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### CIVIL CODE - CIV

**DIVISION 3. OBLIGATIONS [1427 - 3273.16]** ( *Heading of Division 3 amended by Stats. 1988, Ch. 160, Sec. 14.* )

**PART 2. CONTRACTS [1549 - 1701]** ( *Part 2 enacted 1872.* )

### TITLE 3. INTERPRETATION OF CONTRACTS [1635 - 1663] ( *Title 3 enacted 1872.* )

[1635.](#) All contracts, whether public or private, are to be interpreted by the same rules, except as otherwise provided by this Code.

(Enacted 1872.)

[1636.](#) A contract must be so interpreted as to give effect to the mutual intention of the parties as it existed at the time of contracting, so far as the same is ascertainable and lawful.

(Enacted 1872.)

[1637.](#) For the purpose of ascertaining the intention of the parties to a contract, if otherwise doubtful, the rules given in this Chapter are to be applied.

(Enacted 1872.)

[1638.](#) The language of a contract is to govern its interpretation, if the language is clear and explicit, and does not involve an absurdity.

(Enacted 1872.)

[1639.](#) When a contract is reduced to writing, the intention of the parties is to be ascertained from the writing alone, if possible; subject, however, to the other provisions of this Title.

(Enacted 1872.)

[1640.](#) When, through fraud, mistake, or accident, a written contract fails to express the real intention of the parties, such intention is to be regarded, and the erroneous parts of the writing disregarded.

(Enacted 1872.)

[1641.](#) The whole of a contract is to be taken together, so as to give effect to every part, if reasonably practicable, each clause helping to interpret the other.

(Enacted 1872.)

[1642.](#) Several contracts relating to the same matters, between the same parties, and made as parts of substantially one transaction, are to be taken together.

(Enacted 1872.)

[1643.](#) A contract must receive such an interpretation as will make it lawful, operative, definite, reasonable, and capable of being carried into effect, if it can be done without violating the intention of the parties.

(Enacted 1872.)

[1644.](#) The words of a contract are to be understood in their ordinary and popular sense, rather than according to their strict legal meaning; unless used by the parties in a technical sense, or unless a special meaning is given to

them by usage, in which case the latter must be followed.

*(Enacted 1872.)*

**1645.** Technical words are to be interpreted as usually understood by persons in the profession or business to which they relate, unless clearly used in a different sense.

*(Enacted 1872.)*

**1646.** A contract is to be interpreted according to the law and usage of the place where it is to be performed; or, if it does not indicate a place of performance, according to the law and usage of the place where it is made.

*(Enacted 1872.)*

**1646.5.** Notwithstanding Section 1646, the parties to any contract, agreement, or undertaking, contingent or otherwise, relating to a transaction involving in the aggregate not less than two hundred fifty thousand dollars (\$250,000), including a transaction otherwise covered by subdivision (a) of Section 1301 of the Commercial Code, may agree that the law of this state shall govern their rights and duties in whole or in part, whether or not the contract, agreement, or undertaking or transaction bears a reasonable relation to this state. This section does not apply to any contract, agreement, or undertaking (a) for labor or personal services, (b) relating to any transaction primarily for personal, family, or household purposes, or (c) to the extent provided to the contrary in subdivision (c) of Section 1301 of the Commercial Code.

This section applies to contracts, agreements, and undertakings entered into before, on, or after its effective date; it shall be fully retroactive. Contracts, agreements, and undertakings selecting California law entered into before the effective date of this section shall be valid, enforceable, and effective as if this section had been in effect on the date they were entered into; and actions and proceedings commencing in a court of this state before the effective date of this section may be maintained as if this section were in effect on the date they were commenced.

*(Amended by Stats. 2006, Ch. 254, Sec. 1.5. Effective January 1, 2007.)*

**1647.** A contract may be explained by reference to the circumstances under which it was made, and the matter to which it relates.

*(Enacted 1872.)*

**1648.** However broad may be the terms of a contract, it extends only to those things concerning which it appears that the parties intended to contract.

