amended UCC 2-207, **7:41**  
pre-2003 Amended UCC 2-207, **7:35, 7:36**  
Three-month limitation, UCC § 2-205, **7:26**  
Time, **7:6, 7:8**  
Title, **23:25**  
**Unconscionability** (this index)  
Uniform Commercial Code (UCC)  
Section 2-205. Firm offer, above  
Section 2-207. Non-mirroring offer and acceptance, above  
Uniform Sales Act, **14:9-14:12**  
Unilateral contract ploy, **7:13**  
United Nations Convention on Contracts for International Sale of Goods, **App. C**

### **CONTRACT OF SALE—Cont'd**

Written acts and matters  
acceptance through written record, **7:15**  
evidenced by writing, **7:24**  
non-mirroring offer and acceptance, written confirmation, **7:33**

### **CONVICTS**

Capacity of parties, **4:40**

### **CORPORATIONS**

Capacity of parties, **4:39**

### **CORRESPONDENCE**

Statute of Frauds, **14:88, 14:89**  
Third party beneficiaries, **22:31**

### **COUNTEROFFER**

**Contract of Sale** (this index)

### **COURSE OF DEALING**

Construction and interpretation, **10:3-10:5**  
Implied warranties, **20:27**  
Merchantability, warranty of, **18:21**  
Parol evidence, **13:36**

### **COURSE OF PERFORMANCE**

Construction and interpretation, **10:3-10:5**  
Implied warranties, **20:28**  
Parol evidence, **13:36**

### **COVER**

Buyer's remedies, **25:20-25:23**

### **COVER DAMAGES**

Buyer's remedies, **25:34, 25:35**

### **CREDITORS**

Title, **23:8-23:11**

### **CRIMINAL FRAUD**

As to fraud, generally. **Fraud** (this index)  
Title transfer, **23:43**

### **CROPS**

Uniform Sales Act, **14:14**

### **CUMULATIVE CONSTRUCTION**

Warranties, **21:1**

## **DAMAGES**

**Buyer's Remedies** (this index)  
**Seller's Remedies After Buyer's Breach** (this index)  
**Title, Warranty Of** (this index)

## **DEALING**

**Course of Dealing** (this index)  
 Parol evidence, **13:38**

## **DEFAULT**

Seller's remedies after buyer's breach, **24:8**

## **DEFECTS**

Buyer's remedies, **25:68**  
 Implied warranties, **20:23**  
 Waiver, **12:28**

## **DEFENSES**

Assignment, **10:24**  
 Buyer's remedies, **25:24**  
**Express Warranties** (this index)  
 Merchantability, warranty of, **18:31**  
 Third party beneficiaries, **22:31, 22:36**  
 Title, warranty of, **16:21**  
 Warranties, **21:8**

## **DEFERRED DELIVERY**

Title, **23:10**

## **DEFINITE ARTICLES**

Merchantability, warranty of, **15:25**

## **DEFINITE GOODS**

Fitness for particular purpose, implied warranty of, **19:4**

## **DEFINITIONS**

Acceptance of goods, Statute of Frauds, **14:146**  
 Breach, warranty of title, **16:18**  
**Construction and Interpretation** (this index)  
 Cover, buyer's remedies, **25:21**  
 Disclaimers, **13:41**  
 Express warranties, **15:6, 17:1**  
 Good faith, **3:9**  
 Manufacturer, warranty of merchantability, **15:29**  
 Memorandum, **14:59**

## **DEFINITIONS—Cont'd**

Mentally ill or incompetent persons, **4:31**  
 Merchantability. **Merchantability, Warranty Of** (this index)  
 Necessaries, **4:17, 4:18**  
 Parol evidence, **13:2, 13:6**  
 Seal, **8:2**  
 Signature, **14:60-14:62**  
 Statute of Frauds, **14:96, 14:133**  
 Transaction, **5:1**  
 Uniform Commercial Code (UCC), Article 1, **3:7**  
 Voidable title, **23:41**  
 Warranties  
   generally, **13:41**  
   express warranty, **15:6, 17:1**  
   merchantability, warranty of, **15:31**  
   title, warranty of, **16:3, 16:18**  
 Writing, **13:6**

## **DELEGATION OF PERFORMANCE**

**Assignment** (this index)

## **DELIVERY**

Buyer's remedies, **25:36-25:39, 25:65**  
**Indefiniteness of Terms** (this index)  
 Seller's remedies after buyer's breach, **24:10-24:13**  
**Title** (this index)  
**Uniform Sales Act** (this index)

## **DEMURRER**

Statute of Frauds, **14:140**

## **DESCRIPTION**

Conflict of warranties, **21:5**  
 Express warranties, **17:18**  
 Fitness for particular purpose, implied warranty of, **19:4**  
 Merchantability, warranty of, **15:25**  
 Quality, warranty of, **15:22**  
 Uniform Sales Act, **14:24**

## **DESTINATION CONTRACT**

Title, **23:15**

## **DESTRUCTION**

Restatement of Contracts (2d), **14:63**

## INDEX

### DIFFERENT TERMS

Contract of sale, **7:35**

### DISCLAIMER

Parol evidence, **13:41**

Unconscionability, **11:14**

**Warranties** (this index)

### DISCLOSURE

Statute of Frauds, **14:106**

### DISCOVERY

Buyer's remedies, **25:68**

### DISHONORED CHECK

Title, **23:38**

### DISMISSAL

Statute of Frauds, **14:140**

### DIVISIBLE CONTRACTS

Uniform Sales Act, **14:12**

### DONATIONS

Third party beneficiaries, **22:20**

### DURESS

Parol evidence, **13:24**

**Unconscionability** (this index)

### EARNEST PAYMENT

Uniform Sales Act, **14:50**

### ECONOMIC DURESS

**Unconscionability** (this index)

### ELECTION OF REMEDIES

Buyer's remedies, **25:4, 25:5**

### ELECTRONIC

#### COMMUNICATIONS

Formation of contract of sale, **7:7**

Goods transactions within Article 2,  
**5:17**

### EMPLOYMENT

Third party beneficiaries, **22:22**

### ENCUMBRANCES

**Liens and Encumbrances** (this  
index)

### ENFORCEMENT

Assignment, **10:25**

Statute of Frauds, **14:100, 14:124**

Uniform Sales Act, **14:7**

### ENGLAND

14th-16th centuries, **1:2**

Frauds, Statute of, **1:4**

Historical perspective of sales law,  
**1:1 et seq.**

Middle years, **1:3**

Quality, warranty of, **15:20**

17th and 18th centuries, **1:3**

Title, warranty of, **15:13**

Uniform Commercial Code (UCC),  
**1:5, 1:6**

### ENTRUSTMENT

Title, **23:45-23:48**

### EQUITABLE ESTOPPEL

Statute of Frauds, **14:151**

### EQUITABLE REMEDIES

**Buyer's Remedies** (this index)

### ESSENTIAL PURPOSE, FAILURE OF

Warranties, **20:34**

### ESSENTIALS

Statute of Frauds, **14:109-14:113**

### ESTOPPEL

Contract of sale, **7:20**

Statute of Frauds, **14:150-14:152**

Title, **23:46**

### EVEN KIND, QUALITY AND QUANTITY

Merchantability, warranty of, **18:16**

### EVIDENCE

**Burden of Proof** (this index)

Buyer's remedies, **25:32, 25:38,**  
**25:39**

Contract of sale, **7:24**

**Implied Warranties** (this index)

**Parol Evidence** (this index)

### EXACT SPECIFICATIONS

Warranties, **21:4**

### EXAMINATION OF GOODS

**Implied Warranties** (this index)

### EXCEPTION, EXCLUSIONS, AND EXEMPTIONS

Buyer's remedies, **25:66**

**EXCEPTION, EXCLUSIONS, AND EXEMPTIONS—Cont'd**

**Implied Warranties** (this index)  
Parol evidence, **13:11**  
**Statute of Frauds** (this index)  
**Warranties** (this index)

**EXCESSIVE PRICES**

Unconscionability, **11:16**

**EXCHANGE OR TRADE**

Uniform Commercial Code (UCC),  
sales distinguished, **2:6**

**EXECUTION OF MEMORANDUM**

Uniform Sales Act, **14:11**

**EXECUTORY AND NONEXECUTORY CONTRACTS**

Modification, **12:4, 12:5**  
Uniform Sales Act, **14:9**

**EXPECTATIONS**

Merchantability, warranty of, **18:28**

**EXPLICIT AGREEMENT**

Title, **23:4, 23:5, 23:12**

**EXPRESSION OF AGREEMENT**

Parol evidence, **13:26**

**EXPRESS LIMITATIONS**

Contract of sale, **7:36**

**EXPRESSLY MADE CONDITIONAL**

Contract of sale, **7:34**

**EXPRESS STATEMENT**

Contract of sale, **7:23**

**EXPRESS TERMS**

Construction and interpretation, **10:2**

**EXPRESS WARRANTIES**

Generally, **15:5-15:12**  
Advertisements, § 2-313B, **17:14**  
Affirmation of fact or promise.  
Uniform Commercial Code (UCC), below  
Agency relationships, **17:22**  
Approval, **17:16**  
Assert fact, intention of seller to, **15:8**

**EXPRESS WARRANTIES—Cont'd**

Avoidable consequences and related tort defense, **17:23**  
Bargain, basis of. Uniform Commercial Code (UCC), below  
Brochures, manuals and other literature (UCC § 2-313A), **17:15**  
Buyer's remedies, breach—statute of limitations under post-2003 amended Article 2, **25:72**  
Changing concept and uses of express warranty, **17:2**  
Commendation, **17:12**  
Conflict of warranties, **21:6**  
Construction and interpretation, **15:10**  
Defenses of seller. Uniform Commercial Code (UCC), below  
Definition  
express warranties, **15:6**  
warranty, **17:1**  
Descriptions, **17:18**  
Disclaimer, **20:8**  
Fact  
generally, **15:9**  
Uniform Commercial Code (UCC), below  
Good faith, defenses of seller, **17:26**  
Goods, **17:20**  
Implied warranties, **15:28, 21:6**  
Inspection, **17:21**  
Intent  
to assert fact, **15:8**  
to contract, **15:7**  
Literature (UCC § 2-313A), **17:15**  
Manuals (UCC § 2-313A), **17:15**  
Merchantability, warranty of, distinguished, **18:2**  
Miscellaneous defenses of seller, **17:25**  
Model, **17:19-17:21**  
Necessity of reliance, **17:8-17:10**  
Opinion, **15:9, 17:12**  
Parol evidence, **15:11**  
Partially conforming goods, **17:20**  
Preemption by federal or state law, **17:24**

## INDEX

### **EXPRESS WARRANTIES—Cont'd**

- Prior to sale, seller's representations, **17:9**
- Promise, remedial, **17:27**
- Puffing versus affirmation or promise, **17:13-17:16**
- Reliance, **17:8-17:10**
- Remedial promise, **17:27**
- Representations, **17:9, 17:10**
- Restatement (2d) of Contracts, **15:12**
- Sample or model, **17:19-17:21**
- Seals of approval, **17:16**
- Statutory and regulatory standards, **17:17**
- Subsequent to sale, seller's representations, **17:10**
- Uniform Commercial Code (UCC)
  - generally, **17:1 et seq.**
  - affirmation of fact or promise
    - generally, **17:11-17:16**
    - advertisements, § 2-313B, **17:14**
    - brochures, manuals and other literature (§ 2-313A), **17:15**
    - distinction between affirmation of value, opinion or commendation, **17:12**
    - puffing versus affirmation of promise, **17:13-17:16**
    - seals of approval, **17:16**
  - agency relationships, **17:22**
  - applicability, generally, **17:6-17:29**
  - bargain, basis of
    - generally, **17:7-17:21**
    - affirmation of fact or promise, above in this group
    - descriptions, **17:18**
    - inspection, **17:21**
    - necessity of reliance, **17:8-17:10**
    - partially conforming goods, **17:20**
    - prior to sale, seller's representations, **17:9**
    - sample or model, **17:19-17:21**
    - statutory and regulatory standards, **17:17**
    - subsequent to sale, seller's representations, **17:10**

### **EXPRESS WARRANTIES—Cont'd**

- Uniform Commercial Code (UCC)
  - Cont'd
  - changing concept and uses of express warranty, **17:2**
  - defenses of seller
    - generally, **17:23-17:26**
    - avoidable consequences and related tort defense, **17:23**
    - good faith, **17:26**
    - intent, **17:26**
    - miscellaneous defenses, **17:25**
    - preemption by federal or state law, **17:24**
  - definition of warranty, **17:1**
  - disclaimer, **20:8**
  - promise, remedial, **17:27**
  - remedial promise, **17:27**
  - Uniform Sales Act, **17:3-17:5**
- Uniform Sales Act, **15:5, 17:3-17:5**
- Uses, **17:2**
- Value, **17:12**
- Written acts and matters (UCC § 2-313A), **17:15**

### **EXTRINSIC EVIDENCE**

- Implied Warranties** (this index)

### **FACT**

- Express Warranties** (this index)
- Knowledge of facts, **12:23**
- Recitals of fact, **13:20**

### **FAIR AVERAGE QUALITY**

- Merchantability, warranty of, **18:14**

### **FALSE REPRESENTATIONS**

- Infants, **4:21, 4:22**

### **FAMILY OR HOUSEHOLD**

- Third party beneficiaries, **22:16**

### **F.A.S. TERMS**

- Indefiniteness of terms, **9:8, 9:12**

### **FEDERAL LAW**

- Merchantability, warranty of, **18:5**

### **FINAL EXPRESSION OF AGREEMENT**

- Parol evidence, **13:26**

**FIRM OFFER**

Contract of Sale (this index)

