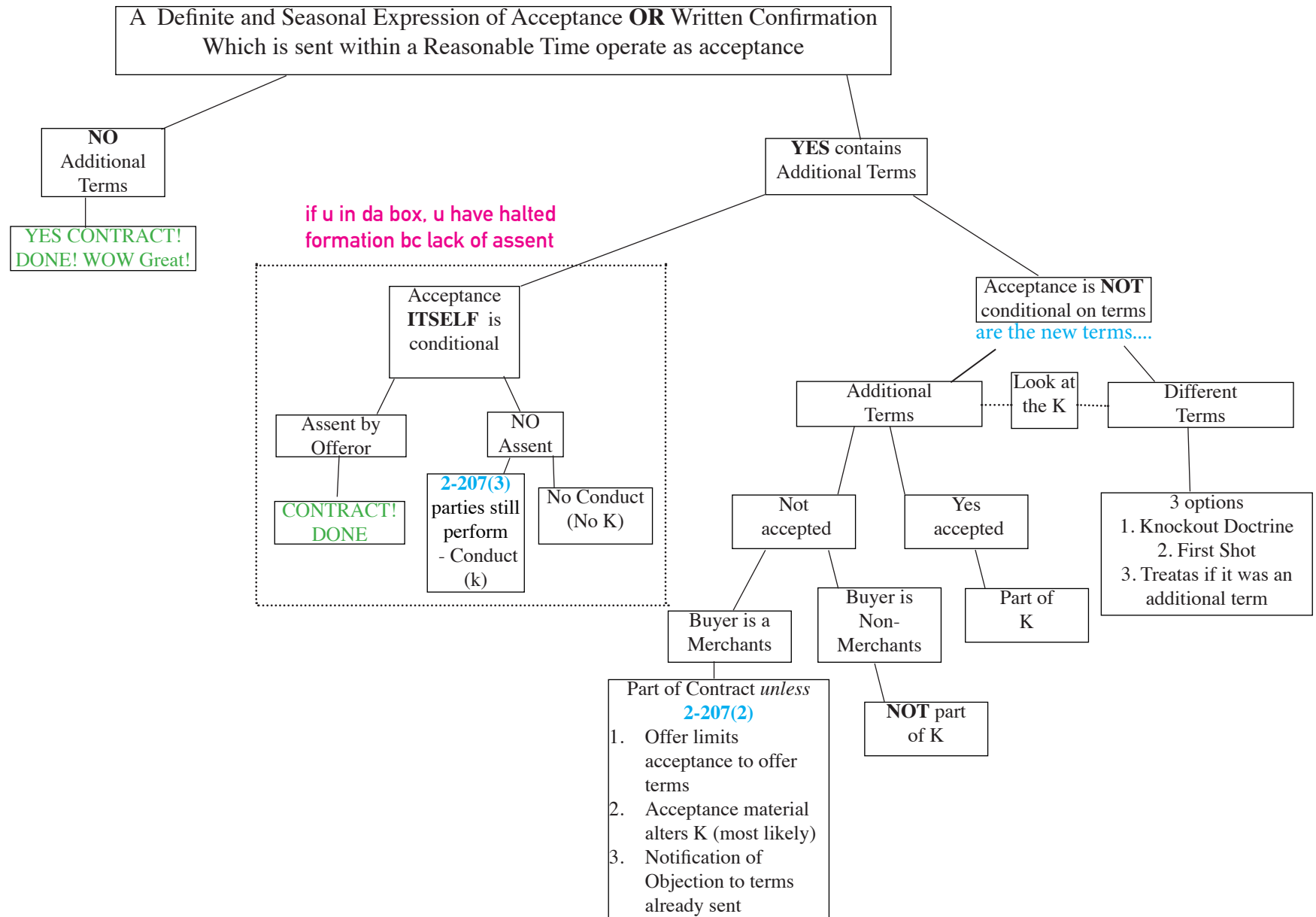


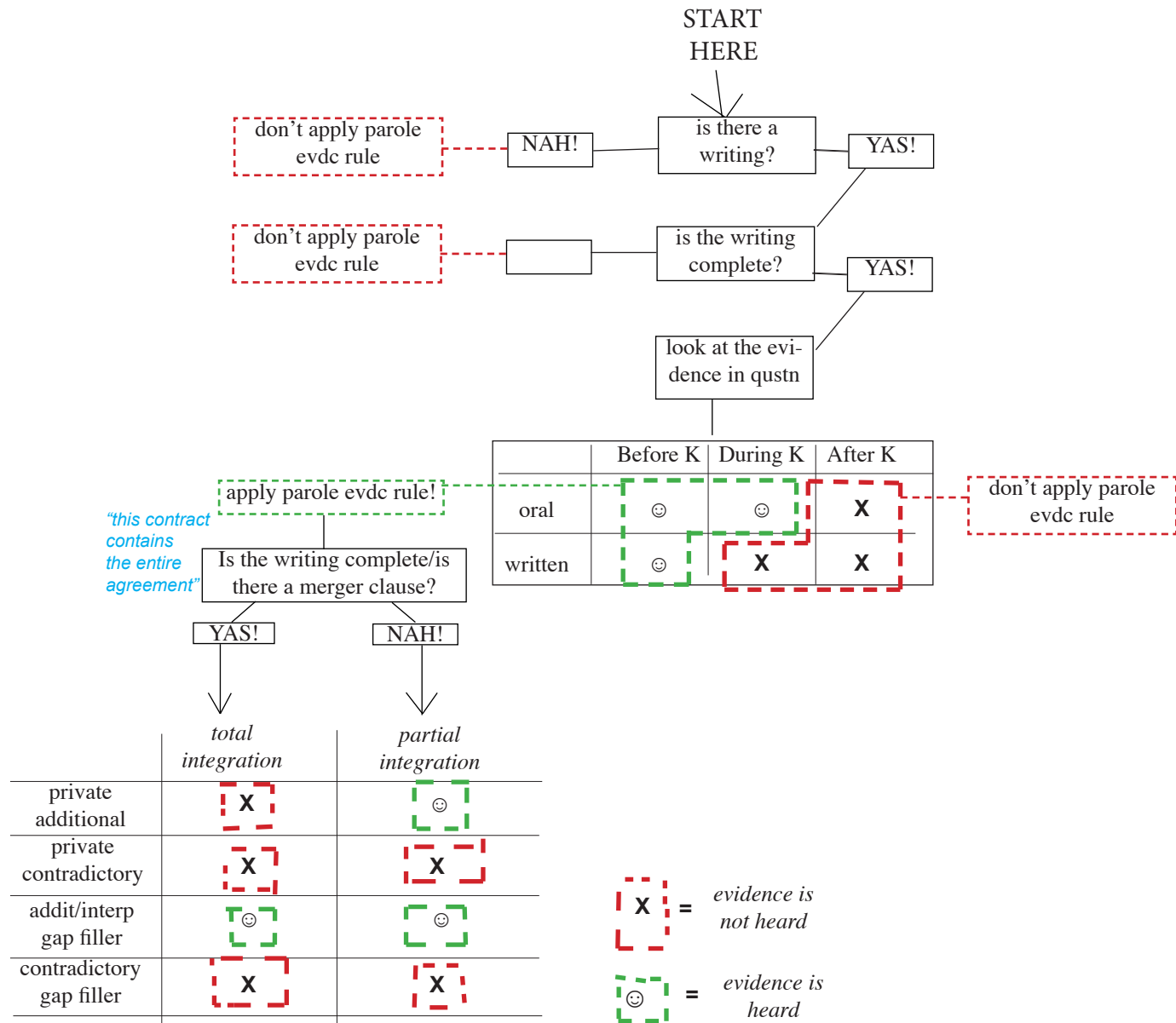
SAM SLAYS SALES

FALL - 2018

FALL - 2018

2-207
THE BATTLE OF THE FORMZ





WARRANTIEZ

EXPRESS WARRANTIES

2-313

- STATUTE

- affirmation
- description of good
- sample/model of good

IMPLIED WARRANTIES OF MERCHANTABILITY

2-314

two things must happen:

1. K for sale of goods
2. Seller must be merchant

the product sold will work the way that they were intended to work/fit for ordinary purpose/etc

