



# Gemini Pro 2.5 #10

On July 1 Buyer sent the following telegram to Seller: "Have customers for salt and need carload immediately. Will you supply carload at \$2.40 per cwt?" Seller received the telegram the same day. On July 12 Seller sent Buyer the following telegram, which Buyer received the same day: "Accept your offer carload of salt, immediate shipment, terms cash on delivery." On July 13 Buyer sent by Air Mail its standard form "Purchase Order" to Seller. On the face of the form Buyer had written that it accepted "Seller's offer of July 12" and had written "One carload and \$2.40 per cwt." in the appropriate spaces for quantity and price. Among numerous printed provisions on the reverse of the form was the following: "Unless otherwise stated on the face hereof, payment on all purchase orders shall not be due until 30 days following delivery." There was no statement on the face of the form regarding time of payment. Later on July 13 another party offered to sell Buyer a carload of salt for \$2.30 per cwt. Buyer immediately wired Seller: "Ignore purchase order mailed earlier today; your offer of July 12 rejected." This telegram was received by Seller on the same day (July 13). Seller received Buyer's purchase order in the mail the following day (July 14). Briefly analyze each of the items of correspondence in terms of its legal effect and indicate what the result will be in Seller's action against Buyer for breach of contract.

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A contract was formed, and the Seller will win in an action against the Buyer for breach of contract.

The Buyer's attempt to reject the offer on July 13 was ineffective because a contract had already been created earlier that day when the Buyer dispatched its Purchase Order, which operated as an acceptance.

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## ## Legal Analysis of Correspondence

This transaction involves the sale of goods, so it is governed by the Uniform Commercial Code (UCC), not common law.

### 1. Buyer's Telegram (July 1)

- **Legal Effect:** This is an **inquiry** or an **invitation to negotiate**.
  - **Analysis:** The language "Will you supply...?" does not express a definite willingness to be bound. It merely solicits an offer from the Seller. It gives the Seller the power to make the first formal offer.
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### 2. Seller's Telegram (July 12)

- **Legal Effect:** This is an **offer**.
  - **Analysis:** Although the Seller's telegram uses the word "Accept," it cannot legally be an acceptance because the Buyer's July 1 telegram was not an offer. Instead, the Seller's message is a clear, definite proposal containing specific terms (quantity, price, shipment, and payment). This communication creates the power of acceptance in the Buyer. The proposed terms are a carload of salt at \$2.40/cwt, with immediate shipment and **payment as cash on delivery**.
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### 3. Buyer's Purchase Order (July 13)

- **Legal Effect:** This is an **acceptance** that formed a contract upon dispatch.
  - **Analysis:** Under the UCC's "Battle of the Forms" rule (§ 2-207), a definite expression of acceptance, like this purchase order, creates a contract even if it contains terms that are different from or additional to the offer. The Buyer's form explicitly stated it was accepting the "Seller's offer of July 12."
  - **The "Mailbox Rule":** Acceptance is effective upon **dispatch**, not receipt. Therefore, a binding contract was formed the moment the Buyer put the Purchase Order in the mail on July 13.
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### 4. Buyer's Rejection Telegram (July 13)

- **Legal Effect:** This is an **anticipatory repudiation** of an existing contract.
- **Analysis:** Because a contract was already formed when the Purchase Order was mailed, this subsequent telegram cannot function as a rejection of the

Seller's offer. Instead, it serves as the Buyer's unequivocal statement that it will not perform its duties under the contract.

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## **## Result of Seller's Action**

The **Seller will prevail** in a lawsuit for breach of contract.

A valid contract was formed on July 13 when the Buyer mailed its Purchase Order. The Buyer's subsequent telegram on the same day was a repudiation of this contract, which constitutes a breach.

The terms of the contract would be those on which the parties' communications agree. The conflicting payment term (Seller's "cash on delivery" vs. Buyer's "30 days following delivery") would be handled by the UCC. Because the Buyer's "net 30" term **materially alters** the offer (by changing the financial risk from immediate payment to credit), it would not become part of the contract. The UCC would supply a "gap-filler" term, which for payment is typically due at the time and place of delivery (UCC § 2-310), effectively upholding the Seller's original "cash on delivery" term.