*(Enacted 1872.)*

**1649.** If the terms of a promise are in any respect ambiguous or uncertain, it must be interpreted in the sense in which the promisor believed, at the time of making it, that the promisee understood it.

*(Enacted 1872.)*

**1650.** Particular clauses of a contract are subordinate to its general intent.

*(Enacted 1872.)*

**1651.** Where a contract is partly written and partly printed, or where part of it is written or printed under the special directions of the parties, and with a special view to their intention, and the remainder is copied from a form originally prepared without special reference to the particular parties and the particular contract in question, the written parts control the printed parts, and the parts which are purely original control those which are copied from a form. And if the two are absolutely repugnant, the latter must be so far disregarded.

*(Enacted 1872.)*

**1652.** Repugnancy in a contract must be reconciled, if possible, by such an interpretation as will give some effect to the repugnant clauses, subordinate to the general intent and purpose of the whole contract.

*(Enacted 1872.)*

**1653.** Words in a contract which are wholly inconsistent with its nature, or with the main intention of the parties, are to be rejected.

(Enacted 1872.)

**1654.** In cases of uncertainty not removed by the preceding rules, the language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist.

(Amended by Stats. 1982, Ch. 1120, Sec. 1.)

**1655.** Stipulations which are necessary to make a contract reasonable, or conformable to usage, are implied, in respect to matters concerning which the contract manifests no contrary intention.

(Enacted 1872.)

**1656.** All things that in law or usage are considered as incidental to a contract, or as necessary to carry it into effect, are implied therefrom, unless some of them are expressly mentioned therein, when all other things of the same class are deemed to be excluded.

(Enacted 1872.)

**1656.1.** (a) Whether a retailer may add sales tax reimbursement to the sales price of the tangible personal property sold at retail to a purchaser depends solely upon the terms of the agreement of sale. It shall be presumed that the parties agreed to the addition of sales tax reimbursement to the sales price of tangible personal property sold at retail to a purchaser if:

- (1) The agreement of sale expressly provides for such addition of sales tax reimbursement;
- (2) Sales tax reimbursement is shown on the sales check or other proof of sale; or
- (3) The retailer posts in his or her premises in a location visible to purchasers, or includes on a price tag or in an advertisement or other printed material directed to purchasers, a notice to the effect that reimbursement for sales tax will be added to the sales price of all items or certain items, whichever is applicable.

(b) It shall be presumed that the property, the gross receipts from the sale of which is subject to the sales tax, is sold at a price which includes tax reimbursement if the retailer posts in his or her premises, or includes on a price tag or in an advertisement (whichever is applicable) one of the following notices:

- (1) "All prices of taxable items include sales tax reimbursement computed to the nearest mill."
- (2) "The price of this item includes sales tax reimbursement computed to the nearest mill."

(c) (1) The State Board of Equalization shall prepare and make available for inspection and duplication or reproduction a sales tax reimbursement schedule which shall be identical with the following tables up to the amounts specified therein:

4 <sup>3</sup> / <sub>4</sub> percent	
Price _____	Tax
.01- .10 .....	.00
.11- .31 .....	.01
.32- .52 .....	.02
.53- .73 .....	.03
.74- .94 .....	.04
.95-1.15 .....	.05
5 percent	
Price _____	Tax
.01- .09 .....	.00
.10- .29 .....	.01
.30- .49 .....	.02
.50- .69 .....	.03

.70- .89 .....	.04
.90-1.09 .....	.05
5 <sup>1</sup> / <sub>4</sub> percent	
Price _____ Tax	
.01- .09 .....	.00
.10- .28 .....	.01
.29- .47 .....	.02
.48- .66 .....	.03
.67- .85 .....	.04
.86-1.04 .....	.05
5 <sup>1</sup> / <sub>2</sub> percent	
Price _____ Tax	
.01- .09 .....	.00
.10- .27 .....	.01
.28- .45 .....	.02
.46- .63 .....	.03
.64- .81 .....	.04
.82- .99 .....	.05
1.00-1.18 .....	.06
5 <sup>3</sup> / <sub>4</sub> percent	
Price _____ Tax	
.01- .08 .....	.00
.09- .26 .....	.01
.27- .43 .....	.02
.44- .60 .....	.03
.61- .78 .....	.04
.79- .95 .....	.05
.96-1.13 .....	.06
6 percent	
Price _____ Tax	
.01- .08 .....	.00
.09- .24 .....	.01
.25- .41 .....	.02

