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CIPS L4M3

CIPS Commercial Contracting

3

Explanation:
ISO has about 22,000 international standards covering a vast range of aspects of product or service quality. Below are some of the most common ISO standards:

- ISO 9001: Quality management system
- ISO 27001: Information security management
- ISO 5001: Energy management
- ISO 14001: Environmental management

Reference:
- ISO 14001:2015 Environmental management systems - Requirements with guidance for use
- CIPS study guide page 86
LO 2, AC 2.1

NEW QUESTION 34
According to rule of contract formation, which of the following is a valid acceptance?

- A. The person orally agrees to pay the offered price
- B. The person asks for a lower price
- C. The person says that she will think about it overnight
- D. The person states that she is able to pay the offered price

Answer: A

Explanation:
Once a valid acceptance takes place, a binding contract is formed. It is therefore important to know what constitutes a valid acceptance in order to establish if the parties are bound by the agreement. There are three main rules relating to acceptance:

1. The acceptance must be communicated to the offeree.
2. The terms of the acceptance must exactly match the terms of the offer.
3. The agreement must be certain.

Among the answers:
"The person says that she will think about it overnight" does not match the terms of the offer. The offeree does not assure that she will accept the offer.
"The person asks for a lower price": This is a counter-offer.
"The person states that she is able to pay the offered price" is not certain. The offeree merely provides information on her financial ability.

Reference:
- Contractual agreement - offer and acceptance
- CIPS study guide page 33-35
LO 1, AC 1.2

NEW QUESTION 35
Transformers & Rectifiers Ltd wanted to buy some specialist gaskets. They sent a request for quotation with specification to Needs Ltd. The supplier replied with a quotation in which had its own terms and conditions. The buyer edited delivery terms on the quotation and sent the document back to Needs Ltd. Gaskets were delivered to Transformers' premise with an invoice from Needs Ltd. Which of the following is most likely to be the governing terms if the two companies must settle the dispute at court?

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CIPS Commercial Contracting Sample Questions (Q170-Q175):

NEW QUESTION # 170

Which of the following is an agreement between service provider and user that quantifies the minimum quality of service?

- A. SLA
- B. Service standard
- C. Service guarantee
- D. Service charter

Answer: A

Explanation:

A service-level agreement (SLA) is a commitment between a service provider and a client. Particular aspects of the service - quality, availability, responsibilities - are agreed between the service provider and the service user. The most common component of an SLA is that the services should be provided to the customer as agreed upon in the contract.

A customer service charter is a document that outlines how an organization promises to work with its customers along with providing insights into how an organization operates.

A service guarantee is a marketing tool service firms have increasingly been using to reduce consumer risk perceptions, signal quality, differentiate a service offering, and to institutionalize and professionalize their internal management of customer complaint and service recovery.

Reference:

LO 2, AC 2.2

NEW QUESTION # 171

Which of the following are true statements about RFQ process? Select TWO that apply.

- A. RFQ process is not suitable for low value purchase
- B. Buying organisation should only send RFQ to pre-qualified suppliers
- C. RFQ process creates heavier administrative burdens than tendering process
- D. Price is often the only variable in the RFQ and quotations
- E. RFQ process requires the suppliers to submit their technical proposals

Answer: B,D

Explanation:

Request for quotations is often used when the only variable is price and the purchase value is under a financial threshold. This process is less formal than ITT. RFQ should be used in the following circumstances:

- Low-value, low-risk purchases
- When the specifications are sufficiently defined or the product/service is standardised
- Where the suppliers are pre-qualified
- Where there is a framework agreement which specifies the contract terms and conditions.

Reference: CIPS study guide page 3

LO 1, AC 1.1

NEW QUESTION # 172

Which of the following is most likely to be an one-off contract?

- A. Framework Agreement for supply of mono-crystalline silicon
- **B. Contract for construction of a power plant**
- C. Commercial lease agreement of an office building
- D. Franchise Agreement

Answer: B

Explanation:

One-off contracts are used where a supplier is only needed for a single activity unlikely to be repetitive, and where the need of the buyer is concrete and finite. Among the answers, only construction for power plant is one-off since the work is non-repetitive and the need is clearly defined.

A framework agreement is an agreement between one or more businesses or organisations, "the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged".

