REVIEW QUESTIONS

TRUE/FALSE Indicate whether the statement is true or false
(An answer must be all True to be True)

1. T F When the parties negotiate a contract, they can decide that in the event of a dispute, the nonbreaching party may not use the courts to resolve the dispute.
2. T F After litigation has been initiated, private mediation becomes unavailable.
3. T F In arbitration, the jury decides questions of fact, the arbitrator(s) decide questions of law.
4. T F Contracting parties can decide on arbitration either at the time of contract formation or after a dispute has arisen.
5. T F The choice of venue is the choice of the forum.
6. T F Contracting parties can decide on the venue either at the time of contract formation or after a dispute has arisen.

FILL-IN THE BLANK

1. ____________ The method of dispute resolution where the parties attempt to resolve their dispute by themselves.
2. ____________ The method of dispute resolution where a third party resolves the dispute for the parties but without the assistance of a jury.
3. ____________ The method of dispute resolution where a third party resolves a dispute for the parties and the right to appeal is generally unavailable.
4. ____________ The method of dispute resolution where a third party assists the parties in resolving their own dispute.
5. ____________ Another name for the state that has venue.
6. ____________ The party who selects the court with venue.
7. ____________ The name of the clause whereby parties agree on where a future dispute will be resolved.
8. ____________ Courts possess ____________ to decline to exercise jurisdiction in recognition of a party’s free and voluntary choice of a different forum.
9. ____________ The ____________ is in favor of the forum selection provision.
10. ____________ The traditional set of rules that courts used to determine whether the law of State A or the law of State B applied to a dispute.

MULTIPLE-CHOICE

Identify the best correct answer

1. If the parties have not stipulated to an exclusive method of dispute resolution in their contract, which of the following processes could stimulate the breaching party to participate in mediation?
   (a) negotiation
   (b) mediation
2. Which method of dispute resolution does not have a jury to decide questions of fact?
   (a) negotiation
   (b) mediation
   (c) arbitration
   (d) litigation

3. Which method of dispute resolution is the least expensive?
   (a) negotiation
   (b) mediation
   (c) arbitration
   (d) litigation

4. Which method of dispute resolution could have more than one decision maker to decide both questions of fact and issues of law?
   (a) negotiation
   (b) mediation
   (c) arbitration
   (d) litigation

5. If the contract does not mandate the appropriate forum, which determines the appropriate forum?
   (a) the plaintiff
   (b) the defendant
   (c) the court
   (d) the legislature

6. If the contract does not mandate the appropriate forum and the plaintiff has filed his or her complaint in State A, the court in State A will use the choice of law rules of which state to determine whether the laws of State A or the laws of State B will be used to resolve the dispute?
   (a) State A
   (b) State B
   (c) either State A or State B
   (d) neither State A nor State B

7. If the contract mandates that the laws of State B will apply to any dispute and the nonbreaching party files a complaint in State A, what will the court in State A do?
   (a) apply the law of State A because State A is the forum state
   (b) apply the law of State A because the parties want the court in State A to apply its laws
   (c) apply the law in State B because of the choice of law provision
   (d) remove the case to State B because the choice of law states that the law of State B applies

8. At the time of contract formation, the parties may negotiate a forum selection provision.
   (a) Most courts will not enforce a forum selection provision.
   (b) A forum selection provision does not guarantee that all future disputes will be heard only by the named court.
   (c) A forum selection provision is mandatory upon a court.
   (d) A forum selection provision may not be rebutted by a party.

9. A contract may include which of the following?
   (a) a clause mandating choice of method of dispute resolution
   (b) a clause mandating choice of forum
   (c) a clause mandating choice of law
   (d) a clause mandating all three

10. The choice of law approach that is based on the last act of contracting.
    (a) territorial approach
    (b) center of gravity approach
    (c) significant contacts approach
    (d) consequences-based approach

11. The choice of law approach that initially considers whether the law of State A differs from the law of State B on this issue of the case.
    (a) territorial approach
    (b) center of gravity approach
    (c) significant contacts approach
    (d) consequences-based approach

12. The choice of law approach that considers whether the policy of State A or the policy of State B will be more greatly impaired by the selection of which state’s law applies.
    (a) territorial approach
    (b) center of gravity approach
13. The contract provides that the court with venue will be in State A.
   (a) The court in State A by being the forum state must use the law of State A to resolve the dispute.
   (b) Even though the court in State A is the forum court, the court in State A may use the law of State B to resolve the dispute.
   (c) The court in State A must dismiss the case if the law of State B must be used to resolve the dispute.
   (d) The court in State A must transfer the case to State B if the law of State B must be used to resolve the dispute.