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CIPS Level 4 – Diploma in Procurement and Supply

## Commercial Contracting [L4M3]

Sample Exam Questions (Objective Response)

The correct answer will be listed below each question

L4M3 Sample Questions V5 Sept 2020

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## CIPS Commercial Contracting Sample Questions (Q79-Q84):

### NEW QUESTION # 79

A senior procurement specialist in UK is preparing a specification in which ISO standards are used to send to global suppliers. Is this action appropriate?

- A. Yes, every specification must have ISO standards
- **B. Yes, ISO standards are globally recognisable**
- C. No, ISO standards are unfamiliar to global suppliers
- D. No, the procurement specialist must use BSI standards instead

**Answer: B**

Explanation:

ISO standards are internationally agreed by worldwide experts. They overcome countries' differences and facilitate global trade. If a buying organisation is sourcing globally, they should use ISO standards within the specification.

Reference: CIPS study guide page 93-94

LO 2, AC 2.1

### NEW QUESTION # 80

If a false statement of material fact is made by one of the contracting parties, the misled party will have remedies for:

- A. Indemnity
- B. Damages
- C. Rescission
- **D. Misrepresentation**

**Answer: D**

Explanation:

A false statement that induces a party to enter a contract constitutes misrepresentation. This provides the misled party with remedies that may include rescission (cancellation of the contract) and, depending on the type of misrepresentation (fraudulent, negligent), possibly damages as well.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 1, Section 1.3.1 - Misrepresentation and legal remedies.

### NEW QUESTION # 81

Which of the following is the model form of contract for construction which is recommended by World Bank?

- **A. FIDIC**
- B. CIPS
- C. ITC
- D. JCT

**Answer: A**

Explanation:

FIDIC is the International Federation of Consulting Engineers (or Federation Internationale des Ingenieurs Conseils in French). FIDIC has produced many publications, including the model form contracts, best practice guidances, research on sustainability, integrity and risk management. FIDIC model form contracts have been developed by this organisation since 1999, now they consist of several different books which are marked by colours. Thus, FIDIC model contracts also have the nickname "Rainbow suite of contracts". Basically, the

"Rainbow Suite" include the following books:

- \* Yellow book: Plant and Design-Build Contract (2 editions: 1999 and 2017)
- \* Silver book: EPC/Turnkey Contract (2 editions: 1999 and 2017)
- \* Red book: Construction Contracts (2 editions: 1999 and 2017)
- \* Emerald book: Conditions of Contract for Underground Works (1st Ed 2019)
- \* Blue-Green book: Dredgers Contract (2 editions: 2006 and 2016)
- \* Gold book: Design, Build and Operate Contract Guide
- \* Pink book: Construction Contract Multilateral Development Bank Harmonised Ed (2 editions: 2005 and

2010)

This type of model contract is commonly used around the world because its author, International Federation of Consulting Engineers, collaborates closely with development banks such as World Bank, Africa Development Bank, Asia Development Bank, etc. Every construction project that is financed by these institutions must adopt the FIDIC contracts.

The Joint Contracts Tribunal, also known as the JCT, produces standard forms of contract for construction, guidance notes and other standard documentation for use in the construction industry in the United Kingdom.

From its establishment in 1931, JCT has expanded the number of contributing organisations.

ITC (International Trade Centre) produces contracts specifically designed for small companies doing international business, covering the sale of goods, distribution, services and joint ventures. Many small companies are now engaged in international trade, but don't have access to the necessary contract forms to protect themselves. ITC and leading legal experts developed eight generic contract templates that incorporate internationally recognized standards and laws for most small business situations.

CIPS has several model forms of contract designed specifically for IT buying and servicing.

Reference: CIPS study guide page 142

LO 3, AC 3.1

### NEW QUESTION # 82

A tire manufacturer entered into a contract with a distributor. In the contract, the distributor is prohibited from selling the tire under the price list. The distributor must pay \$5 for each tire sold in breach. The amount of \$5 is known as...?

- A. Quantum meruit
- B. Penalty
- C. Liquidated damages
- D. Caveat Emptor

**Answer: C**

Explanation:

This scenario is in fact based on a famous case law: Dunlop Pneumatic Tyre Company v New Garage & Motor Co [1915] AC 79. In this case law, the House of Lords identified the clause as liquidated damages, and therefore enforceable.

However, if this case had happened in 2015 or afterwards, there would be some legal issues:

- The price agreement is prohibited by Competition Act 1998

- If the agreement is allowed by Competition Act, as in the case Cavendish Square Holding BV (Appellant) v Talal El Maktessi (Respondent), the clause can also be identified as a penalty and it is still enforceable.

Reference:

LO 3, AC 3.2

### NEW QUESTION # 83

Maximum Score 1

The Bravo Engineering Company is negotiating a maintenance contract with Express Deliveries Ltd. This large logistics company uses modern robotic storage and picking warehouse machinery to identify, sort, and facilitate over 200,000 orders each day. The volatile nature of the business means that the parties should build maximum flexibility into the performance management aspects of the contract.

Which of the following would be most appropriate to set out the parties' obligations under the maintenance contract?

- A. A non-binding side-agreement to the maintenance contract
- B. A Service Level Agreement issued after the maintenance contract
- C. A clause that disclaims all accountability for the contract for the buyer
- D. A formal appendix to the maintenance contract

**Answer: D**

Explanation:

Performance obligations are best captured in a formal appendix (schedule) to the main contract, ensuring flexibility while remaining legally binding.

A non-binding or post-issued SLA would lack enforceability.

Reference: CIPS L4M3 Commercial Contracting - "Contract appendices and schedules."

