Review Problems for Sales
with Answers

Fall 2015
University of North Dakota School of Law
Associate Professor of Law Eric E. Johnson

This document contains the review problems we went over in class toward the end of the semester, along with what notes we made in answering each.

MC 1. In the case of *Swift v. MWC Water Supply Corp.*, a residential consumer, Swift, is suing a corporation, MWC, under a contract by which MWC agreed to sell water to be delivered by underground pipe to Swift. According to Swift's complaint, MWC breached the contract by failing to supply water for a week, leaving Swift unable to cook, clean, or bathe at home.

Note that UCC § 2-105 provides, in part:

> (1) "Goods" means all things (including specially manufactured goods) which are movable at the time of identification to the contract for sale other than the money in which the price is to be paid, investment securities (Article 8) and things in action. "Goods" also includes the unborn young of animals and growing crops and other identified things attached to realty as described in the section on goods to be severed from realty (Section 2-107).

Note that the New Oxford American Dictionary states the definition of "goods" as follows:

> merchandise or possessions: imports of luxury goods

Note also that uncontradicted expert testimony establishes that within the water industry, when the term "goods" is used in a contract, it is understood not to include water flowing through a pipe.

An initial issue facing the court is whether UCC Article 2 governs this transaction. Which of the following would represent the best analysis for the court to include in its opinion?

(A) "This court determines that flowing water is a 'good' under UCC Article 2. We must adhere to the definition in § 2-105, which defines 'goods' as things that are moveable at the time of identification. The water that is the subject of this contract for sale was moveable at the time of its identification to the contract, and therefore it is must be included within the scope of 'goods' under the UCC; thus UCC Article 2 governs this transaction."

(B) "This court determines that water is a 'good' under this contract because we must interpret the word 'good' according to the UCC's policy of protecting consumers from abuse by merchant sellers. In this case, by construing the water to be a good, Swift benefits from various of the UCC's provisions. Therefore, as to this contract, water is a 'good,' and UCC Article 2 governs this transaction."

(C) "Water is embraced within 'goods' under the UCC because the court's job in interpreting the UCC is to use the commonly understood sense of its language, for which resort to a dictionary definition is appropriate. The New Oxford American Dictionary defines goods as 'merchandise or possessions.' This court determines that water fits within this definition. Therefore, the subject of the contract is goods, and UCC Article 2 governs the transaction."

(D) "This court determines that water is not 'goods' under the UCC. Upon the evidence submitted to it, this court find that the common-sense definition of goods does not include water. And this court is bound to construe the provisions of the UCC first according to common-sense before resulting to the default definitions provided by the UCC. Therefore, the common law, and not the UCC, governs this transaction."

(E) "Uncontradicted expert testimony has established that flowing water is understood not to be embraced within the term 'goods' as it is used by the relevant industry in written contracts. Based on this, the court finds that the relevant usage of trade is to exclude water from goods, and therefore, with regard to the transaction before the court, water is not goods and the common law and not the UCC governs this transaction."

MC 2. Which of the following is most likely governed by UCC Article 2?

(A) the sale of a farm in Michigan
(B) the lease of an automobile in Montana
(C) the sale of lumber, where the buyer is in Maine and the seller is in New Brunswick, Canada
(D) the sale of lumber, where the buyer is in New Brunswick, Canada and the seller is in Maine
(E) the sale of a motorcycle, with the seller and buyer in Alabama

NOTE THE FOLLOWING FACTS FOR QUESTIONS 3 AND 4:

Cut'n'Run v. Abbingdale Acres

Retailer Cut 'n' Run Convenience Stores is suing Abbingdale Acres, a supplier of food and dairy products, over a multi-million-dollar contract to supply milk to its stores over a five-year term, which began two years ago. The parties dispute whether Abbingdale or Cut'n'Run is supposed to pay for increased shipping costs caused by rising fuel prices. There is a written contract for the deal, but nothing is said about the issue of increased shipping costs one way or the other in document.

