1. Consider each of the following transactions and determine whether the common law, Article 2 of the Uniform Commercial Code, or the U.N. Convention on Contracts for the International Sale of Goods should govern the transaction. Please explain your answer for each transaction and provide a citation to a published (including electronically published) state or federal court opinion that supports your answer to each subpart. If there is more than one reasonably correct answer to a particular subpart, explain why, with citations to authority supporting each alternative answer.

A. Your purchase of a one-liter bottle of Evian water from Jones’s Grocery in Henderson, NV.

B. Your use of 1,000 gallons of residential water service provided by the City of Henderson, for which you receive a bill based on the quantity of water you use.

C. Jones’s Grocery’s purchase of ten 36-bottle cases of Evian bottled water from ABC Wholesale in Petaluma, California.

D. ABC Wholesale’s purchase of 1,000 36-bottle cases of Evian bottled water from Evian-Les-Bains, France.

E. Your purchase of a collectible “Millennium” bottle of Evian from Evian-Les-Bains, France.

F. Your purchase of a manufactured home from XYZ Mobile Home Manufacturers.

G. Your purchase from XYZ Mobile Home Manufacturers of a manufactured home, including transportation to and installation on your lot.

H. Your purchase of an XYZ manufactured home and the parcel of real property on which it sits from the current owner of the manufactured home and realty.

I. Your purchase from the current owner of an XYZ manufactured home, which you will arrange to be removed from its present location and relocated.

J. Your contract with Bud’s Home Relocation Services, providing that Bud’s will remove the manufactured home from the seller’s real property, transport it to a location you have designated, and install it there.
2. On October 15, a luxury used car dealer offered to sell you a 1983 Rolls Royce for $20,000, payable in 24 equal monthly installments. She said she would put the offer in writing and would give you until next March 1st to decide. You agreed to pay the dealer $500 for “tying up” this car for nearly five months, and she said she would apply this money toward the first month’s payment if you choose to buy the car. After you paid her and got her signed writing, you remembered that your friend Swen, an auto buff, was due to visit you the weekend of January 30th and 31st.

A. Are you safe to wait until Swen comes and looks at the car before exercising your option?

B. Suppose, instead, that you did not pay anything for the seller’s promise to keep the offer open until March 1st. Are you safe now to wait until Swen comes to town to decide whether to accept her offer?

3. On Monday, E mails an offer to M. The offer does not specify how or when M may/must accept. On Tuesday, E mails M a revocation. On Wednesday, M receives E’s offer and promptly mails a rejection. E dies Wednesday night. On Thursday morning, unaware that E died the night before, M faxes E an acceptance. M’s fax reaches E’s fax machine minutes after M sends it. M receives E’s revocation on Friday. M’s rejection arrives in E’s mailbox on Saturday. When, if at all, did E and M form a contract? Please explain.

4. On 2/1, E mails M an offer that includes a provision that, for $100, he will grant M an exclusive 60-day option (ending 4/2) to purchase E’s house for $150,000. M promptly sends E the $100. The parties do not communicate further until M mails E a letter informing E that he is exercising his option. E receives M’s letter on 4/3 (the day after the option expired). E calls M to tell him he is “too late” and that E has already arranged to sell his house to P for $155,000. Does M have a claim against E?

5. M tells P, “I’ll pay you $20 if you wash and wax my car,” then promptly leaves the country before P has a chance to respond. (If it helps, imagine that M left a message on P’s voice mail.) P washes and waxes M’s car. Two weeks later, M e-mails P to revoke the offer. When P tells M he has already done the work and expects to be paid, M replies that, because P did not seasonably notify M of his acceptance, M is not bound. Who’s correct? Please explain.

6. Mercury Rising (“Mercury”) is an Illinois manufacturer of indoor and outdoor thermometers. Tubular Glass (“Tubular”) is a Michigan manufacturer of precision glass tubing. On March 14, 2006, following telephone negotiations between the two, Will Bruce, Mercury’s purchasing agent, faxed a purchase order to Tubular for 5,000 one-foot lengths of glass tubing, at a price of $5.00 per foot, to be delivered to Mercury’s plant no later than May 1st. Later that same day, Tubular faxed a written acknowledgment, agreeing to manufacture and deliver 5,000 one-foot lengths of glass tubing, at a price of $5.00 per foot, to Mercury’s plant no later than May 1st. The terms of Tubular’s acknowledgment also (1) disclaimed of all implied warranties, and (2) required Mercury to pay the full contract price, including the cost of shipping the tubing from Tubular’s
plant to Mercury’s plant, when Mercury received the tubing. The parties did not correspond further. Mercury received the goods on May 1st and paid the carrier in full, including transportation costs.

