**General Provisions**

Agreement

“Agreement”…means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing, or usage of trade as provided in Section 1-303. Section 1-201(b)(3)

Contract

“Contract”...means the total legal obligation that results from the parties’ agreement as determined by [the Uniform Commercial Code] as supplemented by any other applicable laws. Section 1-201(b)(12)

Good faith…

“Good faith” except as otherwise provided for in Article 5, means honesty in fact and the observance of reasonable commercial standards. Section 1-201(b)(20)

Obligation of good faith

Every contract or duty within [the Uniform Commercial Code] imposes an obligation of good faith in its performance or enforcement. Section 1-304

Usage of trade

A “usage of trade” is any practice or method of dealing having such regularity of observance in a place, vocation, or trade as to justify an expectation that it will be observed with respect to the transaction in question….. Section 1-303(c)

**Sales**

Acceptance

1. Acceptance of goods occurs when the buyer
2. after a reasonable opportunity to inspect the goods signifies to the seller that the goods are conforming or that he will take them in spite of their non conformity; or
3. fails to make an effective rejection (subsection (1) of Section 2-602), but such acceptance does not occur until the buyer has had a reasonable opportunity to inspect them: or
4. does any act inconsistent with the seller’s ownership; but if such act is wrongful as against the seller it is an acceptance only if ratified by him.

Section 2-606(1)(a)()b(c)

Cover

1. After a breach within the preceding section the buyer may “cover” by making in good faith and without unreasonable delay any reasonable purchase of or contract to purchase goods in substitution for those due from the seller.
2. The buyer may recover from the seller as damages the difference between the cost of cover and the contract price together with any incidental or consequential damages as hereinafter defined (Section 2-715), but less expenses saved in consequence of the seller’s breach.
3. Failure of the buyer to effect cover within this section does not bar him from any other remedy. Section 2-712(1)(2)(3)

Inspection, buyer’s rights generally

Unless otherwise agreed and subject to subsection (3), where goods are tendered or delivered or identified to the contract for sale, the buyer has a right before payment or acceptance to inspect them at any reasonable place and time and in any reasonable manner. When the seller is required or authorized to send the goods to the buyer, the inspection may be after their arrival. Section 2-513(1).

Merchantability, implied warranty of

Unless excluded or modified (Section 2-316)m a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind…..Section 2-314(1)

Goods to be merchantable must be at least such as

1. pass without objection in the trade under the contract description;

(c) are fit for the ordinary purposes for which such goods are used;

Section 2-314(2)(a)(c)

Statute of frauds

Except as otherwise provided in this section a contract for the sale of goods for the price of $500 or more is not enforceable by way of action or defense unless there is some writing sufficient to indicated that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by his authorized agent or broker…. Section 2-201(1)

**Leases**

“Lease” means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale on return, or retention of creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease. Section 2A-103(1)(j)

“Lease agreement” means the bargain of the parties, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this Article. Unless the context clearly indicates otherwise, the term includes a sublease contract. Section 2A-103(1)(k)

Liquidated damages

1. Damages payable by either party for default, or any other act or omission, including indemnity for loss or diminution of anticipated tax benefits or loss or damage to lessor’s residual interest, may be liquidated in the lease agreement but only at an amount or by a formula that is reasonable in light of the then anticipated harm caused by the default or other act or omission. Section 2A-504(1)

Present value

“Present value” means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonably rate that takes into account the facts and circumstances of each case at the time the transaction was entered into. Section 2A-103(1)(u)

Finance lease

“Finance lease” means a lease with respect to which:

1. the lessor does not select, manufacture, or supply the goods;
2. the lessor acquires the goods or the right to possession and use of the goods in connection with the lease;
3. one of the following occurs:
4. the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the contract;
5. ….
6. ….
7. ….

