

(GCF-12, GCF-13, GCF-15, GCF-16, GCF-17, SCF-3, VDCF-2 &amp; VCF-3)

DATE: 12.10.2019

MAXIMUM MARKS: 100

TIMING: 3 Hours

**BUSINESS LAW & BUSINESS CORRESPONDENCE & REPORTING**

**Question No. 1 is Compulsory. Answer any four question from the remaining five questions.**  
**Wherever necessary, suitable assumptions should be made and disclosed by way of note forming part of the answer.**

**Working Notes should form part of the answer.**

**Answer 1:**

- (a) As per Section 2 (d) of the Indian Contract Act, 1872, in India, it is not necessary that consideration must be supplied by the party, it may be supplied by any other person including a stranger to the transaction. {1/2 M}
- The problem is based on a case "**Chinnaya Vs. Ramayya**" in which the Court clearly observed that the consideration need not necessarily move from the party itself, it may move from any person. {1/2 M}
- In the given problem, the same reason applies. Hence, M is liable to pay the said sum to N and cannot deny her liability on the ground that consideration did not move from N. {1 M}

**Answer:**

- (b) According to section 2(68) of the Companies Act, 2013, "Private company" means a company having a minimum paid-up share capital as may be prescribed, and which by its articles, except in case of One Person Company, limits the number of its members to two hundred. {2.5 M}
- However, where two or more persons hold one or more shares in a company jointly, they shall, for the purposes of this clause, be treated as a single member.
- It is further provided that -
- (A) Persons who are in the employment of the company; and
- (B) persons who, having been formerly in the employment of the company, were members of the company while in that employment and have continued to be members after the employment ceased,
- Shall not be included in the number of members.
- In the instant case, Flora Fauna Limited may be converted into a private company only if the total members of the company are limited to 200.
- Total Number of members
- |       |                               |     |
|-------|-------------------------------|-----|
| (i)   | Directors and their relatives | 190 |
| (ii)  | 5 Couples (5*1)               | 5   |
| (iii) | Others                        | 5   |
|       | Total                         | 200 |
- Therefore, there is no need for reduction in the number of members since existing number of members are 200 which does not exceed maximum limit of 200. {1.5 M}
- Therefore, there is no need for reduction in the number of members since existing number of members are 200 which does not exceed maximum limit of 200. {1 M}

**Answer:**

- (c) According to Section 64 of Sale of Goods Act, 1930, the legal position is follows:-
- Case (a): C's bid was an offer to buy and he was entitled to withdraw his bid before the sale is completed as per express provision of Section 64(2). Such a condition in an auction sale was inoperative because it was against the provisions of the law. {1 M for each correct 5 points}
- Case (b): C's bid was an offer to buy which may or may not be accepted by the auctioneer. Hence, P could refuse to accept the highest bid.

- Case (c): It amounts to fraud and sale is voidable at the option of the buyer because the seller could appoint only one person to bid on his behalf. Here intention of the seller was not to protect his interest but to raise the price.
- Case (d): Z had a good title because the property passed to C on the fall of the hammer. The ownership of specific goods in a deliverable state passes on the completion of contract of sale.
- Case (e): The sale was not valid and C was not entitled to goods. It was held that the auctioneer could not effectively accept such a bid (which was lower than reserve price) because he could not make a contract so as to bind his principal to accept less than the reserve price.

**Answer 2:****(a) Distinction between LLP and Limited Liability Company (LLC)**

	<b>Basis</b>	<b>LLP</b>	<b>LLC</b>
1.	Regulating Act	The LLP Act, 2008.	The Companies Act, 2013.
2.	Members/Partners	The persons who contribute to LLP are known as partners of the LLP.	The persons who invest the money in the shares are known as members of the company.
3.	Internal governance structure	The internal governance structure of a LLP is governed by agreement between the partners.	The internal governance structure of a company is regulated by statute(i.e., Companies Act, 2013).
4.	Name	Name of the LLP to contain the word "Limited Liability partnership" or "LLP" as suffix.	Name of the public company to contain the word "limited" and Private company to contain the word "Private limited" as suffix.
5.	Number of members/partners	Minimum – 2 members Maximum – No such limit on the members in the Act. The members of the LLP can be individuals/or body corporate through the nominees.	Private company: Minimum – 2 members Maximum – 200 members Public company: Minimum – 7 members Maximum – No such limit on the members. Members can be organizations, trusts, another business form or individuals.
6.	Liability of members/partners	Liability of a partners is limited to the extent of agreed contribution except in case of willful fraud.	Liability of a member is limited to the amount unpaid on the shares held by them.
7.	Management	The business of the company managed by the partners including the designated partners authorized in the agreement.	The affairs of the company are managed by board of directors elected by the shareholders.
8.	Minimum number of directors/designated partners	Minimum 2 designated partners.	Private Co. – 2 directors Public Co. – 3 directors

