

SALES OF GOODS BILL, 2016

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A BILL

FOR

AN ACT TO REPEAL SALES OF GOODS ACT OF 1893 AND ENACT SALES OF GOODS BILL 2016 TO PROVIDE FOR REGULATION OF SALES OF GOODS IN NIGERIA AND FOR RELATED MATTERS

Sponsored by Hon. Lawal Abubakar Garba

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows-

1 PART I - FORMATION OF CONTRACT

2 1.-(1) A contract of sales of goods can be made where there is a Contract of sale
3 clear offer and acceptance by the contracting parties, under free will, either or agreement to
4 in person or through their legitimate representatives. sell

5 (2) The terms of the offer and acceptance under subclause (1) of
6 this clause, should contain details of the contract including the nature of the
7 goods, price and mode of transferring the goods to the purchaser.

8 2.-(1) An Individual who wants to enter into a contract of sales of Capacity to buy
9 goods shall not be below 18years, except where the transaction is that of and sell goods
10 necessities.

11 (2) An Individual who is-

12 (a) a minor, shall be a contracting party through a legal
13 representative who must be an adult;

14 (b) suffering from disease of body or mind that rendered the
15 Individual not to be able to understand the nature of the contract, shall be a
16 contracting party through a legal representative; and

18 (c) in a state of drunkenness that rendered the Individual temporary
19 insane shall not enter into any contract of sales of goods in that state of
20 mind;

21 3. Subject to the provisions of this Bill and of any statute a contract Formation of contract

1 of sale may be formed in writing, with or without a seal, or orally in the
2 presence of two or more witnesses, or partly in writing and partly orally, or
3 may be implied from the conduct of the parties.

Existing or future
goods

4 4.-(1) The goods which may form subject of a contract of sale may
5 be either existing goods, owned or possessed by the seller, or goods to be
6 manufactured or acquired by the seller after making of the contract of sale, in
7 this Bill referred to as the future goods.

Cap. N117 LFN
2004

8 (2) The goods referred to in subclause (1) of this clause are the
9 goods that are not within the prohibited degree contained in the negative list
10 as provided under Nigerian Investment Promotion Commission Act.

11 (3) There may be a contract for the sale of goods, the acquisition of
12 which by the seller depends upon a contingency which may or may not
13 happen, the formation of the contract will depends on the happening of the
14 contingency.

15 (4) Where in a contract of sale the seller purports to effect a sale of
16 future goods, the contract operates as an agreement to sell the goods.

Sales in perishable
goods

17 5.-(1) Where there is a contract for the sale of specific goods, and
18 the goods without the knowledge of the seller have perished at the time when
19 the contract is made, the contract is void.

20 (2) Where there is an agreement to sell specific goods and
21 subsequently the goods, without any fault on the part of the seller or buyer,
22 perish before the risk passes to the buyer, the contract is avoidable.

Ascertainment
of the price

23 6.-(1) The price in a contract of sale may be fixed by the parties, or
24 may be left to be fixed in manner agreed by the parties, or may be determined
25 in the course of dealing between the parties.

26 (2) Where the price is not determined in accordance with subclause
27 (1) of this clause the buyer shall pay the prevailing market value of the goods
28 in a market overt.

Agreement to sell
on valuation by
a third party

29 7.-(1) Where there is an agreement to sell goods on the terms that
30 the price is to be fixed by the valuation of a third party, and the third party did

1 not make the valuation, the agreement is void if the buyer did not take
2 possession.

3 (2) Where the buyer has taken possession of the property, without
4 the valuation of the third party, the buyer shall pay the prevailing value of the
5 goods in a market overt.

6 (3) Where such third party is prevented from making the valuation
7 by the fault of the seller or buyer, the non defaulting party may void the
8 contract and maintain an action for damages against the defaulting party.

9 8. Except as provided in the terms of contract, stipulation as to the Stipulation of time
10 time of delivery of the goods and payment of the price, shall be done
11 simultaneously.

12 9.-(1) A condition is a term of contract breach of which may give Conditions and
13 rise to a right to treat the contract as repudiated, a warranty is another term of warranty
14 contract breach of which may give rise to a claim for damages but not to a
15 right to reject the goods and treat the contract as repudiated.

16 (2) Where a contract of sale is subject to any condition to be
17 fulfilled by the seller or buyer, the seller or buyer may waive the condition,
18 or may elect to treat such condition as a breach of warranty.

