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===== Start of Answer #1 (490 words) =====

QUESTION 1: ANSWER 1

Is the distributor obligated to pay the refund to Coppermeadows?

5 As this contract deals primarily with the sale of goods, between two merchants: the distributor and Coppermeadows, the U.C.C. is the presiding body of law.

10 The first offer, sent by the distributor by fax is initially rejected through a counter-offer by Coppermeadows. However, because Coppermeadows sent an agreement which according to the mailbox rule took effect upon dispatch, a contract was formed. Also, 10 this agreement was then relied on by the distributor therefore the counter-offer does not negate the formation of the contract. In addition, Coppermeadow's method of 5 response was outside the accordance of the offer which demanded a response by fax.

10 U.C.C. §2-207 dictates that when acceptance is contingent on assent to additional terms that those terms are then merged into the agreement. In this case the agreement by the distributor, as manifested through their delivery of the books, is subject to the assent to the additional terms, including the refund clause. However because they are 30 merchants U.C.C. §2-207 (2)(b), states that if these terms materially alter the contract they drop off. The terms involving refunds did so materially alter the contract by dictating the acceptable conduct with unsold books. U.C.C. gap fillers in regard to refunds may apply.

U.C.C. §2-202, referencing the parole evidence rule also applies to this document. As it contains a merger clause: "all prior oral and written agreements are hereby merged into this agreement," the defenses of the distributor would be limited from using prior faxes or phone conversations as evidence.

Depending on the gap fillers of the U.C.C. the distributor may owe Coppermeadows up

to a \$150 refund.

QUESTION 1: ANSWER 2

Would the distributor obligated to pay the refund to the professor?

Even though professor is not a merchant, this contract still deals primarily with the sale of goods, the UCC is the presiding body of law.

10 U.C.C. §2-207 dictates that when acceptance is contingent on assent to additional terms that those terms are then proposed as new terms to the contract. In this case the agreement by the distributor, as manifested through their delivery of the books, is subject to the assent to the additional terms under U.C.C. §2-207 (1)(3). Meaning by delivering the books they have agreed to the additional terms of the professor's agreement including the refund clause.

U.C.C. §2-202, the parole evidence rule also applies to this document. As it contains a merger clause to fully integrate it "all prior oral and written agreements are hereby merged into this agreement," the defenses of the distributor would be limited would be limited from using prior faxes or phone conversations as evidence.

It seems unlikely that a court would find any defense for the distributor against the refund clause, due to the "Four Corners Rule" which limit's extrinsic evidence (i.e. prior faxes or phone conversations) the distributor should be obligated to pay the refund of \$150.

===== Start of Answer #2 (554 words) =====

5 Sale of portable classrooms, UCC applies to these as goods, unless they are considered real property, in which case common law applies.

Contract between Ben and School

80

15 After a conversation with Sarah about the classrooms the school would like to sell, Ben inspected the classrooms and verbally offered the school \$50,000 for each of them. This was an Offer.

10 Sarah obtained authority from the Board of Directors, and verbally accepted his offer. This was an Acceptance, and included bargained-for Consideration in the form of an exchange of classrooms for money.

10 Sarah confirmed the existence of the school's agreement with Ben at least three times, including reporting to Ben that the Board of Directors had consented to the sale, sending the Letter of Agreement for him to sign, and reporting that the school president had signed and would like to give the letter to Ben after his vacation. If the classrooms are considered goods, under UCC 2-204 these actions plus Ben's performance under the agreement confirm the existence of the parties' intent to contract with each other and the terms of the agreement.

20 If the classrooms are considered goods, the Statute of Frauds applies because this is a sale of goods for over \$500, meaning a signed writing is required for enforcement. But even before the existence of a written agreement, under UCC 2-201 the verbal agreement between Ben and the school is enforceable without a writing because Ben relied on the verbal commitment from Sarah, representing the school, and began

not
discovery
reliance

performance of the agreement, incurring expenses in posting the expensive ad and traveling to Idaho to meet with a prospective buyer.

If the classrooms are real property, the agreement is still covered by the Statute of Frauds, and an exception applies to Ben's reliance and part performance, making the writing unnecessary for enforcement.

However, the purpose of the Statute of Frauds is to prevent fraud, and the court will not apply it in a way that will create fraud. Not enforcing Ben's agreement with the school will allow the school to get away with not honoring the agreement they made with Ben.

Ben attempted to fulfill his end of the bargain by giving \$100,000 to Sarah to seal the deal for the purchase of the classrooms.

1. Ben sues the school for breach of contract. Who will prevail?

5 Ben does not have a copy of the written agreement with the school signed by the president, and cannot prove they had a valid contract. But Ben will prevail in an action for breach of contract because a writing was not required under the Statute of Frauds exception.

2. May Ben recover any damages for his efforts to sell the classrooms?

15 While some costs in the course of securing a contract are a normal part of doing business, the costs that Ben incurred were a predictable consequence of the school's commitment to him for which he should be reimbursed. Under the doctrine of promissory estoppel, the school made a promise to Ben and should have foreseen that he would rely on that promise. Ben relied on the promise to his detriment when he began performance by placing the ad and traveling to Idaho. Enforcement of the promise is required to prevent injustice. He is entitled to reliance damages in the amount he expended under the agreement.

① reasonable?
② just cost of doing business?