{1 M for each  
Correct 6 points}

**Answer:**

- (b) 1. According to section 44 of the Sales of Goods Act, 1932, when the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery and also for a reasonable charge for the care and custody of the goods. {1 M}

- The property in the goods or beneficial right in the goods passes to the buyer at appoint of time depending upon ascertainment, appropriation and delivery of goods. Risk of loss of goods prima facie follows the passing of property in goods. Goods remain at the seller's risk unless the property there in is transferred to the buyer, but after transfer of property therein to the buyer the goods are at the buyer's risk whether delivery has been made or not. } {1 M}
- In the given case, since Mr. G has already intimated Mr. H, that he wanted to store some other goods and thus Mr. H should take the delivery of goods kept in the godown of Mr. G, the loss of goods damaged should be borne by Mr. H. } {1 M}
2. If the price of the goods would not have settled in cash and some amount would have been pending then Mr. G will be treated as an unpaid seller and he can enforce the following rights against the goods as well as against the buyer personally:
- (a) Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods. [Section 55(1) of the Sales of Goods Act, 1930] } {1.5 M}
- (b) Where under a contract of sale the price is payable on a day certain irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract [Section 55(2) of the Sales of Goods Act, 1930]. } {1.5 M}

**Answer 3:**

- (a) Generally, the effect of the death of a partner is the dissolution of the partnership, but the rule in regard to the dissolution of the partnership, by death of partner, is subject to a contract between the parties and the partners are competent to agree that the death of one will not have the effect of dissolving the partnership as regards the surviving partners unless the firm consists of only two partners. In order that the estate of the deceased partner may be absolved from liability for the future obligations of the firm, it is not necessary to give any notice either to the public or the persons having dealings with the firm. } {2 M}
- In the light of the provisions of the Act and the facts of the question, Mr. X (creditor) can have only a personal decree against the surviving partners (Mr. A and Mr. B) and a decree against the partnership assets in the hands of those partners. A suit for goods sold and delivered would not lie against the representatives of the deceased partner. } {1 M}
- Hence, the legal heirs of Mr. C cannot be held liable for the dues towards Mr. X. } {1 M}

**Answer:**

- (b) According to Section 20 of the Indian Partnership Act, 1932, the partners in a firm may, by contract between the partners, extend or restrict implied authority of any partners. } {1 M}
- Not with standing any such restriction, any act done by a partner on behalf of the firm which falls within his implied authority binds the firm, unless the person with whom he is dealing knows of the restriction or does not know or believe that partner to be a partner. } {1 M}
- The implied authority of a partner may be extended or restricted by contract between the partners. Under the following conditions, the restrictions imposed on the implied authority of a partner by agreement shall be effective against a third party: } {2 M}

1. The third party knows above the restrictions, and
  2. The third party does not know that he is dealing with a partner in a firm. }
- Now, referring to the case given in the question, M supplied furniture to A, who ultimately sold them to a third party and M was also ignorant about the agreement entered into by the partners about the change in their role. M also is not aware that he is dealing with a partner in a firm. Therefore, M on the basis of knowledge of implied authority of A, can recover money from the firm. {1 M}
- But in the second situation, if M was having knowledge about the agreement, he cannot recover money from the firm. {1 M}

