

CONTRACTS ANSWERS

1. D is the correct answer. Warren's offer was for a unilateral contract his promise to pay in return for Adam's postponing the wedding. When Adam postponed the wedding, he accepted Warren's offer, and a contract was formed.

2. D is the correct answer. Since Faith sold the chairs to another buyer at the same price, which Jason had contracted to pay, Faith sustained no damage. Where there is no limit to the availability of the items sold, some cases allow a seller can recover lost profits when a buyer cancels, reasoning that even though the seller resold at the same price, she would have made two sales instead of one if the buyer had not breached. Since there were no more barrel chairs to sell, however, Faith lost nothing.

3. A is the correct answer. If an event, which was not foreseeable to the parties at the time a contract was formed, makes performance of the contract impossible, such performance is excused. In the absence of facts, which specifically suggest the contrary, destruction of the subject matter of a contract is usually held to have been unforeseeable by the parties at the time of contracting. At the time the fire occurred, Alex was not in breach because he was not required to make payment until the garage was half complete, and John was not in breach because he was not required to be half finished until April 25.

4. D is the correct answer. Since quasi-contract remedies are essentially designed to prevent unjust enrichment, they are usually unavailable against a non-breaching defendant who has received no benefits from the plaintiff's work.

5. A is the correct answer. The UCC provides that where there is no agreement to the contrary, a buyer is entitled to inspect the goods prior to making payment or accepting them. It provides further, however, that the parties may agree that payment is required before inspection. If so, failure to make payment upon delivery of the goods is a breach.

6. C is the correct answer. Section 2-606 of the UCC provides that unless the buyer does some act inconsistent with the seller's ownership, acceptance of goods occurs only after the buyer has had a reasonable opportunity to inspect the goods and either notifies the seller of his intention to keep them or fails to reject them. Thus, a payment did not constitute acceptance because it was made before Jimmy was given a reasonable opportunity to inspect the studs.

7. A is the correct answer. Under Section 2-313 of the UCC, a warranty is made by any description of the goods which is given by the seller and which is part of the basis of the bargain. Renzo thus wanted that the studs delivered would be construction grade. Under Section 2-714 of the UCC, a buyer who has accepted non-conforming goods and who notifies the seller of the non-conformity within a reasonable time is entitled to damages. The measure of damages for breach of warranty is fixed by Section 2-714 as the difference between the value, which the delivered goods had at the time of acceptance, and the value which conforming goods would have had at that time.

8. A is the correct answer. A unilateral contract is a promise to perform in exchange for a specified act by the promisee. Since Dull promised to make payment to the employee who submitted the winning design, its offer was for a unilateral contract.

9. B is the correct answer. Under the Second Restatement of Contracts, an offer for a unilateral contract cannot effectively be withdrawn once the offeree has begun performance. Since Ernie began working on the design prior to the company's attempt to withdraw its offer, the company's offer will be held to be irrevocable.

10. B is the correct answer. If a promise not to assign a contract is enforceable, it is like any other promise in that damages may be available as a remedy for its breach. An assignment made in violation of such a promise is usually regarded as valid, however. This means that even though Rick may be entitled to recover from Cory for damages resulting from Cory's assignment to Adele, Adele may enforce the contract against Rick.

11. C is the correct answer. Consideration is a benefit to the promisor or a detriment to the promisee, which was bargained for and given in return for the promisor's promise. For this reason, if Curtis did something, which he was already obligated to do, his act could not be consideration for the City's promise to pay since no new benefit was given to the City and no detriment was sustained by Curtis in return for that promise. A police officer's obligation to his employer includes the duty to attempt to apprehend criminals, so Curtis's performance was of a pre-existing duty.

12. D is the correct answer. The parol evidence rule prohibits the introduction of extrinsic evidence of prior or contemporaneous agreements offered to contradict, vary, or modify an unambiguous writing, which the parties intended to be a full and final expression of their agreement (i.e., a "complete integration"). Since the "dollar" is the unit of currency in both the U.S. and San Roberto, the contract which specifies a price of 9,000 dollars without identifying which country's dollars are intended is probably ambiguous. The evidence offered by Bernice would help explain and clarify the ambiguity. It is not barred by the parol evidence rule since it does not contradict, vary, or modify the writing.

