



UCC 2-207's Answer to the Common Law

Does the offer and acceptance for the sale of goods contain the same terms or additional or different terms?

If Same Terms than a contract is created and no 2-207 issue

If Additional/Different Terms we have 2-207 problem

No.
Acceptance not expressly conditional, contract is on terms set by 207(2)

Definite and seasonable expression of acceptance is given. Is acceptance expressly conditioned on assent to additional/different terms?

No definite and seasonable expression of acceptance but maybe 207(3) K?

Either party is not a merchant? Additional terms are not included unless party separately assented

Both parties are merchants. additional terms are in contract unless:
(a) Offer expressly limits acceptance to terms of the offer
(b) Additional terms materially alter the contract
(c) Object given within reasonable time

Different Terms, majority knockout and fill gaps

Yes.
Acceptance is a counteroffer

Conduct does not indicate a K exist then no contract

Conduct does indicate that a contract exists then terms set by 207(3)

Use terms that are mirror images, knock out others, add in gap fillers

If express/ unequivocal assent contract is formed on counter-offer terms

No express/ unequivocal assent? no 207(1) contract but see (207)(3)

Washburn Bar Flowcharts Contracts

The Bar Examinations Council



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