IMPLIED FIT 4 PP

2-315

1. K for sale of goods
2. Any seller (not merchant)
3. Particular Purpose that the buyer sees in the goods
4. Seller must objectively know that the buyer is getting that good for the special reason **AND** buyer must rely on seller's explanation of why good meets buyer's special needs

FINANCE LEASES

2A-315

- STATUTE

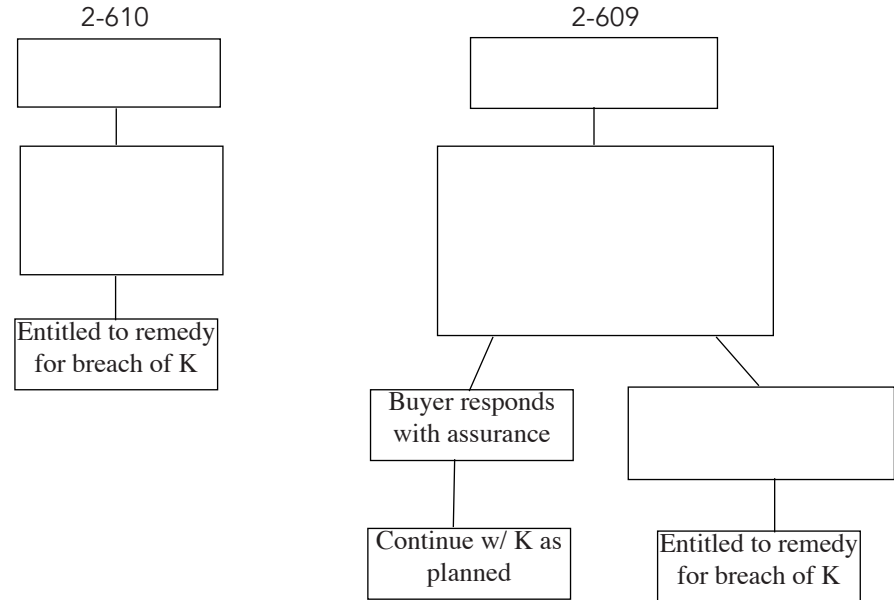
- affirmation
- description of good
- sample/model of good