Section 2A-103(1)(g)(A)(I)(ii)(iii)

**Negotiable Instruments**

Option to Accelerate at Will

A term providing that one party or that party’s successor in interest may accelerate payment or performance or require collateral or additional collateral “at will” or when the party :deems itself insecure” or words of similar import, means that the party has power to do so only if that party in good faith believes that the prospect of payment or performance is impaired. The burden of establishing lack of good faith is on the party against which the power has been exercised. Section 1-309

Lost instruments

1. A person not in possession of an instrument is entitled to enforce the instrument if:
2. The person seeking to enforce the instrument
3. was entitled to enforce the instrument when loss of possession occurred; or
4. has directly or indirectly acquired ownership of the instrument from a person who was entitled to enforce the instrument when loss of possession occurred;
5. the loss of possession was not the result of a transfer by the person or a lawful seizure; and
6. the person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined, or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.
7. A person seeking enforcement of an instrument under subsection (a) must prove the terms of the instrument and the person’s right to enforce the instrument….. Section 3-309(a)(1)(A)(B)(2)(3)(b)

Negotiable instruments

1. Except as provided in subsections (c) and (d), “negotiable instrument” means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:
2. is payable to bearer or to order at the time it is issued or first comes into possession of a holder;
3. is payable on demand or at a definite time; and
4. does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain (i) an undertaking or the power to give, maintain, or protect collateral to secure payment, (ii) an authorization or power to the holder to confess judgment or realize on or dispose of collateral, or (iii) a waiver of the benefit of any law intended for the advantage or protection on an obligor. Section 3-104(a)(1)(2)(3)

Person entitled to enforce

“Person entitled to enforce” an instrument means (i) the holder of the instrument, (ii) a nonholder in possession of the instrument who has the rights of a holder, or (iii) a person not in possession of the instrument who is entitled to enforce the instrument pursuant to Section 3-309 or 3-418(d). …. Section 3-301

Signature, unauthorized

1. Unless otherwise provided in this Article or Article 4, an unauthorized signature is ineffective except as the signature of the unauthorized signer in favor of a person who in good faith pays the instrument or takes it for value. An unauthorized signature may be ratified for all purposes of this Article. Section 3-403(a)

**Bank Deposits and Collections**

Collecting bank, revocation of provisional settlement

1. If a collecting bank has made provisional settlement with its customer for an item and fails by reason of dishonor, suspension of payments to a bank, or otherwise to receive settlement for the item which is or becomes final, the bank may revoke the settlement given by it, charge back the amount of any credit given for the item to its customer’s account, or obtain refund from tits customer, whether or not it is able to return the item, if by its midnight deadline or with a longer reasonable time after it learns the facts it returns the item or sends notification of the facts…..Section 4-214(a)

Customer's duty to examine statement

(c)If a bank sends or makes available a statement of account or items pursuant to subsection (a), the customer must exercise reasonable promptness in examining the statement or the item to determine whether any payment was not authorized because of an alteration of an item or because a purported signature by or on behalf of the customer was not authorized. Section 4-406(c)

Midnight deadline

“Midnight deadline” with respect to a bank is midnight on the next banking day following the banking day on which it receives the relevant item or notice from which the time for taking action commences to run, whichever is later. Section 4-104(a)(10)

Provisional credits

Unless a contrary intent clearly appears and before the time that a settlement given by a collecting bank for an item is or becomes final, the bank, with respect to an item, is an agent or sub-agent of the owner of the item and any settlement given for the item is provisional. This provision applies regardless of the form of indorsement or lack of indorsement and even though credit given for the item is subject to immediate withdrawal as or fight or is in fact withdrawn….Section 4-201(a)

Stop payment order

A customer or any person authorized to draw on the account if there is more than one person may stop payment of an item drawn on the customer’s account or close the account by an order to the bank describing the item or account with reasonable certainty received at a time and in a manner that affords the bank a reasonable opportunity to act on it before any action by the bank with respect to the item described in Section 4-303…. Section 4-403(a)

