

**TITLE 5: UNIFORM COMMERCIAL CODE**  
**DIVISION 2: SALES**

**§ 2314. Implied Warranty: Merchantability; Usage of Trade.**

(1) Unless excluded or modified (5 CMC § 2316), a warranty that the goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind. Under this section the serving for value of food or drink to be consumed either on the premises or elsewhere is a sale.

(2) Goods to be merchantable must be at least such as:

(a) Pass without objection in the trade under the contract description; and

(b) In the case of fungible goods, are of fair average quality within the description; and

(c) Are fit for the ordinary purposes for which such goods are used; and

(d) Run, within the variations permitted by the agreement, of even kind, quality and quantity within each unit and among all units involved; and

(e) Are adequately contained, packaged, and labeled as the agreement may require; and

(f) Conform to the promises or affirmations of fact made on the container or label if any.

(3) Unless excluded or modified (5 CMC § 2316) other implied warranties may arise from course of dealing or usage of trade.

**Source:** PL 3-56, § 1 (§ 2314).