

AGN:

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# **SAMPLE EXAM CONTRACTS**

**THREE HOURS.  
THIS IS A CLOSED-BOOK EXAM.**

Try to show thought and critical analysis of the materials and issues dealt with in the course.

DO read the questions carefully and think about your answers before beginning to write.

DO refer to statutory provisions, cases and other materials where appropriate. If you make general statements, try to back them up with specific references.

DO NOT use abbreviations unless you explain what you are using them to stand for.

DO NOT make assumptions in answering the hypothetical.

DO explain what further information you might need in order to answer the question properly.

DO write legibly and clearly.

**You will get credit for following these instructions, and may be penalized for failing to do so.**

## **SECTION A (60% of the exam grade)**

The following events all occur in Arcadia, a state in the US.

Arcadian Citizens (AC) is a group which is concerned about the environment, and makes a habit of entering into agreements with developers so that the developers agree to make their developments less harmful to the environment or provide benefits to the local community and AC agrees not to demonstrate against the developments. AC learned that Donnie Developer (DD) planned to build a new mixed residential and shopping complex in Center City in Arcadia. AC and DD signed a letter of intent which set out their objectives for their negotiations about improving the environmental impact of DD's new development. AC was keen to ensure that the development included solar panels to reduce energy consumption and composting equipment to reduce the need for space in landfills. DD was aware that AC had a large and active membership and that the Center City Commission was reluctant to approve developments that AC challenged. Negotiations proceeded for some time and DD was beginning to be confident that they would result in an agreement. This was important because DD was in the process of trying to reach agreement with a group of local banks and other investors who he hoped would fund the development.

DD met with Jill, the President of AC, just as he was about to enter into a loan agreement with some of the local banks to help him to fund some of the preparatory work on the development. DD wanted some comfort that the agreement between AC and DD was nearly agreed before signing the loan agreement. Jill said that she was very keen for AC to come to an agreement with DD. DD took Jill's statement to mean that an agreement on the terms he had been discussing with AC was within reach and he went ahead and signed the loan agreement. However, three days after DD signed the loan agreement, AC informed DD that it would not agree to support the development unless DD included within the development a park for local children to play in. It would be possible for DD to fit a park on the land he has optioned for the development but it would be necessary for the plans to be revised (involving increased architects' fees and reducing the amount of land which would be dedicated to revenue

raising activities) and DD would need to hire experts to ensure the safety of the park. The park will add significantly to the expense of the development.

DD has issued an Environmental Challenge (EC) which invites inventors to submit inventions which could be used in a residential/shopping development to improve its environmental profile. The EC offers 5 prizes of varying monetary amounts for the five best entries. The EC rules state that entrants must warrant that their entries are their own work, and that the winners will be the 5 best inventions. The identification of the 5 best inventions is to be decided in two phases: the first phase involves online voting to identify the most popular 20 inventions, and the second phase involves the inventors of these 20 inventions presenting their work to a group of independent judges which then chooses the 5 best inventions. A large number of inventors submit their work in response to the EC. The online voters pick their 20 preferred inventions, and the list of the 20 inventions is publicized, but DD decides to close down the competition because he is worried about his financial position.

**Answer the following 4 questions based on the facts set out above:**

1. DD wants to claim that he should be able to hold AC to an agreement whereby AC would support DD's plans if he agrees to the solar panel and composting provisions but not the children's park. Do you think there is any basis on which DD can claim that he has a contract with AC on these terms? Explain your reasoning.
2. If there is no contract on these terms, under what circumstances could DD obtain a remedy from AC?
3. Would it make a difference to your answers if the letter of intent included a provision whereby the parties agreed to negotiate the terms of an agreement based on the letter of intent in good faith? Would it make a difference to your answers if the letter of intent included a provision whereby the parties agreed that the letter of intent did not constitute a binding commitment by either party with respect to any transaction? Explain

your answers.

4. Is there any basis on which one of the 20 finalists in the EC could argue that DD should not be entitled to close down the competition? Explain your answer.

## **SECTION B (40% of the exam grade)**

### **ANSWER ONE QUESTION FROM THIS SECTION**

1. "The law has outgrown its primitive stage of formalism when the precise word was the sovereign talisman, and every slip was fatal. A promise may be lacking, and yet the whole writing may be "instinct with an obligation," imperfectly expressed." (Cardozo J. In *Wood v Lucy, Lady Duff Gordon*.)

Discuss.

2. Discuss the imperfections of UCC §2-207.