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CIPS Commercial Contracting Sample Questions (Q41-Q46):

NEW QUESTION # 41

Which of the following would be steps in the preparation of an invitation to tender? Select TWO that apply.

- A. Publishing your company's financial reports
- B. Learning International Standards
- C. Advertising the requirement
- D. Re-writing a model form contract
- E. Creating a detailed specification

Answer: C,D,E

Explanation:

Creating a detailed specification and publicly advertising the requirement are key preparatory steps in issuing an ITT (Invitation to Tender). These ensure that suppliers understand the requirement and have the opportunity to respond, promoting transparency and competition.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 2, Section 2.2.1 - ITT preparation and issuing.

NEW QUESTION # 42

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. Liquidated damages
- C. Caveat Emptor
- D. Penalty

Answer: B

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:

LO 3, AC 3.2

NEW QUESTION # 43

A large company supplies a lot of products. Their shipments are often delayed and customers are not satisfied.

Which of the following KPIs is most likely to be applied to this situation?

- A. Technical support
- B. Consignment stock availability
- C. Delay damages
- D. OTIF delivery

Answer: D

Explanation:

If the deliveries often delay, buyer should use KPI to measure how many missed deliveries there are and the percentage of total missed deliveries on total number of deliveries for period. OTIF (one-time in-full) delivery might help.

Consignment stock availability means that the supplier holds adequate range/number of units of stock to offer a reliable service Delay damages are the consequences caused by delay of deliveries Technical support is the acceptable quality of technical

information/support provided by supplier for goods supplied.

LO 2, AC 2.2

NEW QUESTION # 44

MWB operates serviced offices in central London. Rock entered a contractual licence with MWB to occupy office space in Marble Arch and had accumulated licence fees in arrears. The original licence agreement contained a 'No Oral Modification' clause that said: 'All variations to this licence must be agreed, set out in writing and signed on behalf of both parties before they take effect'. After 6 months, Rock director re-negotiated to extend payment period over phone call and MWB credit controller agreed his proposal. Is this agreement considered as an effective variation to the original licence agreement?

- A. No, because the mechanism for variation has been set out in the original contract
- B. No, because Rock director assumed that the variation was effective and convinced credit controller to believe it
- C. Yes, because parties who agree to altering the original contract orally despite a 'No Oral Modification' clause, must have intended to dispense with the clause
- D. Modification' clause, must have intended to dispense with the clause
- E. Yes, because the credit controller had agreed with Rock director's proposal

Answer: A

Explanation:

The license can be amended during its lifespan. However, in this case, it already has a clause allowing for mechanism of variation which sets out who can authorise changes and prohibits any oral variation. Therefore, the agreement between Rock's director and MWB credit controller is not an effective variation to the license.

Reference: CIPS study guide page 26-27

LO 1, AC 1.1

NEW QUESTION # 45

Which of the following should include in the service level agreement that is an appendix of a contract?

1. How often the service is measured
2. Minimum qualification of supplier staffs
3. Remedies to resolve dispute
4. On time service delivery

- A. 1, 2 and 3 only
- B. 2, 3 and 4 only
- C. 1, 3 and 4 only
- D. 1, 2 and 4 only

Answer: D

Explanation:

When the SLA is a schedule or an appendix to the contract, it should clearly state the following:

1. KPIs: how they are to be measured, who measures them and how often
2. How the measurements convert into scores
3. Any other service level standards, which may be of lesser importance than the KPIs
4. Minimum acceptable standards or scores in each case
5. Range of scores both above and below the minimum acceptable
6. Any mitigating factors which might apply in the event of poor performance
7. Any time period permitted in which to remedy a situation or poor performance.

In this question, "2. Minimum qualification of supplier staffs" and "4. On time service delivery" are the KPIs, while "1. How often the service is measured" is the frequency in which the KPIs are measured.

The remedies available in the event of poor performance should be set out in the body of the contract, along with those for any other contractual breach. These clauses should be cross-referenced in the SLA.

Reference: CIPS study guide page 110-116

LO 2, AC 2.2

NEW QUESTION # 46

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