**Electronic Funds Transfers**

Funds transfer

“Funds transfer” means the series of transactions, beginning with the originator’s payment order, made for the purpose of making payment to the beneficiary of the order. The term includes any payment order issued by the originator’s bank or the intermediary bank intended to carry out the originator’s payment order. A funds transfer is completed by acceptance by the beneficiary’s bank of a payment order for the benefit of the beneficiary of the originator’s payment order. Section 4A-104(a)

Originator

“Originator” means the sender of the first payment order in a funds transfer. Section 4A-104(c)

Payment order

“Payment order” means an instruction of a sender to a receiving bank, transmitted orally, electronically, or in writing, to pay or to cause another bank to pay, a fixed or determined amount of money to a beneficiary if:

1. the instruction does not state a condition to payment to the beneficiary other than time of payment;
2. the receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender; and
3. the instruction is transmitted by the sender directly to the receiving bank or to an agent, funds-transfer system, or communications system for transmittal to the receiving bank.

Section 4A-103(a)(1)(i)(ii)(iii)

Receiving bank, duty for accepted payment order

Subject to Sections 4A-211(e), 4A-405d) and 4-405(e), if a beneficiary’s bank accepts a payment order, the bank is obliged to pay the beneficiary of the order….If the bank refuses to pay after demand by the beneficiary and receipt of notice of particular circumstances that will give rise to consequential damages as a result of nonpayment, the beneficiary may recover damages resulting from the refusal to pay to the extent the bank had notice of the damages, unless the bank proves that it did not pay because of a reasonable doubt concerning the right on the beneficiary to payment. Section 4A-104(a)

Security procedures

“Security procedure” means a procedure established by agreement of a customer and a receiving bank for the purpose of (i) verifying that a payment order or communication verifying a payment order is that of the customer, or (ii) detecting error in the transmission or the e content of the payment order or communication. A security procedure may require the use of algorithms or other codes, identifying words or numbers, encryption, callback procedures or similar security devices. Comparison of a signature on a payment order or communication with an authorized specimen signature of the customer is not by itself a security procedure. Section 4A-201

**Letters of Credit**

Letter of credit

“Letter of credit” means a definite undertaking that satisfies the requirements of Section 5-104 by an issuer to a beneficiary at the request or for account of an applicant or, in the case of a financial institution, to itself or for its own account, to honor a documentary presentation by payment or delivery of an item of value. Section 5-102(a)(10)

Applicant

“Applicant” means a person at whose request or for whose account a letter of credit is issued. The term includes a person who requests an issuer to issue a letter of credit on behalf of another if the person making the request undertakes an obligation to reimburse the issuer. Section 5-102(a)(2)

Beneficiary

“Beneficiary” means a person who under the terms of a letter of credit is entitled to have its complying presentation honored. The term includes a person to whom drawing rights have been transferred under a transferrable letter of credit. Section 5-102(a)(3)

Issuance, Amendment, Cancellation, and Duration

A letter of credit is issued and becomes enforceable according to its terms against the issuer when the issuer sends or otherwise transmits it to the person requested to advise or to the beneficiary. A letter of credit is revocable only if it so provides. Section 5-106(a)

Issuer

“Issuer” means a bank or other person that issues a letter of credit, but does not include an individual who makes an engagement for personal, family, or household purposes. Section 5-102(a)(9)

**Documents of Title**

Document of Title

“Document of title” means a record (i) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold, and dispose of the record and the goods the record covers and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the bailee’s possession which are either identified or are fungible portions of an identifiable mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, and order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed in a tangible medium. Section 1-201(b)(16)

Bill of lading

“Bill of lading” means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt. Section 1-201(b)(6)

Negotiable document of title

Except as otherwise provided in subsection (c), a document of title is negotiable if by its terms the goods are to be delivered to bearer or to the order of a named person. Section 7-104(a)

Due negotiation

A document of title is duly negotiated if it is negotiated in the manner stated in this subsection to a holder that purchases it in good faith, without notice of any defense against or claim to it on the part of any person, and for value, unless it is established that the negotiation is not in the regular course of business or financing or involves receiving the document in settlement or payment of a monetary obligation. Section 7-501(5)