.42- .58 .....	.03
.59- .74 .....	.04
.75- .91 .....	.05
.92-1.08 .....	.06
6 <sup>1</sup> / <sub>4</sub> percent	
Price _____ Tax	
.01- .07 .....	.00
.08- .23 .....	.01
.24- .39 .....	.02
.40- .55 .....	.03
.56- .71 .....	.04
.72- .87 .....	.05
.88-1.03 .....	.06
6 <sup>1</sup> / <sub>2</sub> percent	
Price _____ Tax	
.01- .07 .....	.00
.08- .23 .....	.01
.24- .38 .....	.02
.39- .53 .....	.03
.54- .69 .....	.04
.70- .84 .....	.05
.85- .99 .....	.06
1.00-1.15 .....	.07
6 <sup>3</sup> / <sub>4</sub> percent	
Price _____ Tax	
.01- .07 .....	.00
.08- .22 .....	.01
.23- .3 7 .....	.02
.38- .5 1 .....	.03
.52- .66 .....	.04
.67- .81 .....	.05
.82- .96 .....	.06
.97-1.11 .....	.07
7 percent	

Price _____ Tax
.01- .07 ..... .00
.08- .21 ..... .01
.22- .35 ..... .02
.36- .49 ..... .03
.50- .64 ..... .04
.65- .78 ..... .05
.79- .92 ..... .06
.93-1.07 ..... .07
7 <sup>1</sup> / <sub>4</sub> percent
Price _____ Tax
.01- .06 ..... .00
.07- .20 ..... .01
.21- .34 ..... .02
.35- .48 ..... .03
.49- .62 ..... .04
.63- .75 ..... .05
.76- .89 ..... .06
.90-1.03 ..... .07
7 <sup>1</sup> / <sub>2</sub> percent
Price _____ Tax
.01- .06 ..... .00
.07- .19 ..... .01
.20- .33 ..... .02
.34- .46 ..... .03
.47- .59 ..... .04
.60- .73 ..... .05
.74- .86 ..... .06
.87- .99 ..... .07
1.00-1.13 ..... .08

(2) Reimbursement on sales prices in excess of those shown in the schedules may be computed by applying the applicable tax rate to the sales price, rounded off to the nearest cent by eliminating any fraction less than one-half cent and increasing any fraction of one-half cent or over to the next higher cent.

(3) If sales tax reimbursement is added to the sales price of tangible personal property sold at retail, the retailer shall use a schedule provided by the board, or a schedule approved by the board.

(d) The presumptions created by this section are rebuttable presumptions.

*(Amended by Stats. 1990, Ch. 1528, Sec. 1.)*

**1656.5.** (a) Whether a qualified heavy equipment renter may add estimated personal property tax reimbursement to the rental price of heavy equipment property to a lessee depends solely upon the terms of the rental agreement. It shall be presumed that the parties agreed to the addition of estimated personal property tax reimbursement to the rental price of heavy equipment property to a lessee if all of the following conditions occur:

(1) The rental agreement expressly provides for the addition of estimated personal property tax reimbursement.

(2) Estimated personal property tax reimbursement is separately stated and charged on the rental agreement.

(3) The estimated personal property tax reimbursement amount shall not exceed 0.75 percent of the rental price of the heavy equipment property.

(b) The presumptions created by this section are rebuttable presumptions.

(c) For purposes of this section:

(1) "Qualified heavy equipment renter" shall have the same meaning as provided in Section 31202 of the Revenue and Taxation Code.

