



## THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

### UNIT 2 – CONTRACT LAW\*

**Time allowed: 1 hour and 30 minutes 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.
- **This question paper is divided into TWO sections. You must answer ALL the questions from Section A. There are three scenarios in Section B. You must answer the questions relating to ONE of the scenarios from Section B ONLY.**
- Write in full sentences – a yes or no answer will earn no marks.
- 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 **CILEx LEVEL 3 PROFESSIONAL QUALIFICATIONS** and **LEVEL 3 LEGAL SERVICES KNOWLEDGE QUALIFICATIONS**

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## SECTION A

### (Answer ALL questions in Section A)

1. Define a contract. **(3 marks)**
2. Identify **two** ways in which an offer may be terminated. **(2 marks)**
3. Explain what is meant by 'consideration need not be adequate'. **(2 marks)**
4. Explain:
  - (a) the principle of privity of contract; **(2 marks)**
  - (b) when a third party may enforce a term of a contract under the Contracts (Rights of Third Parties) Act 1999. **(2 marks)**

**(Total: 4 marks)**
5. Identify the presumption relating to legal relations in commercial agreements, and explain **one** situation in which the presumption may be rebutted. **(3 marks)**
6. Identify and explain **two** ways in which terms are implied by the courts. **(4 marks)**
7. Define a 'condition' in a contract, and explain the effect of a breach of condition. **(4 marks)**
8. Identify **three** circumstances when the remedy of rescission of a contract for misrepresentation may be lost. **(3 marks)**
9. (a) Explain the 'entire performance' rule from Cutter v Powell (1795). **(2 marks)**
  - (b) Identify **two** exceptions to this rule. **(2 marks)**

**(Total: 4 marks)**
10. Describe what is meant by 'specific performance'? **(1 mark)**

**(Total Marks for Section A: 30 marks)**

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## SECTION B

**(There are three scenarios in Section B. Answer the questions relating to ONE of the scenarios ONLY)**

### Scenario 1

Ravi breeds Persian cats. He has one kitten, Shadow, left from a recent litter.

On 5 December 2016, Ravi emailed Petra: 'I'll sell Shadow to you for £250. Cash on collection. I'll leave this proposal open until Friday 16 December. Drop me an email or a letter if you want her. Photo attached.'

On 9 December, Petra emailed Ravi: 'Has Shadow had her inoculations and is she a pedigree cat?'

Ravi, concerned that Petra might not want Shadow, decided to look for another buyer. On 10 December, Ravi emailed Golda offering to sell Shadow to her for £250, and asking her to reply by post or email.

Petra, receiving no reply to her email of 9 December, emailed Ravi again on 12 December: 'Shadow looks so adorable, I'll have her anyway. Will bring the money on Friday, 16 December.' Unfortunately, Ravi did not notice this email in his inbox.

On 12 December, Golda posted a letter to Ravi reading: 'I agree to pay £250 for Shadow. I'll collect her on Friday, 16 December.' Golda's letter did not arrive until 19 December.

By 15 December, Ravi was concerned that he was not going to sell Shadow, so he was delighted when Felicity rang up and agreed to buy Shadow for £400, with payment in four weekly instalments of £100.

Petra and Golda both turned up on 16 December to collect Shadow, and were disappointed to be told she had already been sold.

When Felicity made her third payment, she asked if she could be let off the final instalment of £100. Ravi refused, but agreed to reduce the payment to £60 if Felicity paid it there and then. Felicity immediately did so.

After Felicity had paid the £60, she asked Ravi about Shadow's temperament. Ravi promised Felicity that Shadow was a reliably good-natured kitten.

A week later, Ravi changed his mind about letting Felicity off the balance, and asked Felicity for the remaining £40.

Shortly after that, Shadow attacked Felicity and badly scratched her face.

## Scenario 1 Questions

1. Explain whether Ravi's email to Petra is an offer or an invitation to treat.  

**(7 marks)**
  2. Explain whether an agreement has been reached between Ravi and Petra for the sale of Shadow.  

**(10 marks)**
  3. Explain whether Golda has accepted Ravi's offer to sell Shadow.  

**(9 marks)**
  4. Explain whether:
    - (a) part-payment of a debt is good consideration;  

**(4 marks)**
    - (b) Felicity has to pay the balance of £40 to Ravi.  

**(3 marks)**

**(Total: 7 marks)**
  5. Explain whether:
    - (a) past consideration is good consideration;  

**(4 marks)**
    - (b) Felicity has provided good consideration for Ravi's promise that Shadow was a reliably good-natured kitten.  