Hierarchy of Contractual Interpretation

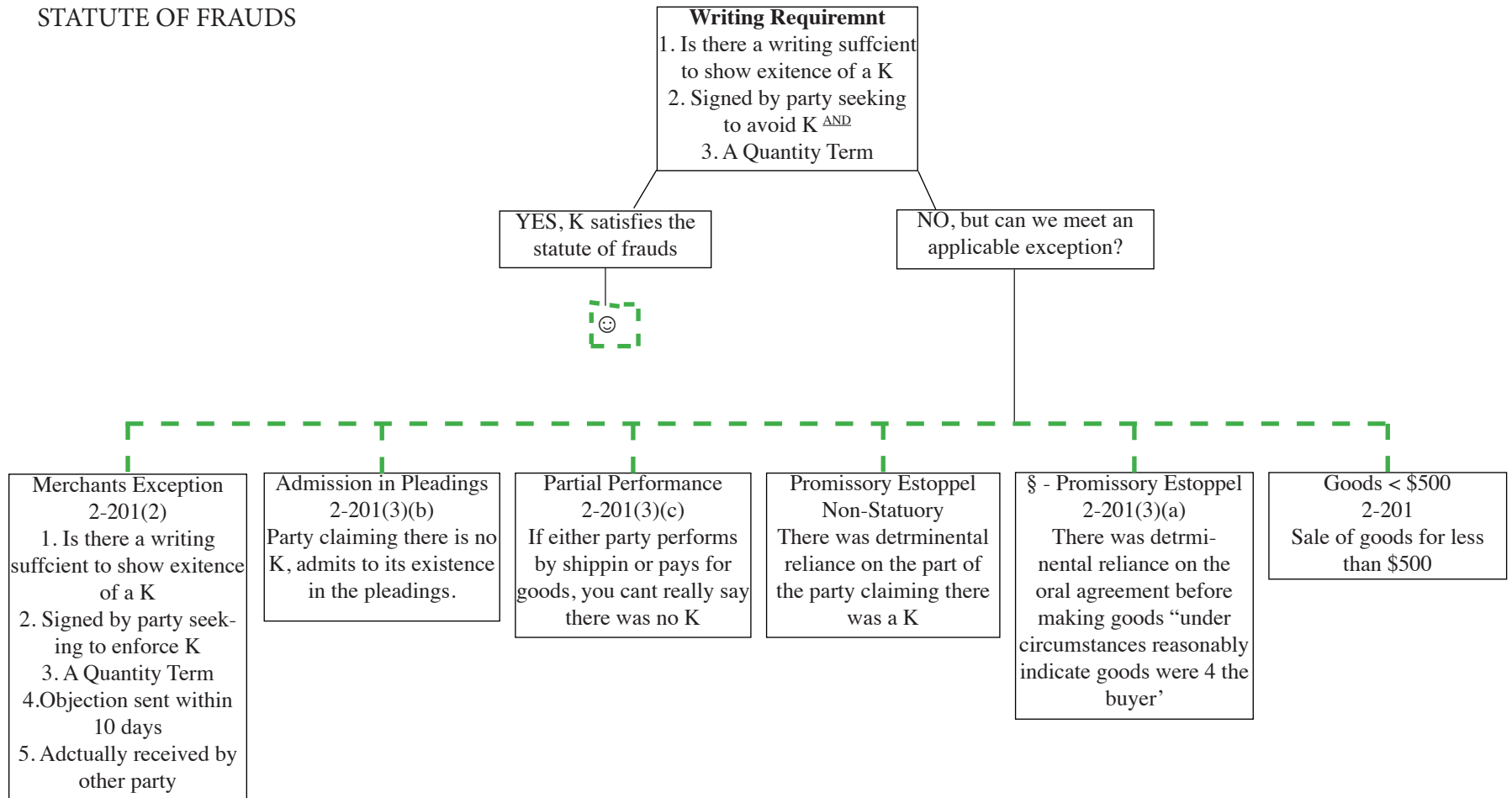
1. the Agreement
2. Course of Performance
1-303, 2-208
3. Course of Dealing
1-303, 2-208
4. Trade Usage
1-303, 2-208
5. UCC Gap Fillers

ANTICIPATORY REP v. PROSP INAB. 2 PERF

Did the buyer....



STATUTE OF FRAUDS



QUALITY

- Express Warranty** - Any Seller
 - Express statement about the good
 - Description of good was basis of the bargain
 - Sample/model good set standard for good
- Implied Warranty of Merchantability** - Just Merchants
 - Sale for K of goods
 - By a Merchant
- Implied Warranty of Fitness 4 Particular Purpose**
 - Sale for K of goods
 - Particular Purpose [not ordinary use], seller must be aware of buyer's necessity for particular use
 - Buyer relies on sellers affirmation that goods r fit
 - Any Seller

Step One:
Was a warranty created?

