

**Question I (40 points)**

- H will argue ad was invitation to bid, not offer ..... (3 pts) \_\_\_\_\_
- DB will argue ad was offer and H accepted in 4/14 letter..... (3 pts) \_\_\_\_\_
- DB will argue if ad was not offer then H made offer for bilateral contract in 4/14 letter ..... (3 pts) \_\_\_\_\_
- DB will argue if 4/14 ltr was H's offer, their ltr of 4/29 was acceptance..... (3 pts) \_\_\_\_\_
- H will argue that even if ad was offer, 4/14 ltr was inquiry, not acceptance..... (3 pts) \_\_\_\_\_
- H will argue that if ad was not offer, his ltr of 4/14 was at most an invitation for an offer..... (3 pts) \_\_\_\_\_
- H will argue that if 4/14 ltr was offer, DB's ltr of 4/29 was counteroffer w/ new terms..... (3 pts) \_\_\_\_\_
- DB will argue that if 4/14 was offer of unilateral contract, they began performance so no w/d ..... (3 pts) \_\_\_\_\_
- H will argue no beginning of performance only preparation so offer could be withdrawn ..... (3 pts) \_\_\_\_\_
- H will argue mutual mistake b/c both thought water was through foundation..... (3 pts) \_\_\_\_\_
- DB will argue unilateral mistake on H's part; they detrimentally relied so not voidable..... (3 pts) \_\_\_\_\_
- Remedy: H will argue they can, at most, get reliance damages; they want profit as expectation ..... (4 pts) \_\_\_\_\_
- Miscellaneous..... (3 pts) \_\_\_\_\_

*TOTAL QUESTION I (of 40 possible raw score pts) .....* \_\_\_\_\_

**Question II (40 points)**

*No Agreement on Price*

- Cables might argue they agreed to refer to index under 2-305((1)(c) but may want all p.e.r. excluded... (4 pts) \_\_\_\_\_
- NYNEX will argue they agreed no obligation to buy if no agreement on price ..... (4 pts) \_\_\_\_\_
- NYNEX will argue evidence can be introduced to explain the price arrangement - no contradiction ..... (4 pts) \_\_\_\_\_
- Cables will argue that per should be excluded because completely integrated ..... (4 pts) \_\_\_\_\_
- Cables will argue that if all parol evidence is excluded, 2-305(1)(b) gives them mkt price..... (4 pts) \_\_\_\_\_
- NYNEX will argue that if all parol evidence is excluded, 2-305(4) says no contract..... (4 pts) \_\_\_\_\_

*Impact of Merger*

- Cables will argue that under 2-210(5) delegation of performance gives rise to insecurity..... (3 pts) \_\_\_\_\_
- Cables will argue that under 2-306 they are entitled to sale of average of 25 spools/mth..... (3 pts) \_\_\_\_\_
- Cables will argue good faith obligation of NYNEX/BellAtlantic requires continued purchase ..... (3 pts) \_\_\_\_\_
- Remedy: Cables will argue entitled to lost profits on average of 25 spools per month as lost vol ..... (4 pts) \_\_\_\_\_
- Miscellaneous..... (3 pts) \_\_\_\_\_

*TOTAL QUESTION II (of 40 possible raw score pts) .....* \_\_\_\_\_

**Question III (40 points)**

Statute of Frauds: contract can not be performed within 1 year so need a signed writing ..... (4 pts) \_\_\_\_\_

*Holding Clean Pools Inc (CPI) Liable*

- Olympic will argue that their deposit in mail of ltr of acceptance to CPI made a contract ..... (4 pts) \_\_\_\_\_
- CPI will argue ltr spoke of future signing, so not acceptance AND S/F requires signing by them..... (4 pts) \_\_\_\_\_
- CPI will argue that if there were a contract, Olympic proposed rescission and they accepted..... (4 pts) \_\_\_\_\_

*Holding Crystal Pools (Crystal) Liable*

- Olympic will argue that they received a telephone offer from Crystal and accepted by telephone..... (4 pts) \_\_\_\_\_
- Crystal will argue (1) no acceptance of their offer which they w/d and (2) S/F makes unenforceable.... (4 pts) \_\_\_\_\_
- Olympic will argue Crystal cannot w/d because Olympic detrimentally relied on offer (RS 87)..... (4 pts) \_\_\_\_\_
- Crystal will argue that although unilateral mistake, Olympic should have known so voidable..... (4 pts) \_\_\_\_\_
- Any remedy should be measured by difference between "contract price" and substitute or mkt price..... (4 pts) \_\_\_\_\_
- Miscellaneous..... (4 pts) \_\_\_\_\_

*TOTAL QUESTION III (of 40 possible raw score pts) .....* \_\_\_\_\_

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COMMENTS: