

Chapter X :Negotiable Instruments

Requirements & Types

Concept & Functions Of Negotiable Instruments

- A **negotiable instrument** is a **signed *written*** document that contains an *unconditional promise or order to pay* an **exact amount**, either **on demand** or at a specific **future time**, **transferable** by delivery or by endorsement
- A negotiable instrument can **function** as a **substitute for cash** or as an **extension of credit**.
- **Example:**
 - when a buyer writes a check to pay for goods , the check serves as a substitute for cash.
 - When a buyer gives a seller a promissory note in which the buyer promises to pay the seller the purchase price within sixty days, the seller has essentially extended credit to the buyer for a sixty-day period.

Requirements Of Negotiable Instruments

Requirements	Basic Rules
Must Be in Writing UCC 3-103(6), (9)	A writing can be on anything that is readily transferable and that has a degree of permanence.
Must Be Signed by the Maker or Drawer UCC 1-201(39) UCC 3-103(a)(3), (5) UCC 3-401(b) UCC 3-402	<ol style="list-style-type: none"> 1. The signature can be anywhere on the face of the instrument. 2. It can be in any form (such as a word, mark, or rubber stamp) that purports to be a signature and authenticates the writing. 3. A signature may be made in a representative capacity.
Must Be a Definite Promise or Order UCC 3-103(a)(6), (9) UCC 3-104(a)	<ol style="list-style-type: none"> 1. A promise must be more than a mere acknowledgment of a debt. 2. The words "I/We promise" or "Pay" meet this criterion.
Must Be Unconditional UCC 3-106	<ol style="list-style-type: none"> 1. Payment cannot be expressly conditional on the occurrence of an event. 2. Payment cannot be made subject to or governed by another agreement.
Must Be an Order or Promise to Pay a Fixed Amount UCC 3-104(a) UCC 3-107 UCC 3-112(b)	An amount may be considered a fixed sum even if payable in installments, with a fixed or variable rate of interest, or at a foreign exchange rate.

Must Be Payable in Money

UCC 3-104(a)

1. Any medium of exchange recognized as the currency of a government is money.
2. The maker or drawer cannot retain the option to pay the instrument in money or something else.

Must Be Payable on Demand or at a Definite Time

UCC 3-104(a)(2)

UCC 3-108(a), (b), (c)

1. Any instrument that is payable on sight, presentment, or issue or that does not state any time for payment is a demand instrument.
2. An instrument is still payable at a definite time, even if it is payable on or before a stated date or within a fixed period after sight or if the drawer or maker has the option to extend the time for a definite period.
3. Acceleration clauses do not affect the negotiability of the instrument.

Must Be Payable to Order or to Bearer

UCC 3-104(a)(1)

UCC 3-109

UCC 3-110(a)

1. An order instrument must identify the payee with reasonable certainty.
2. An instrument whose terms indicate payment to no particular person is payable to bearer.

WHAT ARE THE PROBLEMS WITH THIS P.N.?

8,000\$

october22, 2018 Cairo

Three months after date I undertake to pay Mr. Lee the sum of eight thousands\$, upon presentation of shipment documents of the goods as per the agreement signed on January 4th,2018.

To Mr. Lee

signed Mr. Bill Johns

Answer

- The present Promissory Note includes a condition concerning the payment which is “upon presentation of shipment documents of the goods as per the agreement signed on January 4th,2018” so it missed one of the features of a negotiable instrument which **should be based on an unconditional promise** or order to pay.

Types Of Negotiable Instruments

Types Of Negotiable Instruments

- 1. Drafts and Checks (Orders to Pay)**
- 2. Promissory Notes (Promises to Pay)**

1. Promissory Notes (Promises to Pay)

- A **promissory note** is an **unconditional written promise** made **by** one person (the **maker** of the promise) **to pay** another (usually a **payee**) a specified **sum payable at a definite time or on demand**.

Promissory Notes

Payee

☐ SECURITIES ☐ INSURANCE ☐ SAVINGS
☐ OTHER ☐ SEC. AGREEMENT
1. INV. & ACCTS. 2. CONSUMER GOODS
3. EQUIP.

