

CONTRACTS MIDTERM

[ONE HOUR]

Green Machine (GM) has developed a new system for recycling plastics, and has built 10 recycling machines at its facility. The machines are designed to produce plastic pellets that can be used to manufacture recycled plastic products.

Peter Plastics (PP) agreed to provide GM with as much plastic waste as GM could process using GM's existing machines for a period of 3 years. In return for the supply of plastic waste, GM would pay to PP a fee of 25% of the value of GM's sales of plastic pellets. The contract provided for GM to pay a fixed dollar amount to PP each month, based on the parties' predictions about likely sales. At the end of each year GM would provide PP with a statement of its sales so that a final adjusting payment could be made. If the amount of payments PP had received during the year exceeded 25% of GM's sales, PP would refund the excess to GM. If 25% of GM's sales exceeded the payments to PP during the year then GM would make an additional payment to PP.

The contract specified that the plastic waste PP would supply to GM would be clean, and would not include single use plastic bags (because these would clog GM's machines). The plastic waste would be supplied to GM in bundles that could easily be fed in to the GM machines (the contract defined the size and other characteristics of the acceptable bundles).

For the first 6 months everything went smoothly. GM identified a number of customers for the plastic pellets, including Allfish (AF), which started to use the pellets in its new recycled shoes line. GM and AF entered into a contract for GM to supply AF with a specific quantity of plastic pellets each month at a specified price for a period of 2 years. AF discovered that sales of its shoes were really slow because there was a lot of competition in the market for shoes using recycled materials. AF therefore decided to spend a lot of money on advertising to improve its sales.

It turned out that some of the plastic waste PP supplied to GM was defective. Some of the bundles did not fit easily in the GM machines. Some other bundles clogged 5 of the GM machines (GM thinks they must have included single use plastic bags). GM's own engineers were unable to fix the machines quickly because some of the parts

that were broken were hard to find. It took 2 months for GM to fix these machines, and GM breached some of its own contractual obligations to its customers as a result, including its contractual obligations to AF. Some existing customers switched to new suppliers of recycled plastic. GM is sure that it also lost potential customers as a result of the breakdown in the machines.

By the time GM failed to supply the plastic pellets to AF (in breach of contract) AF was losing money, as its advertising campaign had failed to generate enough new customers for it to cover the costs of running its factory.

Discuss the contracts law issues raised by these facts, on the basis of the course materials we have studied so far.