19 (3) Whether a stipulation in a contract of sale is a condition, or
20 warranty depends on each case on the construction of the contract.

21 (4) Where a contract of sale is not severable, and the buyer has
22 accepted the goods, or part of them, or where the contract is for specific
23 goods, the goods have passed to the buyer, the breach of any condition to be
24 fulfilled by the seller can only be treated as a breach of warranty..

25 (5) This clause shall not apply where fulfillment of any condition
26 or warranty, is excused by reason of impossibility to act by either party.

27 10.-(1) In a contract of sale there is an implied condition that the Implied terms of
28 seller has the legal right to sell the goods and that in the case of an agreement sales
29 to sell the seller has a legal right to sell the goods at the time when the goods
30 passed to the buyer.

1 (2) In a contract of sale there is an implied warranty that the buyer
2 shall have quiet possession of the goods and that the goods shall be free from
3 any charge or encumbrance.

Sales of
description

4 11. Where there is a contract for the sale of goods by description,
5 before the contract can be valid the goods must be the same with the goods
6 described.

Sale by sample

7 12.-(1) A contract of sale by sample is where there is a term in the
8 contract, express or implied, to use a sample at the time of making the offer to
9 the buyer and the buyer wholly relied on the sample in accepting the offer.

10 (2) In the case of a contract for sale by sample there is an implied
11 condition that the-

12 (a) bulk shall correspond with the sample in quality;

13 (b) buyer shall have right of comparing the bulk with the sample; and

14 (c) goods shall be free from any defect, rendering them un-
15 merchantable, which would not be apparent on reasonable examination of the
16 sample.

Implied condition
as to the quality
or fitness of goods

17 13.-(1) Where the buyer, expressly or impliedly, makes known to the
18 seller the particular purpose for which the goods are required, so as to show that
19 the buyer relies on the seller's skill or judgment, for the seller to supply, there is
20 an implied condition that the goods shall fit such purpose.

21 (2) Where goods are bought by description from a seller who deals in
22 goods of that description, whether he is the manufacturer or not, there is an
23 implied condition that the goods shall be of merchantable quality, except where
24 the buyer has examined the goods, to reveal defects in the goods.

25 (3) An implied warranty or condition as to quality or fitness for a
26 particular purpose depends on the custom of the transaction and the usage of
27 goods.

28 (4) An express warranty or condition does not negative a warranty or
29 condition implied by this Bill unless inconsistency can be proved.

1 PART II - EFFECTS OF CONTRACT

2 14. Where there is a contract for the sale of unascertained goods no Goods must be
3 property in the goods is transferred to the buyer unless goods are ascertained
4 ascertained.

5 15.-(1) Where there is a contract for the sale of specific or Property passes
6 ascertained goods the property in them is transferred to the buyer at such when intended
7 time as the parties to the contract intend it to be transferred. to be passed

8 (2) For the purpose of ascertaining the intention of the parties
9 regard shall be had to the terms of the contract, the conduct of the parties, and
10 the circumstances of the case.

11 16. Unless a different intention appears, the following are rules for Rules for
12 ascertaining the intention of the parties as to the time at which the property in ascertaining the
13 the goods is to pass to the buyer- intension of the
parties

14 (a) where there is an unconditional contract for the sale of specific
15 goods, in a deliverable state, the property in the goods passes to the buyer
16 when the contract is made, and it is immaterial whether the time of payment
17 or the time of delivery, or both, be postponed;

18 (b) where there is a contract for the sale of specific goods and the
19 seller is bound to do something to the goods, for the purpose of putting them
20 into a deliverable state, the property does not pass until such thing be done,
21 and the buyer has notice thereof;

22 (c) where there is a contract for the sale of specific goods in a
23 deliverable state, but the seller is bound to weigh, measure, test, or do some
24 other act or thing with reference to the goods for the purpose of ascertaining
25 the price, the property does not pass until such act or thing be done, and the
26 buyer has notice thereof;

27 (d) when goods are delivered to the buyer on approval or on sale or
28 return or other similar terms the property therein passes to the buyer-

29 (i) when he signifies his approval or acceptance to the seller or does
30 any other act adopting the transaction, and