MC 3. Consider the following facts that might be established at trial:

I. In all other dealings between the two companies – from ice cream to packaged snacks – Abbingdale has always absorbed increased shipping costs as a matter of course.
II. Over the past two years of this milk deal, Cut'n'Run has twice paid for increased shipping costs out of its own budget.
III. In the retail-convenience industry, retailers virtually always absorb increased shipping costs.

Which of the following correctly order the above facts from most important to least important in establishing the terms of the deal about which Abbingdale and Cut'n'Run are now litigating?

(A) I, II, III
(B) II, I, III
(C) II, III, I
(D) III, I, II
(E) III, II, I

MC 4. Cassandra, an executive of Cut'n'Run, wants to testify that the CEO of Abbingdale Acres told her orally, right before the companies signed the five-year milk deal, "You know Cassandra, we will of course absorb any increased shipping costs caused by increased fuel prices – that's what I understand this deal to mean." Can Cassandra testify about this at trial?

(A) Yes, because it is relevant evidence that is admissible notwithstanding the UCC's parol evidence rule.
(B) Yes, because there is no parol evidence rule under the UCC.
(C) No, because the parol evidence rule bars the introduction of oral testimony in cases involving written contracts.
(D) No, because the statute of frauds bars the introduction of oral testimony in cases involving written contracts.
(E) No, because the oral evidence purports to vary the terms of the written agreement.

◈ ◈ ◈

Topic 3: The Process of Sales Contract Formation

Background: *Blastodyne is a major demolition firm. Octan Chemicals is a leading manufacturer of explosives and other industrial chemical compounds.*

Review Problem 3-1-A:

Blastodyne sent a purchase order for 200 kg of TNT to Octan Chemicals. The purchase order provided that any dispute under the contract was to be litigated in the courts of New Jersey under the provisions of New Jersey law and specifying that the TNT be warranted as defect-free for two years. Octan sent an order acknowledgment to

Blastodyne for 200 kg of TNT with language specifying that the material would be supplied with no warranties of any kind. The order acknowledgement said nothing about dispute resolution.

Is there a contract? If so, what are its terms with regard to warranties and dispute resolution?

> Yes, there is a contract because under 2-207, the terms in the offer and acceptance don't need to be exactly the same. The warranty terms in the PO and OA are different, so the knock-out rule says neither controls the contract. Instead, gap-fillers come in, so the TNT is sold with the implied warranty of merchantability. The offer had the New Jersey dispute resolution provision, and Octan ended up accepting that as part of the deal when the accepted the deal.

Review Problem 3-1-B:

Blastodyne sent a purchase order for 200 kg of TNT to Octan Chemicals. The purchase order provided that any dispute under the contract was to be litigated in the courts of New Jersey under the provisions of New Jersey law and specifying that the TNT be warranted as defect-free for two years. Octan sent an order acknowledgment to Blastodyne for 400 kg of inert clay with language specifying that the material would be supplied with no warranties of any kind. The order acknowledgement said nothing about dispute resolution.

Is there a contract? If so, what are its terms with regard to warranties and dispute resolution?

> No, there is no contract, because 400 kg of inert clay is so different from TNT that there's no plausible acceptance of any deal.

BONUS: Assuming that the parties perform – Octan sends the clay and Blastodyne accepts, is there a contract? If so, what are its terms with regard to warranties and dispute resolution?

> Now there's a contract by conduct, so we go to 2-207(3) for the terms, and the writings don't seem to agree on anything, so we just use gap-fillers, and clay is sold with the implied warranty of merchantability, and there's court access for disputes.

Review Problem 3-1-C:

Blastodyne sent a purchase order for 200 kg of TNT to Octan Chemicals. The purchase order provided that any dispute under the contract was to be litigated in the courts of New Jersey under the provisions of New Jersey law and specifying that the TNT be warranted as defect-free for two years. Octan shipped 200 kg of TNT without sending an order acknowledgment. After discovering they had neglected to send an order acknowledgment, Octan sent Blastodyne an order acknowledgment stating that the material was supplied with no warranties of any kind.