TITLE

- Warranty of Title** - promising any rights of seller, are now buyer's rights.
 - Good Title* - sale of goods, transferring all rights from someone with good title
 - Void Title* - resulting from the purchase of title from someone who did not have good title (thief)
 - Voidable Title* - resulting from someone wrongfully gaining good title from a seller (con man)
 - Entrustment Doctrine* - when u entrust ur goods to a merchant who mistakenly sells ur good to a good faith buyer in ordinary course of bis, resulting in good title for the buyer.

FINANCE LEASES

- Finance Lease** - has 3 parties involved
- Supplier* - party that supplies the goods that will be leased to the lessee
 - Lessor* - (the bank) role is strictly one of financing and has little to do with goods themselves (so no implied warranties)
 - Lessee* - the party that wants to use the goods the lessor is acquiring.
- Lessee as Beneficiary of Supply Contract** - benefit of supplier's promises and warranties to lessor extend to the lessee
 - Irrevocable Promises: Hell or High Water Clause** - the lessee's promises under the lease contract become irrevocable and independent of the lessee's acceptance of the goods. U must continue to pay lessor, even if item breaks!
 - Express Warranty**
 - Express statement about the good
 - Description of good was basis of the bargain
 - Sample/model good set standard for good

DISCLAIMING QUALITY WARRANTIES

- Express Warranty**
 - The same conduct/language that created the express warranty can be used to limit the warranty.
- Implied Warranties**
 - General *As Is* Language
 - Specific Language
 - Merchantability - must say "*merchantability*", in writing, conspicuous
 - Fit 4 PP - in writing, conspicuous
 - Buyer's Examination - Disclaims to extent of exam
 - Parties Agree/Course of Dealing/Course of Perform

Step Two:
Can we disclaim warranty?

DISCLAIMING TITLE WARRANTIES

- Specific Language** - in writing, conspicuous
- Buyer has reason to know that seller did not actually have title at time of sale/contracting**

DISCLAIMING FINANCE LEASE WARRANTIES

- Express Warranty**
 - The same conduct/language that created the express warranty can be used to limit the warranty.
- CANT DISCLAIM Hell or High Water Clause**

Does the Person bringing suit have privity?

Vertical Privity

- The ability of a buyer to sue a seller other than the person who sold it to him (aka manufacturer) under a breach of warranty claim.
- Privity runs with the K, however, when the seller is sued by the buyer, he can "*vouch in*" the manufacturer. If the manufacturer refuses to come into the suit, he is bound by first court and is now subject to suit by the seller.

Horizontal Privity

- The ability of a non-buyer to who uses or is affected by a product to sue a seller for breach of warranty.
- Jurisdictional Approach

ALTA

Any natural person who is in the family or household or who is a guest reasonably expected to use good and is injured *in person* as a result of use.
(Majority)
**only bodily injury

ALTB

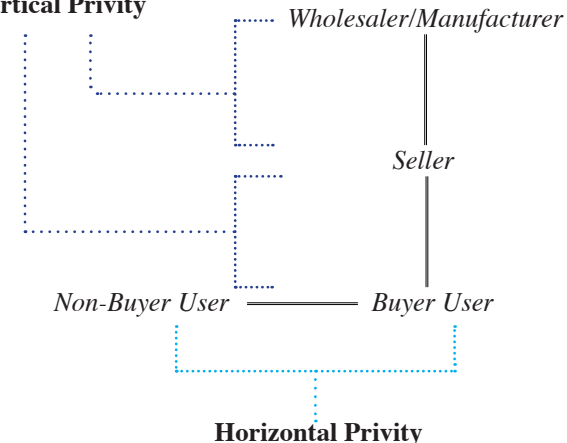
Any natural person who is reasonably expected to use good and is injured *in person* as a result of use.
**only bodily injury