1 (ii) if he does not signify his approval or acceptance to the seller but
2 retains the goods without giving notice of rejection, then, if a time has been
3 fixed for the return of the goods, on the expiration of such time, and, if no time
4 has been fixed, on the expiration of a reasonable time; and

5 (e) where-

6 (i) there is a contract for the sale of unascertained or future goods by
7 description and the goods are unconditionally appropriated to the contract,
8 either by the seller with the assent of the buyer, or by the buyer with the assent
9 of the seller, the property in the goods thereupon passes to the buyer if such
10 assent may be express or implied, and may be given either before or after the
11 appropriation is made, and

12 (ii) in pursuance of the contract, the seller delivers the goods to the
13 buyer or to a carrier or custodian, whether named by the buyer or not, for the
14 purpose of transmission to the buyer, and does not reserve the right of disposal,
15 he is deemed to have unconditionally appropriated the goods to the
16 contract.

Reservation of
right of disposal

17 17.-(1) Where there is a contract for the sale of specific goods or
18 where goods are subsequently appropriated to the contract, the seller may, by
19 the terms of the contract or appropriation, reserve the right of disposal of the
20 goods until certain conditions are fulfilled, in such case, notwithstanding the
21 delivery of the goods to the buyer, or to a carrier or custodian for the purpose of
22 transmission to the buyer, the property in the goods does not pass to the buyer
23 until the conditions imposed by the seller are fulfilled.

24 (2) Where goods are shipped, and by the bill of lading the goods are
25 deliverable to the order of the seller or his agent, the seller is, at the first
26 instance, deemed to reserve the right of disposal.

27 (3) Where the seller of goods draws on the buyer for the price, and
28 transmits the bill of exchange and bill of lading to the buyer together to secure
29 acceptance or payment of the bill of exchange, the buyer is bound to return the
30 bill of lading if he does not honour the bill of exchange, and if he wrongfully

1	retains the bill of lading the property in the goods does not pass to him.	
2	18. -(1) Unless otherwise agreed, the goods remain at the seller's	Risk passes with the goods
3	risk until the property therein is transferred to the buyer, but when the	
4	property therein is transferred to the buyer, the goods are at the buyer's risk	
5	whether delivery has been made or not.	
6	(2) Where delivery has been delayed through the fault of either	
7	buyer or seller the goods are at the risk of the party in fault as regards any loss	
8	which might not have occurred but for such fault.	
9	(3) The provision of this clause shall not affect the duties or	
10	liabilities of either seller or buyer as a custodian of the goods of the other	
11	party.	
12	19. Subject to the provisions of this Bill, where goods are sold by a	Sale by person, not the owner of the goods
13	person who is not the owner of the goods, and who does not sell them under	
14	the authority or with the consent of the owner, the buyer acquires no better	
15	title to the goods than the seller had, unless the owner of the goods is by his	
16	conduct, is precluded from denying the seller's authority to sell.	
17	20. Where goods are sold in a market overt, the buyer acquires a	Market overt
18	good title to the goods, where he buys them in good faith and without notice	
19	of any defect or want of title on the part of the seller.	
20	21. When the seller of goods has a voidable title thereto, but his title	Sale under voidable title
21	has not been avoided at the time of the sale, the buyer acquires a good title to	
22	the goods, where he buys them in good faith and without notice of the seller's	
23	defect of title.	
24	22. Where goods have been stolen and the offender is convicted,	Reverting of stolen goods to real owner after conviction
25	the goods so stolen reverts in the person who was the owner of the goods, or	
26	his personal representative, notwithstanding any intermediate dealing with	
27	them, either by sale in market overt or otherwise.	
28	23. -(1) Where a person having sold goods continues in possession	Sale by seller or buyer in possession after sale
29	of the goods, or of the documents of title to the goods, sells the goods, and	
30	delivers the possession to any person in good faith and without notice of the	

1 previous sale, shall have a good title.

2 (2) Where a person having bought or agreed to buy goods obtains,
3 with the consent of the seller, possession of the goods or the documents of title
4 to the goods, the delivery or transfer by that person, or by an agent acting for
5 him, of the goods or documents of title, under any sale, pledge, or other
6 disposition thereof, to any person receiving the same in good faith and without
7 notice of any lien or other right of the original seller in respect of the goods,
8 shall have a good title.

