

1. A and B enter into an oral contract whereby A agrees to sell 100 widgets to B at a price of \$4.75 per widget. After they have agreed on terms with respect to price, delivery and specifications of the widgets A says to B: "By the way, we always specify arbitration under the rules of the American Arbitration Association (AAA) for the resolution of any disputes arising out of our widget sales." B does not respond to this statement. If B later sues A arguing that the widgets were defective and that A has breached the express warranty in the oral contract with respect to the widget specifications and the implied warranty of merchantability how would you go about deciding whether there is a binding arbitration agreement between A and B?

2. A and B enter into an oral contract whereby A agrees to sell 100 widgets to B at a price of \$4.75 per widget. The oral contract includes agreed provisions with respect to price, delivery and specifications of the widgets. Three weeks after the oral agreement at a time when B has begun to worry about whether A in fact produces widgets of the appropriate quality, A writes to B stating: "This acknowledges your order of 100 widgets at a price of \$4.75 per widget....[widget specifications, delivery etc...] Any disputes under this contract to be decided by arbitration in Florida under the rules of the AAA." What would you need to know to decide whether there is a binding arbitration agreement?

3. B sends to A its standard form purchase order for \$100 widgets, the characteristics of which are specified in the order form, for a price of \$4.75. B's standard order form specifies arbitration in New York for the resolution of any disputes under the JAMS arbitration rules. A replies to B's purchase order the following day on its own standard form acknowledgment which states "Any disputes under this contract to be decided by arbitration in Florida under the rules of the AAA. Acceptance of your offer to purchase widgets is conditional on your assent to any terms in this acknowledgment which are additional or different to your standard purchase terms." If A ships the widgets and B wants to claim a breach of express and implied warranties by A, should B initiate an arbitration in Florida under AAA rules, or in New York under JAMS rules, or should B sue A in court?