Is there a contract? If so, what are its terms with regard to warranties and dispute resolution?

> Yes, there's an offer in writing and an acceptance by conduct. 2-206. Are there warranties? Yes, because the contract was made (when Octan accepted by conduct) on the terms of Blastodyne's offer, which included warranties.

Background: *Mitsutatchi is a major motorized equipment manufacturer and a leading seller of forklifts. Vayatom Industries uses forklifts constantly in its business and has a dedicated executive in charge of purchasing them and making sure they are properly operated and maintained.*

Review Problem 3-2-A:

Mitsutatchi Motors in Toledo, Ohio sent Vayatom Industries in Lexington, Kentucky a firm offer for between 10 and 100 forklifts (model no. FGFL-800XL) at $28,000 each. The offer was signed, said on its face it was irrevocable, and that it would expire in 60 days. Can Vayatom accept the offer and enforce it as a contract?

> This will be an enforceable firm offer under 2-205, because they are both merchants (see below), the writing was signed according to the facts, and the offer says on its face that it will be held open. The time period of 60 days does not exceed 2-205's three-month cap, so there's no problem there.
>
> Mitsutatchi is a merchant under 2-104(a) because as a major manufacturer that makes forklifts, they deal in goods of the kind, and Vayatom is a merchant because, per 2-104(a), they clearly have knowledge peculiar to the goods – the forklifts – because they have a dedicated purchase officer for them.

Review Problem 3-2-B:

Mitsutatchi Motors in Toledo, Ohio sent Vayatom Industries in Lexington, Kentucky a firm offer for between 10 and 100 forklifts (model no. FGFL-800XL) at $28,000 each. The offer was signed, said on its face it was irrevocable, and that it would not expire for three years. Can Vayatom accept the offer and enforce it as a contract?

> Yes – as long as they do so within three months. This will be an enforceable firm offer under 2-205 – the analysis is the same as above, with the only difference being that it will not be enforceable for the full three years. Firm offers without consideration made enforceable via 2-205 are limited to being enforceable for three months.

Review Problem 3-2-C:

Mitsutatchi Motors in Toledo, Ohio and Vayatom Industries in Lexington, Kentucky did a deal, evidenced by a signed writing, where, for a $3,000 fee, Mitsutatchi would hold open an irrevocable offer for three years for between 10 and 100 forklifts (model no. FGFL-800XL) at $28,000 each. Can Vayatom accept the offer after one year and enforce it as a contract?

Yes. The offer is supported by consideration, so it is independently enforceable as a contract –what is commonly called an option contract.

Topic 4: Formation with Leases, International Sales, and Real Estate

Background: *Mitsutatchi is a major motorized equipment manufacturer and a leading seller of forklifts. Vayatom Industries uses forklifts constantly in its business and has a dedicated executive in charge of purchasing them and making sure they are properly operated and maintained.*

Review Problem 4-1-A:

Mitsutatchi Motors in Nagoya, Japan sent Vayatom Industries in Lexington, Kentucky a firm offer for between 10 and 100 forklifts (model no. FGFL-800XL) at ¥2,800,000 each. The offer was signed, said on its face it was irrevocable, and that it would not expire for 60 days. Japan is a CISG signatory. Can Vayatom accept the offer and enforce it as a contract?

Yes. The firm offer is enforceable. The applicable law here is the CISG, because the CISG is applicable under Article 1(1)(a), since the parties are in two different CISG contracting states and it's a contract for the sale of goods. The offer is enforceable even though there's no consideration because it fits CISG Article 16(2)(a)'s requirement of saying it was "irrevocable."

