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CIPS Commercial Contracting

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**NEW QUESTION 32**

In which of the following section of a specification, requirements for training to use the equipment will be set out?

- A. Implementation
- B. Issue reference
- C. Performance
- D. Consultation requirements

**Answer: A**

Explanation:

Implementation is a substantive requirement which covers the following areas:

- Will there be a need to train the staff to use the equipment?
- Are there integration requirements with other systems or processes?
- How will this work?
- What are the timescales?
- Are detailed method statements required?

Consultation requirements regards to explicitness of compliance with any national or local legal requirements Reference:

LO 2, AC 2.1

**NEW QUESTION 33**

Which of the following is regulated by standard ISO 14001?

- A. Information security management
- B. Environmental management
- C. Quality management systems
- D. Energy management

**Answer: B**

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## CIPS Commercial Contracting Sample Questions (Q76-Q81):

### NEW QUESTION # 76

A purchase order can become a contract between supplier and purchaser if it is...?

- A. Accepted by the supplier
- B. Received by the supplier
- C. Issued by the buyer
- D. Edited by the supplier

**Answer: A**

Explanation:

A purchase order is a document sent from a buyer to a seller, with a request to order a product. The purchase order often has its number, description and quantity of the goods, unit prices and total price, name of issuer, time of delivery, standard terms and conditions, etc. It is effectively an offer to supplier. The purchase order will become a formal contract if supplier accepted it by written notice or by performance (such as deliver the goods to the buyer's premise).

Reference: CIPS study guide page 33

LO 1, AC 1.2

### NEW QUESTION # 77

Bethy sees a coat on shop window with a \$100 price tag. She comes and asks the shop owner to buy it. The owner states that the price has not been updated and the current price for the coat is \$120. Bethy says the owner should honour the quoted price on window shop. Is Bethy correct?

- A. No, the owner is revoking his initial offer to sell at \$100 and he is proposing new offer to Bethy
- B. Yes, \$120 for a coat is extremely unreasonable and the owner's later offer therefore void
- C. No, the display on shop window is just an invitation to treat and the owner may change the price at his will
- D. Yes, the owner has made an offer by showing his product on the shop window and he must honour that offer

**Answer: C**

Explanation:

Based on two famous precedents, Fisher v. Bell (1961) and Pharmaceutical Society of Great Britain v. Boots Cash Chemists (1953), the display on shop window is considered as an invitation to treat. The shop owner can change the price when his customer asks to buy.

Reference:

LO 1, AC 1.2

### NEW QUESTION # 78

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

**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 Makdessi (Respondent)*, the clause can also be identified as a penalty and it is still enforceable.
- Reference: CIPS study guide page 158-159  
LO 3, AC 3.2

#### NEW QUESTION # 79

Nestle gave away records of "Rockin' Shoes" or a voucher to people who sent in three wrappers from Nestle's 6d. milk chocolate bars as well as 1s 6d. Which of the following were the consideration of Nestle's customer? Select TWO that apply

- A. Three wrappers
- B. "Rockin' Shoes" record
- C. Milk chocolate bar
- D. The voucher
- E. 1s 6d

**Answer: A,E**

Explanation:

Consideration is one thing given in exchange for another.

In this case, considerations of customers are three wrappers and 1s6d. Consideration of Nestle is Rockin' Shoes record or a voucher.

Reference: CIPS study guide page 36-40

LO 1, AC 1.2

#### NEW QUESTION # 80

To expand its operation, Steel Co. decides to build a new plant. Despite of excitement, the senior management is very concerned about the complexity and risks of such project. Hugo, the procurement manager, suggests that the company can adopt a model form of contract. What is the advantage of using model form of contract?

- A. Model form of contract eliminates the need for legal advice totally
- B. The company could avoid the need to draft a complex contract from blank
- C. It shifts the balance of power in the favour of the buyer rather than the contractor
- D. The company does not need to draft the drawings as well as specification anymore

**Answer: B**

Explanation:

Advantages and Disadvantages of using model form contracts.

Model form contracts save a lot of time and money. They are written by industry experts and the buyers and suppliers both understand what is included in the contract.

They are mainly used in Construction and term maintenance contracts. Typical ones are JCT and NEC.

Without the use of model form contracts the buyer and supplier will take a long time to write the terms, negotiate and finalise the contract.

This is time and money wasted.

However, model form contracts require buyers and suppliers to have training so you understand them.

Finally, if you are a buyer in a powerful position you cannot exploit that with a model form contract as these are written for mutual benefit.

Reference:

- Procurement Study Buddy on Facebook
- CIPS study guide page 147

#### NEW QUESTION # 81

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