\$ 3,000.00 Whiteacre, Minnesota April 30 2012 Due 6/29/12
On or before sixty days after date.

for value received, the undersigned jointly and severally promise to pay to the order of THE FIRST NATIONAL BANK OF WHITEACRE at its office in Whiteacre, Minnesota, \$ **Three thousand** dollars with interest thereon from date hereof at the rate of - 8 - percent per annum (computed on the basis of actual days and a year of 360 days) indicated in No. 7 below.

☒ INTEREST IS PAYABLE AT MATURITY
☐ INTEREST IS PAID TO MATURITY
☐ INTEREST IS PAYABLE _____ BEGINNING ON _____ 20 ____

SIGNATURE Laurence E. Roberts SIGNATURE Margaret P. Roberts
SIGNATURE _____ SIGNATURE _____

Co-makers

NO. _____
OFFICER Clark
BY _____
ACCRUAL
<input type="checkbox"/> NEW <input type="checkbox"/> REN'L
<input type="checkbox"/> SECURED _____
<input type="checkbox"/> UNSECURED

2. Drafts or Bills of Exchange (Orders to Pay)

- A **draft** is an **unconditional written order** that involves ***three parties***. The party creating the draft (the **drawer**) orders another party (the **drawee**) to pay money, usually to a third party (the **payee**).
- For the **drawee to be obligated** to honor the order, the **drawee must be obligated to the drawer** either **by agreement** or through a **debtor creditor relationship**.

Drafts (Orders to Pay)

- **Types:**

1. A ***time draft*** is payable at a definite future time.
2. A ***sight draft*** (or demand draft) is payable on sight—that is, when it is presented to the drawee for payment.
3. A draft can be both a **time** and a **sight draft**; such a draft is payable **at a stated time after sight**.

Draft

Payee →

DRAFT

Whiteacre, Minnesota

January 16 2012

\$ 1,000.00

Ninety days after above date

PAY TO THE ORDER OF

Eastman Supply Company

One thousand and no/100 DOLLARS

VALUE RECEIVED AND CHARGE THE SAME TO ACCOUNT OF

OurTown Real Estate

To First National Bank of Whiteacre

Whiteacre, Minnesota

Drawee →

By Jane Adams, Pres.

Jane Adams

Drawer →

3.Checks (Orders to Pay)

- **Definition** : a check is a **draft drawn** on a specified **bank**

- **TYPES:**

- 1.**Opened checks:** paid by a bank upon presentation of the check **to the payee or his order,**

2. **Closed checks:** paid by a bank upon presentation of the check **to the payee only**

3. **Certified checks:** indicates that a **bank** has **verified a customer's signature** and that it certifies that the **appropriate amount of money is on deposit** and **earmarked for the payment of the check**. A signature, stamp or some kind of marking shows the check is certified

4. **cashier's checks** : the bank is both the drawer and the drawee. The bank **customer purchases a cashier's check from the bank**—that is, pays the bank the amount of the check—and indicates to whom the check should be made payable. the **bank has committed itself to paying the stated amount on demand.**

5. **Crossed checks**

Checks (Orders to Pay)

4. Crossed checks: Check with two parallel transverse lines, with or without any words, drawn , on the top of the check where amount will be credited to any account and not directly at the counter of the bank.

- **General Crossing :** a check bears across its face two parallel transverse lines without specifying a bank name , so it may be credited to any bank account.
- **Special Crossing :** crossed by specifying bank name within the 2 parallel lines , so it should be credited to the mentioned bank account.
- **The crossing on a check cannot be cancelled**

Check

Drawee Bank

Bank of America NT&SA[®]

VOID AFTER SIX MONTHS
MATCH THE AMOUNT IN WORDS WITH THE AMOUNT IN NUMBERS

8006244785

11-35/1210

SN - 8006244785 B-1713 T-CSR NT

***** AUG 17 2012 ***** ONE HUNDRED DOLLARS AND 00 CENTS

Pay To The Order of *****SHANNON RICHMOND*****

CASHIER'S CHECK

ISSUED IN US DOLLARS

To: Bank of America NT&SA, San Francisco, California

PURCHASER:
SHANNON RICHMOND
VOID OVER \$100.00

Authorized Signature: *Richard M. Rosenberg*

Two signatures required for checks over \$250,000

Drawer: Bank of America NT&SA

(Reprint 6-00) FS-2000-5-68

⑈8006244785⑈ ⑆121000358⑆ 13973-84013⑈

Payee

Drawer