Review Problem 4-1-B:

Mitsutatchi Motors in Nagoya, Japan sent Vayatom Industries in Lexington, Kentucky a firm offer for between 10 and 100 forklifts (model no. FGFL-800XL) at ¥2,800,000 each. The offer was signed, said on its face it was irrevocable, and that it would not expire for three years. Japan is a CISG signatory. Can Vayatom accept the offer and enforce it as a contract?

Yes. The firm offer is enforceable. The analysis is the same as for 4-1-A. While the length of the firm-offer period would be too much under UCC 2-205, there's no duration limit under the CISG.

Review Problem 4-1-C:

Mitsutatchi Motors in Nagoya, Japan sent Vayatom Industries in Lexington, Kentucky a firm offer for between 10 and 100 forklifts (model no. FGFL-800XL) at ¥2,800,000 each. The offer was signed, said on its face it was irrevocable, and that it would not expire for three years. Japan is a CISG signatory. Can Vayatom accept the offer after two years and enforce it as a contract?

Yes. The firm offer is enforceable. The analysis is exactly the same as for 4-1-B.

Topic 5: Statute of Frauds with Sales of Goods

MC 5. There was no writing evidencing Wendy's agreement to sell a $1,200 chair to Lilla. Which of the following would not be a good argument that the contract should be enforced despite the statute of frauds?

(A) The chair was specially manufactured for Lilla.
(B) Lilla relied to her detriment on Wendy's promise to sell the chair.
(C) Wendy admitted in writing, in a letter to Wendy's friend, that she had agreed to sell the chair to Lilla.
(D) Lilla already paid $1,200 to Wendy.
(E) Lilla already accepted delivery of the chair.

====Potpourri====

NOTE THE FOLLOWING FACTS:

My Bear Lair

My Bear Lair is a store where children can watch as a custom-made teddy bear is manufactured for them by the Bear-ma-tron. The Bear-ma-tron is made to look like one giant machine, but it actually is a series of robotic manufacturing modules bolted together with fancifully shaped fiberglass panels painted in bright colors.

My Bear Lair entered into a contract with Hexetron Automated Plush Systems LLC to purchase $487,000 worth of robotic manufacturing modules and to install them the new My Bear Lair store in The District, a new upscale shopping mall in a tourist-heavy part of San Frangeles.

For My Bear Lair, the installation was highly important, since the modules must be set-up exactly the right way for the fiberfill, accessories, and various teddy-bear components to move from one machine to the other in a synchronized way. Calibrating the software to make the machines work together is very complicated and requires a highly competent process engineer. Testing is also key, so that manufacturing-process problems can be found and overcome through further calibration.

When the modules were delivered to the My Bear Lair store in The District, Hexetron workers merely arranged the machines according to the blueprints and plugged them in so that they would power up. Then the Hexetron people left. When the My Bear Lair employees stocked the system with parts and materials so the Bear-ma-tron could make

bears, they could not get a single teddy bear to emerge. Fiberfill spewed from gaps between modules, materials jammed, and components got stuck as they travelled through the system.

MC 6. The case is litigated in court. There is a question as to whether the UCC will apply to the transaction. Note the following possible arguments:

I. "The predominant purpose of the contract was the transfer for a price of moveable, tangible items – that is, the robotic manufacturing modules."
II. "The predominant purpose approach favors applying the UCC because the decision to purchase from Hexetron was mostly about getting the best modules for the job."
III. "The gravamen approach favors application of the UCC because the essence of this claim is Hexetron's failure to set up the modules and use their engineering skill to make them work together."

Which identifies each relevant, plausible argument that a party could use to argue in favor of applying the UCC?

(A) I, but not II or III
(B) I and II, but not III
(C) II and III, but not I
(D) I, II, and III
(E) Not any of I, II, or III

Topic 6: Parol Evidence with Sales of Goods (*also covered: basic contract interpretation)*

MC 7. Suppose that Hexetron's promise to install the modules at the My Bear Lair location in the District was merely an oral assurance and that the promise did not appear in the written documents evidencing the deal. Will the promise to install be enforceable?