A. Did Mercury and Tubular form a contract by their exchange of correspondence, their actions, or both? Please explain. How would your answer, your explanation, or both, change if this transaction was governed by the 2003 Amendments to UCC Article 2? Please explain.

B. Suppose that Tubular’s acknowledgment clearly stated that it would accept Mercury’s purchase order only on the condition that Mercury agrees to the terms set forth in Tubular’s acknowledgment. Would Mercury and Tubular have formed a contract by their exchange of correspondence, their actions, or both? Please explain. How would your answer, your explanation, or both, change if this transaction was governed by the 2003 Amendments to UCC Article 2? Please explain.

C. Suppose that, rather than faxing a purchase order for 5,000 one-foot lengths of glass tubing to Tubular, Bruce faxed it to Philippe Glass (“PG”), a manufacturer of precision glass tubing located in Windsor, Ontario (Canada). If PG’s acknowledgment contained the same terms set forth in Tubular’s acknowledgment above, would Mercury and PG have formed a contract by their correspondence, their actions, or both? Please explain.

7. At 4:45 p.m. on Friday, July 1, 2005, Sandra faxed Bosworth a letter stating that she had 100 shares of stock of Nile.com (a hot new e-retailer) that she would sell him for $150.00 per share. Sandra’s letter stated in relevant part: “Unless I receive your written acceptance by 5:00 p.m. (PDT) on Tuesday, July 5, 2005, my offer will expire. I will not offer these same shares to any other prospective buyer until 5:00 p.m. (PDT) on Tuesday, July 5, 2005, or until you reject this offer, whichever occurs first.” Across the bottom of Sandra’s letter was printed “Sandra Ypres, Realtor ♦ 24000 Mesa Grande Dr., Suite 150, Las Vegas, NV 89119 ♦ E-Mail: sandra24000@yippie.com.” Bosworth did not see Sandra’s fax until the morning of Saturday, July 2, 2005.

At 12:00 p.m. on July 2nd, just before he rushed out of the house to catch a flight to Akron, Bosworth sent Sandra an e-mail, addressed to “sandra24000@yippie.com,” stating: “I agree to buy your 100 shares of Nile.com stock for $150 per share. Have a great Fourth of July!” Bosworth’s e-mail reached Sandra’s e-mailbox a few minutes later. However, Sandra had left her office at 5:00 p.m. Friday and did not attempt to check her e-mail once she got home later that evening or over the holiday weekend.

Despite having heard nothing yet from Bosworth, Sandra decided to keep her 9:00 a.m. Tuesday morning tee time with her golfing buddy Trina. At 11 a.m. on Tuesday, July 5th, between the 9th and 10th holes at Wyld Stallyns Golf Course, and completely unknown to Bosworth, Sandra sold Trina her 100 shares for $175.00 per share. When Sandra returned to her office around 2 p.m. on Tuesday, July 5th, and without reading the
accumulated e-mails in her “Inbox,” she sent an e-mail to Bosworth’s office e-address informing him that she could no longer sell him the shares. Sandra’s e-mail reached Bosworth’s office e-mailbox a few minutes later. Bosworth was out of his office all day Tuesday, July 5th.

Bosworth returned to his office at 8:30 a.m. on Wednesday, July 6th, switched on his computer, and saw Sandra’s July 5th e-mail for the first time. Bosworth immediately called Sandra’s office and left her the following voice mail message: “I don’t understand the e-mail you sent me yesterday. I e-mailed you Saturday that I would buy your 100 shares of Nile.com stock for $150 per share. Please call me so that we can sort this out.” Sandra never returned Bosworth’s call.

Assuming there are no applicable formation defenses (e.g., illegality, duress, mistake, lack of capacity, etc.), as of 5:00 p.m. (PDT) on Tuesday, July 5, 2005, did Bosworth have a valid contract with Sandra that required her to sell him 100 shares of Nile.com stock for $150.00 per share? Please explain.