



SALES & LEASES OF GOODS

LEASING



GENERAL CONSIDERATIONS

COMMERCIAL LAW

- Under the **Uniform Commercial Code (UCC)**, transactions take various forms, subject matter is personal property, and parties include merchants and consumers
- Parties to contract of **sale** include seller and buyer (i.e. 2A-103(1))
- Parties to **lease** of goods are lessor and lessee (i.e. 2A-103(1))
- Contracts for sale of goods are regulated by **UCC Article 2**; contracts for lease of goods are regulated by **UCC Article 2A**

CONTRACT FORMATION

IMPORTANCE OF AGREEMENT

- A **contract** is formed when Article 2 gives legal effect to parties' agreement in fact; total legal obligation that results from parties' agreement (i.e. 2-201(1)(b))
- An **agreement** is the bargain in fact of parties as found in their language or by implication from other circumstances (i.e., course of dealing, course of performance, usage of trade) (i.e. 1-205, 2-208)

OFFER & ACCEPTANCE

- An **offer** is display of willingness to enter into a bargain made to justify another person's understanding that assent to bargain is invited and ends in
- A **firm offer** (an option) may be created without consideration or reliance in a writing signed by a merchant
- An **acceptance** may be in any reasonable method or manner unless otherwise unambiguously indicated (i.e. 2-206(1))
- Offeree may accept by **promise, performance or communicating performance**
- A contract is formed if offeree gives definite acceptance with different terms or if there is conduct by both parties that recognizes a contract even when writings do not agree (i.e. 2-207)
- If contract is formed, then additional or different terms may become part of agreement if offeree has expressly assented to them

EVIDENCE OF FRAGILE

- It conditions enforceability of an agreement with the presence of a **writing** indicating that the contract for sale has been made and signed by the offeree party (i.e. 2-201(1))
- Requirement is met even though writing does not contain all material terms or where merchant fails to object to satisfactory confirmation in writing sent by other merchant
- Other non-writing situations are included (e.g., specially manufactured goods, part performance, admission in court, reliance)
- Agreement is **not enforceable** beyond quantity of goods shown in writing or evidenced by performance or admission

GENERAL PRINCIPLES

- Emphasis is upon **agreement**, not a promise or consideration (i.e. 2-204)
- Less emphasis on **formalities**; best evidence of agreement may be parties' **conduct** rather than their words
- Parties' **intention** to make a contract is given legal protection, even though time of contract formation cannot be determined or material terms have not been agreed upon
- If parties intended to make a contract, but a material term has not been agreed, then court will supply a **reasonable term** and enforce bargain

THIRD PARTY CLAIMS

OWNERSHIP CLAIMS

- When an **owner** seeks to **replevin** goods sold by a seller to a buyer, that seller can only provide the buyer with title that is within his/her power to transfer (i.e. 2-403)
- Exceptions** occur when the owner has delivered goods to the seller in a **transaction of purchase** (later claimed to be voidable) and owner has **entrusted** goods (but not power to sell) to merchant where buyer makes a purchase in ordinary course of business

SECURITY INTEREST CLAIMS

- Security interests** in goods are created and perfected under Article 9
- If a secured party creates a **perfected security interest** in seller's goods, and seller sells them to buyer, then buyer is subject to security interest
- Buyer takes **free of security interest** if secured party authorized sale or buyer is a buyer in ordinary course of business and security interest was created by seller

SECURITY INTERESTS

- If seller creates a **security interest by agreement** or retention of title in goods sold and delivered to a buyer, enforcement are governed by Article 9
- If seller **retains** or regains possession of goods upon buyer's **default**, then he/she may have **possessory security** under Article 2
- Security interest is created without security agreement and perfected without filing a finance statement

SELLER'S WARRANTY OF TITLE

- Seller makes a **warranty** to the buyer that title conveyed is good, its transfer rightful, and goods are free of any security interest (i.e. 2-312(2))
- Buyer's **damages** for breach include incidental and consequential damages (i.e. 2-714(2))

OTHER PARTIES' CLAIMS

- After delivery, **seller** has a limited right to **reclaim goods** from a buyer in a credit sale where buyer was insolvent (i.e. 2-505(2))
- Reclamation power is subject to **purchasers**, including a secured party, who have the right to **intervene** before a demand is made
- A **consignor of goods** is protected from claims of consignee's creditors and secured parties if appropriate notice is given
- A **buyer** who leases named goods in **seller's possession** may performance, replevin or reclamation
- A **purchaser** of those goods from seller may prevail if **retention of possession** is established to a merchant and sale was in the ordinary course of business
- Seller's **creditor** may prevail over buyer if retention or identification was **fraudulent**
- Buyer in ordinary course of business may prevail over perfected security interest even though goods have been left with seller