(A) No, because the parol evidence rule bars all evidence of oral promises where there is a writing.
(B) No, because while the UCC is silent on the issue, the common law controls, and under the common law courts may not look outside "the four corners" of a written contract.
(C) Yes, unless the contract is fully integrated.
(D) Yes, because the contract is for over $500.
(E) It depends on whether enforcing the promise "comports with ordinary notions of fair play as held by the reasonable person."

Review Problem 6-1-A:

Hrenka-Hübner in Texas, a small arms manufacturer, did a deal with Vayatom Industries, in Kentucky, for the purchase of several semi-automatic rifles for Vayatom's security force. The deal was written up as a "term sheet," which both parties signed, with a description of items, prices, and some other things. This is what the term sheet said about delivery:

> Delivery: at the loading dock, in cases

Hrenka-Hübner contends "the loading dock" means Hrenka-Hübner's loading dock in Texas. Vayatom contends it means Vayatom's loading dock in Kentucky. Both parties want to testify about what was said during negotiations because they say that explains what was meant by "loading dock." How should a court resolve this? What evidence can be considered?

> The court should hear the evidence because the term is ambiguous, and the aim in contract interpretation is to give effect to the intent of the parties. And there's no rule against letting this relevant evidence in to illuminate the parties' intent.

Review Problem 6-1-B1:

Hrenka-Hübner in Texas, a small arms manufacturer, did a deal with Vayatom Industries, in Kentucky, for the purchase of several semi-automatic rifles for Vayatom's security force. The deal was written up as a "term sheet," which both parties signed, with a description of items, prices, and some other things. This is what the term sheet said about delivery:

> Delivery: at the loading dock, in cases

The bottom of the term sheet has this:

> Deliveries are at buyer's place of business.

Hrenka-Hübner contends "the loading dock" means Hrenka-Hübner's loading dock in Texas. Vayatom contends it means Vayatom's loading dock in Kentucky. Both parties want to testify about what was said during negotiations because they say that explains what was meant by "loading dock." How should a court resolve this? What evidence can be considered?

> The term sheet says expressly that delivery is at buyer's place of business. So that's where it should be. Expressed written terms that are unambiguous control over what was said. We always start by looking in the four corners of the document.

Review Problem 6-1-B2:

Hrenka-Hübner in Texas, a small arms manufacturer, did a deal with Vayatom Industries, in Kentucky, for the purchase of several semi-automatic rifles for Vayatom's security force. The deal was written up as a "term sheet," which both parties signed, with a description of items, prices, and some other things. This is what the term sheet said about delivery, in handwriting:

> Delivery: at the seller's loading dock, in cases

The bottom of the term sheet has this:

> Deliveries are at buyer's place of business, at the loading dock.

Hrenka-Hübner contends "the loading dock" means Hrenka-Hübner's loading dock in Texas. Vayatom contends it means Vayatom's loading dock in Kentucky. How should a court resolve this? What evidence can be considered?

> The term sheet is ambiguous. Delivery at seller's and buyer's are both reasonable interpretations. But, the handwritten terms control, so delivery is at seller's place of business.

Review Problem 6-1-C:

Hrenka-Hübner in Texas, a small arms manufacturer, did a deal with Vayatom Industries, in Kentucky, for the purchase of several semi-automatic rifles for Vayatom's security force. The deal was written up as a "term sheet," which both parties signed, with a description of items, prices, and some other things. This is what the term sheet said about delivery, in handwriting:

> Delivery: at the loading dock, in cases

The bottom of the term sheet has this:

> This contract document contains the full and complete expression of the parties with respect to this deal and is a fully integrated contract.

Hrenka-Hübner contends "the loading dock" means Hrenka-Hübner's loading dock in Texas. Vayatom contends it means Vayatom's loading dock in Kentucky. Both parties want to testify about what was said during negotiations because they say that explains what was meant by "loading dock." How should a court resolve this? What evidence can be considered?