**FITNESS FOR ORDINARY  
PURPOSE**

Merchantability, warranty of, **18:15**

**FITNESS FOR PARTICULAR  
PURPOSE**

Merchantability, warranty of, **15:24**

**FITNESS FOR PARTICULAR  
PURPOSE, IMPLIED  
WARRANTY OF**

Abnormal use of product, **19:23**  
 Accident, **19:24**  
 Breach, **19:15-19:18**  
 Construction and interpretation, **19:6**  
 Definite goods, **19:4**  
 Description, **19:4**  
 Essential elements for establishing  
 existence and breach, **19:15-  
 19:18**  
 Evidence, **19:21-19:24**  
 Goods, **19:11, 19:18**  
 Judgment, **19:17**  
 Known, described or definite goods,  
**19:4**  
 Leases, **19:10**  
 Limitations and restrictions, **19:14**  
 Nonsales situations, **19:8-19:10**  
 Notice and knowledge, **19:4, 19:16**  
 Overlap of warranties distinguished,  
**19:2**  
 Patent or trade name sales, **19:5**  
 Reliance, **19:17**  
 Representation of seller, **19:22**  
 Service or sales, **19:9**  
 Skill, **19:17**  
 Statutes, **19:3-19:6**  
 Trade name, **19:5**  
 UCC  
   generally, **19:1 et seq.**  
   abnormal use of product, **19:23**  
   accident, **19:24**  
   application of warranty, generally,  
   **19:12-19:24**  
   breach, **19:15-19:18**  
   buyer's reliance on seller's skill or  
   judgment, **19:17**

**FITNESS FOR PARTICULAR  
PURPOSE, IMPLIED  
WARRANTY OF—Cont'd**

UCC—Cont'd  
 construction and interpretation,  
**19:6**  
 essential elements for establishing  
 existence and breach, **19:15-  
 19:18**  
 evidence, **19:21-19:24**  
 inapplicability of warranty, **19:20**  
 known, described or definite  
 goods, **19:4**  
 leases, **19:10**  
 limitations and restrictions, **19:14**  
 nonsales situations, **19:8-19:10**  
 overlap of warranties  
   distinguished, **19:2**  
 patent or trade name sales, **19:5**  
 representation of seller, **19:22**  
 seller knows or has reason to know  
   of buyer's particular purpose,  
**19:16**  
 service or sales, **19:9**  
 transactions, generally, **19:7-19:11**  
 unfit for particular purpose, goods  
   as, **19:18**  
 Uniform Sales Act compared,  
**19:3-19:6**  
   used goods, **19:11**  
 Unfit for particular purpose, goods as,  
**19:18**  
 Uniform Sales Act compared, **19:3-  
 19:6**  
 Use, abnormal, **19:23**  
 Used goods, **19:11**

**FIVE HUNDRED DOLLARS OR  
UPWARDS**

Uniform Sales Act, **14:21**

**FIXTURES**

Uniform Commercial Code (UCC),  
 Article 2, **5:10, 5:11**  
 Uniform Sales Act, **14:16**

**F.O.B. TERMS**

Indefiniteness of terms, **9:8, 9:12**

**FOOD, SALE OF**

Merchantability, Warranty Of (this  
 index)



## INDEX

### **FOOD, WARRANTY OF**

Merchantability, warranty of, **15:30**

### **FOOD SERVED IN RESTAURANTS**

Uniform Commercial Code (UCC),  
sales distinguished, **2:5**

### **FOREIGN COUNTRIES**

Unconscionability, **11:7**

### **FOREIGN/NATURAL SUBSTANCES TEST**

Merchantability, warranty of, **18:27**

### **FORMALITIES**

Restatement of Contracts, **14:57**  
**Statute of Frauds** (this index)

### **FORMAL REQUIREMENTS**

Uniform Sales Act, **14:6**

### **FORM CONTRACT**

**Contract of Sale** (this index)

### **FOR THE PRICE OF**

Statute of Frauds, **14:68**

### **FRANCE**

Unconscionability, **11:7, 11:8**

### **FRAUD**

Intoxicated or addicted persons, **4:38**  
Parol evidence, **13:24**  
Title transfer, **23:37, 23:43**  
Unconscionability, **11:20**

### **FRAUDS, STATUTE OF**

**Statute of Frauds** (this index)

### **FRAUDULENT LARCENY**

Title, **23:43**

### **FRUCTUS INDUSTRIALES**

Uniform Commercial Code (UCC),  
Article 2, **5:10, 5:11**  
Uniform Sales Act, **14:14**

### **FRUCTUS NATURALES**

Uniform Commercial Code (UCC),  
Article 2, **5:10, 5:11**  
Uniform Sales Act, **14:15**

### **FUNGIBLE GOODS**

Merchantability, warranty of, **18:14**

### **FUTURE GOODS**

Statute of Frauds, **14:71**

### **FUTURE PERFORMANCE**

Buyer's remedies, **25:66**

### **FUTURE RIGHTS**

Assignment, **10:19**

### **FUTURE SALES**

Statute of Frauds, **14:70, 14:92**

### **GENERALITY OF GOODS**

Uniform Commercial Code (UCC),  
Article 2, **5:8-5:11**

### **GERMANY**

Unconscionability, **11:7, 11:8**

### **GOOD FAITH**

Express warranties, defenses of seller  
under UCC., **17:26**  
General principle governing sales  
transactions, **3:9**  
Infants, **4:7**  
Seller's remedies after buyer's  
breach, **24:21**  
Title, **23:44**

### **GOODS**

**Buyer's Remedies** (this index)  
Express warranties, **17:20**  
Fitness for particular purpose,  
implied warranty of, **19:11, 19:18**  
**Implied Warranties** (this index)  
Merchantability, warranty of, **18:7**  
**Seller's Remedies After Buyer's Breach** (this index)  
**Statute of Frauds** (this index)  
Title, warranty of, **16:8**  
**Title** (this index)  
**Uniform Commercial Code (UCC)**  
(this index)  
**Uniform Sales Act** (this index)  
United Nations Convention on  
Contracts for International Sale  
of Goods, **App. C**

### **GOODS, MERCHANTABILITY OF**

Generally, **15:37**

### **GOOD TITLE**

UCC, **16:13**

**GUARDIANSHIP**

Mentally ill or incompetent persons, 4:32

**GUESTS**

Third party beneficiaries, 22:17

**HENNINGSEN v. BLOOMFIELD MOTORS, INC.**

Third party beneficiaries, 22:12

**HISTORY**

Contract of sale, 7:3, 7:4

Statute of Frauds, 14:2

Third party beneficiaries, 22:30

Title, 23:32

**HOUSEHOLD**

Third party beneficiaries, 22:16

**HYBRID SALES/SERVICE TRANSACTIONS**

Merchantability, warranty of, 18:11

**IDENTIFICATION OF GOODS TO CONTRACT**

Seller's remedies after buyer's breach, 24:14-24:16

Title (this index)

**IDENTIFICATION OF PARTIES**

Uniform Sales Act, 14:23

**IDENTITY FRAUD**

Title, 23:37

**IMPLIED RATIFICATION**

Infants, 4:15

**IMPLIED WARRANTIES**

Generally, 15:13-15:37

As is (UCC § 2-316(3)(a)), 20:14, 20:15

Buyer's remedies, breach—statute of limitations under post-2003 amended Article 2, 25:72

Conspicuousness, 20:18-20:20

Construction and interpretation, 20:12

Consumer protection statutes and tort law, 20:15

Contracts and agreements, 20:10, 20:11

Course of dealing, 20:27

**IMPLIED WARRANTIES—Cont'd**

Course of performance, 20:28

Defects, 20:23

Evidence

fitness for particular purpose, implied warranty of, 19:21-19:24

merchantability, warranty of, 15:28, 15:35, 18:31

Evidence. Uniform Commercial Code (UCC), below

Examination of goods by buyer. Uniform Commercial Code (UCC), below

Exclusion or modification. Uniform Commercial Code (UCC), below

Extrinsic evidence. Uniform Commercial Code (UCC), below

**Fitness for Particular Purpose, Implied Warranty Of** (this index)

Goods. Uniform Commercial Code (UCC), below

In lieu of all other warranties, 20:16

Inspection, 15:36, 20:24

Latent defects, 20:23

**Merchantability, Warranty Of** (this index)

Model, 20:25

Modification. Uniform Commercial Code (UCC), below

Parties, agreement between, 20:10, 20:11

Patent, 15:26, 19:5

Patent and latent defects, 20:23

Performance, course of, 20:28

Priorities, 20:30

Public policy considerations, 20:20

**Quality, Warranty Of** (this index)

Reasonableness, 20:19

Refusal to examine, 20:22

Sample or model, 20:25

Specifications of buyer, 20:31

**Title, Warranty Of** (this index)

Tort law, 20:15

Unconscionability, 20:11

Uniform Commercial Code (UCC) evidence. Extrinsic evidence, below in this group

## INDEX

### **IMPLIED WARRANTIES—Cont'd**

#### Uniform Commercial Code (UCC)

##### —Cont'd

- examination of goods by buyer
  - generally, **20:21-20:25**
  - inspection distinguished, **20:24**
  - patent and latent defects, **20:23**
  - refusal to examine, **20:22**
  - sample or model, **20:25**
- exclusion or modification
  - generally, **20:9-20:32**
  - additional means of disclaiming implied warranties (UCC § 2-316(3)(a)), **20:17**
  - as is (UCC § 2-316(3)(a)), **20:14, 20:15**
  - conspicuousness, **20:18-20:20**
  - construction and interpretation, **20:12**
  - consumer protection statutes and tort law, **20:15**
  - evidence. Extrinsic evidence, below in this group
  - examination of goods by buyer, above in this group
  - extrinsic evidence, below in this group
  - in lieu of all other warranties, **20:16**
  - interrelationship between subsections (2) and (3), **20:13**
  - language of exclusion, generally, **20:12-20:17**
  - parties, agreement between, **20:10, 20:11**
  - public policy considerations, **20:20**
  - reasonableness, **20:19**
  - unconscionability, **20:11**
- extrinsic evidence
  - generally, **20:26-20:32**
  - course of dealing, **20:27**
  - course of performance, **20:28**
  - examination of goods by buyer, above in this group
  - priorities, **20:30**
  - specifications of buyer, **20:31**
  - usage of trade, **20:29**

### **IMPLIED WARRANTIES—Cont'd**

#### Uniform Commercial Code (UCC)

##### —Cont'd

- Fitness for Particular Purpose, Implied Warranty Of** (this index)
- goods. Examination of goods by buyer, above in this group
- Merchantability, Warranty Of** (this index)
- modification. Exclusion or modification, above in this group
- Usage of trade, **18:21, 20:29**

### **INCIDENTAL DAMAGES**

- Buyer's remedies, **25:46-25:48**
- Seller's remedies after buyer's breach, **24:34-24:37**

### **INCOMPETENCE**

- Mentally Ill or Incompetent Persons** (this index)

### **INCONSPICUOUSNESS**

- Unconscionability, **11:19**

### **INDEFINITENESS OF TERMS**

- Generally, **9:1 et seq.**
- Delivery. Open delivery terms, below
- F.A.S. terms, **9:8, 9:12**
- F.O.B. terms, **9:8, 9:12**
- Intent to form contract of sale, **7:9**
- Non-Code law
  - open delivery terms, **9:5**
  - open duration of contract term, **9:18**
  - open payment terms, **9:16**
  - open price term, **9:3**
- Open delivery terms
  - generally, **9:5-9:14**
  - F.A.S. terms, **9:8, 9:12**
  - F.O.B. terms, **9:8, 9:12**
  - manner, **9:9, 9:13**
  - non-Code law, **9:5**
  - place, **9:7, 9:11**
  - time, **9:6, 9:10**
  - UCC § 2-307, manner, **9:13**
  - UCC § 2-308, **9:11**
  - UCC § 2-309, **9:10**

## **INDEFINITENESS OF TERMS**

### **—Cont'd**

- Open delivery terms—Cont'd
  - UCC § 2-319(1) and (2), F.O.B. and F.A.S. terms, **9:12**
- Open duration of contract term
  - non-code law, **9:18**
  - UCC, **9:19**
- Open payment terms
  - generally, **9:15**
  - non-code law, **9:16**
  - UCC § 2-310, **9:16**
- Open price term
  - generally, **9:2**
  - non-code law, **9:3**
  - UCC § 2-305, **9:4**
- Options
  - generally, **9:20**
  - UCC, **9:21**
- Payments, **9:15-9:17**
- Place, **9:7, 9:11**
- Price, **9:2-9:4**
- Time, **9:6, 9:10, 9:18, 9:19**
- Uniform Commercial Code (UCC)
  - F.O.B. and F.A.S. terms, **9:12**
  - open delivery terms, **9:10-9:13**
  - open duration of contract term, **9:19**
  - open payment terms, **9:17**
  - options, **9:21**
  - Section 2-204, generally, **9:1**
  - Section 2-305, **9:4**
  - Section 2-307, **9:13**
  - Section 2-308, **9:11**
  - Section 2-309, **9:10**
  - Section 2-310, **9:17**
  - Section 2-311, **9:21**
  - Section 2-319(1) and (2), **9:12**

## **INDUCEMENT**

- Unconscionability, **11:18**

## **INFANTS**

- Generally, **4:3-4:23**
- Advances, **4:19**
- Affirmance, **4:8-4:11**
- Age, false representations, **4:21**
- Agency to bind parents, **4:22**
- Age of majority, **4:3**

## **INFANTS—Cont'd**

- Avoidance, **4:5, 4:6**
- Capacity of, **4:3-4:23**
- Consequences of disaffirmance, **4:11**
- Consideration, restoration of, **4:12, 4:13**
- Definitions of necessities, **4:17, 4:18**
- Disaffirmance, **4:8-4:11**
- Exercising power of disaffirmance, manner of, **4:8, 4:9**
- False representations, **4:21, 4:22**
- Good faith, **4:7**
- Implied ratification, **4:15**
- Injustice of not requiring restoration of consideration, **4:13**
- Liability, **4:16**
- Majority, age of, **4:3**
- Money advanced for purchase of necessities, **4:19**
- Necessaries, **4:17-4:19**
- Parents, agency to bind, **4:22**
- Partial disaffirmance, **4:10**
- Partial ratification, **4:15**
- Power of avoidance personal, **4:6**
- Previous supply, **4:20**
- Ratification
  - generally, **4:14-4:20**
  - implied ratification, **4:15**
  - liability, **4:16**
  - money advanced for purchase of necessities, **4:19**
  - necessaries, money advanced for purchase of, **4:19**
  - necessaries defined, **4:17, 4:18**
  - partial ratification, **4:15**
  - previous supply, **4:20**
- Restoration, **4:12, 4:13**
- Subsequent purchaser, **4:7**
- Time, **4:9**
- Validity of transfer to subsequent purchaser in good faith, **4:7**
- Valid until avoided, **4:5**
- Voidable and not void contracts, **4:4, 4:5**