Sales And Leases Of Goods

DOUGLAS J. WHALEY



Sales And Leases Of Goods:

Sales and Leases of Goods in a Nutshell John M. Stockton, Frederick H. Miller, 1992 Scope and Applicability of Uniform Commercial Code Article 2 on Sales and Article 2A on Leases Principal Concepts Defined Formation of the Contract the Statute of Frauds and Parol Evidence Modification of Contract Terms of the Contract Including Regulation of Terms by Unconscionability Documents of Title and Letters of Credit as Used in Transactions Performance of the Contract Title and Rights of Third Parties Risk of Loss Warranties Remedies for Breach and Default **Sales and Leases of Goods** Alfred W. Meyer, Richard E. Speidel, 1993 Expert authors explain the law on sales and leases of goods Provides extensive overview of UCC Article 2 and Article 2A Text addresses commercial transactions basic contract formation leasing of goods and the Convention on the International Sale of Goods CISG Understanding Sales and Leases of Goods William H. Lawrence, William H. Henning, 1995 **Understanding Sales and Leases of Goods** William H. Henning, William H. Lawrence, Henry D. Gabriel, 2016 This Understanding treatise offers a concise yet comprehensive survey and analysis of the legal principles that affect the law governing sales and leases of goods Clearly written and logically organized this book presents an integrated treatment of Articles 2 and 2A of the Uniform Commercial Code The primary focus is on sales with material addressing lease transactions woven into the text at appropriate points Beyond the treatment in the text footnotes provide additional examples and internal cross references making the book easy to use **Practice Under Article 9 of the Uniform Commercial Code** Stephen L. Sepinuck, 2008 Practice Under Article 9 of the UCC is a comprehensive guide for lawyers facilitating secured transactions It includes articles that in simple clear language describe and summarize all of revised Article 9 more than a dozen charts that provide vital guidance to practitioners on such things as how to obtain and maintain perfection Article 9 s confusing anti assignment rules foreign filing systems federal statutory liens the full text and commentary of revised Articles 1 and 9 including the most recent technical amendments the PEB Commentaries that remain relevant to the interpretation of Article 9 a selected bibliography of useful articles on Article 9 and secured transactions practice **Sales and Leases of Goods in a Nutshell** ANNE. LAWTON, 2023-05-05 Description Coming Soon *Sale and Lease of Goods* Douglas J. Whaley, 2005 The topics discussed in the Sale and Lease of Goods outline are Uniform Commercial Code UCC Article 2 sales contract including offer and acceptance parol evidence rule statute of frauds assignment and delegation and revision of contract terms Also covered are types of sales including cash sale transactions auctions sale or return and sale on approval transactions express and implied warranties and privity Nordstrom on Sales and Leases of Goods Gregory M. Travaglio, Robert J. Nordstrom, Albert L. Clovis, 2000 Aspen s new edition of this landmark treatise is recommended to any lawyer or business adviser involved in the sale and leasing of goods the authors of Nordstrom on Sales and Leases of Goods provide sound legal advice on state and federal law affecting the law of sales including recent judicial interpretations of the provisions of Article 2 of the UCC the Magnuson Moss Federal Warranty Act and the treatment of

leases under UCC Article 2A In light of the expansion of the scope of sales and commercial law Nordstrom provides authoritative insights into consumer protection and product liability issues changing regulatory standards and other issues related to the increasingly global economy as reflected in the Convention on Contracts for the International Sale of Goods The authors pay special attention to questions hinging on the interpretation of specific requirements of both federal and state legislation and present innovative techniques for structuring contracts leases and other agreements that protect clients from the burden of unintentional liability and unwanted contract terms Lease of Goods Kare Lilleholt,Anders Victorin,Andreas Fötschl,Berte-Elen R. Konow,Andreas Meidell,Amund Bjoranger-Torum,2009-04-27 The contract for lease of goods is well known in practical life Short time leases of cars to both businesses and consumers are perhaps the most striking example but contracts for temporary use of another person s goods in exchange for rent are common for a wide range of products like industrial equipment office machines leisure boats sports gear etc Long term leases are often chosen as an alternative to other forms of acquisition of goods financial leases This book presents a set of Principles of European law on lease contracts within the framework of the Study Group on a European Civil Code The Principles are closely co ordinated with other parts of what will become the Draft Common Frame of Reference for European contract law prepared for the European Commission by several pan European research teams co operating in a network of excellence under the sixth Research Framework Programme The Principles are accompanied by explanatory comments and comparative notes containing information on lease law for 27 European countries as well as on relevant international instruments Thus the book is a source to knowledge on existing law in addition to being a contribution to the analysis of the interplay between general contract law and the law of specific contracts as well as to the discussion of future European private law *Sales and Leases of Goods* Stephen Sepinuck,2024-12-20 Description Coming Soon **U.S. and International Sales, Lease, and Licensing Law: ... ,**

