



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 2 – CONTRACT LAW\*

**Time allowed: 3 hours plus 15 minutes' reading time**

#### Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's Statutes on Contract, Tort & Restitution 2018-2019, 29th edition, Francis Rose, Oxford University Press, 2018.**
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities decided cases and examples should be used where appropriate.

#### Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

**Do not turn over this page until instructed by the Invigilator.**

\* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW and the LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

**SECTION A**  
**(Answer at least one question from this section)**

1. Critically evaluate the approach of the courts as to what constitutes communication of acceptance in relation to postal and instantaneous forms of communication.

**(25 marks)**

2. Critically analyse to what extent it remains true that 'payment of a lesser sum...cannot be any satisfaction for the whole'.

**(25 marks)**

3. Critically evaluate the approach of the courts to:

(a) upholding clauses in restraint of trade;

**(16 marks)**

(b) severing clauses in restraint of trade.

**(9 marks)**

**(Total: 25 marks)**

4. Critically analyse the development of:

(a) the doctrine of undue influence;

**(15 marks)**

(b) the concept of 'constructive notice' under the doctrine of undue influence.

**(10 marks)**

**(Total: 25 marks)**

**SECTION B**  
**(Answer at least one question from this section)**

**Question 1**

Enid moved house last year and wished to carry out some renovations to her new property. In particular, she planned to install new insulation in her loft, as this would help her save on her energy bills. At a family birthday party, Enid told Fred, her son-in-law, of her plans. Fred is a fitness instructor but has some experience of installing insulation, having done it once before in his own house. He therefore offered to purchase and install the insulation.

Enid had read an article online about loft insulation, which mentioned that Grand Roof Designs ('GRD') offered a 10-year guarantee on all its insulation materials. Enid told Fred that he should use GRD insulation.

Fred told Enid that he would need to take unpaid leave from his job, estimating that the installation would take three days. They therefore agreed that Enid would give Fred £1,500 in exchange for his sourcing and installing the right materials, with payment taking place at the end of the year. Fred drew up a document headed 'Invoice', which recorded these details.

Fred purchased the GRD insulation for £500 directly from GRD and installed it in Enid's loft.

Fred's wife, Hope, was grateful to her mother for agreeing to pay Fred for the work and decided to buy her a present as a thank you. Hope arranged a two-year subscription to Enid's favourite magazine, 'Optimal Living', with a total cost of £300, which Hope paid upfront. Hope arranged the subscription with Joyful Magazines Limited ('JML').

This year, Enid has reviewed her energy bills and has noticed that she has not used any less energy. Last week, she arranged for an insulation expert to visit her home. The expert told Enid that the insulation materials provided by GRD are faulty. Unhappy at this outcome, Enid has not paid Fred any of the £1,500 she had promised.

Enid has recently been asked by Hope about whether she is enjoying her subscription, but Enid has not received any issues of 'Optimal Living'.

Advise Enid whether:

(a) she must pay Fred the £1,500 agreed;

**(9 marks)**

(b) she can directly enforce the guarantee against GRD, using common law rules;

**(9 marks)**

(c) she can directly enforce the subscription contract against JML.

**(7 marks)**

**(Total: 25 marks)**

**Turn over**

## Question 2

In March 2017, Thomas visited Viable Vehicles, a car dealership, looking to purchase a new car. While looking at the vehicles on display for sale, he was approached by Wei, a saleswoman who worked for Viable Vehicles. Wei directed Thomas's attention to a second-hand, 2015 Super Sprinter convertible, telling Thomas that, 'in my opinion that's the best car we've got here'.

Thomas liked the car, but at £15,000, the car was at the very limit of his budget. He was also aware that the average price for a 2015 Super Sprinter was around £12,000. When he expressed reservations, Wei told him: 'To be honest, if we don't sell it today, we're going to put it up for auction and who knows how high the bidding will go'. Thomas, worried that he was missing out on a bargain, agreed to buy the Super Sprinter for £15,000.

Thomas has used the Super Sprinter since March 2017, but the car has been beset by problems. It has broken down 15 times since Thomas has been using it. A succession of mechanics have told Thomas that the issue is a complex one inside the engine, and that it would cost £20,000 to fully resolve it.

Thomas has since found out that Viable Vehicles never sells cars at auction. On complaining about the problems with the car, the manager of Viable Vehicles told him: 'It's not my problem you didn't notice the faults. No use complaining to us.'