Effect writs of
execution

9 **24,-(1)** A writ of execution against goods shall bind the goods of the
10 debtor as from the time when the writ is delivered to the bailiff to be
11 executed.

12 (2) The writ shall not prejudice the title to such goods acquired by any
13 person in good faith, and for valuable consideration, unless such person had, at
14 the time when he acquired his title, notice that such writ or any other writ by
15 virtue of which the goods are under execution, might be seized or attachment
16 made had been delivered to and remained unexecuted in the hands of the
17 bailiff.

18 PART III - PERFORMANCE OF THE CONTRACT

Duties of seller
and buyer

19 **25.** The seller is to deliver the goods, and of the buyer is to accept and
20 pay for them, in accordance with the terms of the contract of sale.

Payment of the
price and delivery
of the goods are
to be made
concurrently

21 **26.** Unless otherwise agreed, delivery of the goods and payment of
22 the price are concurrent conditions the seller must be ready and willing to give
23 possession of the goods to the buyer in exchange for the price and the buyer
24 must be ready and willing to pay the price in exchange for possession of the
25 goods.

Rules as to
delivery of goods

26 **27,-(1)** Whether it is for the buyer to take possession of the goods or
27 for the seller to send them to the buyer is a question depending in each case on
28 the contract, express or implied, between the parties.

29 (2) Apart from any such contract, express or implied, the place of
30 delivery is the seller's place of business, if he have one, and if not, his residence.

1 (3) Where the contract is for the sale of specific goods, which to the
2 knowledge of the parties when the contract is made are in some other place,
3 then that place is the place of delivery.

4 (4) Where under the contract of sale the seller is bound to send the
5 goods to the buyer, but no time for sending them is fixed, the seller is bound
6 to send them within a reasonable time.

7 (5) Where the goods at the time of sale are in the possession of a
8 third person, there is no delivery by seller to buyer unless such third person
9 acknowledges to the buyer that he holds the goods on his behalf and that he
10 will deliver same to the buyer as soon as the buyer pays the price.

11 (6) Demand or tender of delivery may be treated as ineffectual
12 unless made at a reasonable hour.

13 (7) Unless otherwise agreed, the expenses of and incidental to
14 putting the goods into a deliverable state must be borne by the seller.

15 **28.-(1)** Where the seller delivers to the buyer a quantity of goods
16 less than he contracted to sell, the buyer may reject them, but if the buyer
17 accepts the goods so delivered he must pay for them at the contract rate.

Delivery of
wrong quantity

18 (2) Where the seller delivers to the buyer a quantity of goods larger
19 than he contracted to sell, the buyer may accept the goods included in the
20 contract and reject the rest, or he may reject the whole, if the buyer accepts
21 the whole of the goods so delivered he must pay for them at the contract
22 rate.

23 (3) Where the seller delivers to the buyer the goods he contracted to
24 sell mixed with goods of a different description not included in the contract,
25 the buyer may accept the goods which are in accordance with the contract
26 and reject the rest, or he may reject the whole if the buyer accepts the whole
27 of the goods so delivered he must pay for them at the contract rate.

28 (4) The provisions of this section are subject to any usage of trade,
29 special agreement, or course of dealing between the parties.

Delivery in
instalment

1 **29.-** (1) Unless otherwise agreed, the buyer of goods is not bound to
2 accept delivery thereof by installments.

3 (2) Where there is a contract for the sale of goods to be delivered by
4 stated installments, which are to be separately paid for and-

5 (i) the seller makes defective deliveries in respect of one or more
6 installments, or

7 (ii) the buyer neglects or refuses to take delivery of or pay for one or
8 more installments, it is a question in each case depending on the terms of the
9 contract and the circumstances of the case, whether the breach of contract is a
10 repudiation of the whole contract or whether it is a severable breach giving rise
11 to a claim for compensation but not to a right to treat the whole contract as
12 repudiated.

Delivery to
carrier

13 **30.-**(1) Where, in pursuance of a contract of sale, the seller is
14 authorised or required to send the goods to the buyer, to a carrier, whether
15 named by the buyer or not, for the purpose of transmission to the buyer, the
16 goods are deemed to be delivered to the buyer on handing over to the
17 carrier.

18 (2) Unless otherwise authorised by the buyer, the seller must make
19 such contract with the carrier on behalf of the buyer as may be reasonable
20 having regard to the nature of the goods and the other circumstances of the
21 case, if the seller omit to do so, and the goods are lost or damaged in course of
22 transit, the buyer may decline to treat the delivery to the carrier as a delivery to
23 himself, or may hold the seller responsible for the damages.

