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## 1. Bob's rights and remedies under the contract

### Applicable law

The uniform commercial code governs all contracts for the sale of goods. A good is a tangible item that is moveable at the time of identification to the contract. Here, the contract is for the sale of a car, which is a good. UCC is therefore the governing law.

### Contract formation

A contract is a promise or set of promises for which the law provides remedies in the event of breach. A valid contract requires offer, acceptance and consideration.

#### Offer

An offer manifests assent to a contract, must be communicated to an offeree in clear and definite terms, and leaves the power of acceptance in the hands of the offeree.

Here, Bob mailed a signed letter to Sam, by which is manifested his willingness to purchase Sam's 1965 Eris automobile. The offer was communicated to Sam via letter, and left the power of acceptance in Sam's hands.

Bob clearly made an offer to Sam.

#### Acceptance

Acceptance is the manifestation of willingness to enter into a contract.

In a unilateral contract, the contract is promise for promise. Here, acceptance was valid upon a promise to comply with the contract.

Here, Same telephoned Bob, and "accepted the offer" They agreed to meet the following week for payment and exchange of title.

There was valid acceptance by Sam.

#### Consideration

Consideration is a bargained for legal detriment. Essentially *quid pro quo*, "this for that."

Here, Bob is giving Sam money in exchange for Sam's 1965 Eris automobile. Each party is

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giving something to get something.

There is valid consideration

**A valid contract was formed between Sam and Bob.**

### **Anticipatory repudiation**

Anticipatory repudiation occurs where one party unequivocally indicated an unwillingness to perform the contract prior to the time that performance is due.

Here, Sam has contracted to sell the car to someone else, and not follow through with the contract between him and Bob. Since this occurred prior to the time performance was due, it is considered an anticipatory repudiation.

It is within Bob's rights to request reasonable assurances that Sam will comply with the contract.

### **Statute of frauds**

Under the statute of frauds, the sale of goods over \$500 must be in a written contract, including all material terms of the contract, signed by the party against whom the contract is charged. In this case the contract was in writing, but only Bob signed the contract, and Sam is the party to be charged. Sam's estate will argue that the contract does not comply with the statute of frauds and should thus be invalidated.

### **Remedies**

#### Compensatory damages

Compensatory damages seek to put the parties in the place they would have been if the contract had gone as it should. In this case if the contract had gone through Bob would have gotten the car. However, the court would find that the contract was invalidated due to the statute of frauds and Bob will be entitled to nothing.

Punitive da are not allowed in contracts.

#### Specific Performance

Had the contract been valid, Bob would have argued that since the car is a unique item, money damages would not be sufficient, and he should be entitled to specific performance, meaning he should get the car.

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But the court would find the contract was invalidated by the statute of frauds Bob is entitled to nothing.

## **2. Charlie's rights and remedies under the contract**

### **Applicable law**

The uniform commercial code governs all contracts for the sale of goods. A good is a tangible item that is moveable at the time of identification to the contract. Here, the contract is for the sale of a car, which is a good. UCC is therefore the governing law.

### **Contract formation**

#### Offer

see above for rule

#### *Advertisements as offers*

The general rule that advertisements are not offers unless they contain clear and definite terms, and clearly identify who can accept the offer. Here, there are no facts as to what the advertisement actually said, so we can not declare the terms "clear and definite," also because Art made an offer as to price instead of saying he would just buy the car, the advertisement likely did not include price, which would have been a term needed to find the advertisement was an offer.

The advertisement was not an offer.

#### *Charlie's offer*

Charlie drove to Sam's house and offered him \$300,000 for the Eris. The offer was clearly verbally communicated to Sam, the offeree. And clearly left the power of acceptance in Sam's hands.

There was a valid offer.

#### Acceptance

see above for rule

#### *Mailbox rule*

Under the mailbox rule, acceptance is effective upon dispatch.

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Here, Sam signed Charlie's contract and placed dropped the contract into the mailbox. At this time, Sam no longer has control of the mailed contract, and acceptance is considered effective.

Sam's signing and mailing back of the contract was a clear manifestation of willingness to enter into a contract.

There was valid acceptance of the contract between Sam and Charlie.

### Consideration

see above for rule

Here, Sam was given money in exchange for the car.

There was valid consideration for the contract.

### **Implied duty of good faith dealing**

#### Fraud

Parties have an implied duty to deal in good faith. Here, the duty was breached by Sam because he sold the car to Charlie knowing that he had already accepted Sam's offer.

The fact the the contract was created under conditions of fraud, makes the contract voidable by Charlie.

#### Statute of frauds

see above for rule

Here Charlie prepared a contract and mailed it Sam. Sam signed the contract, since Sam is the party to be charged, there is a valid and enforceable contract.

The contract complied with the statute of frauds, assuming all material terms were included within the contract.

### **Remedies**

#### Legal remedies

Compensatory damages seek to put the parties in the position as though the contract was performed. Since the good was a car that was is "unique" Charlie would likely argue that legal remedies are insufficient and that he is entitled to specific performance.

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Specific performance

Specific performance is an equitable remedy available when damages are insufficient, or when the good is unique. Since only 500 cars were made of the 1965 Eris, the car is considered "highly valuable" and being that it is now over 60 years later, it is likely that the car is hard to come buy, further adding to the uniqueness of the car.

Charlie would likely be successful in obtaining specific performance since the car is unique.

**3. Art's rights and remedies under the contract**

**Applicable law**

The uniform commercial code governs all contracts for the sale of goods. A good is a tangible item that is moveable at the time of identification to the contract. UCC also applies where the contract is between two merchants. A merchant is a person that has special knowledge and/ or deals in goods of the kind. Here art is a classic car specialist and would deemed a merchant, Sam however would not.

Common governs all other contracts, such as those for services.

Where the contract could be controlled by either law, the governing law is determined by the primary purpose of the contract.

Here, the contract is for Art's services in helping Sam sell the car, since the contract is for services, common law will govern the contract.

**Contract formation**

Offer

see above for rule

Acceptance

see above for rule

Consideration

see above for rule

The facts indicate a valid contract was formed, so it can be assumed that there is valid offer, acceptance and consideration for this contract, whereby Art receives a 10% commission on the

sale of the car.

### **Termination of offer**

An offer can be terminated, with the consent of both parties. Here, the offer was "terminated" by Sam, after the car had already been sold. The terms of the contract had already been completed, and a court will find that the termination of the contract was invalid, since the performance of the condition of payment had already occurred.

### **Breach of Contract**

A breach can material or minor. The materiality is determined based on the benefit conferred onto the other party. Time is not a material breach unless it is specifically determined that time was of the essence.

### **Remedies**

#### Legal remedies

Since the condition of payment had already occurred at the time the Sam attempted to terminate the contract, a court would find that the non-payment would constitute a breach of contract.

Art is entitled to the 10% commission of the sale of the 1965 Eris automobile.

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**END OF EXAM**