Advise Thomas as to:

(a) any claim in misrepresentation;

**(16 marks)**

(b) any claim under the Consumer Rights Act 2015.

**(9 marks)**

**(Total: 25 marks)**

### Question 3

Irena planned to spend six months travelling in Asia from November 2018. Irena did not want to leave her very expensive Aston Martin car unattended for six months, so she researched companies who offered secure long-term vehicle storage. Irena decided to use KeepCarSafe ('KCS'), a company based in Kempston.

On 28 October 2018, Irena visited the offices of KCS and spoke to John, a sales representative for the company. She agreed with John that KCS would store her Aston Martin until 7 May 2019 for a total price of £1,620. John wrote down all of the details, and then asked Irena to sign a contract. As Irena was in a hurry, she did not read the document, but signed where John indicated. Two days later, Irena returned to KCS in her Aston Martin and parked it in KCS's secure storage facility.

On her return from Asia, Irena visited KCS on 7 May to collect her vehicle. She was shocked to discover that there was extensive damage to the bodywork. On opening the boot, she found that a box filled with expensive jewellery that she had been storing in the car was missing.

On her way out of the storage facility, Irena slipped on a puddle of oil and injured her leg.

When Irena complained to KCS, John pointed out clauses 21 and 22 in the contract she had signed. These stated:

'21. KCS accepts no liability for any theft or damage to personal belongings left in any vehicle stored in the facility.'

'22. KCS accepts no liability for any personal injury suffered on the premises of the facility, including that caused by negligence of KCS or its agents.'

John then showed Irena a large notice on the wall of the storage facility, which stated:

'Warning: KCS does not accept any liability for any damage caused to vehicles by unusual weather conditions.'

John explained to Irena that the damage to the bodywork came from the unusually cold weather in the UK that winter.

Irena has since discovered that KCS had been clearly negligent in providing security, failing to protect against adverse weather conditions and failing to clean up spills.

Advise Irena as to whether any of the exclusion clauses will affect any claim she may make.

**(25 marks)**

**Turn over**

## Question 4

Universum Trading Limited ('UTL') is a company based in England, which specialises in importing rare materials.

In December 2018, Willem, a carpenter who is an expert in exotic hand-crafted furniture, contracted with UTL to obtain ebony, a particularly expensive wood that was difficult to obtain in England. Willem agreed to pay £20,000 for a shipment of ebony. It was agreed that the wood would be delivered to Willem's workshop on 6 March 2019.

In January 2019, UTL was contacted by Violet, a jeweller who creates unique and extremely valuable jewellery. Violet told UTL that she required 10 carats of opacite, a very rare precious stone. Violet told UTL that this was for a unique necklace commission. UTL agreed to supply Violet with the opacite at a cost of £25,000. It was agreed that UTL would purchase the opacite and carry it by air to England, with the goods being delivered on 7 March 2019. Violet paid £5,000 immediately, with the remaining £20,000 to be paid on delivery.

In February 2019, the UK declared economic sanctions against the Republic of Mythistan due to ongoing human rights abuses. This move was not unexpected, after an extensive press campaign highlighting these abuses. Under the (fictitious) Prevention of Trading with Mythistan Act 2019, it became illegal to import any goods from Mythistan, or to import goods from elsewhere in ships registered in Mythistan.

The opacite that UTL intended to supply to Violet came from Mythistan, which is the only producer of opacite worldwide. On 23 February 2019, UTL informed Violet that it would be unable to fly the opacite from Mythistan. However, UTL had itself already purchased the opacite for £10,000, and has now asked Violet to provide an extra £5,000 to reimburse the company for this. Violet refuses to pay the extra £5,000.

Due to the sanctions against Mythistan shipping, the price of shipping bulky goods rose dramatically. UTL had expected to make a profit of £10,000 in selling and delivering the ebony wood to Willem, but with this rise in costs, the company calculated that delivering the wood to Willem would actually mean an overall loss of £8,000. On 27 February, UTL contacted Willem and told him that the ebony would not be delivered. Willem was furious, as he already had orders for the furniture he planned to make from the wood.

UTL plans to argue that both contracts are frustrated and would like to recover the cost of the opacite. Advise UTL.

**(25 marks)**

**End of Examination Paper**

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