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CIPS L4M3 Exam is divided into three parts. The first part focuses on the principles of commercial contracting. This includes understanding the different types of contracts, the legal and regulatory framework for contracts, and the key elements of a contract. Candidates will also learn about the different methods of contract pricing and the various types of contracts used in procurement.

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CIPS Commercial Contracting Sample Questions (Q38-Q43):

NEW QUESTION # 38

In which scenarios would it be appropriate for a procurement organisation to include contractual indexation and/or price adjustment formulae clauses in a services contract? Select TWO that apply.

- A. The material components were tendered as fixed costs for the term
- B. The supplier's preference is to switch to a more expensive material specification
- C. The market rates for the supplier's material costs will vary during the term
- D. The supplier's contract staffing costs will be subject to regulatory increase
- E. The supplier's directors shall be paid dividends during the term

Answer: B,C,D,E

Explanation:

Indexation and price adjustment clauses are appropriate when future costs are uncertain or likely to change, such as regulatory-driven wage increases (B) or fluctuating material costs (E). These clauses allow adjustments based on objective indices while

preserving the integrity of the contract.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 4, Section 4.2.2 - Index-linked pricing and adjustments.

NEW QUESTION # 39

Since services are intangible, so KPIs for services must be qualitative in all circumstances. Is this statement correct?

- A. No, some KPIs for services are measurable by means of outcome, time and space performed
- B. No, KPIs for services must always be quantitative so that they can be measured easily
- C. Yes, quantitative KPIs are limited to timeliness of supply of goods, defective rates and in-full quantities, which are applied to monitor supplier of physical goods
- D. Yes, the only measure mattered to supply of services is end-users' satisfaction

Answer: A

Explanation:

KPIs are used to monitor supplier's performance. They can be qualitative or quantitative. Of course, service providers can be monitored by quantitative KPIs regarding the outcome achieved (such as uptime in IT contracts), timeliness of deliveries (such as in construction contracts)...

Reference:

LO 2, AC 2.2

NEW QUESTION # 40

A construction company is undertaking a housing development project. They need lots of bricks and other building materials, but the construction site doesn't have large area for storage of materials. Therefore, the company's suppliers must deliver the building materials with fixed quantity and at fixed time intervals. What type of contract is used between the construction company and its suppliers?

- A. One off contract
- B. Framework agreement
- C. Spot transaction
- D. Call off contract

Answer: D

Explanation:

In the scenario, the contract between the company and its suppliers is continuous rather than one-off. So it cannot be one-off contract or spot purchase. The quantity and time is well known and fixed, this type of contract is known as call-off contract or blanket order.

Reference:

LO 1, AC 1.3

NEW QUESTION # 41

Maximum Score 1

The nature of the "Battle of the forms" is when both buyer and supplier are attempting to ...

- A. Secure their own terms and conditions
- B. Form a joint contract
- C. Create a collaborative relationship
- D. Create a performance specification

Answer: A

Explanation:

The "battle of the forms" arises when each party seeks to have its own terms and conditions govern the contract. Under common law, the terms last sent and accepted (expressly or by conduct) usually apply.

Reference: CIPS L4M3 Commercial Contracting - "Battle of the forms and contract acceptance."

NEW QUESTION # 42

Which of the following is a true statement on express and implied terms?

- A. Implied terms may derive from oral negotiations
- B. Express terms must always be in writing
- C. Express terms always take precedent over implied terms
- D. Express terms must be prepared by the party with expert knowledge

Answer: A

Explanation:

Express terms are the terms of the agreement which are expressly agreed between the parties. Ideally, they will be written down in a contract between the parties but where the contract is agreed verbally, they will be the terms discussed and agreed between the parties.

Implied terms are terms implied into the contract by the courts. They are not expressly set out in the contract but are taken to be as effective as if they were and as if they had been included from day one of the contract. The express terms and any implied terms together create the legally binding obligations on the parties.

The types of express terms to be found in a contract are many and varied and will depend on the type of contract. Any term written into the contract is an express term and may refer to price, time scales, warranties and indemnities, limitations on liability, conditions precedent and so on.

An implied term is a term which the courts imply into a contract because it has not been expressly included by the parties. This may be because the parties did not consider it, did not think that any problem would arise in relation to it or simply omitted to include it. The courts are very reluctant to imply terms into contracts and will only do so in the following circumstances:

1. terms implied under statute
2. terms implied under common law
3. terms implied because of custom or usage
4. terms implied due to previous dealings
5. terms implied 'in fact' or to reflect the parties' intentions

Reference:

- CIPS study guide page 126-132
- Contracts: Express and Implied Terms
- LO 3, AC 3.1

NEW QUESTION # 43

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