13. D is the correct answer. Ben made no express promise to pay for the fishing gear. There was no implied promise because there is no fact indicating that Savanna acted with the expectation of compensation or reimbursement for her losses. The executor is, therefore, not bound to pay for her loss.

14. C is the correct answer. Usually, a promise is unenforceable unless it is supported by consideration, which requires a bargained-for exchange. Since Ben's promise was made after Savanna rendered a service with no apparent expectation of compensation, the service was not given in exchange for the promise, and the promise is not supported by consideration. For this reason, the majority of jurisdictions would not enforce it. Although some courts might enforce a promise to fulfill a "moral obligation," C is the only answer, which could be correct in any jurisdiction.

15. A is the correct answer. Performance of one of a series of mutual promises is a condition precedent to others in the series if the circumstances indicate that it should obviously precede the others. Since the writing called for payment of \$300 in advance, it is obvious that the parties intended that it should be paid before the work commenced.

16. A is the correct answer. Upon breach of the sales contract, the non-breaching party is ordinarily entitled to compensatory, incidental, and consequential damages.

A buyer's compensatory damages consist of the difference between the contract price and either the fair market value or the "cover" price (i.e., actual cost of replacement, so long as reasonable). If the cover price (or fair market value) is less than the contract price the buyer is not entitled to compensatory damages, but the saving is not credited to the breaching seller. Incidental damages consist of the reasonable costs of repurchasing. Consequential damages are those, which foreseeably arise from the special needs or position of the buyer, which result from the breach (e.g., seller's non-delivery causes buyer to go out of business). Katie sustained no consequential losses, and since Katie's cover price was less than the contract price, she can receive no compensatory damages. Since the repurchase involved \$20 in reasonable expenses, she is entitled to \$20 as incidental damages.

17. C is the correct answer. In an action for breach of an employment contract, a non-breaching employee is entitled to receive the full contract price for the balance of the term plus consequential damages, less damages avoided by mitigation. Since Ryan mitigated damages by taking a job with Wesley at the same salary, he is entitled to what he lost between the discharge and the beginning of his new job. His advertising expenses are collectible as consequential damages.

18. A is the correct answer. If Steve's statement implied a promise to paint the cars, it was an acceptance of Cesar's offer, thus forming a contract of which Steve's subsequent refusal to paint the cars would be a breach.

19. D is the correct answer. None of the reasons given to justify a victory for Manny are good ones. The doctrine of frustration of purpose may excuse performance of a contract when an unforeseen event destroys its underlying purpose, but only if both parties knew what that purpose was. Impossibility of performance discharges a contractual obligation when an unforeseen event makes performance vitally different from that reasonably contemplated by both parties at the time the contract was formed. Esther was unaware of the use contemplated by Manny. When government action makes the subject matter of a contract unlawful, it may be unenforceable for illegality, because of frustration of purpose, or under the doctrine of impossibility of performance.

20. D is the correct answer. The Statute of Frauds requires a contract for the sale of goods with a price of \$500 or more to be in writing, but does not apply to a contract for services, even if goods are to be provided by the person performing the services. I and II are, therefore, incorrect.

21. B is the correct answer. Usually, a promise is unenforceable unless it is supported by consideration. Consideration is a bargained-for exchange of value given for a promise and may consist of benefit to the promisor or detriment to the promisee. If an alleged debt is invalid, a person who promises to pay a sum in settlement of it receives no benefit in return for his promise. Similarly, if a person who receives such a promise does not honestly believe that the debt is valid, he suffers no detriment by agreeing to accept less in settlement. For this reason, a promise to pay a sum of money to settle a claim for debt is supported by consideration if the debt is valid or the person asserting the claim believes that it is. Thus, if Billy honestly believed that Pedro owed him \$3,000, his agreement to accept \$2,000 was consideration for Pedro's promise, making the promise enforceable.

22. A is the correct answer. Although the parol evidence rule prevents the introduction of extrinsic evidence for the purpose of modifying the terms of certain written memorandums, it does not prevent the admission of such testimony for the purpose of establishing that no contract was ever formed. Since the oral agreement made before execution of the writing establishes a condition precedent to the formation of a contract, it is admissible. An agreement to modify a contract is one, which is made after formation of the contract. B is incorrect because the oral agreement regarding the loan was made before execution of the written contract.

