

SAMPLE EXAM

SALES AND LEASES

PROF. MEADOWS

QUESTION 1 (90 points)

K. L. Ingon's Sun and Fun owns and operates several retail stores specializing in toys and novelty items on Fisherman's Wharf in San Francisco, California. In March of 1992, Sun & Fun's manager, Kay Lahr, reviewed the stores' inventory to determine their needs for the upcoming summer. After assessing their needs, Lahr reviewed the catalogue for Cyrano's Novelties and selected several novelty goods (fuzzy stuffed toys) to order. Lahr immediately contacted Harry Mudd, Cyrano's customer service representative, to place that order. After protracted discussions, they decided that Sun & Fun would immediately send Sun & Fun's order, by electronic facsimile (fax) to Mudd's attention. Lahr and Mudd agreed that the price of the goods would be the catalogue price on the date of order less a 15% discount. The parties estimated that the total cost would be between \$5,000 and \$6,000. On receipt of the order, Mudd would review the order with the manager of the order department to receive his final approval for shipment.

On March 20, 1992, Kay Lahr faxed the following on Sun & Fun's standard purchase order form:

K. L INGON'S SUN & FUN, INC.
Fisherman's Wharf
San Francisco, California

PURCHASE ORDER

Item	Quantity	Price
Red Tribbles	1000	
Blue Tribbles	1000	
Multi-color Tribbles	1000	

Delivery Terms:

Receipt-5-15-92

All orders are F.O.B. San Francisco.

for K.L. Ingon's Sun and Fun, Inc.

Mudd received the faxed order and discussed the agreement details with the department manager. After receiving the manager's approval, Mudd faxed the following on March 21 on Cyrano's standard form:

CYRANO'S NOVELTIES
Carbondale, Illinois

ACKNOWLEDGMENT

Cyrano's Novelties wishes to thank you for your order. We are pleased to advise you that your order will be shipped from our warehouse on May 15, 1992.

for Cyrano's Novelties

Shipment is subject to all terms and conditions contained on the reverse.

(REVERSE OF FORM)

- A. All shipments are F.O.B. Seller's warehouse.
- B. All orders are accepted at catalogue price on date of shipment.
- C. The terms of this form are final.
- D. Acceptance of goods shipped constitutes acceptances of all terms and conditions contained herein.

Based on the foregoing facts, how would you decide the following disputes?
Explain your answers fully.

A. Assume that on April 1, 1992, Cyrano's wishes to back out of the "agreement" with Sun & Fun. On that day, can Sun & Fun maintain an action to enforce the contract against Cyrano's? (For this question, do not discuss whether Sun & Fun can actually enforce the contract, limit your discussion to whether Sun & Fun is entitled to attempt to enforce the agreement in court).

B. Assume the goods are shipped on May 15 and received and accepted by Sun & Fun. Cyrano's sends Sun & Fun a bill for the toys in the amount of \$7,500 (based on the May catalogue price of the toys, \$2.50 per tribble). Sun & Fun refuses to pay that amount, but offers to pay \$5,100 (based on the catalogue price for the month of March less 15%, \$1.70). Cyrano's refuses to accept the lesser price and sues. At trial, Sun & Fun offers evidence of the price discussed and agreed to by Kay Lahr and Harry Mudd. Cyrano's objects. Discuss the grounds of Cyrano's objection. How would you rule if you were the judge?

C. Assume Cyrano's duly delivers the goods to Vulcan Freightways on May 12, 1992 for delivery in San Francisco on May 15. The truck is hijacked on its way to San

Francisco and is never found. Cyrano's seeks full payment of the purchase price from Sun & Fun. Is Sun & Fun obligated to pay?