> The court should hear the parol evidence. The parol evidence rule does not bar this evidence, because it's not varying or adding to the terms of the contract. The contract is ambiguous on the delivery place, so we can always have parol evidence to eliminate ambiguities.

Topic 7: Requisites to Formalization in Leases, International Sales, and Real Estate Sales

Background: *Hexetron Aerospace is a major aerospace manufacturer and a leading seller of jet engines. Oceanic Airlines is a major international airline. Both are U.S. companies doing business in the U.S.*

Review Problem 7-1-A:

Hexetron Aerospace does a deal over the phone with Oceanic Airlines for the lease of 10 new J-906 turbojet engines. The lease term is one year, renewable each year for a total of 10 years. The initial lease payment, due now, before delivery, is $10 million. For each renewal year, an additional $10,000 is due. At the end of the lease, Oceanic may exercise an option to purchase for $10,000. The day after making this deal, Oceanic receives an offer from a rival manufacturer for much less money. Is this an enforceable lease?

> It's not a lease at all – it's a disguised sale.

Review Problem 7-1-B:

Hexetron Aerospace does a deal over the phone with Oceanic Airlines for the lease of 10 new J-906 turbojet engines. The lease term is one year, renewable each year for a total of 10 years. The initial lease payment, due now, before delivery, is $2 million. For each renewal year, an additional $1.2 million is due. At the end of the lease, Oceanic may exercise an option to purchase for $1 million. The day after making this deal, Oceanic receives an offer from a rival manufacturer for much less money. Is this an enforceable lease?

> No, because this deal needs a signed writing since $15 million is more than $1,000. §2A-201.

Review Problem 7-1-C:

Representatives of Hexetron Aerospace do a deal in-person – with a handshake and no signed document – with representatives of Oceanic Airlines for the lease of 10 new J-906 turbojet engines. The lease term is one year, renewable each year for a total of 10 years. The initial lease payment, due now, before delivery, is $2 million. For each renewal year, an additional $1.2 million is due. At the end of the lease, Oceanic may exercise an option to purchase for $1 million. Later in the day, the representatives on both sides sign a piece of paper with only the following:

> November 10, 2015
> Lease contract entered into: Hexetron Aerospace -w- Oceanic Airlines
> 10 new J-906 turboket enfines
> Initial term: 1 year
> Renewable for 5 years

Initial lease payment due now

YLee HWQuintola

The day after making this deal, Oceanic receives an offer from a rival manufacturer for much less money. Is this an enforceable lease?

The lease is enforceable under UCC §2A-201 because it reasonably identifies the goods and states the term. It's okay that it misstates the term of the lease, but the lease can't be enforced beyond the term stated in the writing. §2A-201(3).

Background: *Hexetron Aerospace, a U.S. business, is an aerospace manufacturer and a leading seller of jet engines. AeroAtlantique is a European airline based in Toulouse, France. France is a CISG signatory. Canada World Airways is a Canadian airline.*

Review Problem 7-2-A:

Representatives of Hexetron Aerospace attend the Paris Air Show at Le Bourget Airport in France. They do a deal in-person – with a handshake and no signed document – with representatives of AeroAtlantique for the sale of 40 new J-801 turbojet engines for $11 million each. Is this an enforceable contract for sale?

Yes, because oral contracts are enforceable, and the CISG has no statute of frauds.

Review Problem 7-3-A:

Representatives of Hexetron Aerospace attend the Paris Air Show at Le Bourget Airport in France do a deal with Canada World Airways. They do a deal in the form of a 56-page written agreement signed by representatives of both companies. The agreement contains the following:

MERGER CLAUSE: This agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given.

The agreement says nothing about warranties. Later, in a dispute, Hexetron claims Canada World Airways agreed orally at the time the deal was made that the warranty on the engines would be limited to replacement of parts with no allowance for the labor cost in making repairs. Can Hexetron introduce evidence of this alleged oral agreement in the litigation?