(2) "Rental price" means the total amount of the charge for renting the heavy equipment property, excluding any separately stated charges that are not rental charges, including, but not limited to, separately stated charges for delivery and pickup fees, damage waivers, environmental mitigation fees, sales tax reimbursement, or use taxes.

*(Added by Stats. 2017, Ch. 505, Sec. 1. (AB 1130) Effective January 1, 2018.)*

**1657.** If no time is specified for the performance of an act required to be performed, a reasonable time is allowed. If the act is in its nature capable of being done instantly—as, for example, if it consists in the payment of money only—it must be performed immediately upon the thing to be done being exactly ascertained.

*(Enacted 1872.)*

**1659.** Where all the parties who unite in a promise receive some benefit from the consideration, whether past or present, their promise is presumed to be joint and several.

*(Enacted 1872.)*

**1660.** A promise, made in the singular number, but executed by several persons, is presumed to be joint and several.

*(Enacted 1872.)*

**1661.** An executed contract is one, the object of which is fully performed. All others are executory.

*(Enacted 1872.)*

**1662.** Any contract hereafter made in this State for the purchase and sale of real property shall be interpreted as including an agreement that the parties shall have the following rights and duties, unless the contract expressly provides otherwise:

(a) If, when neither the legal title nor the possession of the subject matter of the contract has been transferred, all or a material part thereof is destroyed without fault of the purchaser or is taken by eminent domain, the vendor cannot enforce the contract, and the purchaser is entitled to recover any portion of the price that he has paid;

(b) If, when either the legal title or the possession of the subject matter of the contract has been transferred, all or any part thereof is destroyed without fault of the vendor or is taken by eminent domain, the purchaser is not thereby relieved from a duty to pay the price, nor is he entitled to recover any portion thereof that he has paid.

This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

This section may be cited as the Uniform Vendor and Purchaser Risk Act.

*(Added by Stats. 1947, Ch. 497.)*

**1663.** (a) As used in this section, the following terms shall have the following meanings:

- (1) "Euro" means the currency of participating member states of the European Union that adopt a single currency in accordance with the Treaty on European Union signed February 7, 1992, as amended from time to time.
- (2) "Introduction of the euro" includes, but is not limited to, the implementation from time to time of economic and monetary union in member states of the European Union in accordance with the Treaty on European Union signed February 7, 1992, as amended from time to time.
- (3) "ECU" or "European Currency Unit" means the currency basket that is from time to time used as the unit of account of the European community, as defined in European Council Regulation No. 3320/94.
- (b) If a subject or medium of payment of a contract, security, or instrument is the ECU or a currency that has been substituted or replaced by the euro, the euro shall be a commercially reasonable substitute and substantial equivalent that may be either tendered or used in determining the value of the ECU or currency, in each case at the conversion rate specified in, and otherwise calculated in accordance with, the regulations adopted by the Council of the European Union.
- (c) The introduction of the euro, the tendering of euros in connection with any obligation in compliance with subdivision (b), the determining of the value of any obligation in compliance with subdivision (b), or the calculating or determining of the subject or medium of payment of a contract, security, or instrument with reference to an interest rate or other basis that has been substituted or replaced due to the introduction of the euro and that is a commercially reasonable substitute and substantial equivalent, shall neither have the effect of discharging or excusing performance under any contract, security, or instrument, nor give a party the right unilaterally to alter or terminate any contract, security, or instrument.
- (d) This section shall be subject to any agreements between parties with specific reference to, or agreement regarding, the introduction of the euro.
- (e) Notwithstanding the Commercial Code or any other law of this state, this section shall apply to all contracts, securities, and instruments, including contracts with respect to commercial transactions, and shall not be deemed to be displaced by any other law of this state.
- (f) In the event of other currency changes, the provisions of this section with respect to the euro shall not be interpreted as creating any negative inference or negative presumption regarding the validity or enforceability of contracts, securities, or instruments denominated in whole or part in those other currencies.

*(Added by Stats. 1998, Ch. 62, Sec. 1. Effective June 5, 1998.)*