24 (3) Unless otherwise agreed, where goods are sent by the seller to the
25 buyer by route involving sea transit, under circumstances in which it is usual to
26 insure, the seller must give such notice to the buyer as may enable him to insure
27 them during their sea transit, and, if the seller fails to do so, the goods shall be
28 deemed to be at his risk during such sea transit.

Risk where goods
are delivered at
distant place

29 **31.** Where the seller of goods agrees to deliver them at his own risk, at
30 a place other than that where goods are sold, the buyer must, nevertheless,

1 unless otherwise agreed, take any risk of deterioration in the goods
2 necessarily incident to the course of transit.

3 32. Where goods are delivered to the buyer, which he has not
4 previously examined, he is not deemed to have accepted them unless and
5 until he has had a reasonable opportunity of examining them for the purpose
6 of ascertaining whether they are in conformity with the contract.

Buyer's right of
examination of
the goods

7 33. The buyer is deemed to have accepted the goods when-

Acceptance

8 (i) he intimates to the seller that he has accepted them,

9 (ii) the goods have been delivered to him, and he does any act in
10 relation to them which is inconsistent with the ownership of the seller, or

11 (iii) after the lapse of a reasonable time, he retains the goods
12 without intimating to the seller that he has rejected them.

13 34. Unless otherwise agreed, where goods are delivered to the
14 buyer, and he refuses to accept them having the right to do so, he is not bound
15 to return them to the seller, but it is sufficient if he intimates to the seller that
16 he refuses to accept them.

Buyer not bound
to return the
rejected goods

17 35. When the seller is ready and willing to deliver the goods, and
18 requests the buyer to take delivery, and the buyer does not within a
19 reasonable time after such request to take delivery of the goods, he is liable
20 to the seller for any loss occasioned by his neglect or refusal to take delivery,
21 and also for a reasonable charge for the care and custody of the goods and the
22 seller may exercise rights to repudiation of the contract.

Liability of buyer
for neglecting or
refusing to take
delivery of goods

23 PART IV - RIGHTS OF UNPAID SELLER AGAINST THE GOODS

24 36,-(1) Subject to the provisions of this Bill, and any other law,
25 notwithstanding that the goods may have passed to the buyer, the unpaid
26 seller of goods may exercise-

Rights of unpaid
seller

27 (a) right to retain the goods for the price while he is in possession
28 of them;

29 (b) in case of the insolvency of the buyer, a right of stopping the
30 goods in transition after he has parted with the possession of them until

1 payment is made; and

2 (c) right of re-sale.

3 (2) Subject to the provisions of this Bill, the unpaid seller's may
4 exercise the rights in subclause (1) of this clause where the-

5 (a) goods have been sold without any stipulation as to credit;

6 (b) goods have been sold on credit, but the term of credit has expired;

7 (c) buyer becomes insolvent.

8 (3) The seller may exercise right to retain the goods notwithstanding
9 that he is in possession of the goods as agent or custodier for the buyer.

10 4) Where an unpaid seller has made part delivery of the goods, he may
11 exercise his right to retain the remainder of the goods, unless such part delivery
12 has been made under such circumstances as to show an agreement to waive the
13 right of retention.

Termination of
right of retention

14 37.-(1) The unpaid seller of goods loses his right to retain the goods
15 when the-

16 (a) seller delivers the goods to a carrier or custodier for the purpose of
17 transmission to the buyer without reserving the right of disposal of the goods;

18 (b) buyer or his agent lawfully obtains possession of the goods; or

19 (c) seller waives the right.

20 (2) The unpaid seller of goods, having a right of retention does not
21 lose his right of retention by reason only that he has obtained judgment for the
22 price of the goods.

Duration of
transit

23 38.-(1) Goods are deemed to be in course of transit from the time
24 when they are delivered to a carrier by land or water, or custodier for the
25 purpose of transmission to the buyer; until the buyer, or his agent in that behalf,
26 takes delivery of them from such carrier or custodier.

27 (2) If the buyer or his agent in that behalf obtains delivery of the goods
28 before their arrival at the appointed destination.