**Answer:**

**(c)**

- The present problem is concerned with the contractual liability of the Partners. As stated in the **Section 25** of the Indian Partnership Act, 1932, in Partnership the liability of the partners is unlimited. {1 M}
- The Share of each partner in the partnership in the partnership property along with his private property is liable for the discharge of partnership liabilities.
- The liability of the partners is not only unlimited but is also stated that a partner is both jointly and severally liable to third parties. {1 M}
- However, every partner is liable jointly with other partner and also severally for the acts of the firm done while he is a partner.
- On the basis of above provisions, Parul can compel Anurag for the payment of entire loan. Anurag must pay the said loan and then he can recover the share of Rohit's loan from his property. {1 M}

**Answer 4:**

**(a) Doctrine of "CAVEAT EMPTOR" (Section 16):**

- In case of sale of goods, the doctrine 'Caveat Emptor' let the buyer beware'. When sellers display their goods in the open market, it is for the buyers to make a proper selection or choice of the goods. If the goods turn out to be defective he cannot hold the seller liable. The seller is in no way responsible for the bad selection of the buyer. The seller is not bound to disclose the defects in the goods which he is selling. {1 M}
- It is the duty of the buyer to satisfy himself before buying the goods that the goods will serve the purpose for which they are being bought. If the goods turn out to be defective or do not serve his purpose or if he depends on his own skill or judgment, the buyer cannot hold the seller responsible.

**Exceptions:** The doctrine of Caveat Emptor is, however, subject to the following exceptions;

1. **Fitness as to quality or use:** Where the buyer makes known to the seller the particular purpose for which the goods are required, so as to show that he relies on the seller's skill or judgment and the goods are of a description which is in the course of seller's business to supply, it is the duty of the seller to supply such goods as are reasonably fit for that purpose.  
In **Priest vs. Last**,  
P, a draper, purchased a hot water bottle from a retail chemist, P asked the chemist if it would stand boiling water. The Chemist told him that the bottle was meant to hold hot water. The bottle burst when water was poured into it and injured his wife. It was held that the chemist shall be liable to pay damages to P, as he knew that the bottle was purchased for the purpose of being used as a hot water bottle.

2. **Goods purchased under patent or brand name:** In case where the goods are purchased under its patent name or brand name, there is no implied condition that the goods shall be fit for any particular purpose [Section 16(1)].
3. **Goods sold by description:** Where the goods are sold by description there is an implied condition that the goods shall correspond with the description [Section 15]. If it is not so then seller is responsible.
4. **Goods of Merchantable Quality:** Where the goods are bought by description from a seller who deals in goods of that description there is an implied condition that the goods shall be of merchantable quality. The rule of Caveat Emptor is not applicable. But where the buyer has examined the goods this rule shall apply if the defects were such which ought to have not been revealed by ordinary examination [Section 16(2)].
5. **Sale by sample:** Where the goods are bought by sample, this rule of Caveat Emptor does not apply if the bulk does not correspond with the sample [Section 17].
6. **Goods by sample as well as description:** Where the goods are bought by sample as well as description, the rule of Caveat Emptor is not applicable in case the goods do not correspond with both the sample and description or either of the condition [Section 15].
7. **Trade Usage:** An implied warranty or condition as to quality or fitness for a particular purpose maybe annexed by the usage of trade and if the seller deviates from that, this rule of Caveat Emptor is not applicable [Section 16(3)].  
**Example:** In readymade garment business, there is an implied condition by usage of trade that the garments shall be reasonably fit on the buyer.
8. **Seller actively conceals a defect or is guilty of fraud:** Where the seller sells the goods by making some misrepresentation or fraud and the buyer relies on it or when the seller actively conceals some defect in the goods so that the same could not be discovered by the buyer on a reasonable examination, then the rule of Caveat Emptor will not apply. In such a case the buyer has a right to avoid the contract and claim damages.

{1 M for each  
Correct 6 points}

**Answer:**

- (b) **Meaning of Undue Influence:** Section 16 of the Indian Contract Act, 1872, states that a contract is said to be induced by undue influence where the relations subsisting between the parties are such that the parties are in a position to dominate the will of the other and used that position to obtain an unfair advantage over the other.

A person is deemed to be in that position:

- (a) where he holds real or apparent authority over the other or stands in a fiduciary relation to him;
- (b) where he makes a contract with a person whose mental capacity is temporarily or permanently affected by reason of old age, illness or mental or bodily distress.
- (c) where a man who is in position to dominate the will of the other enters into contract with him and the transaction appears to be unconscionable, the burden of proving that it is fair, is on him, who is in such a position.