Gilbert Law Summaries on Sale and Lease of Goods DOUGLAS J. WHALEY,2020-12-16 The topics discussed in the Sale and Lease of Goods outline are Uniform Commercial Code UCC Article 2 sales contract including offer and acceptance parol evidence rule statute of frauds assignment and delegation and revision of contract terms Also covered are types of sales including cash sale transactions auctions sale or return and sale on approval transactions express and implied warranties and privity *Sales and Leases of Goods in a Nutshell* Scott J. Burnham,Kristen Juras,2016 U.S. and International Sales, Lease, and Licensing Law: ... , **Statutes of California and Digests of Measures** California,2002 The Law Governing Sales of Goods at Common Law and Under the Uniform Sales Act Samuel Williston,1924 Examples & Explanations for Sales and Leases Scott J. Burnham,James A. Brook,2024-05-11 Examples Explanations Sales and Leases Ninth Edition provides an organized way of working through the various sections definitions concepts and controversies that make up the modern law of sale and lease of goods as rendered in Articles 2 and 2A of the Uniform Commercial Code The unique Examples Explanations series provides clear introductions to concepts followed by realistic examples that mirror

those presented in the classroom Use this study aid throughout the semester to deepen your understanding with clear explanations corresponding hypothetical fact patterns and analysis Then use it to study for finals by reviewing the hypotheticals as well as the structure and reasoning behind the accompanying analysis Designed to complement your casebook Examples Explanations Sales and Leases gets right to the point in a conversational often humorous style that helps you learn the material each step of the way and prepare for the exam at the end of the course New to the Ninth Edition Discussion of changes made to the U C C by the 2022 Amendments primarily to address hybrid transactions and electronic commerce Professors and students will benefit from Organization of the book follows a fairly standard order in which the various topics are taken up in courses related to sales Each chapter is structured in the same way introductory text followed by a set of examples ending with explanations of the questions asked and issues raised by the examples The text provides an alternative perspective to help students understand their casebook and class lectures , State by State Guide to Commercial Real Estate Leases Mark A. Senn,2021-12-17 State by State Guide to Commercial Real Estate Leases is the only reference that cuts through the tangle of state laws and gathers together in one two volume set the essential information you need to know It s all presented in a unique instant access format that s quick and easy to use With the new 2022 Edition of State by State Guide to Commercial Real Estate Leases your days of fumbling through multiple titles for the valuable information you need are over Built around 51 comprehensive charts State by State Guide to Commercial Real Estate Leases reviews the relevant statutes in each state that regulate every facet of commercial real estate leasing It gives you the statutes themselves plus commentary explaining how they are used case law citations of authority and more Whether you re in private practice or part of an in house legal group this ready reference to relevant statutes is sure to help you Cut down research time Spot possible problems early and correct or work around them Avoid costly and embarrassing mistakes Protect yourself your company and or your clients at every step State by State Guide to Commercial Real Estate Leases is written by the top real estate lawyers in each state pre eminent practitioners so you can be sure it s authoritative and accurate Each expert contributor has researched over 100 specific aspects of commercial real estate leasing from assignments and subleases to tenant s obligations and attorneys fees to bring you the most complete and up to date coverage available anywhere today State Laws Included Alabama Alaska Arizona Arkansas California Colorado Connecticut Delaware Florida Georgia Hawaii Idaho Illinois Indiana Iowa Kansas Kentucky Louisiana Maine Maryland Massachusetts Michigan Minnesota Mississippi Missouri Montana Nebraska Nevada New Hampshire New Jersey New Mexico New York North Carolina North Dakota Ohio Oklahoma Oregon Pennsylvania Rhode Island South Carolina South Dakota Tennessee Texas Utah Vermont Virginia Washington West Virginia Wisconsin Wyoming *State-by-State Guide to Commercial Real Estate Leases, Sixth Edition* Mark A. Senn,2015-12-15 State by State Guide to Commercial Real Estate Leases is the only reference that cuts through the tangle of state laws and gathers togetherand in one two volume setand the essential information you need to

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Sales And Leases Of Goods Introduction

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