## **INFRINGEMENT**

- Buyer's remedies, breach of warranty title and against infringement (post-2003 amended Article 2)—statute of limitations, **25:74**

## INDEX

### **INFRINGEMENT—Cont'd**

Title, warranty of, **15:16, 25:74**

Warranty against, **16:19, 16:20**

### **IN LIEU OF ALL OTHER WARRANTIES**

Implied warranties, **20:16**

### **INNKEEPER RULE**

Merchantability, warranty of, **18:24**

### **INOPERATIVE**

Contract of sale, **8:1**

### **INSPECTION**

Express warranties, **17:21**

Implied warranties, **15:36, 20:24**

Merchantability, warranty of, **15:36**

### **INSTRUCTION MANUALS**

Merchantability, warranty of, **18:18**

### **INTENT**

**Contract of Sale** (this index)

Express warranties, **15:7, 15:8**

Statute of Frauds, **14:98**

Third party beneficiaries, **22:6**

Transfer of title, no intent to transfer, **23:35**

Uniform Sales Act, **14:31**

Warranties, **21:8**

### **INTEREST IN GOODS**

Uniform Sales Act, **14:19**

### **INTEREST IN PROPERTY**

Uniform Commercial Code (UCC),  
Article 2, **5:12**

### **INTOXICATED OR ADDICTED PERSONS**

Generally, **4:33-4:38**

Bargains voidable, **4:34**

Bona fide purchasers, **4:36**

Capacity of, **4:33-4:38**

Disaffirmance, **4:35**

Fraud, **4:38**

Incapacitation, generally, **4:33**

Necessaries, **4:37**

Overreaching, **4:38**

Ratification, **4:35**

Voidable, bargains, **4:34**

### **IN TRANSIT**

Seller's remedies after buyer's  
breach, **24:11-24:13**

### **INVESTMENT SECURITIES**

Uniform Commercial Code (UCC),  
**6:3**

### **INVOICES**

Parol evidence, **13:33**

Statute of Frauds, **14:82**

### **JONES v. JUST**

Quality, warranty of, **15:21**

### **JUDGMENT**

Fitness for particular purpose,  
implied warranty of, **19:17**

### **JUDICIAL ADMISSIONS**

**Statute of Frauds** (this index)

### **JUDICIAL APPLICATION**

Parol evidence, **13:3**

### **JURISDICTION**

Third party beneficiaries, **22:34**

### **JUSTIFIABLE REVOCATION OF ACCEPTANCE**

Title, **23:21**

### **JUSTIFICATION**

Rescission, **12:16**

### **KIND**

Merchantability, warranty of, **18:16**

### **KNOWLEDGE**

**Notice and Knowledge** (this index)

### **LABELS AND LABELING**

Merchantability, warranty of, **18:17-18:20**

### **LAESIO ENORMIS**

Unconscionability, **11:6**

### **LAND, CONTRACTS FOR SALE OF**

Statute of Frauds, **14:79**

### **LAPSE OF OFFER**

Contract of sale, **7:14**

### **LARCENY**

Title, **23:43**

**LATENT DEFECTS**

Implied warranties, **20:23**

**LEASE**

Exclusion or modification of warranties, **20:6**

Fitness for particular purpose, implied warranty of, **19:10**

Merchantability, warranty of, **18:10**

Security interests, **6:8**

Third party beneficiaries, **22:18, 22:19**

Uniform Commercial Code (UCC), sales distinguished, **2:4**

**LETTERS OF CREDIT**

Statute of Frauds, **14:86**

**LIBERALIZATION OF FORMALITIES**

Statute of Frauds, **14:80**

**LIENS AND ENCUMBRANCES**

Title, priority of liens, **23:11**

Title, warranty of, **15:17, 16:17**

**LIMITATION OF ACTIONS**

**Buyer's Remedies** (this index)

Title, warranty of, **16:25**

**LIMITATIONS AND RESTRICTIONS**

Assignment, **10:15, 10:16**

Capacity of parties, **4:2**

Contract of sale, **7:26, 7:36**

Fitness for particular purpose, implied warranty of, **19:14**

**Merchantability, Warranty Of** (this index)

Statute of Frauds, **14:142, 14:148, 14:149**

Title, **23:8**

Title, warranty of, **15:18**

Unconscionability, **11:14**

Warranties, **20:1, 20:32-20:35**

**LITERATURE**

**Brochures** (this index)

**Manuals** (this index)

**LOCATION**

**Place or Location** (this index)

**LOST PROFITS**

Buyer's remedies, **25:50**

**LOTS AND COMMERCIAL UNITS**

Uniform Commercial Code (UCC), Article 2, **5:13**

**MAJORITY, AGE OF**

Generally, **4:3**

**MANUALS**

Express warranties (UCC § 2-313A), **17:15**

Merchantability, warranty of, **18:18**

**MANUFACTURED GOODS**

**Statute of Frauds** (this index)

**MANUFACTURER**

Merchantability, warranty of, **15:29**

Third party beneficiaries, **22:25**

**MARKET PRICE**

Seller's remedies after buyer's breach, **24:25**

**MARKET VALUE**

Buyer's remedies, **25:38, 25:39**

**MATERIALLY ALTER**

Contract of sale, **7:37**

**MEANINGFUL CHOICE, LACK OF**

Unconscionability, **11:21**

**MEDIA**

Third party beneficiaries, media and records packaged with accompanying goods, **22:22**

**MEMORANDUM**

Definition, **14:59**

Internal memorandum, Statute of Frauds, **14:87**

Restatement of contracts, **14:59, 14:63**

**Uniform Sales Act** (this index)

**MEMORIALIZE AGREEMENT, INTENT TO**

Contract of sale, **7:7**

**MENTALLY ILL OR**

**INCOMPETENT PERSONS**

Generally, **4:24-4:32**

## INDEX

### MENTALLY ILL OR INCOMPETENT PERSONS

#### —Cont'd

- Avoidance, **4:29**
- Bargains made during guardianship, **4:32**
- Bona fide purchaser, **4:27**
- Capacity of, **4:24-4:32**
- Consideration, **4:29**
- Definition, **4:31**
- Disaffirmance, **4:28**
- Early law, **4:24**
- Guardianship, **4:32**
- Necessaries, **4:30**
- Ratification, **4:28**
- Restoration of consideration, **4:29**
- Voidable against bona fide purchaser, **4:27**
- Voidable transactions theory, **4:26, 4:27**
- Void theory, **4:25**

### MERCHANTABILITY, WARRANTY OF

- Generally, **15:23-15:37**
- Adequately contained, packaged and labeled, **18:17-18:19**
- Bailments, **18:10**
- Breach of warranty of quality of food, **18:26**
- Burden of proof, **15:35**
- Common law, **18:22**
- Conformity to statements on container or label, **18:20**
- Contained, adequately, **18:17-18:19**
- Containers, **18:19, 18:20**
- Contract for sale of goods, **18:8-18:11**
- Course of dealing or usage of trade, **18:21**
- Defenses and matters of proof, **18:31**
- Definite articles, **15:25**
- Definitions
  - manufacturer, **15:29**
  - merchantable, **15:31**
  - Uniform Commercial Code (UCC), below
- Description, **15:25**
- Disclaimer, **15:27, 15:28**

### MERCHANTABILITY, WARRANTY OF—Cont'd

- Even kind, quality and quantity, **18:16**
- Evidence, **15:28, 15:35, 18:31**
- Expectations, **18:28**
- Express warranty, **15:28, 18:2**
- Fair average quality, **18:14**
- Federal law, **18:5**
- Fitness for ordinary purpose, **18:15**
- Fitness for particular purpose, **15:24**
- Food, sale of. Uniform Commercial Code (UCC), below
- Food, warranty of, **15:30**
- Foreign/natural substances test, **18:27**
- Fungible goods of fair average quality, **18:14**
- Goods, merchantability of, **15:37**
- Goods of that kind, merchant with respect to, **18:7**
- Hybrid sales/service transactions, **18:11**
- Innkeeper rule, **18:24**
- Inspection, buyer's right of, **15:36**
- Instruction manuals, **18:18**
- Kind, even, **18:16**
- Known, described and definite articles, **15:25**
- Label, conformity to statement on, **18:20**
- Labeled adequately, **18:17-18:19**
- Leases, security agreements and bailments, **18:10**
- Limitations and restrictions. Uniform Commercial Code (UCC), below
- Manuals, **18:18**
- Manufacturer, **15:29**
- Merchantability defined. Uniform Commercial Code (UCC), below
- Merchantable defined, **15:31**
- Mixed test, **18:29**
- Natural substances test, **18:27**
- Notice and knowledge, **15:25**
- Objection in trade, merchantable goods pass without, **18:13**
- Ordinary purpose, **18:15**
- Packaged adequately, **18:17-18:19**

**MERCHANTABILITY,**

**WARRANTY OF—Cont'd**

Parol evidence rule, disclaimer of implied warranty by, **15:28**  
 Patent or trade name, sale under, **15:26**  
 Pre-Code law, **18:22-18:24**  
 Preemption by federal law, **18:5**  
 Quality, **18:16, 18:26**  
 Quality, warranty of, **18:3**  
 Quantity, **18:16**  
 Reasonable expectations test, **18:28**  
 Sample, sale by, **15:32**  
 Sealed containers, **18:19**  
 Security agreements, **18:10**  
 Service, **18:11**  
 Service of food under Code. Uniform Commercial Code (UCC), below  
 Specific of unspecified goods, contract to sell or sale of, **15:33**  
 Statements, **18:20**  
 Term of contract, **15:34**  
 Tests, **18:27-18:30**  
 Trade name, **15:26**  
 Uniform Commercial Code (UCC)  
     generally, **18:1 et seq.**  
     definition of merchantability  
         generally, **18:12-18:21**  
         adequately contained, packaged and labeled, **18:17-18:19**  
         conformity to statements on container or label, **18:20**  
         course of dealing or usage of trade, **18:21**  
         even kind, quality and quantity, **18:16**  
         fitness for ordinary purpose, **18:15**  
         fungible goods of fair average quality, **18:14**  
         instruction manuals, **18:18**  
         objection in trade, merchantable goods pass without, **18:13**  
         sealed containers, **18:19**  
         express warranty distinguished, **18:2**  
         food, sale of  
             generally, **18:22-18:31**

**MERCHANTABILITY,**

**WARRANTY OF—Cont'd**

Uniform Commercial Code (UCC)  
     —Cont'd  
         food, sale of—Cont'd  
             common law, **18:22**  
             innkeeper rule, **18:24**  
             pre-Code law, **18:22-18:24**  
             service of food under Code, below in this group  
                 Uniform Sales Act, **18:23**  
         limitations and restrictions  
             generally, **18:6-18:11**  
             contract for sale of goods, **18:8-18:11**  
             goods of that kind, merchant with respect to, **18:7**  
             hybrid sales/service transactions, **18:11**  
             leases, security agreements and bailments, **18:10**  
             Section 2-314 to analogous situations, **18:9**  
         merchantability defined. Definition of merchantability, above in this group  
         preemption by federal law, **18:5**  
         service of food under Code  
             generally, **18:25-18:31**  
             breach of warranty of quality of food, **18:26**  
             defenses and matters of proof, **18:31**  
             foreign/natural substances test, **18:27**  
             mixed test, **18:29**  
             reasonable expectations test, **18:28**  
             tests, generally, **18:30**  
         Uniform Sales Act, implied warranty of quality under, **18:3**  
         Uniform Sales Act, **18:3, 18:23**  
         Usage of trade, **18:21**

**MERCHANTABLE**

Definition, **15:31**

**MERCHANTS**

Contract of sale, **7:22**  
 Statute of Frauds (this index)



## INDEX

### MIDDLE AGES

- Historical perspective of sales law,  
1:1, 1:2, 1:3
- Unconscionability, 11:4

### MINORS

- Infants (this index)

### MISSING TERMS

- Parol evidence, 13:39

### MISTAKE

- Parol evidence, 13:24
- Uniform Sales Act, 14:40

### MITIGATION OF DAMAGES

- Buyer's remedies, 25:44
- Seller's remedies after buyer's  
breach, 24:14

### MIXED TEST

- Merchantability, warranty of, 18:29

### MODEL

- Express warranties, 17:19-17:21
- Implied warranties, 20:25

### MODEL WRITTEN

#### OBLIGATIONS ACT

- Modification, 12:7

### MODIFICATION

- Change and Modification (this  
index)

### MONEY

- Infants, 4:19
- Transactions, generally, 6:2
- Uniform Commercial Code (UCC),  
transactions not within Code,  
6:2
- Uniform Sales Act, 14:17, 14:21

### MORTGAGE

- Uniform Commercial Code (UCC),  
sales distinguished, 2:8

### MOTION TO DISMISS

- Statute of Frauds, 14:140

### MOTOR VEHICLE SALES

- Title, 23:28-23:30

### MULTIPLE LITIGATIONS

- Third party beneficiaries, 22:33

### MULTIPLE WRITINGS

- Restatement of contracts, 14:58
- Statute of Frauds, 14:90

### MUTUAL ASSENT

- Contract of sale, 7:5

### MUTUAL PROMISES

- Contract of sale, 7:3

### NATIVE AMERICANS

- Capacity of parties, 4:40

### NATURAL SUBSTANCES TEST

- Merchantability, warranty of, 18:27

### NECESSARIES

- Definitions, 4:17, 4:18
- Infants, 4:17-4:19
- Intoxicated or addicted persons, 4:37
- Mentally ill or incompetent persons,  
4:30