Yes, because the CISG applies, since the parties are in different countries. And the CISG has no parol evidence rule – so the testimony can come in. The merger clause doesn't prevent this.

Review Problem 7-3-B:

Representatives of Hexetron Aerospace attend the Paris Air Show at Le Bourget Airport in France do a deal with Canada World Airways. They do a deal in the form of a 56-page written agreement signed by representatives of both companies. The agreement contains the following:

> MERGER CLAUSE: This agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement.
>
> CHOICE OF LAW: This agreement shall be governed exclusively by the law of Texas, USA.

The agreement says nothing about warranties. Later, in a dispute, Hexetron claims Canada World Airways agreed orally at the time the deal was made that the warranty on the engines would be limited to replacement of parts with no allowance for the labor cost in making repairs. Can Hexetron introduce evidence of this alleged oral agreement in the litigation?

> Yes, because CISG applies, since this is a deal between parties in Canada and USA – both CISG countries. And the CISG has no parol evidence rule. All relevant evidence of the intent of the parties is admissible. Texas is part of the USA, and the USA is a signatory to CISG, so Texas law in this case requires application of the CISG.

Review Problem 7-3-C:

Representatives of Hexetron Aerospace attend the Paris Air Show at Le Bourget Airport in France do a deal with Canada World Airways. They do a deal in the form of a 56-page written agreement signed by representatives of both companies. The agreement contains the following:

> MERGER CLAUSE: This agreement constitutes the entire agreement between the parties. No waiver, consent, modification or change of terms of this agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this agreement. Contractor, by the signature below of its authorized representative, hereby acknowledges that the Contractor has read this agreement, understands it, and agrees to be bound by its terms and conditions.
>
> CHOICE OF LAW: This agreement shall be governed exclusively by the law of Texas, USA pertaining to contracts entered into and performed wholly within that jurisdiction, and the United Nations Convention on Contracts for the International Sale of Goods made in Vienna in 1980 shall not govern or apply.

The agreement says nothing about warranties. Later, in a dispute, Hexetron claims Canada World Airways agreed orally at the time the deal was made that the warranty on the engines would be limited to replacement of parts with no allowance for the labor

cost in making repairs. Can Hexetron introduce evidence of this alleged oral agreement in the litigation?

No, because _____

[FIGURE OMITTED]

FIG.: A combine harvester, shown here, combines the steps of reaping, threshing, and winnowing in order to efficiently harvest grain.

MC 8. The contract for which of the following transactions – none of which is evidenced by a writing – appears unenforceable?

(A) the one-day lease of a combine harvester for $400
(B) the sale of a combine harvester for $209,000, where buyer and seller have an established course of dealing using oral contracts for such deals
(C) the sale of a combine harvester for $209,000, where delivery of the machine was accepted and where full payment has been made
(D) the sale of a combine harvester for $209,000, where the seller is in Canada and the buyer is in the U.S.
(E) the licensing of software needed to run a GPS-enabled self-steering combine harvester

Review Problem 7-4-A:

Bethany Banks is purchasing a split-level ranch home from Stevie Stockwell. They do a deal in-person – with a handshake and no signed document – for the sale of the home for $400. Is the contract for sale enforceable?

No, because under the governing common law, the statute of frauds requires a signed writing for the transfer of land.

Review Problem 7-4-B:

Bethany Banks is purchasing a split-level ranch home from Stevie Stockwell. They do a deal in-person – with a handshake and no signed document – for the sale of the home for $400,000. Is the contract for sale enforceable?

No, the analysis is the exact same as for 7-4-A. The amount doesn't make a difference.

Review Problem 7-4-C:

Bethany Banks is purchasing a split-level ranch home from Stevie Stockwell. They do a deal for the sale of the home for $400,000. They sign the following to memorialize their deal:

November 10, 2015
Sale of:
456 Coventry Estates Place
Parksville, Texlahoma

at agreed-upon price
Bethany Banks
Stevie Stockwell

Is the contract for sale enforceable?

