# What is a Contract of sale

* A contract of sale establishes a legal relationship of obligation in which the seller undertakes to transfer to the buyer the ownership right to the object of sale (movable property or real estate) and to deliver or hand over the object to the buyer.
* The buyer undertakes to pay the seller the purchase price.
* For the purposes of commercial obligations, the Commercial Code regulates only the purchase and sale of movable goods within the framework of a contract of sale.

# What are the obligations

## Obligations of the Seller.

* The basic obligation of the Seller is to deliver the goods to the Buyer, to hand over the relevant documents to the Buyer and to enable the Buyer to acquire the ownership right in accordance with the provisions of the Purchase Agreement.
* Other obligations of the seller are mentioned in the remaining discussion of the contract of sale.

## Obligations of the buyer.

* The Buyer's obligation is to pay the purchase price for the goods and to accept the goods delivered.
* This obligation shall arise for the buyer preferably at the time specified in the contract.
* It may therefore be linked to the delivery of the goods, but also to an earlier or later time.
* Payment before delivery of the goods or after a certain period of time is therefore not excluded.
* Unless the time when the obligation to pay arises is expressly provided for in the contract, it shall arise as soon as the seller, in accordance with the contract, has allowed the buyer to dispose of the goods or the documents authorising him to do so.

## Quantity, quality, design and packaging of goods.

* The seller is obliged to deliver the goods in the quantity, quality and design specified in the contract.
* He must also provide them with the packaging specified in the contract.
* If the contract does not specify the quality or workmanship of the goods, the seller must deliver the goods in a quality and workmanship fit for the purpose specified in the contract.
* If that purpose is not specified in the contract, then for the purpose for which such goods are normally used.

## Delivery of goods.

* The seller's obligation to deliver the goods to the buyer may be fulfilled in several ways, some of which are regulated by the Commercial Code itself.
* In this case, the primary consideration is also the contractual agreement and therefore it depends on the method of delivery agreed between the parties.
* If no method has been agreed, delivery consists in the seller allowing the buyer to dispose of the goods.
* If the goods are individually specified in the contract or are to be delivered from certain stocks or are to be manufactured and the parties knew at the time of the conclusion of the contract where the goods were located or where they were to be manufactured, then delivery takes place at the place where the goods are located or where they are to be manufactured.

## Liability for defects in goods.

* In the context of liability for defects, it is necessary to distinguish between factual or legal defects or obvious or hidden defects.
* Factual defects are linked to the seller's obligation to deliver the agreed goods in the appropriate quantity, quality and workmanship, in the appropriate packaging and with the appropriate documents.
* Legal defects consist in the encumbrance of the goods sold by a third party's right (in particular ownership).

# Law

## I. Legal liability for defects.

* By law, the seller is liable for defects in the goods at the time when the risk of damage passes to the buyer and for defects caused by the seller's breach of duty as regards defects of fact.
* Liability for defects may continue even after the risk of damage has passed, provided, however, that the defect was caused by the seller's breach of duty.

## II. Inspection of goods.

* The buyer is obliged to inspect the delivered goods. He must do so with professional care as soon as possible after the risk of damage has passed or, if the goods are dispatched by the seller, after they have been transported to their destination.
* If the buyer fails to inspect the goods or to arrange for them to be inspected in time, he may only claim for defects detectable during such inspection if he proves that the goods were already defective at the time when the risk of damage to the goods passed.

## III. Quality guarantee.

* This is a voluntary written expression of the seller's will, in which he assumes an undertaking that the goods delivered will be fit for use for the agreed or customary purpose for a specified period of time or that they will retain the agreed or customary characteristics.
* This may be done within the framework of the contract, in the form of a guarantee certificate or by indicating the length of the guarantee period or the durability or serviceability of the goods supplied on their packaging.

## IV. Legal defects of goods.

* They consist in the encumbrance of the goods sold to a third party, except where the buyer has agreed to this restriction.
* A claim for legal defects does not arise for the buyer if he knew of the third party's right at the time of conclusion of the contract or if the seller was obliged in accordance with the contract to follow the documents provided by the buyer in the performance of his obligations.
* The buyer is obliged to notify the seller of the third party's assertion of the right without undue delay after he has become aware of it, otherwise the right of defect cannot be recognised in court.

## V. Claims for defects in the goods.

* The types of claims for defects in goods vary according to the degree of breach of contract.
* If the contract has been substantially breached by the delivery of defective goods, the buyer may:
* 1) demand the removal of defects by delivery of replacement goods for the defective goods, delivery of the missing goods and demand the removal of legal defects,
* 2) demand the removal of defects by repairing the goods if the defects are repairable,
* 3) demand a reasonable discount on the purchase price,
* 4) withdraw from the contract. The buyer has the choice between the individual claims. However, the buyer must notify the seller of his choice in a timely notification or without undue delay after the notification.

# Preservation of goods.

* Preservation of the goods consists in the seller or buyer taking measures to protect the goods from damage, loss or deterioration in case the other party has breached its obligations.
* This obligation may arise for one of the parties if:
* 1) the buyer is in default in taking delivery of the goods or in payment of the purchase price due at the same time as delivery of the goods,
* 2) the buyer has taken delivery of the goods but intends to reject them,
* 3) the goods have been delivered to their destination and the buyer has rejected them. In the first case, the obligation to preserve the goods lies with the seller.