### NECESSITY OF RELIANCE

- Express warranties, 17:8-17:10

### NEGOTIATIONS

- Statute of Frauds, 14:95

### NEW BUSINESS

- Construction and interpretation,  
10:10

### NEW YORK

- Third party beneficiaries, 22:13

### NOTICE AND KNOWLEDGE

- Assignment, 10:17
- Breach of warranty. **Buyer's Remedies** (this index)
- Buyer's Remedies** (this index)
- Contract of sale, 7:38
- Fitness for particular purpose,  
implied warranty of, 19:4, 19:16
- Merchantability, warranty of, 15:25
- Statute of Frauds, 14:125
- Third Party Beneficiaries** (this  
index)
- Waiver, 12:23

### OBJECTIONS

- Contract of sale, 7:38
- Merchantability, warranty of, 18:13
- Statute of Frauds, 14:126-14:128

**OBJECTIONS—Cont’d**  
Uniform Sales Act, **14:37**

**OFFER**  
Contract of Sale (this index)  
Statute of Frauds, **14:93**

**OF THE VALUE OF**  
Uniform Sales Act, **14:20**

**OMISSIONS**  
Contract of sale, **7:9**  
Statute of Frauds, **14:99, 14:113**

**OPEN OFFER**  
Contract of sale, **7:23**

**OPEN TERMS**  
Indefiniteness of Terms (this index)  
Parol evidence, **13:13**

**OPINIONS**  
Express warranties, **15:9, 17:12**

**OPPRESSIVENESS**  
Unconscionability, **11:22**

**OPTIONS**  
Construction and interpretation,  
**10:11, 10:12**  
Contract of sale, **7:18-7:20**  
Indefiniteness of terms, **9:20, 9:21**

**ORAL CONTRACTS AND AGREEMENTS**  
Uniform Sales Act, **14:11, 14:52-14:54**

**ORDER FORMS**  
Statute of Frauds, **14:84**

**ORDINARY COURSE OF BUSINESS, BUYER IN**  
Title, warranty of, **16:16**

**ORDINARY PURPOSE**  
Merchantability, warranty of, **18:15**

**OR GIVEN SOMETHING IN EARNEST TO BIND CONTRACT**  
Uniform Sales Act, **14:50**

**OR HIS AGENT IN THAT BEHALF, SIGNATURE**  
Uniform Sales Act, **14:29**

**OR IN PART PAYMENT**  
Uniform Sales Act, **14:51**

**OUTPUT CONTRACTS**  
Statute of Frauds, **14:108**

**OVERLAP OF WARRANTIES**  
Fitness for particular purpose,  
implied warranty of, **19:2**

**OVERREACHING**  
Intoxicated or addicted persons, **4:38**

**PACKAGING**  
Merchantability, warranty  
of—“packaged adequately”,  
**18:17-18:19**  
Third party beneficiaries, media and  
records packaged with  
accompanying goods, **22:22**

**PARENTS**  
Infants, **4:22**

**PAROL EVIDENCE**  
Generally, **13:1 et seq.**  
Acknowledgments and receipts,  
**13:30**  
Additional terms. Uniform Com-  
mercial Code (UCC), below  
Ambiguity in contract terms, **13:14, 13:37**  
Bills of lading, **13:31**  
Bills of sale and invoices, **13:33**  
Conditions precedent, **13:9, 13:19, 13:27**  
Conditions subsequent, **13:10**  
Confirmation slips, **13:34**  
Conflicting warranties, **13:42**  
Consideration, **13:12**  
Construction of Restatement of  
Contracts (2d) provisions, **13:18**  
Course of dealing, **13:36**  
Course of performance, **13:36**  
Dealings, prior, **13:38**  
Definitions  
disclaimers, **13:41**  
pre-Code law, **13:2**  
warranties, **13:41**  
writing, **13:6**  
Disclaimers, **13:41**  
Duress, **13:24**

## INDEX

### **PAROL EVIDENCE—Cont'd**

- Exceptions, **13:11**
- Expression of agreement, **13:26**
- Express warranties, **15:11**
- Final expression of agreement, **13:26**
- Fraud, **13:24**
- Frauds, Statute of, **13:4**
- Invoices, **13:33**
- Judicial application, **13:3**
- Merchantability, warranty of, **15:28**
- Missing terms, **13:39**
- Mistake, **13:24**
- Open terms, **13:13**
- Parties, **13:8**
- Performance, **13:36**
- Pre-Code law
  - generally, **13:1-13:16**
  - ambiguous contract terms, **13:14**
  - conditions precedent, **13:9**
  - conditions subsequent, **13:10**
  - consideration, **13:12**
  - definition, **13:2**
  - exceptions, **13:11**
  - judicial application, **13:3**
  - open terms, **13:13**
  - procedural considerations, **13:15**
  - seal, contracts under, **13:5**
  - Statute of Frauds distinguished, **13:4**
  - third parties, effect on, **13:8**
  - Uniform Sales Act, **13:16**
  - warranties, **13:7**
  - writing defined, **13:6**
- Prior dealings, **13:38**
- Procedural considerations, **13:15**
- Purchase orders, **13:32**
- Receipts, **13:30**
- Recitals of fact, **13:20**
- Restatement of Contracts, **13:17-13:20**
- Seal, contracts under, **13:5**
- Security agreements, **13:35**
- Statute of Frauds, **13:4**
- Subsequent conditions, **13:10**
- Terms
  - pre-Code law, **13:13, 13:14**
  - Uniform Commercial Code (UCC), below

### **PAROL EVIDENCE—Cont'd**

- Third parties, **13:8, 13:23**
- Uniform Commercial Code (UCC)
  - generally, **13:21-13:42**
  - additional terms
    - generally, **13:28-13:35**
  - ambiguity in contract terms, **13:37**
  - applicability, generally, **13:22-13:42**
  - conflicting warranties, **13:42**
  - course of dealing, usage of trade, and course of performance, **13:36, 13:37**
  - defining warranties and disclaimers, **13:41**
  - duress, **13:24**
  - exalted status of course of dealing, usage of trade, and course of performance, **13:36, 13:37**
  - fraud, **13:24**
  - good faith, **13:24**
  - memoranda, writing and records
    - conditions precedent, **13:27**
    - final expression, **13:26**
    - pre- and post-2003 Amended Article 2, **13:25**
  - missing terms, **13:39**
  - mistake, **13:24**
  - overview, **13:21**
  - prior dealings, **13:38**
  - scope and limitations on application, **13:22-13:24**
- terms
  - ambiguity in contract terms, **13:37**
  - missing terms, **13:39**
- third party rights, **13:23**
- warranties, **13:40-13:42**
- writings
  - generally, **13:26-13:35**
  - acknowledgments and receipts, **13:30**
  - bills of lading, **13:31**
  - bills of sale and invoices, **13:33**
  - conditions precedent, **13:27**
  - confirmation slips, **13:34**
  - final expression of agreement, **13:26**

**PAROL EVIDENCE—Cont'd**

Uniform Commercial Code (UCC)  
     —Cont'd  
     writings—Cont'd  
         pre- and post-2003 Amended  
         Article 2, **13:25**  
         purchase orders, **13:32**  
         security agreements, **13:35**  
     Uniform Sales Act, **13:16**  
     Usage of trade, **13:36**  
     Warranties, **13:7, 13:40-13:42**  
     Writings  
         defined, **13:6**  
         Uniform Commercial Code  
         (UCC), above

**PARTIAL ACTS AND MATTERS**

Express warranties, **17:20**  
   Infants, **4:10, 4:15**  
   Rescission, **12:14**  
   Statute of Frauds, **14:134, 14:148,**  
     **14:149**  
   Uniform Sales Act, **14:47, 14:51**

**PARTIES**

Additions. **Intoxicated or Addicted**  
     **Persons** (this index)  
   Assignment, **10:20**  
   **Capacity of Parties** (this index)  
   Implied warranties, **20:10, 20:11**  
   Incompetence. **Mentally Ill or**  
     **Incompetent Persons** (this  
     index)  
   **Infants** (this index)  
   **Intoxicated or Addicted Persons**  
     (this index)  
   **Married Women** (this index)  
   **Mentally Ill or Incompetent**  
     **Persons** (this index)  
   Parol evidence, **13:8**  
   Restatement of Contracts (2d), **14:61**  
   **Statute of Frauds** (this index)  
   **Third Party Beneficiaries** (this  
     index)  
   Title, **23:4, 23:12**  
   Uniform Sales Act, **14:23, 14:28,**  
     **14:38**  
   Women. **Married Women** (this  
     index)

**PARTNERSHIP**

Statute of Frauds, **14:104**  
   Uniform Sales Act, **14:10, 14:30**

**PASSAGE OF TITLE**

Title (this index)

**PATENT**

Fitness for particular purpose,  
     implied warranty of, **19:5**  
   Implied warranties, **15:26, 19:5**  
   Merchantability, warranty of, **15:26**

**PATENT AND LATENT DEFECTS**

Implied warranties, **20:23**

**PAYMENT**

Construction and interpretation,  
     **10:11, 10:12**  
   Indefiniteness of terms, **9:15-9:17**  
   Seller's remedies after buyer's  
     breach, **24:7**  
   Statute of Frauds, **14:148**  
   Title, **23:22**  
   Uniform Sales Act, **14:50, 14:51**

**PERFORMANCE**

**Assignment** (this index)  
   **Buyer's Remedies** (this index)  
   Construction and interpretation, **10:3-**  
     **10:5, 10:11, 10:12**  
   Implied warranties, **20:28**  
   Parol evidence, **13:36**  
   Statute of Frauds, **14:149**  
   Title, **23:14**

**PERMISSIVE COMPLIANCE**

Title, **23:30**

**PERSONAL CONTRACTS**

Assignment, **10:16**

**PERSONAL INJURIES**

Buyer's remedies, **25:51**

**PERSONAL PROPERTY**

Uniform Sales Act, **14:13-14:16**

**PLACE OR LOCATION**

Indefiniteness of terms, **9:7, 9:11**  
   Statute of Frauds, **14:97**  
   Uniform Sales Act, **14:43**

## INDEX

### POSSESSION

- Title, **23:18**
- Title, warranty of, **16:8, 16:12**

### PREEMPTION

- Express warranties, defenses of seller under UCC, **17:24**
- Merchantability, warranty of, **18:5**

### PRELIMINARY NEGOTIATIONS

- Statute of Frauds, **14:95**

### PRESENT SALES

- Statute of Frauds, **14:70**

### PREVIOUS SUPPLY

- Infants, **4:20**

### PRICE

- Buyer's remedies, (pre- and post-2003 amended Article 2), **25:33**
- Indefiniteness of terms, **9:2-9:4**
- Seller's remedies after buyer's breach, **24:25, 24:27-24:29**
- Statute of Frauds, **14:68, 14:85, 14:111**
- Unconscionability, **11:16**
- Uniform Sales Act, **14:26**

### PRIOR ACTS AND MATTERS

- Express warranties, **17:9**
- Parol evidence, **13:38**

### PRIORITIES

- Implied warranties, **20:30**

### PRIORITY OF LIENS

- Title, **23:11**

### PRIVATE RESALE

- Seller's remedies after buyer's breach, **24:20**

### PRIVITY

- Third Party Beneficiaries** (this index)

### PROCEDURAL ADMISSIONS

- Statute of Frauds, **14:140**

### PROCEDURAL CONSIDERATIONS

- Parol evidence, **13:15**
- Title, warranty of, **15:14, 15:15**

### PROCEDURAL RULES

- Rescission, **12:17**

### PROCEDURAL UNCONSCIONABILITY

- Generally, **11:11**

### PROCUREMENT

- Statute of Frauds, **14:136**

### PRODUCT LIABILITY

- Third party beneficiaries, **22:8**

### PROFITS

- Buyer's remedies, **25:50**

### PROMISE

- Buyer's remedies, breach other than remedial promise (post-2003 amended Article 2), **25:73**
- Contract of sale, **7:3**
- Express warranties, remedial promise, **17:27**
- Third Party Beneficiaries** (this index)

### PROMISSORY ESTOPPEL

- Contract of sale, **7:20**
- Statute of Frauds, **14:152**

### PUBLIC POLICY

- Implied warranties, **20:20**
- Unconscionability, **11:23**

### PUBLIC RESALE

- Seller's remedies after buyer's breach, **24:20**

### PUFFING

- Express warranties, **17:13-17:16**

### PUNITIVE DAMAGES

- Buyer's remedies, **25:52**

### PURCHASE ORDERS

- Parol evidence, **13:32**

### PURCHASE PRICE

- Buyer's remedies (pre- and post-2003 amended Article 2), **25:33**

### PURPOSE AND MEANS OF APPLICATION OF UCC

- Uniform Commercial Code (UCC), Article 1, **3:2**

**QUALITY**

Merchantability, warranty of, **18:16, 18:26**

**QUALITY, WARRANTY OF**

Generally, **15:20-15:37**  
 Caveat emptor, **15:21**  
 Classification in *Jones v. Just* and caveat emptor, **15:21**  
 Description, sale by, **15:22**  
 Early English law, **15:20**  
 English law, **15:20**  
*Jones v. Just*, **15:21**  
**Merchantability, Warranty Of** (this index)

**QUANTITY**

Merchantability, warranty of, **18:16**  
 Statute of Frauds  
   generally, **14:107**  
   confirmatory writing/record, **14:119**  
   judicial admissions, quantity limitations, **14:142**  
   output or requirement contracts, **14:108**  
   receipt and acceptance, part payment or incomplete delivery, **14:148, 14:149**

**QUESTIONS OF FACT**

Uniform Sales Act, **14:49**

**QUIET POSSESSION**

Title, warranty of, **16:12**

**RATIFICATION**

**Infants** (this index)  
 Intoxicated or addicted persons, **4:35**  
 Mentally ill or incompetent persons, **4:28**

**REAL PROPERTY**

Uniform Commercial Code (UCC), **5:13, 6:5**  
 Uniform Sales Act, **14:13-14:16**

**REASONABLE EXPECTATIONS TEST**

Merchantability, warranty of, **18:28**

**REASONABLENESS**

Implied warranties, **20:19**

**REASONABLENESS—Cont'd**

Seller's remedies after buyer's breach, **24:21**  
 Unconscionability, **11:24**