No, because the common-law statute of frauds requires all material terms, generally, to be in the signed writing. The price is a material term, and it's missing. So the deal is unenforceable.

Review Problem X-4-D:

Bethany Banks is purchasing a 1965 Ferrari GT California from Stevie Stockwell. They do a deal for the sale of the car for $400,000. They sign the following to memorialize their deal:

November 10, 2015
Sale of:
65 Ferrari GT California
in Parksville, Texlahoma
at agreed-upon price
Bethany Banks
Stevie Stockwell

Is the contract for sale enforceable?

Yes, because this is a sale of goods, governed by the UCC, and the statute of frauds is satisfied by this writing, since it evidences the contract and it is signed.

Background: *Hexetron Aerospace, a U.S. business, is a leading aerospace manufacturer. WZX FM is a radio station that plays hit music. UKEA is a large retailer of Norwegian-styled furniture.*

Review Problem W-1-A:

Hexetron Aerospace's Hot-Air Balloon Systems Division sells UKEA a Fresh Aire V hot-air balloon. UKEA tries to operate the balloon for promotional purposes at the city balloon festival, but the fabric is too heavy for the balloon to stay aloft in most ordinary weather conditions, and the stitching is too weak to keep the balloon safely structurally intact. Does UKEA have a warranty claim?

Yes, there's a good warranty claim here. There's an IWoM because Hexetron is a merchant. The ordinary purpose of a balloon is to float, and this one doesn't.

Review Problem W-1-B:

Hexetron Aerospace's Hot-Air Balloon Systems Division sells UKEA a Fresh Aire V hot-air balloon. UKEA never unpacks the balloon, deciding not to attend the city balloon

festival. Instead, they sell it to WZX for them to use for promotional purposes and to give rides to call-in contest winners. But the radio station discovers that the fabric is too heavy for the balloon to stay aloft in most ordinary weather conditions, and the stitching is too weak to keep the balloon safely structurally intact. Does WZX have a warranty claim?

> For IWoM, yes, probably as to Hexetron, since they are a merchant. But no as to UKEA, since they are not merchants with respect to hot-air balloons. With regard to the IWoFfaPP, maybe yes as to UKEA, since they were aware of WZX's purpose.

Review Problem W-1-C:

Hexetron Aerospace's Hot-Air Balloon Systems Division sells WZX a Fresh Aire V hot-air balloon after WZX asks for a balloon that will work well for the city balloon festival. The fabric is too heavy for the balloon to stay aloft given the atmospheric conditions prevailing at the city balloon festival. Does WZX have a warranty claim?

> Yes as to IWoFfaPP, since WZX expressly asked for a balloon that would work well at the festival, so Hexetron knew about that, and they gave them a balloon that doesn't work for that.

Review Problem W-2-A:

[Continued from W-1-C]: Unable to use the balloon at the city balloon festival, WZX takes it to a place with a different elevation and colder air. Then they take the balloon aloft. The weak stitching causes the balloon to come apart in the air, causing personal injury to radio station employees. Does WZX have a warranty claim? Do the employees?

> Hexetron is a merchant of balloons, so there is an implied warranty of merchantability, and it is breached by a balloon that falls out of the sky, because the ordinary purpose of balloons is to stay in the sky. WZX has a warranty claim as the buyer/owner of the balloon, and the employees do maybe, depending on whether this jurisdiction has UCC 2-318's A B or C alternative. Yes under B or C, but no under A.

Review Problem W-3-A:

Hexetron Aerospace's Hot-Air Balloon Systems Division sells WZX a Fresh Aire Ultra 5000 hot-air balloon, which includes a Firebreath 7000 propane burner. The propane burner keeps cutting out. WZX has taken it back to Hexetron eight times, and it's still not fixed. What can WZX do about this?

> WZX can ask for a full refund, because _____