

MEE Question 1

On June 15, a professional cook had a conversation with her neighbor, an amateur gardener with no business experience who grew tomatoes for home use and to give to relatives. During the conversation, the cook mentioned that she might be interested in “branching out into making salsa” and that, if she did branch out, she would need to buy large quantities of tomatoes. Although the gardener had never sold tomatoes before, he told the cook that, if she wanted to buy tomatoes for salsa, he would be willing to sell her all the tomatoes he grew in his half-acre home garden that summer for \$25 per bushel.

Later on June 15, shortly after this conversation, the cook said to the gardener, “I’m very interested in the possibility of buying tomatoes from you.” She then handed a document to the gardener and asked him to sign it. The document stated, “I offer to sell to [the cook] all the tomatoes I grow in my home garden this summer for \$25 per bushel. I will hold this offer open for 14 days.”

The gardener signed the document and handed it back to the cook.

On June 19, the proprietor of a farmers’ market offered to buy all the tomatoes that the gardener grew in his home garden that summer for \$35 per bushel. The gardener, happy about the chance to make more money, agreed, and the parties entered into a contract for the gardener to sell his tomatoes to the proprietor.

On June 24, the cook, who had not communicated with the gardener since the June 15 conversation, called the gardener. As soon as the cook identified herself, the gardener said, “I hope you are not calling to say that you want my tomatoes. I can’t sell them to you because I have sold them to someone else.” The cook replied, “You can’t do that. I called to accept your offer to sell me all your tomatoes for \$25 per bushel. You promised to hold that offer open for 14 days. I accept your offer!”

Is the gardener bound to sell the cook all the tomatoes he grows that summer for \$25 per bushel? Explain.

1) Please type your answer to MEE 1 below

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When finished with this question, click ⤴ to advance to the next question.

(Essay)

===== Start of Answer #1 (894 words) =====

MEE #1

The gardener is not bound to sell the cook all the tomatoes he grows that summer for \$25 a bushel.

The issue is whether an irrevocable offer exists in the form of an option or firm offer.

Generally, offers are freely revocable and may be revoked by words or conduct by the offeror. However, there are specific offers that are irrevocable. When dealing with the sale of goods, as we are here, UCC Article 2 governs. Goods are defined as

moveable in nature and here tomatoes, are goods. Therefore UCC Article 2 will govern. The UCC Article 2 allows for option and firm offers. Both offers are irrevocable until a stated time.

We must first determine which communication is being referenced as the offer. The beginning dialogue between the professional cook and neighbor is not an offer and does not meet the formalities of a contract. This conversation where the professional cook states she may "branch out into making salsa" followed by the neighbor's statement that he "will sell her all the tomatoes he grew in his half-acre home garden that summer for \$25 a bushel." is not an offer. An offer is a communication that a reasonable offeree would believe they have the ability to accept. Here, there is no meeting of the minds and as such, no offer resulted. Instead, when the professional cook placed the neighbor's statement in writing that stated "I offer to sell to [the cook] all the tomatoes I grow in my home garden this summer for \$25 per bushel. I will hold this offer open for 14 days" then an offer commenced. The professional cook would have a reasonable belief that she may accept this offer and as such, an offer existed. The question is whether the offer that was made by the neighbor was irrevocable.

The Statute of Frauds also would not be an issue in this case. For all sell of goods over \$500, there must be a writing signed by the party to be charged. In addition, for goods contracts, as we have here, the quantity term must be included. UCC Article 2 allows for output and requirements contracts to satisfy this quantity term. Here, the offer is to supply the professional cook with all the gardner can grow. This will likely meet the requirements of an output contract in that the gardner is supplying all