ALTB

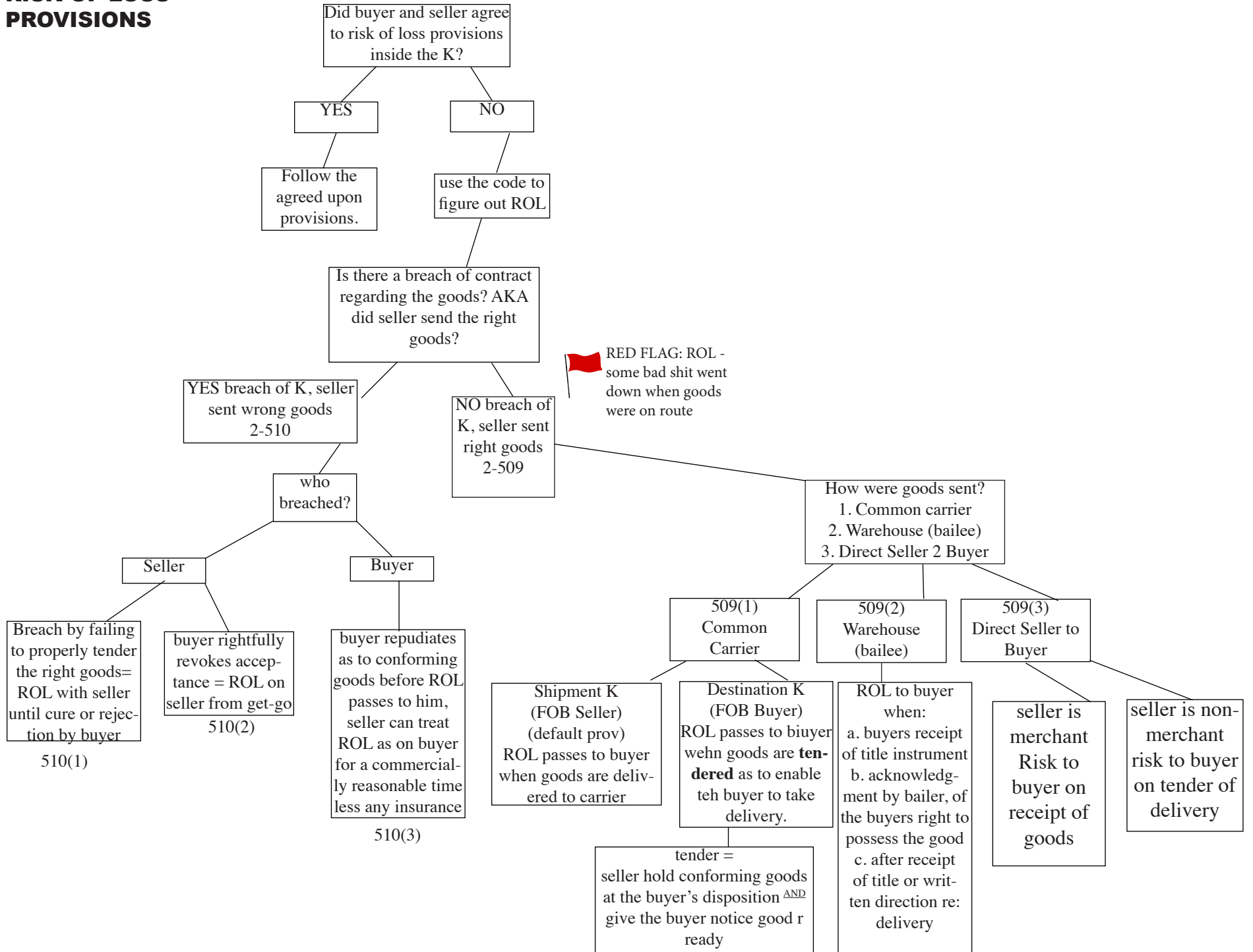
Any natural person who is reasonably expected to use good and is injured *in person OR financially* as a result of use.
**any injury - fiscal or body

Step Three:
Any Defenses?

