

PRINT NAME to be eligible to earn a quiz grade above zero.
Name left blank and names in script earn a quiz grade of zero.

ON THE ANSWER SHEET PRINT YOUR ANSWERS.

Turn in both your question sheets and your answer sheet.

Only one word is required for each answer, unless answer sheet notes otherwise.

Present your student ID when turning in your exam materials.

NOTE: Some words appear on this exam in different forms of the root word.

For example, the same statement could be written in two different ways.

[i] An appellate court reverses a trial court for a clear error of fact.

[ii] The trial court is reversed when the appellate court finds that the trial court clearly has made an error of fact.

In the exam format below those two sentences could appear using in the following format.

[i] An appellate court reverses a trial court for a [a] error of fact.

[ii] The trial court is reversed when the appellate court finds that the trial court [a] has made an error of fact.

The root word will not be altered when reused;

unless its use is a negative (e.g., "unclear" would appear as "**un**[a]").

Any version of that word that is a correct answer at any use is acceptable.

CHAPTER 20

A. The Uniform Commercial Code, Article 2 (UCC-2) governs the Sale of

[1]. [1] are [2] and [3] [4] property.

When a transaction combines both the sale of [1] and the sale of [5],

then the [6] nature of the transaction determines whether the

common law of contracts governs that transaction or whether UCC-2 governs

that transaction.

- B. **(NOTE: Make sure your answers to questions 7 & 8 as well as your answers to questions 9 & 10 fit in all locations where those answers are to be used. The last sentence in B allows for no ambiguity in answering those four questions, thus there will be no partial credit for answers to those four questions.)**

The UCC-2 uses different rules for transactions between two [7]_____, between a [7] and a [8]_____, and between two [8]. A [7] is any person (i.e., either a [9]_____ person or a [10]_____ person) who either [21] in [1] of that kind (i.e., reason to [31]); or hires an agent who is a [7] (i.e., vicarious [31]); or holds self out as a [7] (i.e., estoppel). All [8] are [10] persons.

- C. The UCC-2 repeals the [11]_____ Image Rule by authorizing [12]_____ terms. The [13]_____ intent of the parties to be bound to a contract, when coupled with the obligation of [1] [14]_____ (which may not be disclaimed), allows the court to [37] most [12] terms with commercially [15]_____ terms. However, only the [16]_____ term may not be an [12] term. A [16] term is not [12] if the contract is an [17]_____ contract or a [18]_____ contract. For the CISG, however, only the price term may not be an [12] term.

- D. The UCC-2 includes the Statute of Frauds. The Parole Evidence Rule helps enforce the Statute of Frauds by barring from court [19]_____ evidence that seeks to contradict or vary the written terms of the contract. If a written contract term is [20]_____, then [19] evidence is allowed to determine the parties' [13] intent. If the Plain Meaning Rule does not remove the [20], then the court might use as the parties' [13] intent to find the meaning for that [20] term based

upon the parties' course of performance, the parties' course of [21] , or the usage of [22] .

CHAPTER 21

- E. Before any interest in specific [1] can pass from the seller to the buyer the [1] must be in [23] and must be [24] . The [1] are [24] when the [1] are [25] as the subject matter of the sale contract. Typically, when the [1] are part of a larger mass, then the seller seeking to [25] the particular [1] must separate the [25] [1] from the mass so as to accomplish [24]. However, [26] [1] are owned by tenants in common and need not be separated to achieve the [25] needed for [24]. Under the UCC-2, [27] passes from the seller to the buyer at the [28] of and at the [29] of the seller performing physical delivery of the [1].
- F. Ordinarily, a seller only can transfer as [1] a [27] as the seller has. For example, since the [27] of a thief is a void [27], the buyer from that thief only gets a void [27]. However, a seller with a voidable [27] can transfer [1] [27] to a [1] [14] purchaser for [30] and without [31] of the seller's defective [27]. Additionally, the [32] rule allows a [7] who [21] in [1] of that kind to create [1] [27] in a [1] [14] purchaser for [30] in the ordinary course of business and without [31] of the claims of others.
- G. Under the UCC-2 the [33] of loss does not necessarily pass with [27]. If the parties' contract does not specify when the [33] of loss passes, then the UCC-2 provides rules for the passing of the [33] of loss. Under the UCC-2 if the