**REASONABLE TIME**

Buyer's remedies, **25:13**  
 Statute of Frauds, **14:123**

**RECEIPT**

Parol evidence, **13:30**  
**Statute of Frauds** (this index)  
**Uniform Sales Act** (this index)

**RECITALS OF FACT**

Parol evidence, **13:20**

**RECLAMATION**

Seller's remedies after buyer's breach, **24:32, 24:33**

**REDUCTION OF LIMITATIONS PERIOD**

Buyer's remedies, **25:75**

**REFERRAL SALES**

Unconscionability, **11:17**

**REFILING**

Buyer's remedies, **25:77**

**REFUSAL TO EXAMINE**

Implied warranties, **20:22**

**REJECTION**

Buyer's remedies, **25:6, 25:7, 25:17, 25:18**  
 Seller's remedies after buyer's breach, **24:6**  
 Title, **23:20**  
 Uniform Sales Act, **14:37**

**RELIANCE**

Express warranties, **17:8-17:10**  
 Fitness for particular purpose, implied warranty of, **19:17**

**RENOUNCING**

Uniform Commercial Code (UCC), Article 1, **3:6**

**REPLEVIN**

Buyer's remedies, **25:58**

## INDEX

### REPRESENTATIONS

Express warranties, **17:9, 17:10**  
Fitness for particular purpose,  
implied warranty of, **19:22**

### REPUDIATION

Buyer's remedies (pre- and post-2003  
amended Article 2), **25:36-  
25:39**  
Seller's remedies after buyer's  
breach, **24:5, 24:22-24:26**

### REPURCHASE

Statute of Frauds, **14:73**

### REQUIREMENT CONTRACTS

Statute of Frauds, **14:108**

### RESALE

Buyer's remedies, **25:40**  
**Seller's Remedies After Buyer's  
Breach** (this index)

### RESCISSION

Generally, **12:1, 12:13-12:20**  
Buyer's remedies, **25:12, 25:59**  
Circumstances justifying, **12:16**  
Common law, **12:14-12:17**  
Frauds, Statute of, **12:15**  
Justification, **12:16**  
Partial rescission, **12:14**  
Procedural rules, **12:17**  
Restatement of Contracts, **12:19**  
Seller's remedies after buyer's  
breach, **24:30**  
Statute of Frauds, **12:15**  
UCC, **12:1, 12:20**  
Uniform Sales Act, **12:18, 14:53**

### RESERVATION OF SECURITY INTEREST

Title, **23:8-23:11**

### RESTATEMENT OF CONTRACTS (2d)

Generally, **14:55-14:63**  
Assignment, **10:21, 10:22**  
Definitions  
    memorandum, **14:59**  
    signature, **14:60-14:62**  
Destruction, **14:63**  
Express warranties, **15:12**

### RESTATEMENT OF CONTRACTS (2d)—Cont'd

Formalities required, **14:57**  
Loss or destruction of memorandum,  
**14:63**  
Memorandum, **14:59, 14:63**  
Modification, **12:8**  
Multiple writings, **14:58**  
Parol evidence, **13:17-13:20**  
Parties to sign, **14:61**  
Rescission, **12:19**  
Signature defined, **14:60-14:62**  
Time for signature, **14:62**  
Waiver, **12:26**  
Written acts and matters, **14:58**

### RESTAURANTS

Uniform Commercial Code (UCC),  
sales distinguished from food  
served, **2:5**

### RESTORATION

Infants, **4:12, 4:13**  
Mentally ill or incompetent persons,  
**4:29**

### RESTRICTIONS

**Limitations and Restrictions** (this  
index)

### RETAILERS

Third party beneficiaries, **22:26**

### RETRACTION

Waiver, retraction of, **12:32**

### RETURN OF GOODS

Statute of Frauds, **14:73**

### REVESTING TITLE

Generally, **23:19-23:22**  
Statute of Frauds, **14:78**

### REVOCATION

**Buyer's Remedies** (this index)  
Seller's remedies after buyer's  
breach, **24:6**  
Title, **23:21**

### RIGHTFUL TRANSFER

Title, warranty of, **16:14**

### ROMAN LAW

Influence of, **1:1**

**ROMAN LAW—Cont'd**

Unconscionability, **11:3**

**SAMPLE**

Conflict of warranties, **21:5**

Express warranties, **17:19-17:21**

Implied warranties, **20:25**

Merchantability, warranty of, **15:32**

**SATISFACTION**

Uniform Sales Act, **14:39**

**SEAL**

**Contract of Sale** (this index)

Express warranties, **17:16**

Parol evidence, **13:5**

**SEALED CONTAINERS**

Merchantability, warranty of, **18:19**

**SEASONABLE EXPRESSION OF  
ACCEPTANCE**

Contract of sale, **7:32**

**SECURITY AGREEMENTS**

Merchantability, warranty of, **18:10**

Parol evidence, **13:35**

**SECURITY INTEREST**

Buyer's remedies, **25:18**

Title, **23:8-23:11**

Title, warranty of, **16:17**

Uniform Commercial Code (UCC)

Article 2, **6:7, 6:8**

**SELF-SERVICE STORE**

Title, **23:27**

**SELLER'S REMEDIES AFTER  
BUYER'S BREACH**

Generally, **24:1 et seq.**

Acceptance and nonacceptance, **24:6, 24:22-24:26**

Amended Article 2 (post-2003), separate treatment of repudiation under, **24:24**

Anticipatory repudiation, **24:5**

Buyer's breach, generally, **24:4-24:8**

Cancellation, **24:30, 24:31**

Commercial reasonableness, **24:21**

Consequential damages, types of items recoverable under post-2003 amended Article 2, **24:37**

**SELLER'S REMEDIES AFTER  
BUYER'S BREACH—Cont'd**

**Damages**

amended Article 2 (post-2003), **24:24, 24:37**

incidental damages, **24:34-24:37**

mitigation of damages, **24:14**

nonacceptance or repudiation, recovery of damages for, **24:22-24:26**

resale of goods and recovery of damages, below

Default, **24:8**

Delivery of goods, withholding, **24:10-24:13**

Good faith and commercial reasonableness, **24:21**

Goods. Resale of goods and recovery of damages, below

Identification of goods to contract, **24:14-24:16**

Incidental damages, **24:34-24:37**

In transit, **24:11-24:13**

Market price, **24:25**

Measure of damages, **24:26, 24:29**

Mitigation of damages, **24:14**

Payment due, failure to make, **24:7**

Person in position of seller, **24:3**

Post-2003 amended Article 2

consequential damages, types of items recoverable, **24:37**

separate treatment of repudiation under, **24:24**

Price, **24:25, 24:27-24:29**

Private resale, **24:20**

Public or private resale, **24:20**

Reasonableness, **24:21**

Reclamation, **24:32, 24:33**

Rejection, **24:6**

Repudiation, **24:5, 24:22-24:26**

Resale of goods and recovery of damages

generally, **24:17-24:21**

Code, generally, **24:18**

good faith and commercial reasonableness, **24:21**

nature of remedy, **24:19-24:21**

prerequisite of remedy, **24:19-24:21**



## INDEX

### **SELLER'S REMEDIES AFTER BUYER'S BREACH—Cont'd**

- Resale of goods and recovery of damages—Cont'd
  - public or private resale, **24:20**
- Rescission distinguished from cancellation, **24:30**
- Revocation, **24:6**
- Stoppage of delivery in transit, **24:11-24:13**
- Termination distinguished from cancellation, **24:30**
- UCC, generally, **24:2**
- Wrongful rejection or revocation of acceptance, **24:6**

### **SENDER**

- Statute of Frauds, **14:121**

### **SEPARATE CONTRACTS**

- Uniform Sales Act, **14:12**

### **SEPARATE DOCUMENTS**

- Uniform Sales Act, **14:32**

### **SERVICE**

- Fitness for particular purpose, implied warranty of, **19:9**
- Merchantability, Warranty Of** (this index)
- Statute of Frauds, **14:76, 14:77**
- Title, **23:27**
- Uniform Commercial Code (UCC), sales distinguished, **2:7**

### **SET OFF**

- Buyer's remedies, **25:45**

### **SHALL NOT BE ENFORCEABLE BY ACTION**

- Uniform Sales Act, **14:7**

### **SHIPMENT CONTRACT**

- Title, **23:15**

### **SIGNATURE**

- Contract of sale, **7:25**
- Defined, **14:60-14:62**
- Statute of Frauds** (this index)
- Uniform Sales Act, **14:27-14:30**

### **SKILL**

- Fitness for particular purpose, implied warranty of, **19:17**

### **SPECIALLY MANUFACTURED GOODS**

- Statute of Frauds** (this index)

### **SPECIFICATIONS**

- Implied warranties, **20:31**
- Warranties, **20:31, 21:4**

### **SPECIFIC LANGUAGE**

- Warranties, **16:23**

### **SPECIFIC OF UNSPECIFIED GOODS**

- Merchantability, warranty of, **15:33**

### **SPECIFIC PERFORMANCE**

- Buyer's Remedies** (this index)

### **SPECIFIED PLACE**

- Uniform Sales Act, **14:43**

### **SPENDTHRIFTS**

- Capacity of parties, **4:40**

### **SPOUSES**

- Married Women** (this index)

### **STATEMENTS**

- Contract of sale, **7:23**
- Merchantability, warranty of, **18:20**
- Statute of Frauds, **14:93**

### **STATES**

- Third party beneficiaries, **22:4, 22:13**

### **STATUTE OF FRAUDS**

- Generally, **1:4, 14:1 et seq.**
- Acceptance of goods. Receipt and acceptance of goods, below
- Accuracy, **14:113**
- Additional terms, **14:122**
- Admissions. Judicial admissions, below
- Agency, **14:77, 14:101, 14:102, 14:106**
- Appraisals, **14:85**
- Auctioneers, **14:105**
- Authorized agent, **14:101, 14:102**
- Barter contracts, **14:72**
- Brochures, sales, **14:85**
- Brokers, **14:103**
- Buyer, goods for, **14:137**
- Checks, **14:83**

**STATUTE OF FRAUDS—Cont'd**

Commitment for procurement, **14:136**  
 Compelling admissions, **14:141**  
 Completed transaction, **14:120**  
 Conditions precedent, **14:94**  
 Confirmatory writing. Merchants exception, below  
 Conflict of laws, **14:130**  
 Contract for part of goods to be specially manufactured, **14:134**  
 Contract of sale, **7:4, 14:67**  
 Correspondence, **14:88, 14:89**  
 Definitions  
   acceptance of goods, **14:146**  
   signature, **14:96**  
   specially manufactured goods, **14:133**  
 Demurrer, **14:140**  
 Disclosure, **14:106**  
 Dismissal, **14:140**  
 Enforcement, **14:100, 14:124**  
 England, **1:4**  
 Equitable estoppel, **14:151**  
 Essentials, **14:109-14:113**  
 Estoppel  
   generally, **14:150**  
   equitable, **14:151**  
   promissory, **14:152**  
 Exceptions  
   generally, **14:129-14:152**  
   acceptance of goods. Receipt and acceptance of goods, below  
   admissions. Judicial admissions, below  
   Code, generally, **14:129**  
   conflict of laws, **14:130**  
   estoppel, **14:150-14:152**  
   goods  
     manufactured. Specially manufactured goods, below  
     receipt. Receipt and acceptance of goods, below  
     judicial admissions, below  
     manufactured goods. Specially manufactured goods, below  
     merchant. Merchant exception, below  
     non-Code, generally, **14:129**

**STATUTE OF FRAUDS—Cont'd**

Exceptions—Cont'd  
   receipt and acceptance of goods, below  
   specially manufactured goods, below  
 \$500/5,000 or more, **14:69**  
 For the price of, **14:68**  
 Formalities  
   generally, **14:80-14:113**  
   goods, contract for sale of, generally, **14:81-14:90**  
   liberalization of formalities, **14:80**  
   other terms  
     nonessentials, **14:109-14:113**  
     omitted or inaccurate, **14:113**  
     other examples, **14:112**  
     parties, nonessentials, **14:110**  
     price, nonessentials, **14:111**  
   output or requirement contracts, **14:108**  
   quantity  
     generally, **14:107**  
     output or requirement contracts, **14:108**  
   sales brochures, writing, **14:85**  
   signature  
     generally, **14:96-14:106**  
     auctioneers, **14:105**  
     authorized agent, **14:101, 14:102**  
     brokers, **14:103**  
     definition, **14:96**  
     intent, **14:98**  
     liability of authorized agent, **14:102**  
     location, **14:97**  
     omission, effect of, **14:99**  
     partnerships, **14:104**  
     party against whom enforcement sought, **14:100**  
     undisclosed principals, **14:106**  
   sufficient indication contract for sale of goods was made  
     generally, **14:91**  
     conditions precedent, **14:94**  
     future sales, **14:92**  
     preliminary negotiations, **14:95**  
     statement of offer, **14:93**

## INDEX

### STATUTE OF FRAUDS—Cont'd

#### Formalities—Cont'd

##### writing

- generally, **14:81-14:90**
- appraisals, **14:85**
- checks, **14:83**
- correspondence, **14:88, 14:89**
- internal memorandum, **14:87**
- invoices, **14:82**
- letters of credit, **14:86**
- multiple writings/records, **14:90**
- order forms, **14:84**
- parties, correspondence
  - between, **14:88**
- party and third person, correspondence between, **14:89**
- price quotations, **14:85**
- sales brochures, **14:85**
- worksheets, **14:85**

#### Form and content of objection, **14:127**

#### Future goods, sale of, **14:71**

#### Future sales, **14:70, 14:92**

#### Goods

- formalities, above
- receipt and acceptance of goods,
  - below
- specially manufactured goods,
  - below