{2.5 M}

In the given problem, A applies to the banker for a loan at a time when there is stringency in the money market. The banker declines to make the loan except at an unusually high rate of interest. A accepts the loan on these terms. This is a transaction in the ordinary course of business, and the contract is not induced by

{1.5 M}

undue influence. As between parties on an equal footing, the court will not hold a bargain to be unconscionable merely on the ground of high interest. Only where the lender is in a position to dominate the will of the borrower, the relief is granted on the ground of undue influence.

But this is not the situation in this problem, and therefore, there is no undue influence. {1 M}

**Answer 5:**

- (a) BREACH OF CONTRACT: DAMAGES: **Section 73** of the Indian Contract Act, 1872 lays down that when a contract has been broken the party who suffers by such breach is entitled to receive from the party who has broken the contract compensation for any loss or damage caused to him thereby which naturally arose in the usual course of things from such breach or which the parties knew when they made the contract to be likely to result from the breach of it. {1.5 M}
- The leading case on this point is "**Hadley v. Baxendale**" in which it was decided by the Court that the special circumstances under which the contract was actually made were communicated by the plaintiff to the defendant, and thus known to both the parties to the contract, the damages resulting from the breach of such contract which they would reasonably contemplate, would be the amount of injury which would ordinarily follow from the breach of contract under these special circumstances so known and communicated. {1.5 M}
- The problem asked in this question is based on the provisions of Section 73 of the Indian Contract Act, 1872. In the instant case 'X' had intimated to 'Z' that he was purchasing water bottles from him for the purpose of performing his contract with 'Y'. Thus, 'Z' had the knowledge of the special circumstances. Therefore, 'X' is entitled to claim from 'Z' Rs. 500/- at the rate of 0.50 paise i.e. 1000 water bottles x 0.50 paise (difference between the procuring price of water bottles and contracted selling price to 'Y') being the amount of profit 'X' would have made by the performance of his contract with 'Y'. {1.5 M}
- If 'X' had not informed 'Z' of 'Y's contract then the amount of damages would have been the difference between the contract price and the market price on the day of default. In other words, the amount of damages would be Rs. 750/- (i.e. 1000 water bottles x 0.75 paise). {1.5 M}

**Answer:**

- (b) Small Company: According to Section 2(85) of the Companies Act, 2013, Small Company means a company, other than a public company,—
- (1) paid-up share capital of which does not exceed fifty lakh rupees or such higher amount as may be prescribed which shall not be more than five crore rupees; and
  - (2) turnover of which as per its last profit and loss account does not exceed two crore rupees or such higher amount as may be prescribed which shall not be more than twenty crore rupees. {3 M}
- Nothing in this clause shall apply to—
- (A) a holding company or a subsidiary company;
  - (B) a company registered under section 8; or
  - (C) a company or body corporate governed by any special Act.
- (i) In the present case, MNP Private Ltd., a company registered under the Companies Act, 2013 with a paid up share capital of Rs. 45 lakh and having turnover of Rs. 3 crore. Since only one criteria of share capital of Rs. 50 Lakhs is met, but the second criteria of turnover of Rs. 2 crores is not met and the provisions require both the criteria to be met in order to avail the status of a small company, MNP Ltd. cannot avail the status of small company. {1.5 M}

- (ii) If the turnover of the company is Rs. 1.50 crore, then both the criteria will be fulfilled and MNP Ltd. can avail the status of small company. {1.5 M}

**Answer 6:**

- (a) Yes, the revocation of acceptance is valid because the acceptor may revoke his acceptance at any time before the letter of acceptance reaches the offeror. {1.5 M}
- If the letter of acceptance (E-mail) and the Fax of revocation of acceptance reach X at the same time, the formation of contract will depend on the fact that which of the two is opened first by X. If X reads the Fax letter first, revocation is valid but if he reads the E-mail first, revocation is not possible. {1.5 M}

**Answer 6 :**

- (b) In terms of section 2 (87) of the Companies Act 2013 "subsidiary company" or "subsidiary", in relation to any other company (that is to say the holding company), means a company in which the holding company— {2 M}
- (i) controls the composition of the Board of Directors; or
- (ii) exercises or controls more than one-half of the total share capital either at its own or together with one or more of its subsidiary companies:

Provided that such class or classes of holding companies as may be prescribed shall not have layers of subsidiaries beyond such numbers as may be prescribed. Explanation.—For the purposes of this clause,— {1 M}

- (a) a company shall be deemed to be a subsidiary company of the holding company even if the control referred to in sub-clause (i) or sub-clause (ii) is of another subsidiary company of the holding company; {1 M}
- (b) the composition of a company's Board of Directors shall be deemed to be controlled by another company if that other company by exercise of some power exercisable by it at its discretion can appoint or remove all or a majority of the directors. {1 M}

In the present case, Jeevan Pvt. Ltd. and Sudhir Pvt. Ltd. together hold less than one half of the total share capital. Hence, Piyush Private Ltd. (holding of Jeevan Pvt. Ltd. and Sudhir Pvt) will not be a holding company of Saras Pvt. Ltd. {1 M}

However, if Piyush Pvt. Ltd. has 8 out of 9 Directors on the Board of Saras Pvt. Ltd. i.e. controls the composition of the Board of Directors; it (Piyush Pvt. Ltd.) will be treated as the holding company of Saras Pvt. Ltd. {1 M}

**Answer:**

- (c) Acceptance to an offer cannot be implied merely from the silence of the offeree, even if it is expressly stated in the offer itself. Unless the offeree has by his previous conduct indicated that his silence amount to acceptance, it cannot be taken as valid acceptance. So in the given problem, if B remains silent, it does not amount to acceptance. {1.5 M}

**(Felthouse Vs. Bindley)**

The acceptance must be made within the time limit prescribed by the offer. The acceptance of an offer after the time prescribed by the offeror has elapsed will not avail to turn the offer into (1) contract. {1.5 M}

**(Ramsgate Victoria Hotel v Montefiore)**

**PAPER : BUSINESS CORRESPONDENCE & REPORTING**

The Question Paper comprises of 5 questions of 10 marks each.  
Question No. 7 is compulsory. Out of questions 8 to 11, attempt any three.

**SECTION-B : BUSINESS CORRESPONDENCE & REPORTING (40 MARKS)****Answer 7:**

- (a) (1) B  
(2) D  
(3) D  
(4) C  
(5) B
- } {Each 1 Mark}

**Answer:**

- (b) (i) They said that they would apply for a visa.  
(ii) He said that he could run faster.  
(iii) He said that he should avail the opportunity.
- } {Each 1 Mark}

**Answer:**

- (c) Employees in an organization interact with each other outside the formal domain. Such communication is called 'grapevine' - gossip in the office. Employees of different departments and varied levels meet and discuss matters casually and informally. The grapevine satisfies the social needs of the people and helps in building relationships. It is also useful in addressing certain needs and grievances of employees.
- } {1 M}
- } {1 M}

**Answer 8:**

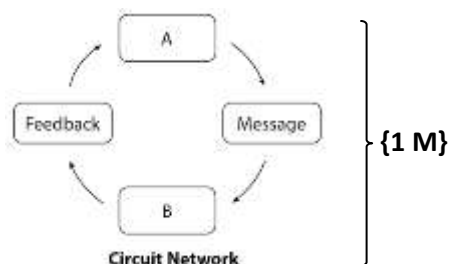
- (a) Tension headaches are characterized by a painful band around the head or pain in the neck and shoulders. This kind is usually caused due to long driving hours or sitting in front of pc's or at the desk. Migraine headaches are characterized by pain on one side of the head, vomiting, irritation or brighter flashes of light. This kind is usually caused due to intake of coffee, chocolates and MSG in food items. Headaches can be treated on our own or by following a doctor's advice.
- } {3 M}
- } {2 M}

**Answer:**

- (b) (i) rotund  
(ii) scanty  
(iii) spiritual
- } {Each 1 Mark}

**Answer:**

- (c) **Circuit Network:**  
When two persons communicate with each other sending messages and feedback, they form a communication circuit. Therefore it is known as circuit network. The two people interacting can be colleagues placed at the same hierarchical level in the organization.
- } {1 M}





**Answer 9:**

- (a) The student may use either the chronological format or the functional format for drafting the resume for a Commerce graduate with no experience.

