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**Federal Act  
on the Amendment of the Swiss Civil Code  
(Part Five: The Code of Obligations)**

of 30 March 1911 (Status as of 1 January 2022)

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*The Federal Assembly of the Swiss Confederation,*

having considered the Dispatches of the Federal Council dated 3 March 1905 and 1 June 1909<sup>1</sup>

*decrees:*

**Division One: General Provisions**

**Title One: Creation of Obligations**

**Section One: Obligations arising by Contract**

**Art. 1**

A. Conclusion of the contract

I. Mutual expression of intent

1. In general

<sup>1</sup> The conclusion of a contract requires a mutual expression of intent by the parties.

<sup>2</sup> The expression of intent may be express or implied.

**Art. 2**

2. Secondary terms

<sup>1</sup> Where the parties have agreed on all the essential terms, it is presumed that the contract will be binding notwithstanding any reservation on secondary terms.

<sup>2</sup> In the event of failure to reach agreement on such secondary terms, the court must determine them with due regard to the nature of the transaction.

<sup>3</sup> The foregoing is subject to the provisions governing the form of contracts.

AS 27 317 and BS 2 199

<sup>1</sup> BBl 1905 II 1, 1909 III 747, 1911 I 695

II. Offer and acceptance  
1. Offer subject to time limit

### Art. 3

<sup>1</sup> A person who offers to enter into a contract with another person and sets a time limit for acceptance is bound by his offer until the time limit expires.

<sup>2</sup> He is no longer bound if no acceptance has reached him on expiry of the time limit.

2. Offer without time limit  
a. In the parties' presence

### Art. 4

<sup>1</sup> Where an offer is made in the offeree's presence and no time limit for acceptance is set, it is no longer binding on the offeror unless the offeree accepts it immediately.

<sup>2</sup> Contracts concluded by telephone are deemed to have been concluded in the parties' presence where they or their agents communicated in person.

b. In the parties' absence

### Art. 5

<sup>1</sup> Where an offer is made in the offeree's absence and no time limit for acceptance is set, it remains binding on the offeror until such time as he might expect a reply sent duly and promptly to reach him.

<sup>2</sup> He may assume that his offer has been promptly received.

<sup>3</sup> Where an acceptance sent duly and promptly is late in reaching the offeror and he does not wish to be bound by his offer, he must immediately inform the offeree.

3. Implied acceptance

### Art. 6

Where the particular nature of the transaction or the circumstances are such that express acceptance cannot reasonably be expected, the contract is deemed to have been concluded if the offer is not rejected within a reasonable time.

3a. Unsolicited goods

### Art. 6a<sup>2</sup>

<sup>1</sup> The sending of unsolicited goods does not constitute an offer.

<sup>2</sup> The recipient is not obliged to return or keep such goods.

<sup>3</sup> Where unsolicited goods have obviously been sent in error, the recipient must inform the sender.

<sup>2</sup> Inserted by No I of the FA of 5 Oct. 1990, in force since 1 July 1991 (AS 1991 846; BBl 1986 II 354).

**Art. 7**

4. Non-binding offer, announcement of prices, display

1 An offeror is not bound by his offer if he has made express declaration to that effect or such a reservation arises from the circumstances or from the particular nature of the transaction.

2 The sending of tariffs, price lists and the like does not constitute an offer.

3 By contrast, the display of merchandise with an indication of its price does generally constitute an offer.

**Art. 8**

5. Publicly promised remuneration

1 A person who publicly promises remuneration or a reward in exchange for the performance of an act must pay in accordance with his promise.

2 If he withdraws his promise before performance has been made, he must reimburse any person incurring expenditure in good faith on account of the promise up to the maximum amount promised unless he can prove that such person could not have provided the performance in question.

**Art. 9**

6. Withdrawal of offer and acceptance

1 An offer is deemed not to have been made if its withdrawal reaches the offeree before or at the same time as the offer itself or, where it arrives subsequently, if it is communicated to the offeree before he becomes aware of the offer.

2 The same applies to a withdrawal of an acceptance.

**Art. 10**

III. Entry into effect of a contract concluded in the parties' absence

1 A contract concluded in the parties' absence takes effect from the time acceptance is sent.

2 Where express acceptance is not required, the contract takes effect from the time the offer is received.

**Art. 11**

B. Form of contracts  
I. Formal requirements and significance in general

1 The validity of a contract is not subject to compliance with any particular form unless a particular form is prescribed by law.