#### Uniform Commercial Code (UCC), **14:67, 14:71, 14:73**

#### Historical development, **14:2**

#### Intent, **14:98**

#### Internal memorandum, **14:87**

#### Invoices, **14:82**

#### Judicial admissions

- generally, **14:138-14:142**
- compelling admissions, **14:141**
- demurrer, **14:140**
- motion to dismiss, **14:140**
- procedural admissions, **14:140**
- quantity limitation, **14:142**
- rationale, **14:139**
- voluntariness, **14:141**

#### Knowledge of contents of writing, **14:125**

#### Land, contracts for sale of, **14:79**

#### Letters of credit, **14:86**

#### Liability of authorized agent, **14:102**

### STATUTE OF FRAUDS—Cont'd

#### Liberalization of formalities, **14:80**

#### Limitations and restrictions, **14:142, 14:148, 14:149**

#### Location, **14:97**

#### Manufactured goods. Specially manufactured goods, below

#### Merchants exception

- generally, **14:114-14:128**
- between merchants, **14:116**
- confirmatory writing/record
  - generally, **14:117-14:125**
  - additional terms, **14:122**
  - completed transaction, **14:120**
  - form and content of objection, **14:127**

#### knowledge of contents of writing, **14:125**

#### objection to, **14:126-14:128**

#### quantity requirement, **14:119**

#### reasonable time, **14:123**

#### receipt by party against whom enforcement sought, **14:124**

#### requirements, **14:118-14:121**

#### signature, **14:121**

#### sufficient against sender, **14:121**

#### ten-day requirement, **14:128**

#### objection to confirmatory writing

#### generally, **14:126**

#### form and content, **14:127**

#### ten-day requirement, **14:128**

#### rationale, **14:115**

#### statute, generally, **14:114**

#### writing. Confirmatory writing, - above in this group

#### Modification, **12:11, 12:12**

#### Motion to dismiss, **14:140**

#### Multiple writings/records, **14:90**

#### Negotiations, **14:95**

#### Non-Code, generally, **14:129**

#### Nonessentials, **14:109-14:113**

#### Nonresalable goods, **14:135**

#### Objection to, **14:126-14:128**

#### Offer, **14:93**

#### Omission, effect of, **14:99**

#### Omitted or inaccurate, **14:113**

#### Order forms, **14:84**

**STATUTE OF FRAUDS—Cont'd**

Output or requirement contracts, **14:108**  
 Parol evidence, **13:4**  
 Parties  
     correspondence between, **14:88**  
     enforcement, party against whom sought, **14:100**  
     merchants exception, above  
     nonessentials parties, **14:110**  
     third person, correspondence between party and, **14:89**  
 Partnerships, **14:104**  
 Part of goods, **14:134**  
 Part payment, **14:148**  
 Part performance, **14:149**  
 Payments, **14:148**  
 Performance, **14:149**  
 Preliminary negotiations, **14:95**  
 Present sales, **14:70**  
 Price, **14:68, 14:111**  
 Price quotations, **14:85**  
 Procedural admissions, **14:140**  
 Procurement, **14:136**  
 Promissory estoppel, **14:152**  
 Quantity, **14:107, 14:108, 14:119**  
 Quantity limitation, **14:148, 14:149, 14:1422**  
 Reasonable time, **14:123**  
 Receipt and acceptance of goods  
     generally, **14:143-14:149**  
     checks, **14:146**  
     course of performance, use of, **14:149**  
     definition of acceptance of goods, **14:146**  
     incomplete delivery, **14:148**  
     part payment of single item, effect of, **14:148**  
     part performance apportionment, **14:149**  
     payment made and accepted, **14:147**  
     quantity limitation, **14:148, 14:149**  
     rationale, **14:144**  
 Receipt by party against whom enforcement sought, **14:124**  
 Repurchase or accepting return of goods, **14:73**

**STATUTE OF FRAUDS—Cont'd**

Requirement contracts, **14:108**  
 Rescission, **12:15**  
**Restatement of Contracts** (this index)  
 Return of goods, **14:73**  
 Revest title, agreements to, **14:78**  
 Sales brochures, **14:85**  
 Sender, **14:121**  
 Services, contracts for, **14:76, 14:77**  
 Signature  
     formalities, above  
     merchants exception, **14:121**  
 1677 enactment, **14:3, 14:4**  
 Specially manufactured goods  
     generally, **14:131-14:137**  
     buyer, goods for, **14:137**  
     contract for part of goods to be specially manufactured, **14:134**  
     definition, **14:133**  
     nonresalable goods, **14:135**  
     rationale, **14:132**  
     substantial beginning of manufacture or commitment for procurement, **14:136**  
 Statement of offer, **14:93**  
 Substantial beginning of manufacture or commitment for procurement, **14:136**  
 Sufficient against sender, **14:121**  
 Ten-day requirement, **14:128**  
 Terms, **14:122**  
 Time, **14:123, 14:128**  
 Title, **14:78**  
 Undisclosed principals, **14:106**  
 Uniform Commercial Code (UCC)  
     generally, **14:64-14:79**  
     accepting return of goods, **14:73**  
     agency contracts, **14:77**  
     applicability, generally, **14:66-14:79**  
     barter contracts, **14:72**  
     compliance, effect of, **14:65**  
     conduct, contracts formed by, **14:74**  
     contract for sale of goods, **14:67**  
     contracts formed by conduct, **14:74**

## INDEX

### **STATUTE OF FRAUDS—Cont'd**

#### **Uniform Commercial Code (UCC)**

##### **—Cont'd**

- contracts for sale of land, **14:79**
- contracts for services, **14:76, 14:77**
- contracts outside of Statute, generally, **14:76-14:79**
- contracts within Statute, generally, **14:70-14:73**
- “\$ 500/5,000 or more,” **14:69**
- “for the price of,” **14:68**
- future goods, sale of, **14:71**
- future sales, **14:70**
- land, contracts for sale of, **14:79**
- modifications of existing contracts, **14:75**
- noncompliance, effect of, **14:65**
- present sales, **14:70**
- repurchase or accepting return of goods, **14:73**
- return of goods, repurchase or accepting, **14:73**
- revest title, agreements to, **14:78**
- services, contracts for, **14:76, 14:77**

#### **Uniform Sales Act (this index)**

#### **Voluntariness, 14:141**

#### **Worksheets, 14:85**

#### **Writing**

- formalities, above
- merchants exception, above

### **STATUTE OF LIMITATIONS**

#### **Limitation of Actions (this index)**

### **STATUTES**

#### **Model Written Obligations Act, 12:7**

#### **Restatement of Contracts (2d) (this index)**

#### **Statute of Frauds (this index)**

#### **Uniform Commercial Code (UCC) (this index)**

#### **Uniform Sales Act (this index)**

### **STAY IN BUSINESS, DUTY TO**

#### **Construction and interpretation, 10:9**

### **STOLEN PROPERTY**

#### **Title, 23:35**

### **STOPPAGE OF DELIVERY IN TRANSIT**

#### **Seller's remedies after buyer's breach, 24:11-24:13**

### **SUBSEQUENT ACTS AND MATTERS**

#### **Express warranties, 17:10**

#### **Infants, 4:7**

#### **Parol evidence, 13:10**

#### **Uniform Sales Act, 14:52-14:54**

### **SUBSTANCE ABUSE**

#### **Intoxicated or Addicted Persons (this index)**

### **SUBSTANTIVE**

#### **UNCONSCIONABILITY**

#### **Generally, 11:11**

### **TECHNICAL SPECIFICATIONS**

#### **Warranties, 21:4**

### **TEN-DAY REQUIREMENT**

#### **Statute of Frauds, 14:128**

### **TENDER OF DEFENSE**

#### **Third party beneficiaries, 22:31**

### **TENDER OF DELIVERY**

#### **Buyer's remedies, 25:65**

### **TERMINATION**

#### **Seller's remedies after buyer's breach, 24:30**

#### **Uniform Commercial Code (UCC), Article 2, 5:15, 5:16**

### **TERM OF CONTRACT**

#### **Merchantability, warranty of, 15:34**

### **TERMS**

#### **Contract of Sale (this index)**

#### **Parol Evidence (this index)**

#### **Statute of Frauds, 14:122**

### **TESTS**

#### **Conflict of warranties, 21:8**

#### **Merchantability, warranty of, 18:27-18:30**

### **THINGS IN ACTION**

#### **Uniform Commercial Code (UCC), 6:4**

### THIRD PARTIES

Parol evidence, **13:8, 13:23**  
**Third Party Beneficiaries** (this index)

### THIRD PARTY BENEFICIARIES

Amended UCC Article 2  
 alternative provisions, **22:5**  
 vouching in, amended UCC § 2-607(5), **22:28**  
 Breach of warranty. Uniform Commercial Code (UCC), below  
 Bystanders, **22:21**  
 Case law, **22:12**  
 Changes in condition, **22:37**  
 Condition, changes in, **22:37**  
 Conflict of laws, **22:35**  
 Continuing need for process, **22:39**  
 Defendants, **22:25-22:27**  
 Defense, tender of, **22:31**  
 Defenses of seller or other party, **22:36**  
 Donee relationships, **22:20**  
 Employees, **22:22**  
 Family or household, **22:16**  
 Guests, **22:17**  
 Henningsen v. Bloomfield Motors, Inc., **22:12**  
 History, **22:30**  
 Household, **22:16**  
 “Individual,” **22:15**  
 Intent of drafter, **22:6**  
 Jurisdictional issues, circumventing, **22:34**  
 Lease relationships, **22:18, 22:19**  
 Letter, **22:31**  
 Manufacturers, **22:25**  
 Media and records packaged with accompanying goods, **22:22**  
 Multiple litigations, prevention of, **22:33**  
 “Natural person,” **22:15**  
 New York rules, **22:13**  
 Notice and knowledge. Uniform Commercial Code (UCC), below  
 Obligations and remedial promises, generally, **22:1 et seq.**  
 Original action against buyer, **22:38**

### THIRD PARTY BENEFICIARIES

#### —Cont’d

Packaging, media and records packaged with accompanying goods, **22:22**  
 “Person,” **22:15**  
 Post-2003 amended Article 2, **22:5**  
 Pre-2003 amended Article 2, **22:5**  
 Pre-Code basis, **22:2**  
 Privity. Uniform Commercial Code (UCC), below  
 Product liability, relation to other theories of, **22:8**  
 Promises, generally, **22:1 et seq.**  
 Remedial promises, generally, **22:1 et seq.**  
 Retailers, **22:26**  
 States, **22:4, 22:13**  
 Tender of defense, **22:31**  
 Uniform Commercial Code (UCC)  
 generally, **22:1 et seq.**  
 amended UCC Article 2  
 alternative provisions, pre-2003 and post-2003 amended Article 2, **22:5**  
 vouching in, § 2-607(5), **22:28**  
 breach of warranty. Notice requirements, below in this group  
 expanding protection of § 2-318, **22:4**  
 intent of drafter, **22:6**  
 liability of seller, generally, **22:2**  
 multiple litigations, prevention of, **22:33**  
 notice requirements  
 vouching in  
 generally, **22:28-22:39**  
 amended UCC § 2-607(5), **22:28**  
 changes in condition, **22:37**  
 conflict of laws, **22:35**  
 continuing need for process, **22:39**  
 defenses of seller or other party, **22:36**  
 history, **22:30**  
 jurisdictional issues, circumventing, **22:34**  
 letter, **22:31**

## INDEX

### THIRD PARTY BENEFICIARIES

#### —Cont'd

Uniform Commercial Code (UCC)  
—Cont'd  
notice requirements—Cont'd  
vouching in—Cont'd  
multiple litigations, prevention of, **22:33**  
nature, **22:29**  
original action against buyer, **22:38**  
pre-2003 and post-2003 amended UCC  
§ 2-607(5), **22:28**  
privity, overcoming, **22:32**  
Section 2-607(5), generally, **22:28**  
seller, action against, **22:36-22:38**  
tender of defense, **22:31**  
original enactment of § 2-318, **22:3**  
pre-2003 and post-2003 amended Article 2, **22:5**  
pre-Code basis, **22:2**  
privity  
generally, **22:9-22:27**  
abolition, evolution of trend toward, **22:11**  
defendants, **22:25-22:27**  
diminution, evolution of trend toward, **22:11**  
donee relationships, **22:20**  
employees, **22:22**  
family or household, **22:16**  
guests, **22:17**  
Henningsen v. Bloomfield Motors, Inc., **22:12**  
horizontal privity, **22:9**  
lease relationships, **22:18, 22:19**  
manufacturers, **22:25**  
media and records packaged with accompanying goods, **22:22**  
nature of injury or loss, **22:24**  
New York rules, **22:13**  
parties against whom action may be maintained, **22:27**  
persons protected, generally, **22:14-22:22**

### THIRD PARTY BENEFICIARIES

#### —Cont'd

Uniform Commercial Code (UCC)  
—Cont'd  
privity—Cont'd  
“person” vs. “natural person” and “individual,” **22:15**  
relaxation of requirement, generally, **22:10-22:13**  
retailers, **22:26**  
tone set by Code, **22:10**  
users and bystanders, **22:21**  
vertical privity, **22:9**  
vouching in, **22:32**  
product liability, relation to other theories of, **22:8**  
Section 2-318, generally, **22:1 et seq.**  
Section 2-607(5), generally, **22:28**  
state variations of § 2-318, **22:4**  
vouching in. Notice requirements, above in this group  
Users and bystanders, **22:21**  
Vertical privity, **22:9**  
Vouching in. Uniform Commercial Code (UCC), above  
Warranties. See entries throughout this topic

### THIRD PERSONS

Statute of Frauds, **14:89**  
Uniform Sales Act, **14:42**

### THREE-MONTH LIMITATION

Contract of sale, **7:26**

### TIME

**Buyer's Remedies** (this index)  
Contract of sale, **7:26**  
Indefiniteness of terms, **9:6, 9:10, 9:18, 9:19**  
Infants, **4:9**  
Restatement of Contracts (2d), **14:62**  
Statute of Frauds, **14:123, 14:128**  
Title, warranty of, **16:9**