23. B is the correct answer. A donee third party beneficiary of a contract may enforce it. The parties are free to modify that contract, however, any time prior to the donee beneficiary's detrimental reliance on it. Since Heather did not learn of the contract until after it had been modified, she has no right to enforce the terms, which existed prior to the modification.

24. A is the correct answer. The Statute of Frauds requires a contract for the sale of goods with a price of \$500 or more to be in writing. It might be argued that the agreement in A was divisible — really 15 separate agreements, each for a single \$100 purchase — and therefore not within the Statute of Frauds. (Note: Since the agreement was for the purchase of a "series" of figurines, it was probably not a divisible contract, but A is the only one of the four fact patterns presented in which the Statute of Frauds might prevent enforcement.)

25. B is the correct answer. A minor may disaffirm a contract on the ground of incapacity. If, however, the disaffirming minor is the plaintiff in an action for restitution, her recovery will be offset by the reasonable value of the benefit, which she had received. Measuring the benefit in terms of reasonable rental value is a common judicial approach.

26. C is the correct answer. An offer may be revoked any time prior to its acceptance, and is effectively revoked when the offeree learns of an act by the offeror, which is wholly inconsistent with the offer. Calvin's offer to sell the tractor to George was thus revoked when George learned that Calvin had sold it to Yoshi. Calvin's promise to keep the offer open until March 15 was unsupported by consideration, and, therefore, not enforceable.

Although UCC §2-205 makes certain firm offers between merchants enforceable without consideration, Calvin and George are not merchants regarding the sale of the tractor.

27. A is the correct answer. A court may reform a contract to reflect the intentions of the parties if as a result of inadvertence the writing does not actually do so. In determining the intentions of the parties, the court may admit extrinsic evidence is relevant and material.

28. C is the correct answer. The parol evidence rule prohibits the introduction of extrinsic evidence of prior or contemporaneous agreements to contradict, vary, or modify an unambiguous writing, which the parties intended to be a full and final expression of their agreement. It is generally understood that in the absence of fraud or mistake, a clause in a written contract, which states that the writing is intended to be a complete integration of the agreement between the parties, establishes that it is. The purpose of the parol evidence rule is to discourage litigation by encouraging parties to put their entire agreement in writing.

29. A is the correct answer. An agreement for the sale of goods FOB a particular place requires the seller to load the goods on board a carrier at that place. Once the seller has done so, the buyer's obligation to pay the seller for the goods becomes complete. Under UCC Section 2-210, a seller who has completely performed may assign its rights even if terms of the contract prohibit assignment.

30. B is the correct answer. In an FOB contract, the risk of loss passes to the buyer as soon as the goods are loaded on a carrier at the place specified. This means that once the air conditioner units were loaded onto Freight's truck, any loss not resulting from the fault of the seller became Buck's. Buck is thus not entitled to damages due to non-delivery resulting from such loss.

31. A is the correct answer. A contract is formed upon acceptance of an offer. An offer is a manifestation of present intent to be bound to specific terms. Since Ana's letter of August 1 clearly expressed her willingness to sell each of the paintings to Delaila for \$2,000, was an offer. An acceptance occurs when the offeree communicates to the offeror that she agrees to the terms of the offer. Since Delaila's telegram clearly expressed her willingness to pay \$2,000 for painting number 30, it was an acceptance. A contract for the sale of painting number 30 at a price of \$2,000 was thus formed. For this reason, Ana's action for breach of a contract to purchase the painting for \$3,000 must fail unless there has been an enforceable modification of the original contract. Under UCC section 2-209(3) a modification of a contract must be in writing if the contract as modified is within the provisions of the Statute of Frauds. Since, as modified, the oral contract between Ana and Delaila calls for the sale of goods with a price in excess of \$500 violates the Statute of Frauds and will not be enforced.

32. C is the correct answer. Since Delaila's telegram on August 2 was an acceptance specifically agreed to the purchase of only one painting. Ana may successfully argue that it rejected Ana's offer to sell the others.

33. C is the correct answer. Assignment of a contract transfers all the assignor's rights to the assignee. After the assignment, the assignor has no rights in the contract and cannot sue to enforce it.