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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 (Q187-Q192):

### NEW QUESTION # 187

Which of the following is the set of principles that enables courts to determine exactly what the written contract says and what that must mean, then the court will uphold that?

- A. Order of precedence
- B. Rules of contract formation
- C. Rules of interpretation
- D. Unfair Contract Act 1977

**Answer: C**

Explanation:

Courts may be called upon to interpret a statute due to disputes over the meaning of a word or phrase contained within a statute. These disputes may arise through a variety of reasons. It has long been held that words are an imperfect means of communication. Omissions may have occurred at the drafting stage, word or phraseology ambiguity, etymological change through time, oversight on specific points, or a failure to adapt legislation to new developments. This may result in the judiciary providing a role in statutory interpretation. Statutory interpretation in its broadest sense is the process of determining the true meaning of a written document. In UK, the Interpretation Act 1978 provides limited scope to assist judges with statutory interpretation in that it only provides standard definitions to common provisions such as a rebuttable presumption that terminology in the masculine gender also include the feminine, and that the singular includes plural.

An order of precedence clause sets out the order in which the contract documents take precedence in the event of an inconsistency. The Unfair Contract Terms Act 1977 (c 50) is an Act of Parliament of the United Kingdom which regulates contracts by restricting the operation and legality of some contract terms. It extends to nearly all forms of contract and one of its most important functions is limiting the applicability of disclaimers of liability. The terms extend to both actual contract terms and notices that are seen to constitute a contractual obligation.

Reference:

- Rules of Statutory Interpretation
- CIPS study guide page 43-46

LO 1, AC 1.2

### NEW QUESTION # 188

Which of the following will be included in a conformance specification?

1. Brand names
2. Description of the operating environments
3. Chemical formulae
4. Required safety level

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

**Answer: D**

Explanation:

According to CIPS, there are two main types of specification:

- Conformance specification - is more output driven as it outlines the product details exactly which may include the material, dimensions, tolerances, source, ingredients, packaging, storage of the part or material.

- Performance specification - is more output driven in terms of what the part or material must achieve.

Among the four options, only 2. 'Description of the operating environments' and 3. 'Chemical formulae' are possible components of a conformance specification. Brand names can be a part of a performance specification, according to a document published by CIPS and NIGP.

### Element 1.2.2: Brand name descriptions

A brand name description is a title, term, symbol, design, or any combination thereof used to describe a product by a unique identifier and its producer. Performance specifications may use brand names to describe the desired output and quality levels of a commodity.

#### Element 1.2.2a: Advantages of brand name descriptions

- Allow for agency standardization (e.g., fleet standardization for purposes of training and maintenance)
- Meet the expectations of the end user by providing the exact commodity needed
- Reduce the time required to develop the specification

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Reference:

- CIPS study guide page 8-10
  - Knowledge Byte - Specification Development
  - Principles and Practices of Public Procurement: Specifications
- LO 1, AC 1.1

### NEW QUESTION # 189

Which of the following is regulated by standard ISO 14001?

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

**Answer: A**

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 # 190

ABC Ltd is a UK based company. It plans to enter into a contract with XYZ Ltd which is based in Singapore. Which of the following are the mandatory elements for the contract between ABC Ltd and XYZ Ltd to be legally binding? Select THREE that apply.

- A. An amount of money must be paid upfront
- B. All parties must have capacity to contract
- C. There must be an invitation to treat
- D. The invitation to tender must be sent by the agreed deadline
- E. The two parties must have intention to be bound
- F. There must be an offer and an acceptance

**Answer: E,F**

Explanation:

The formation of the contract is where the contractual journey begins; if no contract is formed, neither of the parties can be under any obligations. Therefore, it is very important to have an understanding of each part of a contract's formation.

In order for a legally binding agreement to be formed, there are four basic requirements to be met:

2.1 Offer  
2.2 Acceptance  
2.3 Certainty & Intention to Create Legal Relations  
2.4 Consideration & Promissory Estoppel  
Reference:  
- CIPS study guide page 28-42  
- Formation of the contract  
LO 1, AC 1.2

### NEW QUESTION # 191

Maximum Score: 1

Buyer O has placed an order for the supply and installation of six new servers for a total amount of £600,000 from Supplier A. Which of the following could potentially be treated as examples of a liquidated damages clause within the contract for the supply of the servers?

- \* If the supplier delivers any of the servers late, £1,000 per server will be deducted from the order per day
- \* This contract is subject to delay remedies of £X - the amount to be agreed by both parties during delivery
- \* The sum for breach of the completion date for the order is £40,000 per day up to a maximum of 50% of the contract price
- \* If the performance of any of the servers degrades within five years, a full refund of £600,000 will be provided

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

**Answer: A**

Explanation:

Liquidated damages (LDs) are pre-agreed sums payable for specific breaches (commonly late delivery), intended as a genuine pre-estimate of loss.

\* Clause 1: £1,000 per server per day for late delivery # clear pre-agreed daily amount = LD.

\* Clause 3: £40,000 per day up to 50% of contract price # again, defined LD structure.

\* Clause 2: "Amount to be agreed" is uncertain and not a valid LD amount.

\* Clause 4: A full refund after five years for performance degradation is more like a warranty / guarantee, not a liquidated damages clause.

Thus, LD examples are 1 and 3 only # option C.

Reference: CIPS L4M3 Commercial Contracting - Liquidated damages vs. penalties and warranty obligations.

### NEW QUESTION # 192

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