### TIMELINESS

Buyer's remedies, **25:28**

### TIME OF

Uniform Sales Act, **14:36**

**TIME OF MAKING**

Contract of sale, **7:8**  
Uniform Sales Act, **14:33**

**TITLE**

Generally, **23:1 et seq.**  
Acceptance, **23:21**  
Aircraft, **23:31**  
Approval, sale on, **23:26**  
Article 9, seller's need to comply with, **23:9, 23:10**  
Auction sale, **23:24**  
Bailment, **23:18**  
Burden of proof when challenging passage, **23:13**  
Carrier, to, **23:16**  
Cash sales, **23:39-23:42**  
Certificates, **23:29, 23:30**  
Challenges, **23:13**  
Check, **23:22, 23:38**  
Completion of performance by seller, **23:14**  
Conditional sales contract, **23:25**  
Conditions. Passage of title, manner and conditions of, below  
Contracts and agreements, **23:25**  
Creditors, **23:8-23:11**  
Criminal fraud, **23:43**  
Deferred delivery, **23:10**  
Definition of voidable title, **23:41**  
Delivery  
deferred delivery, **23:10**  
passage of title, manner and conditions of, below  
Destination contract, **23:15**  
Dishonored check, **23:38**  
Entrustment, **23:45-23:48**  
Estoppel, **23:46**  
Explicit agreement, **23:4, 23:5, 23:12**  
Fraud, identity, **23:37**  
Fraudulent larceny, **23:43**  
Good faith purchaser for value, **23:44**  
Goods in possession of bailee, **23:18**  
Goods not moved, **23:17**  
History of transfer of title, **23:32**  
Identification of goods to contract  
generally, **23:3-23:7**  
absence of explicit agreement, **23:5**

**TITLE—Cont'd**

Identification of goods to contract  
—Cont'd  
effect of, **23:6**  
parties, explicit agreement of, **23:4**  
unidentified goods, **23:7**  
Identity fraud, **23:37**  
Intent, no intent to transfer, **23:35**  
Justifiable revocation of acceptance, **23:21**  
Larceny, **23:43**  
Liens, **23:11**  
Limitations and restrictions on seller's attempt to retain title, **23:8**  
Mandatory compliance with certificate of title law, **23:29**  
Motor vehicle sales, **23:28-23:30**  
Parties, explicit agreement of, **23:4, 23:12**  
Passage of title, manner and conditions of  
generally, **23:12-23:18**  
burden of proof when challenging passage, **23:13**  
delivery  
generally, **23:14-23:18**  
carrier, to, **23:16**  
completion of performance by seller, **23:14**  
goods in possession of bailee, **23:18**  
goods not moved, **23:17**  
shipment or destination contract, **23:15**  
parties, explicit agreement of, **23:12**  
Payment by check, **23:22**  
Performance, **23:14**  
Permissive compliance with certificate of title law, **23:30**  
Possession, **23:18**  
Post-2003 UCC provision, generally, **23:33**  
Pre-2003 UCC provision, generally, **23:33**  
Pre-Code law, **23:40**  
Priority of liens, **23:11**  
Rejection, **23:20**



## INDEX

### **TITLE—Cont'd**

- Reservation of security interest, **23:8-23:11**
- Revesting title in seller, **23:19-23:22**
- Revocation, **23:21**
- Rules of transfer, generally, **23:34, 23:35**
- Security interests, **23:8-23:11**
- Self-service store, **23:27**
- Service, **23:27**
- Shipment or destination contract, **23:15**
- Statute of Frauds, **14:78**
- Stolen property, **23:35**
- Transfer of title, generally, **23:32-23:48**
- UCC, generally, **23:1, 23:2**
- Unidentified goods, **23:7**
- Uniform Commercial Code (UCC), Article 2, generally, **5:6, 23:33-23:35**
- Value, **23:44**
- Voidable title
  - generally, **23:36-23:42**
  - cash sales, **23:39-23:42**
  - definition, **23:41**
  - dishonored check, **23:38**
  - identity fraud, **23:37**
  - pre-Code law, **23:40**
- Warranty. **Title, Warranty Of** (this index)

### **TITLE, WARRANTY OF**

- Generally, **15:13-15:19**
- Accrual of cause of action, **15:19, 16:9**
- Agent, **16:15**
- Automatic inclusion in contract, **16:10**
- Breach, **16:18**
- Cause of action, **15:19, 16:9**
- Changes, **16:6**
- Damages. Uniform Commercial Code (UCC), below
- Defenses, **16:21**
- Definition
  - breach, **16:18**
  - title, **16:3**
- Early English law, **15:13**
- English law, **15:13**

### **TITLE, WARRANTY OF—Cont'd**

- Freedom from encumbrances, **15:17**
- Freedom from security interest, liens, encumbrances, **16:17**
- Goods, **16:8**
- Good title, **16:13**
- Infringement, **15:16**
- Liens and encumbrances, **15:17, 16:17**
- Limitation of actions, **16:25**
- Limitations, **15:18**
- Ordinary course of business, buyer in, **16:16**
- Possession, **16:8, 16:12**
- Procedural considerations, **15:14, 15:15**
- Quiet possession, **16:12**
- Rightful transfer, **16:14**
- Security interest, **16:17**
- Time cause of action accrues, **16:9**
- Uniform Commercial Code (UCC)
  - generally, **16:3-16:18**
  - agent, **16:15**
  - automatic inclusion in contract, **16:10**
  - breach, **16:18**
  - defenses, **16:21**
  - definition
    - breach, **16:18**
    - title, **16:3**
  - freedom from security interest, liens, encumbrances, **16:17**
  - good title, **16:13**
  - limitation of actions, **16:25**
  - ordinary course of business, buyer in, **16:16**
  - possession, **16:8, 16:12**
  - quiet possession, **16:12**
  - rightful transfer, **16:14**
  - time cause of action accrues, **16:9**
- Uniform Sales Act, **16:4, 16:6**
- Vouching, **15:15**

### **TOLLING OF STATUTE**

- Buyer's remedies, **25:76**

### **TORT LAW**

- Implied warranties, **20:15**

**TRADE**

- Merchantability, warranty of, **18:13, 18:21**
- Uniform Commercial Code (UCC), sales distinguished, **2:6**
- Usage of Trade** (this index)

**TRADE NAME**

- Fitness for particular purpose, implied warranty of, **19:5**
- Merchantability, warranty of, **15:26**

**TRANSACTION**

- Defined, **5:1**

**TRANSFER OF TITLE**

- Title** (this index)

**TREES**

- Uniform Sales Act, **14:15**

**UCC**

- Uniform Commercial Code (UCC)** (this index)

**UNCONSCIONABILITY**

- Generally, **11:1 et seq.**
- Adhesion contracts, **11:12**
- Anglo-American development, **11:9**
- Application outside Article 2, **11:27**
- Aristotle, **11:2**
- Article 2, application outside, **11:25**
- Choice, lack of, **11:21**
- Civil procedure, **11:13**
- Disclaimers, **11:14**
- Duress. Economic duress, below
- Economic duress
  - generally, **11:15-11:19**
  - excessive prices, **11:16**
  - inconspicuousness, **11:19**
  - referral sales, **11:17**
  - wrongful inducement, **11:18**
- Excessive prices, **11:16**
- Foreign countries, laws compared, **11:7**
- France, **11:7, 11:8**
- Fraud, **11:20**
- Germany, **11:7, 11:8**
- Implied warranties, **20:11**
- Inconspicuousness, **11:19**
- Inducement, **11:18**
- Laesio enormis, **11:6**

**UNCONSCIONABILITY—Cont'd**

- Limitations provisions and disclaimers, **11:14**
- Meaningful choice, lack of, **11:21**
- Middle ages, **11:4**
- Oppressiveness, **11:22**
- Price, excessive, **11:16**
- Procedural versus substantive, **11:11**
- Public policy, **11:23**
- Reasonableness, **11:24**
- Referral sales, **11:17**
- Roman law, **11:3**
- Seventeenth century, **11:5**
- Sixteenth century, **11:5**
- Substantive, **11:11**
- UCC § 2-302, generally, **11:10-11:25**
- Warranties, **20:35**
- Wrongful inducement, **11:18**

**UNIFORM COMMERCIAL CODE (UCC)**

- Generally, **1:5, 1:6, 2:1 et seq., App. A**
- Agency contracts distinguished from sales, **2:1, 2:2**
- Amended Article 2
  - advertisements, express warranties (§ 2-313B), **17:14**
  - alternative provisions, third-party beneficiaries, **22:5**
  - brochures, manuals and other literature (UCC § 2-313A), **17:15**
- Buyer's Remedies** (this index)
  - electronic communications, **5:17**
  - excluded transactions, **6:1-6:9**
  - express warranties, **17:14, 17:15**
  - guide to 2001 and 2003 amendments referenced within this work, **1:6**
  - seller's remedies after buyer's breach, separate treatment of repudiation, **24:24**
  - third party beneficiaries, **22:5, 22:28**
  - title, post-2003 UCC provision, **23:33**
  - vouching in, § 2-607(5), **22:28**
  - warranties, post-2003 amended UCC § 2-313A and B, **20:36**

## INDEX

### UNIFORM COMMERCIAL CODE (UCC)—Cont'd

- Article 1
  - generally, **3:1 et seq.**
  - application of, **3:4**
  - general principles of sales law under UCC, below
  - new provisions on scope of Revised Article 1, **3:4**
  - waiving or renouncing claim or right after breach, **3:6**
- Article 2
  - generally, **App. A, App. B**
  - see also Amended Article 2, above
  - Contract of Sale** (this index)
  - electronic communications, **5:17**
  - excluded transactions. Transactions not within Article 2 or subject to outside law, below
  - goods
    - generally, **5:1 et seq.**
    - buyer-seller relationship, **5:4**
    - cancellation and termination, **5:15, 5:16**
    - conforming goods and conduct, **5:14**
    - consideration, **5:5**
    - contract for sale, **5:3**
    - contracts and agreements, **5:2**
    - electronic communications, **5:17**
    - fixtures, **5:10, 5:11**
    - fructus industriales, **5:10, 5:11**
    - fructus naturales, **5:10, 5:11**
    - generality of goods, **5:8-5:11**
    - lots and commercial units, **5:13**
    - part interest, sales of, **5:12**
    - sale, generally, **5:3**
    - scope of Article 2, **5:7**
    - title, **5:6**
    - transaction defined, **5:1**
  - Indefiniteness of Terms** (this index)
  - modification, § 2-2-9, **12:1**
  - original official comments for selected sections, **App. B**
  - rescission, § 2-2-9, **12:1**
  - revised UCC Article 2, **App. A**

### UNIFORM COMMERCIAL CODE (UCC)—Cont'd

- Article 2—Cont'd
  - selected sections of Article 2, original official comments for, **App. B**
  - Unconscionability** (this index)
- Assignment, **10:23-10:27**
- Background and general principles. General principles, below
- Bailments, **2:3**
- Beneficiaries. **Third Party Beneficiaries** (this index)
- Brochures, manuals and other literature (UCC § 2-313A), **17:15**
- Buyer-seller relationship, **5:4**
- Buyer's Remedies** (this index)
- Cancellation and termination, **5:15, 5:16**
- Checklist of likely issues governing sales transactions, **3:1**
- Commercial units, **5:13**
- Conduct, **5:14**
- Conforming goods and conduct, **5:14**
- Consideration, **5:5**
- Consignment, **2:2**
- Construction and interpretation, **3:7, 10:8-10:10, 10:12**
- Contract of Sale** (this index)
- Counteroffer. **Contract of Sale** (this index)
- Definitions
  - generally, **3:7**
  - agreement or contract, **3:8**
  - Article 1, **3:7**
  - good faith, **3:9**
  - transaction, **5:1**
- Distinguishing sales from
  - bailments, **2:3**
  - consignments, **2:2**
  - contracts of agency, **2:1, 2:2**
  - exchange or trade, **2:6**
  - food served in restaurants, **2:5**
  - leases, **2:4**
  - mortgage, **2:8**
  - services, **2:7**
- Electronic communications, **5:17**
- England, **1:5, 1:6**

**UNIFORM COMMERCIAL CODE  
(UCC)—Cont'd**

Exchange or trade, **2:6**  
**Express Warranties** (this index)  
**Fitness for Particular Purpose, Implied Warranty Of** (this index)  
 Fixtures, **5:10, 5:11**  
 Food served in restaurants, **2:5**  
 Fructus industriales, **5:10, 5:11**  
 Fructus naturales, **5:10, 5:11**  
 Generality of goods, **5:8-5:11**  
 General principles of sales law under UCC  
   bailments and sales distinguished, **2:3**  
   consignments and sales distinguished, **2:2**  
   contracts of agency and sales distinguished, **2:1, 2:2**  
   exchange or trade and sales distinguished, **2:6**  
   food served in restaurants and sales distinguished, **2:5**  
   leases and sales distinguished, **2:4**  
   mortgage and sales distinguished, **2:8**  
   services and sales distinguished, **2:7**  
 General principles of sales transactions  
   agreement and contract, defined and interpreted, **3:8**  
   applicability of Code and other applicable laws, **3:3**  
   application of Code, new provisions on scope of Revised Article 1, **3:4**  
   checklist of likely issues, **3:1**  
   construction and interpretation, **3:7-3:9**  
   definitions, **3:7-3:9**  
   good faith, **3:9**  
   means of application of Code, **3:2**  
   parties' ability to vary effect of Code, **3:5**  
   purpose and general means of application of Code, **3:2**  
   waiving or renouncing claim or right after breach, **3:6**