The following information must be given in the resume:

- Personal details
- Contact information
- Education details - information about Grade X, Grade XII, and Graduation. Which school or college the boy / girl attended? Which year did they pass?
- Skills - soft skills (such as problem solving; time management; critical thinking); computer programming; speaking multiple / foreign languages; etc.
- Achievements - competitions won; positions of responsibilities; projects undertaken.

{Each Point  
1 Mark}

**Answer:**

- (b) (i) Subject of dispute  
(ii) Make a big issue out of a small thing  
(iii) No choice at all

{Each 1 Mark}

**Answer:**

- (c) **Gender barriers-** Men and women communicate differently. The reason for this lies in the wiring of a man's and woman's brains. Men talk in a linear, logical and compartmentalized manner whereas the women use both logic and emotion, and are more verbose. This may be the cause of communication problem in an office where both men and women work side by side. Men can be held guilty of providing insufficient information, while women may be blamed for providing too much detail.
- Gender bias is another factor in communication barriers. Due to traditional mindsets, many men find it difficult to take orders from, or provide information to women.

{1 M}

{1 M}

**Answer 10:**

- (a) R-27, Block - A  
Greater Kailash  
Pune - 56

17 May, 20XX

The Manager / Mr. / Ms.

Shrishti Enterprises  
247, Okhla Industrial Area  
New Delhi -25

Sir/Ma'am

Placing an Order for Office Furniture

{2 M}

After going through your catalogue of office furniture, I wish to place an order for the following items for our office.

S.No.	Item	Quantity
1.	Chairs (Steel)	25 Pieces
2.	Tables (Wooden)	15 Pieces
3.	Stool (Wooden)	20 Pieces
4.	Computer Table	10 Pieces
5.	Filing Cabinets	05 Pieces

{2 M}

All the items should be as per the specifications mentioned in your quotation. Substandard material will be returned. The delivery should be made before May 25, 20XX failing which the order will stand cancelled. Please send the bill after deducting the discount as applicable. As agreed upon earlier, payment of the bill will be made by cheque in favour of the firm within 10 days after the delivery of items.

Yours truly / sincerely

Rohan Sinha

 Manager  
 KD Infotech

{1 M}

**Answer:**

- (b) (i) He said "is this your pen?" (Direct)  
 (ii) Rama said to Arjun, "Go away." (Direct)  
 (iii) He said to him, "Please open the door for me." (Direct)

{Each 1 Mark}

**Answer:**

- (c) **Cultural barriers:** Understanding cultural aspects of communication refers to having knowledge of different cultures in order to communicate effectively with cross culture people.. Understanding various cultures in this era of globalization is an absolute necessity as the existence of cultural differences between people from various countries, regions tribes and, religions, where words and symbols may be interpreted differently can result in communication barriers and miscommunications. Multinational companies offer special courses and documents to familiarize their staff with the culture of the country where they are based for work.
- In addition, every organization too has its own work culture. In fact, departments within the same company may also differ in their expectations, norms and ideologies. This can impact intra and inter organizational communication.
- The same principle applies to families and family groups, where people have different expectations according to their background and traditions leading to friction and misunderstanding. A very simple example is of the way food is served by a member of a family. It can be the cause of appreciation or displeasure.

{1 M}

{1 M}

**Answer 11:**

- (a) 1. Use newspaper format.  
 2. State name of tournament/series.  
 3. Exciting match with nail biting finish.  
 4. Mention who won toss and batted first.  
 5. Performance of key players in both teams.  
 6. Reason for victory of winning team.

{Any 5 Points,  
Each 1 Mark}

**Answer:**

- (b) (i) Most of the class is reading the book.  
(ii) The researchers will publish the results in the next journal.  
(iii) The CIA director and his close advisors have pursued a policy of whitewashing and cover-up. } {Each 1 Mark}

**Answer:**

- (c) **Paralanguage:** The way you say something, more than the actual words used, reveal the intent of the message, The voice quality, intonation, pitch, stress, emotion, tone, and style of speaking, communicates approval, interest or the lack of it. Research estimates that tone of the voice accounts for 38 percent of all communications. } {1 M}  
} {1 M}

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