29 (3) If, after the arrival of the goods at the appointed destination, the
30 carrier or custodier acknowledges to the buyer, or his agent, that he holds the

1 goods on his behalf and continues in possession of them as custodier for the
2 buyer, or his agent, the transit is at an end, and it is immaterial that a further
3 destination for the goods may have been indicated by the buyer.

4 (4) If the goods are rejected by the buyer, and the carrier or
5 custodier continues in possession of them, the transit is not deemed to be at
6 an end, even if the seller has refused to receive them back.

7 (5) Where the carrier or custodier of the buyer wrongfully refuses
8 to deliver the goods to the buyer, or his agent in that behalf, the transit is
9 deemed to be at an end.

10 **39.-(1)** The unpaid seller may exercise his right of stoppage in
11 transition either by taking actual possession of the goods, or by giving notice
12 of his claim to the buyer, carrier or custodier in whose possession the goods
13 are.

How stoppage on
transition is made

14 (2) For the notice to be effectual, it must be given at such time and
15 under such circumstances that the principal, by the exercise of reasonable
16 diligence, may communicate it to his servant or agent in time to prevent
17 delivery to the buyer.

18 (3) When notice of stoppage in transition is given by the seller to
19 the buyer, carrier, or custodier in possession of the goods, he must re-deliver
20 the goods to, or according to the directions of, the seller, the expenses of such
21 redelivery must be borne by the seller.

22 **40.-(1)** Subject to the provisions of this Bill, the unpaid seller's
23 right of stoppage of goods on transition is not affected by any sale, or other
24 disposition of the goods which the buyer may have made, unless the seller
25 has assented the transaction.

Effect of sub-sale
or pledge by the
buyer

26 (2) Where a document of title to goods has been lawfully
27 transferred to any person as buyer or owner of the goods, and that person
28 conducted the transaction in good faith and for valuable consideration, the
29 unpaid seller's right will be affected.

Sale not generally
rescinded by
stoppage on
transition

1 41.-(1) Subject to the provisions of this Bill a contract of sale is not
2 rescinded by mere exercise of right of stoppage on transition by the unpaid
3 seller where the unpaid seller has re-sells the goods, the buyer acquires a good
4 title, if made in good faith without the knowledge of the defect in the title,
5 against the original buyer.

6 (2) Where the goods are of a perishable nature, or where the unpaid
7 seller gives notice to the buyer of his intention to re-sell, and the buyer does not,
8 within a reasonable time, pay or tender the price, the unpaid seller may re-sell
9 the goods and recover from the original buyer damages for any loss occasioned
10 by his breach of contract.

11 (3) Where the seller expressly reserves the right of re-sale in case the
12 buyer should make default, and on the buyer making default, re-sells the goods,
13 the original contract of sale is thereby rescinded, but without prejudice to any
14 claim the seller may have for damages.

15 PART V - ACTIONS FOR BREACH OF CONTRACT

Action for the
breach of contract

16 42.-(1) Where, under a contract of sale, the property in the goods has
17 passed to the buyer, and the buyer wrongfully neglects or refuses to pay for the
18 goods according to the terms of the contract, the seller may maintain an action
19 against him for the price of the goods.

20 (2) Where, under a contract of sale, the price is payable on a day,
21 certain irrespective of delivery, and the buyer wrongfully neglects or refuses to
22 pay such price, the seller may maintain an action for the price, although the
23 property in the goods has not passed, and the goods have not been appropriated
24 to the contract.

Damages for
non acceptance

25 43.-(1) Where the buyer wrongfully neglects or refuses to accept and
26 pay for the goods, the seller may maintain an action against him for damages
27 for non-acceptance.

28 (2) The measure of damages is the estimated loss directly and
29 naturally resulting, in the ordinary course of events, from the buyer's breach of
30 contract.

1 (3) Where there is an available market for the goods in question the
2 measure of damages is to be ascertained by the difference between the
3 contract price and the market or current, price at the time or times when the
4 goods ought to have been accepted or, if no time was fixed for acceptance,
5 then at the time of the refusal to accept.

6 **44.**-(1) Where the seller wrongfully neglects or refuses to deliver
7 the goods to the buyer, the buyer may maintain an action against the seller
8 for damages for non delivery.

Damages for non
delivery

9 (2) The measure of damages is the estimated loss, directly and
10 naturally, resulting, in the ordinary course of events, from the seller's breach
11 of contract.