**UNIFORM COMMERCIAL CODE  
(UCC)—Cont'd**

Good faith, general principle of sales transactions, **3:9**  
 Goods. Article 2, above  
**Indefiniteness of Terms** (this index)  
 Interest in property, **5:12**  
 Investment securities, **6:3**  
 Leases, **2:4, 6:8**  
 Lots and commercial units, **5:13**  
**Merchantability, Warranty Of** (this index)  
 Modification, **12:9-12:12, 12:28**  
 Money, **6:2**  
 Mortgage, **2:8**  
 Original official comments for selected sections of Article 2, **App. B**  
**Parol Evidence** (this index)  
 Part interest, sales of, **5:12**  
 Purpose and general means of application of Code, **3:2**  
 Real property, **5:13, 6:5**  
 Renouncing, **3:6**  
 Rescission, **12:20**  
 Restaurants, **2:5**  
 Scope of Article 2, **5:7**  
 Security transactions, **6:7, 6:8**  
 Selected sections of Article 2, original official comments for, **App. B**  
**Seller's Remedies After Buyer's Breach** (this index)  
 Services, **2:7**  
**Statute of Frauds** (this index)  
 Termination, **5:11, 5:16**  
 Things in action, **6:4**  
**Third Party Beneficiaries** (this index)  
**Title** (this index)  
 Trade, **2:6**  
 Transaction defined, **5:1**  
 Transactions not within Article 2 or subject to outside law  
   generally, **6:1**  
   additional exclusions under post-2003 Amended Article 2, **6:9**  
   investment securities, **6:3**  
   leases as security interests, **6:8**

## INDEX

### UNIFORM COMMERCIAL CODE (UCC)—Cont'd

Transactions not within Article 2 or subject to outside law—Cont'd money, **6:2**  
other laws, transactions subject to, **6:6**  
realty, **6:5**  
security transactions, **6:7, 6:8**  
things in action, **6:4**  
Uniform Commercial Code  
general principles, above  
Waiver, **3:6, 12:27-12:32**  
**Warranties** (this index)

### UNIFORM SALES ACT

Generally, **14:5-14:54**  
Acceptance  
generally, **14:34-14:40**  
mistake, **14:40**  
objection, right of, **14:37**  
parties, **14:38**  
rejection, right of, **14:37**  
time of, **14:36**  
withdrawal before satisfaction of Statute, **14:39**  
Actual receipt  
generally, **14:41-14:47**  
delivery  
generally, **14:43-14:47**  
buyer, **14:45**  
carrier, **14:44**  
part of goods, **14:47**  
seller, **14:46**  
specified place, **14:43**  
third person, hands of, **14:42**  
Agency, **14:10, 14:29**  
Amount of contract  
five hundred downwards or upwards, **14:21**  
of the value of, **14:20**  
Buyer, **14:45**  
Buyer's remedies, **25:29, 25:34**  
By the party to be charged, signature, **14:28**  
Carrier, **14:44**  
Choses in action, **14:18, 14:48**  
Commodity, **14:17**  
Consideration, **14:25**

### UNIFORM SALES ACT—Cont'd

Consistency of separate documents, **14:32**  
Contents of memorandum. Memorandum contents, below  
Contract to sell or sale  
divisible and separate contracts, **14:12**  
executory contracts, **14:9**  
oral contract, agreements to execute written memorandum of, **14:11**  
partnership or agency agreements, **14:10**  
Crops, **14:14**  
Delivery. Actual receipt, above  
Description of property, **14:24**  
Divisible contracts, **14:12**  
Earnest payment, **14:50**  
Enforcement, **14:7**  
Execute written memorandum of oral contract, agreements to, **14:11**  
Executory contracts, **14:9**  
Express warranties, **15:5, 17:3-17:5**  
Fitness for particular purpose, implied warranty of, **19:3-19:6**  
Five hundred dollars or upwards, **14:21**  
Fixtures, **14:16**  
Formal requirements, **14:6**  
Fructus industriales, **14:14**  
Fructus naturales, **14:15**  
Goods  
generally, **14:13-14:19**  
choses in action, **14:18**  
crops, **14:14**  
fixtures, **14:16**  
fructus industriales, **14:14**  
fructus naturales, **14:15**  
money as commodity, **14:17**  
part of, **14:47**  
real versus personal property, **14:13-14:16**  
trees, **14:15**  
undivided interest in goods, **14:19**  
Identification of parties, **14:23**  
Intent to make memorandum not required, **14:31**  
Interest in goods, **14:19**

**UNIFORM SALES ACT—Cont'd**

Memorandum contents  
 generally, **14:22-14:33**  
 by the party to be charged,  
     signature, **14:28**  
 consideration, **14:25**  
 consistency of separate documents,  
     **14:32**  
 description of property, **14:24**  
 execute written memorandum of  
     oral contract, agreements to,  
     **14:11**  
 identification of parties, **14:23**  
 intent to make memorandum not  
     required, **14:31**  
 or his agent in that behalf,  
     signature, **14:29**  
 partnership, signature for, **14:30**  
 price, **14:26**  
 signature, **14:27-14:30**  
 time of making memorandum,  
     **14:33**  
 Merchantability, warranty of, **18:3,**  
     **18:23**  
 Mistake, **14:40**  
 Modification, **12:7**  
 Money, **14:17, 14:21**  
 Noncompliance, effect of, **14:8**  
 Objection, right of, **14:37**  
 Of the value of, **14:20**  
 Oral contracts and agreements,  
     **14:11, 14:52-14:54**  
 Or given something in earnest to bind  
     contract, **14:50**  
 Or his agent in that behalf, signature,  
     **14:29**  
 Or in part payment, **14:51**  
 Parol evidence, **13:16**  
 Partial payment, **14:51**  
 Parties, **14:23, 14:28, 14:38**  
 Partnership, **14:10, 14:30**  
 Part of goods, **14:47**  
 Payment, **14:50, 14:51**  
 Personal property, **14:13-14:16**  
 Place, **14:43**  
 Price, **14:26**  
 Questions of fact, **14:49**  
 Real versus personal property, **14:13-**  
     **14:16**

**UNIFORM SALES ACT—Cont'd**

Receipt. Actual receipt, above  
 Rejection, right of, **14:37**  
 Rescission  
     generally, **12:18**  
     subsequent oral agreements, **14:53**  
 Satisfaction, **14:34, 14:39**  
 Seller, **14:46**  
 Separate contracts, **14:12**  
 Separate documents, **14:32**  
 Shall not be enforceable by action,  
     **14:7**  
 Signature, **14:27-14:30**  
 Specified place, **14:43**  
 Subsequent oral agreements  
     generally, **14:52**  
     rescission, **14:53**  
     variation, **14:54**  
 Third person, hands of, **14:42**  
 Time of acceptance, **14:36**  
 Time of making, **14:33**  
 Title, warranty of, **16:4, 16:6**  
 Trees, **14:15**  
 Undivided interest in goods, **14:19**  
 Value, **14:20**  
 Variation, **14:54**  
 Waiver, **12:25**  
 Withdrawal before satisfaction of  
     Statute, **14:39**  
 Written acts and matters, **14:11**

**UNILATERAL CONTRACT PLOY**

Offer and acceptance, **7:13**

**UNITED NATIONS CONVENTION  
 ON CONTRACTS FOR  
 INTERNATIONAL SALE OF  
 GOODS**

Generally, **App. C**

**USAGE OF TRADE**

Construction and interpretation, **10:3-**  
     **10:5**  
 Implied warranties, **18:21, 20:29**  
 Merchantability, warranty of, **18:21**  
 Parol evidence, **13:36**

**USE**

Buyer's remedies, pre- and post-2003  
 amended Article 2, **25:16**

## INDEX

### USE—Cont'd

Fitness for particular purpose,  
implied warranty of, **19:23**

### USED GOODS

Fitness for particular purpose,  
implied warranty of, **19:11**

### USERS

Third party beneficiaries, **22:21**

### VAGUENESS

**Indefiniteness of Terms** (this index)

### VALIDITY

Infants, **4:5, 4:7**

### VALUE

Buyer's remedies, **25:15, 25:38, 25:39**  
Express warranties, **17:12**  
Title, **23:44**  
Uniform Sales Act, **14:20**

### VARIATION

Uniform Sales Act, **14:54**

### VERTICAL PRIVACY

Third party beneficiaries, **22:9**

### VOID

Mentally ill or incompetent persons,  
**4:25**

### VOIDABLE

Infants, **4:4, 4:5**  
Intoxicated or addicted persons, **4:34**  
Mentally ill or incompetent persons,  
**4:26, 4:27**  
Title (this index)

### VOLUNTARINESS

Statute of Frauds, **14:141**

### VOUCHING

**Third Party Beneficiaries** (this  
index)  
Title, warranty of, **15:15**  
Warranties, generally, **16:20**

### WAIVER

Generally, **12:1, 12:21-12:32**  
After breach, waiving claim or right,  
**3:6**  
Assignment, **10:24**

### WAIVER—Cont'd

Case illustrations under UCC, **12:31**  
Common law, **12:21-12:24**  
Conduct constituting, **12:24**  
Consideration, **12:22**  
Knowledge of facts, **12:23**  
Modification, **12:28**  
Restatement of Contracts (2d), **12:26**  
Retraction of waiver, **12:32**  
Uniform Commercial Code (UCC)  
breach, waiving claim or right  
after, **3:6**  
case illustrations, **12:31**  
changes in Revised Article 1,  
**12:30**  
defective modification or rescis-  
sion as waiver, **12:28**  
discharges under Article 1, **12:29, 12:30**  
retraction of waiver, **12:32**  
treatment in Code, **12:27-12:30**  
Uniform Sales Act, **12:25**

### WARRANTIES

Generally, **15:1 et seq.**  
Amended UCC § 2-313A and B  
(post-2003), **20:36**  
Assignment, **10:25**  
Bargain, basis of, **20:33**  
Beneficiaries, **Third Party Benefi-  
ciaries** (this index)  
Buyer's remedies, **25:42, 25:64-25:68**  
Conflict of warranties  
parol evidence, **13:42**  
Uniform Commercial Code  
(UCC), below  
Consistent and cumulative construc-  
tion, **21:1**  
Construction and interpretation, **21:1, 21:3**  
Cumulative construction, **21:1**  
Defense of intention test, **21:8**  
Defenses, **16:21**  
Description, **21:5**  
Disclaimer  
generally, **16:22**  
circumstances, **16:24**  
merchantability, warranty of,  
**15:27, 15:28**

**WARRANTIES—Cont'd**

Disclaimer—Cont'd  
     specific language, **16:23**  
     Uniform Commercial Code (UCC), below  
 Early law, **15:1**  
 Essential purpose, failure of, **20:34**  
 Exact or technical specifications, effect of, **21:4**  
 Exclusion or modification. Uniform Commercial Code (UCC), below  
**Express Warranties** (this index)  
**Fitness for Particular Purpose, Implied Warranty Of** (this index)  
**Implied Warranties** (this index)  
 Importance, **15:4**  
 Infringement, warranty against, **16:19, 16:20**  
 Intent, **21:8**  
 Lease transactions, **20:6**  
 Limitation of remedies, **20:32-20:35**  
 Limitations, **20:1**  
 Limitations of action, **16:25**  
**Merchantability, Warranty of** (this index)  
 Modification. Uniform Commercial Code (UCC), below  
 Nature of obligation, **15:3, 15:4**  
 Obligation, nature of, **15:3, 15:4**  
 Parol evidence, **13:7, 13:40-13:42, 13:41**  
 Post-2003 amended UCC § 2-313A and B, **20:36**  
 Pre-Code, generally, **15:1 et seq.**  
 Sample versus general description, **21:5**  
 Specifications, **20:31, 21:4**  
 Specific language, **16:23**  
 Statute of limitations, **16:25**  
 Technical specifications, **21:4**  
 Tests, **21:8**  
**Third Party Beneficiaries** (this index)  
**Title, Warranty Of** (this index)  
 Unconscionability, **20:35**  
 Uniform Commercial Code (UCC) generally, **16:1 et seq.**

**WARRANTIES—Cont'd**

Uniform Commercial Code (UCC)  
     —Cont'd  
     amended UCC § 2-313A and B (post-2003), **20:36**  
     bargain, basis of, **20:33**  
     beneficiaries. **Third Party Beneficiaries** (this index)  
     circumstances, **16:24**  
     conflict of warranties generally, **21:2-21:8**  
     construction and interpretation, **21:3**  
     defense of intention test, **21:8**  
     exact or technical specifications, effect of, **21:4**  
     express versus implied warranties, **21:6**  
     sample versus general description, **21:5**  
     Section 2-317, **21:7**  
     consistent and cumulative construction, **21:1**  
     construction and interpretation, **21:1, 21:3**  
     defenses, **16:21**  
     disclaimer generally, **16:22-16:24**  
     exclusion or modification, below in this group  
     essential purpose, failure of, **20:34**  
     exclusion or modification generally, **20:1-20:32**  
     disclaimer, generally, **20:4-20:6**  
     express warranties, **20:8**  
     **Implied Warranties** (this index)  
     lease transactions, **20:6**  
     Section 2-316, generally, **20:1-20:32**  
**Express Warranties** (this index)  
**Fitness for Particular Purpose, Implied Warranty Of** (this index)  
**Implied Warranties** (this index)  
 infringement, warranty against, **16:19, 16:20**  
 limitation of remedies, **20:32-20:35**  
 limitations, **20:1**



## INDEX

### **WARRANTIES—Cont'd**

- Uniform Commercial Code (UCC)
  - Cont'd
  - limitations of action, **16:25**
  - Merchantability, Warranty Of** (this index)
  - modification. Exclusion or modification, above in this group
  - post-2003 amended UCC § 2-313A and B, **20:36**
  - remedies, **16:20**
  - Section 2-316. Exclusion or modification, above in this group
  - specific language, **16:23**
  - Third Party Beneficiaries** (this index)
  - Title, Warranty Of** (this index)
  - types of warranties, generally, **16:2**
  - unconscionability, **20:35**
  - vouching in, **16:20**
- Vouching** (this index)

### **WITHDRAWAL**

- Uniform Sales Act, **14:39**

### **WORKSHEETS**

- Statute of Frauds, **14:85**

### **WRITTEN ACTS AND MATTERS**

- Contract of sale, **7:24, 7:33**
- Express warranties (UCC § 2-313A), **17:15**
- Modification, **12:7**
- Parol Evidence** (this index)
- Restatement of Contracts (2d), **14:58**
- Statute of Frauds** (this index)
- Uniform Sales Act, **14:11**

### **WRONGFUL INDUCEMENT**

- Unconscionability, **11:18**

### **WRONGFUL REJECTION OR REVOCATION OF ACCEPTANCE**

- Seller's remedies after buyer's breach, **24:6**