A Commercial Lease Agreement is a contract used when renting business property to or from another individual or company. It gives the tenant (or renter) the right to use the property for business purposes during the term of the lease in exchange for payment to the landlord.

A franchise agreement is a legally binding document that outlines a franchisor's terms and conditions for a franchisee. Every franchise is governed by these terms, which are generally outlined in a written agreement between both parties.

Reference:

LO 1, AC 1.3

NEW QUESTION # 173

Which of the following clauses addresses fraud, bribery and corruption?

The Company has undertaken commercially reasonable efforts to eliminate Conflict Minerals from each Company Product and any products currently proposed to be manufactured by the Company or on its behalf in the future. "Conflict Minerals" means columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives, which originate in the Democratic Republic of the Congo or other country the exploitation and trade of which is determined by the United States to be financing conflict in the Democratic Republic of the Congo or other country.

- **A. Each Party hereby undertakes that, at the date of the entering into force of the Contract, itself, its directors, officers or employees have not offered, promised, given, authorized, solicited or accepted any undue pecuniary or other advantage of any kind in any way connected with the Contract and that it has taken reasonable measures to prevent subcontractors, agents or any other third parties, subject to its control or determining influence, from doing so.**
- B. Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this
- C. Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor.
- D. Customer will be responsible for and shall ensure that while Service Provider employees, agents or contractors are on Customer's premises, all proper and legal health and safety precautions are in place and fully operational to protect such persons.

Answer: A

Explanation:

This question is intended to let students know about how contractual clauses regarding ethical issues is constructed. The exam paper may not ask about this.

"Each Party hereby undertakes that, at the date of the entering into force of the Contract, itself, its directors, officers or employees have not offered, promised, given, authorized, solicited or accepted any undue pecuniary or other advantage of any kind in any way connected with the Contract and that it has taken reasonable measures to prevent subcontractors, agents or any other third parties, subject to its control or determining influence, from doing so." This is a clause addressing fraud, bribery and corruption. It is created to prevent any undue act by contracting parties. You may find other anti-corruption clause samples in this document.

"Nothing in this Agreement shall prevent a Party from utilizing the services of any subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that each Party shall require its subcontractors to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such subcontractor." This clause is used to control the subcontracting and subcontractors.

"Customer will be responsible for and shall ensure that while Service Provider employees, agents or contractors are on Customer's premises, all proper and legal health and safety precautions are in place and fully operational to protect such persons." This clause is used to ensure health and safety standards.

"The Company has undertaken commercially reasonable efforts to eliminate Conflict Minerals from each Company Product and any products currently proposed to be manufactured by the Company or on its behalf in the future. "Conflict Minerals" means columbite-tantalite (coltan), cassiterite, gold, wolframite, or their derivatives, which originate in the Democratic Republic of the Congo or other country the exploitation and trade of which is determined by the United States to be financing conflict in the Democratic Republic of the Congo or other country." This is a clause addressing conflict minerals.

Reference: CIPS study guide page 164-166

LO 3, AC 3.2

NEW QUESTION # 174

Which of the following are key features of standard terms and conditions? Select TWO that apply

- A. Designed to be used in repetitive transactions
- B. Specific to each purchase order
- C. Non-negotiable
- D. Standard terms always comply with implied terms
- E. Non-disclosure

Answer: A,C

Explanation:

The key features, advantages and disadvantages of standard terms are summarised below:

- Form: Concise, generic and designed to be attached to purchase or sales orders
- Non-negotiable
- Ineffective terms: may be replaced by implied terms or national legal code rules, or subject to court 'balance of interest' judgement.
- Advantages: Basic contractual protection for most common circumstances; Avoid having to create new contract for repeat business.
- User friendly
- Usage: Low value, low risk, repetitive transactions
- Coverage: Definitions, relationship to other contracts, formation of the contract, order of precedence, price, invoicing and payment, specification, legal compliance, warranty and liability, ownership and risk, intellectual property, data management and ethics.
- Disadvantages: Does not allow for specific circumstances; Risk for creating battle of the forms; Can create contractual uncertainty if used with purchase orders under call-off contracts.

Reference:

LO 3, AC 3.1

NEW QUESTION # 175

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