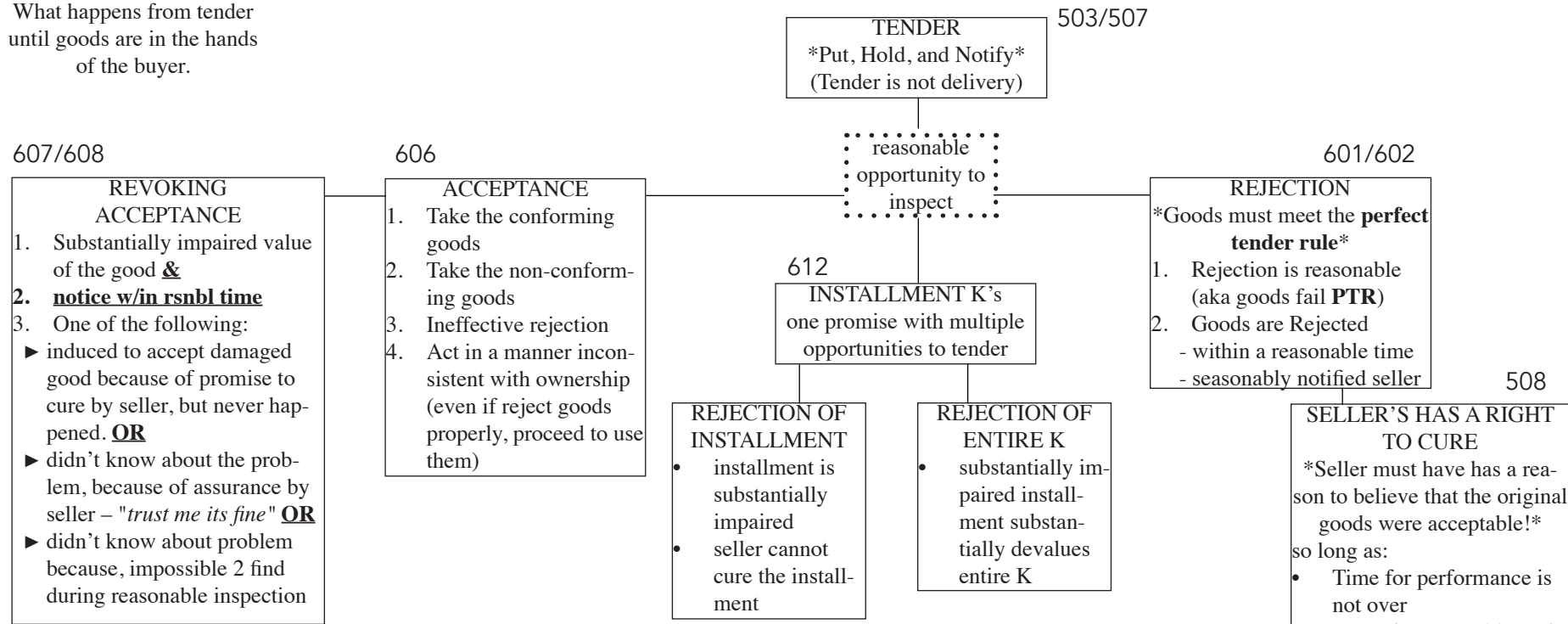
Vertical Privity



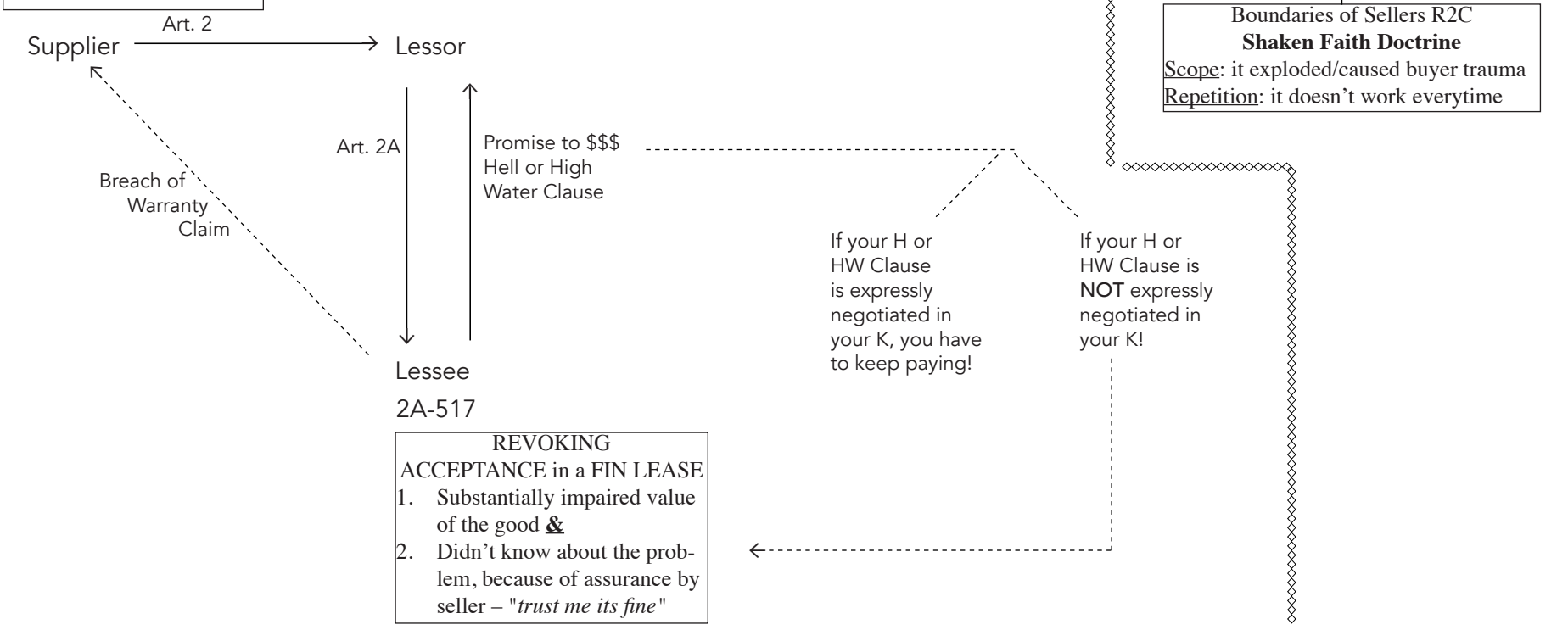
RISK OF LOSS PROVISIONS



What happens from tender until goods are in the hands of the buyer.

