

13-808. Acceptance; new or different terms; counteroffer.

If _____ (*name of offeree*) responded to an offer by conditioning acceptance on new terms that added, varied or changed any term of the offer, the response was a rejection of the original offer and operated as a new offer that could be accepted or rejected by _____ (*name of offeror*). [If the new terms were reasonably implied by the original offer, however, the response operated as an acceptance of the original offer despite the additional or different terms.]

[If _____'s (*name of offeree*) response to an offer included additional or different terms but did not condition acceptance on agreement to those terms, the response operated as an acceptance of the original offer.]

USE NOTES

This instruction should be given only when a purported acceptance includes terms that differ from the offer. Only the bracketed portions relevant to the case should be used.

[Adopted, effective November 1, 1991; as amended by Supreme Court Order No. 18-8300-013, effective for all cases pending or filed on or after December 31, 2018; as amended by Supreme Court Order No. 20-8300-006, effective for all cases pending or filed on or after December 31, 2020.]