Negotiation

The following rules apply to a negotiable document of title:

1. If the document’s original terms run to the order of a named person, the document is negotiated y the named person’s indorsement and delivery. After the named person’s indorsement in blank or to bearer, any person may negotiated the document by delivery alone.
2. If the document’s original terms run to bearer, it is negotiated by delivery alone. Section 7-501(a)(1)(2)

Person entitled under the document

“Person entitled under the document” means the holder in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title. Section 7-102(9)

**Secured Transactions**

Security interest

“Security interest” means an interest in personal property or fixtures which secures payment or performance of an obligation. “Security interest” includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible, or a promissory note in a transaction that is subject to Article 9….. Section 1-201(35)

As extracted collateral

“As extracted collateral” means:

(A) oil, gas or other minerals that are subject to a security interest that:

1. is created by a debtor having an interest in the minerals before extraction;
2. and attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or mine head of oil, gas, or other minerals in which the debtor had an interest before extraction.

Section 9-102(a)(6)(A)(i)(ii)(B).

Certificate of Title goods, perfection while inventory

During any period in which collateral is subject to a statute specified in subsection (a)(2) [certificate of title exception to filing] is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person. Section 9-311(d)

UCC 1financing statement, when filing required to perfect

Except as otherwise provided in subsection (b), a financing statement must be filed to perfect all security interests and agricultural liens. Section 9-310(a)

Perfection

…[A] security interest is perfected if it has attached and all the applicable requirements for perfection in Sections 9-310 through 9-316 have been satisfied. Section 9-308(a).

**Bankruptcy Code**

Commencement of a case

1. A voluntary case under a chapter under a chapter of this title is commenced by filing with the bankruptcy court of a petition under such chapter by an entity that may be a debtor under such chapter.
2. The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter. 11USC 301(a)(b)
3. An involuntary case may be commenced only under chapter 7 or 11 of this title, and only against a person, except a farmer, family farmer, or a corporation that is not a moneyed, business, or commercial corporation, that may be a debtor under the chapter under which such case is commenced. 11 USC 303(a)

Order for relief, automatic stay

1. The commencement of a voluntary case under a chapter of this title constitutes an order for relief under such chapter. 11 USC 303(b)
2. Except as provided in subsection (b) of this section, a petition filed under section 301, 302, or 303 of this title…operates as a stay, applicable to all entities, of—
3. The commencement or continuation, including the issuance or employment of process, or a judicial, administrative, or other action or proceeding against the debtor that was or could have been commenced before the commencement of the case under this title, or to recover a claim against the debtor that arose before the commencement of the case under this title;
4. The enforcement, against the debtor or against property of the estate, of a judgment obtained before the commencement of a case under this title; 11 USC 361(a)(1)(2)

Preferences

1. Except as provided in subsection (c) and (i) of this section, the trustee may avoid any transfer of an interest of the debtor in property—
2. to or for the benefit of a creditor;
3. for or on account of antecedent debt owed by the debtor before such transfer was made;
4. made while the debtor was insolvent;
5. made—
6. on or within 90 days before the date of the filing of the petition; or
7. between 90 days and one year before the date of the filing of the petition, if such creditor, at the time of such transfer was an insider; and
8. that enables such creditor to receive more than such creditor would receive if—
9. the case were under chapter 7 of this title;
10. the transfer had not been made, and
11. such creditor received payment of such debt to the extent provided by the provisions of this title. 11 USC 547(b)

Transfers of property, when perfected

A transfer of a fixture or property under other than real property is perfected when a creditor on a simple contract cannot acquire a judicial lien that is superior to the transferee. 11 U.S.C. 547(e)(1)(B).

Trustee, ability to sue and be sued

1. The trustee in a case under this title is the representative of the estate.
2. The trustee in a case under this title has capacity to sue and be sued. 11 USC 323(a)(b)