parties' contract is a __[34]_____ contract, then the [33] of loss passes from the seller to the buyer upon the seller's due delivery of the [1] to the carrier. Under the UCC-2, if the parties' contract is a __[35]_____ contract, then the [33] of loss passes from the seller to the buyer upon the carrier's due deliver at the contract specified [35]. A buyer obtains an __[36]_____ interest in the [1] as soon as the [1] are [24]. The seller retains an [36] interest in the [1] as long as the seller has [27] to the [1].

CHAPTER 22

- H. Conforming [1] are [1] that conform exactly to the description of the [1] in the contract. Conforming [1] are __[37]_____ performance with respect to the subject matter of the contract. While the UCC-2 nearly [37] eliminated the [11] Image Rule, the UCC-2 retains the __[38]_____ condition of the Perfect __[39]_____ Rule (i.e., ready, willing, and able to provide [37] performance).
- I. Damages obtainable under the UCC-2 are greater than damages obtainable under the common law of contracts in several ways. For example, while both the common law of contracts and the UCC-2 include __[40]_____ damages within compensatory damages, the UCC-2 includes within [40] damages the non-breaching party's lost profits which would be __[41]_____ damages under the common law of contracts. However, the UCC-2 also seeks to reduce the scope of obtainable damages. For example, both the common law of contracts and the UCC-2 create in the non-breaching party a duty to __[42]_____ damages, but the UCC-2 creates a right of the non-breaching party to __[43]_____ by entering the market to obtain substitute conforming [1]. Also, the UCC-2 creates

a new right, relative to the common law of contracts, whereby the breaching seller whose performance is delivered prior to the [28] that the contract calls for performance may [44] non-conforming [1] by [39] of conforming [1] by the [28] performance is due.

CHAPTER 23

- J. A Statute of [45] provides procedural due process while a Statute of [46] seeks to satisfy substantive due process. A Statute of [45] can be tolled, a Statute of [46] can not. Accordingly, the Statute of [46] sets a firm deadline for when the plaintiff must file suit or lose the plaintiff's standing to sue because, although the plaintiff still might have suffered an injury in [53], that injury no longer is sufficiently [13] to continue to include the plaintiff within the zone of protected interests.
- K. Product liability is a form of strict liability, with the social [33] allocation motivated by the [7]'s superior abilities (relative to the [8]) for controlling the [33] of harm as well as superior abilities for financing preventative measures. The [7] is strictly liable for allowing an un[15] dangerous product to be sold to the [8]. Under the common law of contracts only those parties that shared [47] of contract could be liable; however, product liability imposes liability on [48] who do not have [47] of contract with [8]. There is no [47] of contract between [48] and [8] when those [48] do not sell directly to the [8]; but instead, those [48] sell directly to wholesalers, who in turn sell directly to retailers, who in turn sell directly to [8].

L. All [7] selling [1] convey those [1] along with an _[49]_____ warranty of _[50]_____. Because the UCC-2 does not require an election of remedies, in addition to that [49] warranty of [50] a [8] might also have claims against the [7] seller based upon additional warranties. For example, a [7] seller might have given the [8] an [49] warranty of fitness for a particular purpose (i.e., seller [31] of the particular purpose and the seller [31] the buyer is _[51]_____ upon the seller's skill to select suitable [1]) and/or the seller might have given the [8] an _[52]_____ warranty (e.g., seller's affirmation of _[53]_____ that is part of the basis for the _[54]_____). The federal Magnuson-Moss Warranty Act only regulates [52] warranties by [7] selling products in commerce to [8]; and, the Magnuson-Moss Warranty Act does so by defining the words full and [45] used to describe the warranty.