**(3 marks)**

**(Total: 7 marks)**
- (Total Marks for Scenario 1: 40 marks)**

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## Scenario 2

Shehnaz is the owner of a gardening business. As she had recently obtained a new contract to look after a large area of woodland, she decided to buy a more efficient wood-chipping machine for her business.

She therefore telephoned Acomb Industrial Machinery Ltd (AIM) and spoke to Brian, the manager, who she had dealt with on ten previous occasions over the last three years. She explained that she needed a wood-chipping machine that was very efficient, even if it was expensive. Brian said that he had a Gremlin 123 machine, which could chip 250 kg of twigs and branches per hour. He said it was for sale for £900 and he could deliver it by Monday, 28 November. Shehnaz agreed to buy it.

Later that day, Brian sent Shehnaz AIM's usual invoice. On the front of the invoice, the following clause was printed in large, bold type:

'No responsibility is assumed for any late delivery of products, however late they may be'.

The Gremlin 123 machine was not delivered until Monday, 19 December.

Two weeks after Shehnaz started using the Gremlin 123, its chipping blades snapped because of a weakness in the metal. Shehnaz immediately rang Woodfield Equipment Repairs Ltd and asked them to replace the blades. They carried out the repair and charged Shehnaz £400 for doing so.

Shehnaz wants to claim the cost of the repair from AIM. Brian is refusing, arguing that AIM would have been able to replace the blades for £200, like any other stockist of chipping blades.

## Scenario 2 Questions

1. Explain:
  - (a) how a court will determine whether a statement is a term of a contract;  
**(6 marks)**
  - (b) whether Brian's statement that the Gremlin 123 was capable of chipping 250 kg per hour was a term of the contract between Shehnaz and AIM.  
**(9 marks)**  
**(Total: 15 marks)**
2. (a) Identify and explain **two** ways in which a term may be incorporated into a contract.  
**(4 marks)**
  - (b) Explain whether the clause on the front of the invoice was incorporated into the contract between Shehnaz and AIM.  
**(9 marks)**  
**(Total: 13 marks)**
3. Explain which term, implied by statute in the contract between Shehnaz and AIM, has been breached by the snapping of the chipping blades.  
**(2 marks)**
4. Explain whether Shehnaz can recover from AIM the £400 cost of replacing the chipping blades.  
**(10 marks)**

**(Total Marks for Scenario 2: 40 marks)**

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### **Scenario 3**

Parveen planned to celebrate her birthday with a party on 27 November 2016.

On 1 November, she agreed with the Sun Hotel to hire its 'Orangery' annexe for the party. The contract required payment of £5,000 immediately, which Parveen paid, and a further payment of £10,000 by 14 November. On 4 November, the Sun Hotel spent £2,000 relocating orange trees in preparation for the event.

On 8 November, a colony of bats settled in the Orangery. The Sun Hotel rang the local authority to ask whether the bats could be removed. The local authority said that the bats could not be disturbed and that it would therefore be illegal to use the Orangery while the bats were in it. Parveen was immediately notified but, despite her protests, was told that no refund could be made, as the contract made no provision for this eventuality.

To find another venue for the party, Parveen visited the Foxwood Inn on 12 November. Damien, the manager, told her that the party suite was available on 27 November for a fee of £8,000. He said that he had checked the diary and that three other customers, who were all interested in the party suite for 27 November, were coming to look at it later that day. He told Parveen that she could check the diary herself if she wished but that, if she wanted to book the party suite for 27 November, she would have to be quick.

Concerned that one of the other customers might book the party suite, Parveen, without checking the diary herself, agreed to hire it there and then.

At the end of the party, one of the waiters told Parveen that Damien had not in fact checked the diary on 12 November and that nobody else had been interested in hiring the party suite on 27 November.

### Scenario 3 Questions

1. (a) Define what is meant by frustration of a contract. **(3 marks)**
- (b) Identify **three** types of frustrating event. **(3 marks)**
- (c) Explain whether the contract between the Sun Hotel and Parveen has been frustrated. **(6 marks)**  
**(Total: 12 marks)**
2. Explain whether:
- (a) Parveen can recover any or all of the £5,000 payment made to the Sun Hotel; **(8 marks)**
- (b) Parveen is liable to pay the further payment of £10,000. **(3 marks)**  
**(Total: 11 marks)**
3. (a) Define misrepresentation. **(3 marks)**
- (b) Explain whether Damien's statement that three other customers were coming to look at the party suite was a misrepresentation. **(5 marks)**  
**(Total: 8 marks)**
4. (a) Identify and explain the different types of misrepresentation. **(6 marks)**
- (b) Assuming Damien's statement to be a misrepresentation, explain what type of misrepresentation it is. **(3 marks)**  
**(Total: 9 marks)**

**(Total Marks for Scenario 3: 40 marks)**

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