2 In the absence of any provision to the contrary on the significance and effect of formal requirements prescribed by law, the contract is valid only if such requirements are satisfied.

**Art. 12**

- II. Written form  
 1. Form required by law  
 a. Scope

Where the law requires that a contract be done in writing, the requirement also applies to any amendment to the contract with the exception of supplementary collateral clauses that do not conflict with the original document.

**Art. 13**

- b. Effect

<sup>1</sup> A contract required by law to be in writing must be signed by all persons on whom it imposes obligations.

<sup>2</sup> ...<sup>3</sup>

**Art. 14**

- c. Signature

<sup>1</sup> Signatures must be appended by hand by the parties to the contract.

<sup>2</sup> A signature reproduced by mechanical means is recognised as sufficient only where such reproduction is customarily permitted, and in particular in the case of signatures on large numbers of issued securities.

<sup>2bis</sup> An authenticated electronic signature combined with an authenticated time stamp within the meaning of the Federal Act of 18 March 2016<sup>4</sup> on Electronic Signatures is deemed equivalent to a handwritten signature, subject to any statutory or contractual provision to the contrary.<sup>5</sup>

<sup>3</sup> The signature of a blind person is binding only if it has been duly certified or if it is proved that he was aware of the terms of the document at the time of signing.

**Art. 15**

- d. Mark in lieu of signature

Subject to the provisions relating to bills of exchange, any person unable to sign may make a duly certified mark by hand or give a certified declaration in lieu of a signature.

**Art. 16**

2. Form stipulated by contract

<sup>1</sup> Where the parties agree to make a contract subject to formal requirements not prescribed by law, it is presumed that the parties do not wish to assume obligations until such time as those requirements are satisfied.

<sup>3</sup> Repealed by Annex No 2 to the FA of 19 Dec. 2003 on Electronic Signatures, with effect from 1 Jan. 2005 (AS **2004** 5085; BBl **2001** 5679).

<sup>4</sup> SR **943.03**

<sup>5</sup> Inserted by Annex No 2 to the FA of 19 Dec. 2003 on Electronic Signatures (AS **2004** 5085; BBl **2001** 5679). Amended by Annex No II 4 of the FA of 18 March 2016 on Electronic Signatures, in force since 1 Jan. 2017 (AS **2016** 4651; BBl **2014** 1001).

<sup>2</sup> Where the parties stipulate a written form without elaborating further, the provisions governing the written form as required by law apply to satisfaction of that requirement.

### **Art. 17**

C. Cause of obligation

An acknowledgment of debt is valid even if it does not state the cause of the obligation.

### **Art. 18**

D. Interpretation of contracts, simulation

<sup>1</sup> When assessing the form and terms of a contract, the true and common intention of the parties must be ascertained without dwelling on any inexact expressions or designations they may have used either in error or by way of disguising the true nature of the agreement.

<sup>2</sup> A debtor may not plead simulation as a defence against a third party who has become his creditor in reliance on a written acknowledgment of debt.

### **Art. 19**

E. Terms of the contract  
I. Definition of terms

<sup>1</sup> The terms of a contract may be freely determined within the limits of the law.

<sup>2</sup> Clauses that deviate from those prescribed by law are admissible only where the law does not prescribe mandatory forms of wording or where deviation from the legally prescribed terms would contravene public policy, morality or rights of personal privacy.

### **Art. 20**

II. Nullity

<sup>1</sup> A contract is void if its terms are impossible, unlawful or immoral.

<sup>2</sup> However, where the defect pertains only to certain terms of a contract, those terms alone are void unless there is cause to assume that the contract would not have been concluded without them.

### **Art. 21**

III. Unfair advantage

<sup>1</sup> Where there is a clear discrepancy between performance and consideration under a contract concluded as a result of one party's exploitation of the other's straitened circumstances, inexperience or thoughtlessness, the person suffering damage may declare within one year that he will not honour the contract and demand restitution of any performance already made.

<sup>2</sup> The one-year period commences on conclusion of the contract.