

Question 1

HH: ambiguities in writing therefore can introduce discussions w/o violating CL parol evidence rule	4	
HH: form supplied by AA should be regarded as partial integration; omits discussion favorable to HH	4	
HH: proposed evidence of inclusion of branches does not contradict writing and not barred by PER	4	
AA: total integration so parol evidence rule bars all evidence of prior negotiations	4	
AA: if partial integration, barred because contradicts agreement – suggests much larger performance obligation than is described in writing	4	
HH: no consideration for the modification	4	
HH: demand for more money to carry out performance is bad faith	4	
AA: Modification has consideration on both sides – time limit on AA; more money from HH	4	
HH: the modification included an express condition of completion by May 5 not satisfied and so HH has no duty to perform modified agreement	4	
AA: should be interpreted as promise, not express condition substantially performance by May 5	4	
Total:	40	

Question 2

UCC applies because involves a transaction in goods	2	
TW: there is an anticipatory repudiation 2-610 or if there is any doubt than we should, in writing, demand an assurance of performance under 2-609	3	
WNEC: goods \$500 or more; enforcement barred by UCC statute of frauds because oral 2-201	4	
TW: our invoice satisfied 2-201, we are merchants and you didn't object w/i 10 days see 2-201	4	
Each side argues "merchant" as applied to colleges with WNEC denying merchant status	3	
TW: facts show not ordered until >WNEC order; 2-201(3)(a) makes enforceable – made for WNEC	3	
WNEC TW order was twice WNEC's order, shows they were not being specially made for WNEC	3	
WNEC: circumstances justify invocation of 2-615 as defense to claim – unexpected decline makes performance impracticable	4	
TW: enrollment not within its contemplation at all; enrollment has not fallen below size of order; risk of decline in enrollment is risk taken by all colleges in contracting for future performance	4	
TW: we can either wait a commercially reasonable time or act immediately against WNEC	3	
TW: since no other buyers, we can argue for price under 2-709(1)(b)	3	
TW: can make claim under 2-708(1) using 2-723 to determine market price at date of repudiation or date we file our claim	4	
Total:	40	

Question 3:

The UCC will apply because this is a sale of goods	2	
Buyer's call is an anticipatory repudiation under 2-610	2	
Philip can now cease his performance and, for example, resell the ceramic under 2-706	3	
Philip's call to Sam Second indicates he considers repudiation final, ending Ben's power to retract repudiation under 2-611(1)	3	
Ben will argue he can still retract because Sam said he wouldn't buy the ceramic and therefore Phil's position hasn't changed	3	
Ben will argue not repudiating but rather arguing contract could be avoided because of mutual mistake about a material element – that Brown was the artist	3	
Ben will argue his May 3 call was not retracting a repudiation, it was affirming that they were not mutually mistaken so their contract was not void	3	
Philip will argue that risk of mistake was clearly on Ben, therefore no right to avoid for mistake and the May 2 call was a repudiation which can not be retracted	3	
Ben argues a unique good therefore right to specific performance remedy under 2-716(1)	3	
Phil will argue that Ben's waffling on the purchase shows he doesn't deserve a specific performance order because he has "unclean hands"	2	
Sam will argue he made an offer for ceramic cat at Phil's show and Phil accepted his offer, therefore forming a contract under 2-204	4	
Phil will argue offer was made face to face and he had said "ceramic was already sold" This was a rejection of Sam's offer and when he called Sam he was making the offer and Sam rejected it, so no contract. When Sam called to "confirm," that was, at most, an offer which Phil did not accept	4	
If court finds that Phil's call to Sam was an acceptance of Sam's offer, Phil will argue that enforcement is barred b/c no writing satisfying 2-201 or, alternatively, contract was avoidable for mistake which went to the heart of the agreement and under rules of unilateral mistake, court should allow him to avoid the contract	3	
Sam will ask for specific performance under 2-716(1) and Phil will oppose on grounds of unfairness of the transaction under all of the facts, including the unilateral mistake by Phil.	2	
	40	