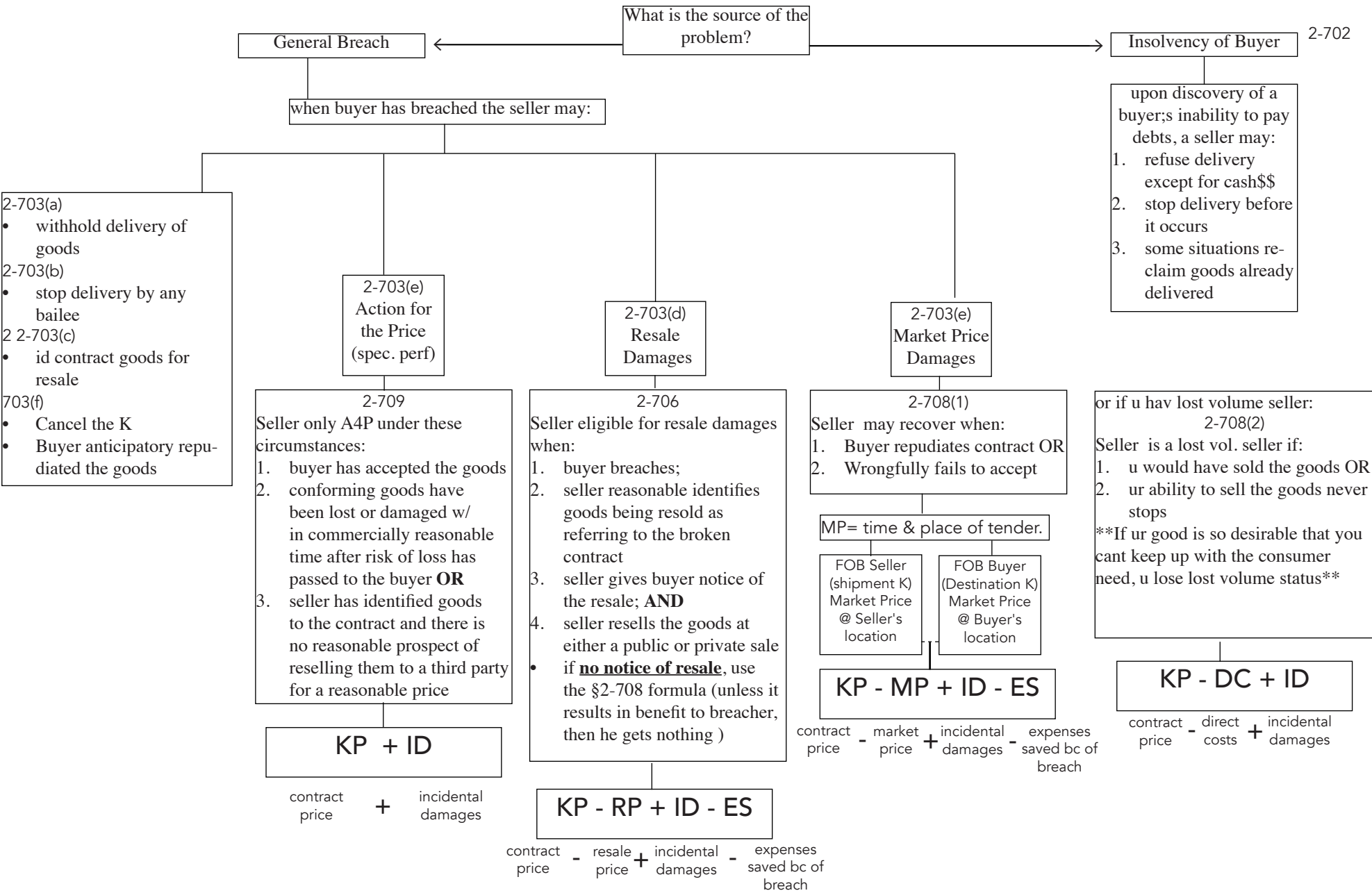


What about a finance lease?



SELLERS REMEDIES- WHEN THE BUYER BREACHES

*** SELLER NEVER GET CONSEQUENTIAL DAM**



SELLERS REMEDIES
FORUMLAZ

2-703(e)
Action for
the Price
(spec. perf)

$$KP + ID$$

contract price incidental damages

Incidental Damages
any commercially reasonable charges, expenses, or commissions incurred in stopping delivery, in the transportation, care and custody of goods after the buyer's breach, in connection with return/resale/otherwise resulting from the breach

2-703(d)
Resale
Damages

$$KP - RP + ID - ES$$

contract price resale price incidental damages expenses saved bc of breach

Expenses Saved bc of Breach
any commercially reasonable expenses that were saved by seller, because they no longer need to perform on K. Ex. sale of car to buyer in different state requires seller to pay shipping costs. By now selling locally, no longer incur costs related 2 shipping

2-703(e)
Market Price
Damages

$$KP - MP + ID - ES$$

contract price market price incidental damages expenses saved bc of breach

MP= time & place of tender.

FOB Seller
(shipment K)
Market Price
@ Seller's
location

FOB Buyer
(Destination K)
Market Price
@ Buyer's
location

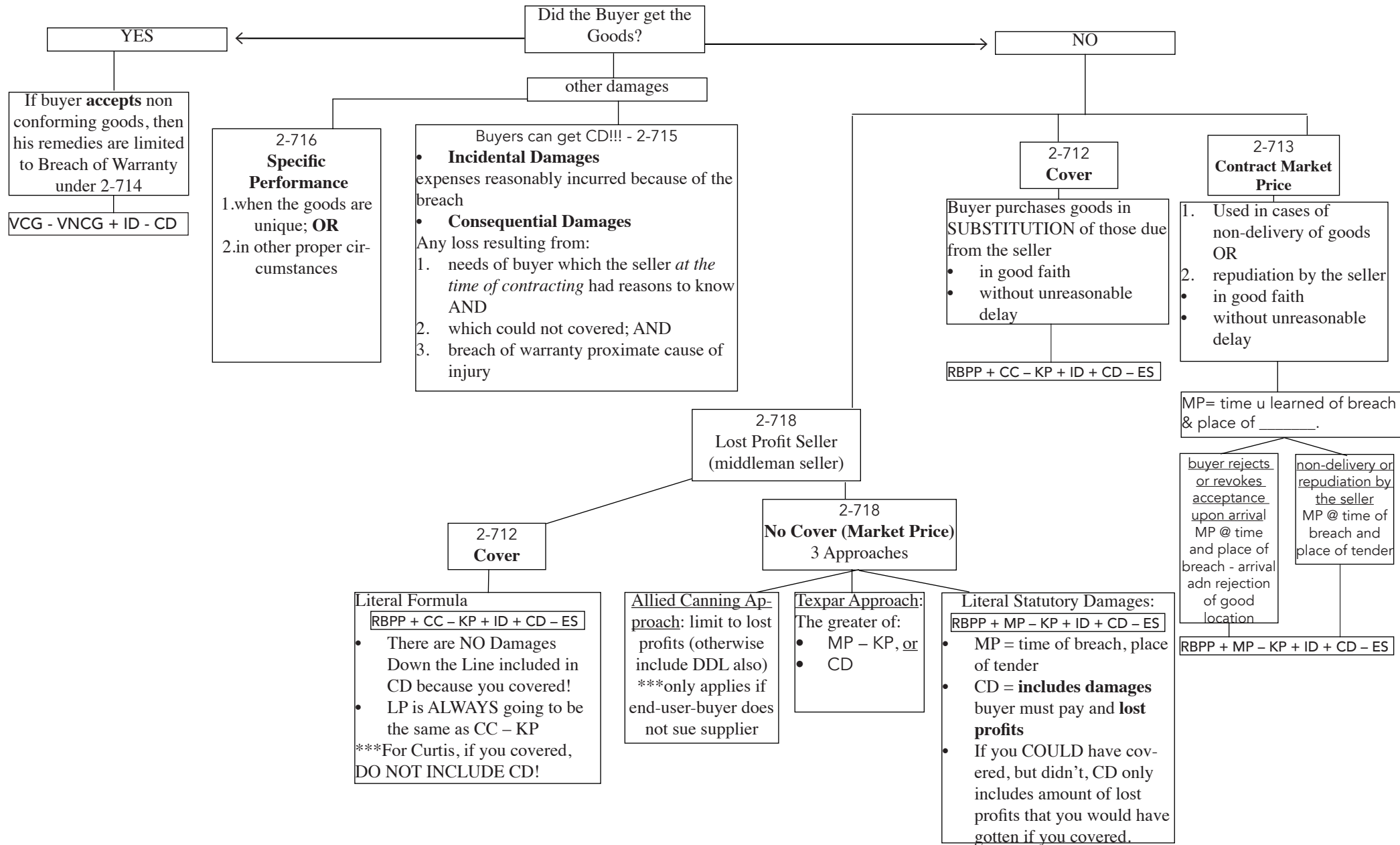
2-708(2)
Lost Profit
Seller
Damages

$$KP - DC + ID$$

contract price direct costs incidental damages

fixed costs	must be paid for regardless of sale, ex. utility bills, salaries, rent, insurance
direct costs	fixed costs affiliated with the specific production/assurance/delivery of the good at issue

BUYERS REMEDIES- WHEN THE BUYER BREACHES
*****BUYERS CAN GET CONSEQUENTIAL DAM****



2-714
 Breach of Warranty Dam-
 ages for Buyer Accepts
 Non-Conforming/Fail to
 Revoke

$$\text{VCG} - \text{VNCG} + \text{ID} - \text{CD}$$

value of conforming good (k Price) value of non-conforming good incidental damages consequential damages

 difference of these should be the cost to fix or replace the good

consequential damages - naturally and foreseeable damages arising from the breach including lost profits and damages down the line

2-712
 Cover

$$\text{RBPP} + \text{CC} - \text{KP} + \text{ID} + \text{CD} - \text{ES}$$

return of purchase price to buyer cost of cover contract price incidental damages consequential damages expenses saved

2-713
 Contract Market Price

$$\text{RBPP} + \text{MP} - \text{KP} + \text{ID} + \text{CD} - \text{ES}$$

return of purchase price to buyer market price contract price incidental damages consequential damages expenses saved

MP= time & place of tender.

FOB Seller
 (shipment K)
 Market Price
 @ Seller's
 location

FOB Buyer
 (Destination K)
 Market Price
 @ Buyer's
 location