12 (3) Where there is an available market for the goods in question the
13 measure of damages is to be ascertained by the difference between the
14 contract price and the market or current price of the goods at the time when
15 they ought to have been delivered, or, if no time was fixed, then at the time of
16 the refusal to deliver.

17 **45.** In any action for breach of contract to deliver specific or
18 ascertained goods the court may, if it thinks fit, on the application of the
19 plaintiff, by its judgment or order direct that the contract shall be performed
20 specifically, without giving the defendant the option of retaining the goods
21 on payment of damages.

Specific
performance

22 **46.**-(1) Where there is a breach of warranty by the seller, or where
23 the buyer elects, or is compelled, to treat any breach of a condition, on the
24 part of the seller, as a breach warranty, the buyer is not by reason only of such
25 breach entitled to reject the goods; but he may-

Remedy for
breach of warranty

26 (a) set up against the seller the breach of warranty in diminution or
27 extinction of the price; or

28 (b) maintain an action against the seller for damages for the breach
29 of warranty.

30 (2) The measure of damages for breach of warranty is the estimated

1 loss, directly and naturally, resulting, in the ordinary course of events, from the
2 breach of warranty.

3 (3) In the case of breach of warranty of quality such loss shall be
4 ascertain by calculating the difference between the value of the goods at the
5 time of delivery to the buyer and the value they would have had if they had
6 answered to the warranty.

7 (4) The fact that the buyer has set up the breach of warranty in
8 diminution or extinction of the price does not prevent him from maintaining an
9 action for the same breach of warranty if he has suffered further damage.

Interest and
special damages

10 47. The provision of this Bill shall not affect the right of the buyer and
11 or the seller to recover interest or special damages or to recover money paid
12 where the consideration for the payment has failed.

13 PART VI - SUPPLEMENTARY

Execution of
implied terms
and conditions

14 48. Where any right, duty, or liability would arise under a contract of
15 sale by implication of law, it may be negated or varied by express agreement
16 or by the course of dealing between the parties, or by usage, if the usage be such
17 as to bind both parties to the contract.

Sales of auction

18 49. In the case of a sale by auction-

19 (a) where goods are put up for sale by auction in lots, each lot is
20 deemed to be the subject of a separate contract of sale;

21 (b) a sale by auction is complete when the auctioneer announces its
22 completion by the fall of the hammer, or in other customary manner;

23 (c) a bidder may retract his bid before final announcement;

24 (d) where a sale by auction is not notified to be subject to a right to bid
25 on behalf of the seller, it shall not be lawful for the seller to bid himself or to
26 employ any person to bid at such sale, or for the auctioneer knowingly to take
27 any bid from the seller or any such person;

28 (e) a sale by auction may be notified to be subject to a reserve or upset
29 price, and a right to bid may also be reserved expressly by or on behalf of the
30 seller; and

1 (f) any sale contravening this rule may be treated as fraudulent by
2 the buyer.

3 50, The Sales of Goods Act of 1893 is repealed. Repeal

4 51. The provision of clause 50 of this Bill shall not affect anything Savings
5 done or suffered, or any right, title, or interest acquired or accrued before the
6 commencement of this Bill, or any legal proceeding or remedy in respect of
7 any such thing, right, title or interest.

8 52. In this Bill- Interpretation

9 "Legal representative" includes Counsel, Parents, Guardians, Trustees;

10 "Market overt" is a usual place where particular goods are bought or sold;

11 "Goods" include all chattels and personal things other than things in action
12 and money;

13 "Necessaries" includes food items and health care drugs;

14 "Bailiff" includes any officer charged with the enforcement of a writ of
15 execution;

16 "Reasonable Time" is a question of fact that shall be determine by nature of
17 the transaction;

18 "Reasonable Hour" What is a reasonable hour is a question of fact;

19 "Seller" includes any person who is in the position of a seller, as, for
20 instance, an agent of the seller to whom the bill of lading has been endorsed,
21 or a consignor or agent who has himself paid, or is directly responsible for,
22 the price.

53. This Bill may be cited as Sales of Goods Bill, 2016. Citation

EXPLANATORY MEMORANDUM

The Bill seeks to repeal Sales of Goods Act of 1893 and enact Sales of Goods Bill 2015 to provide for regulation of sales of goods in Nigeria.