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CIPS Commercial Contracting Sample Questions (Q165-Q170):

NEW QUESTION # 165

In a sale contract, a clause requires the seller to "defend, reimburse, and hold harmless" the buyer and its personnel from and against any and all damages arising in connection with some specific circumstances. This clause is an example of...?

- A. Indemnity
- B. Force Majeure
- C. Insurance
- D. Liquidated damages

Answer: A

Explanation:

An indemnity is a promise by one party to compensate another for the loss suffered as a consequence of a specific event, called the "trigger event".

The trigger event can be anything defined by the parties, including:

- A breach of contract;
- A party's fault or negligence;
- A specific action.

An indemnity operates as a transfer of risks between the parties, and changes what they would otherwise be liable for or entitled to under a normal damage claim.

Force Majeure Provisions: A force majeure event refers to the occurrence of an event which is outside the reasonable control of a party and which prevents that party from performing its obligations under a contract.

Liquidated damages are presented in certain legal contracts as an estimate of otherwise intangible or hard-to-define losses to one of the parties. It is a provision that allows for the payment of a specified sum should one of the parties be in breach of contract.

LO 3, AC 3.2

NEW QUESTION # 166

Which of the following are likely to be express terms in a contract?

1. Legislation
2. Custom and practice
3. Contract particulars
4. Terms and conditions

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

Answer: D

Explanation:

Express terms are the terms of the agreement which are expressly agreed between the parties. Ideally, they will be written down in a contract between the parties but where the contract is agreed verbally, they will be the terms discussed and agreed between the parties.

The types of express terms to be found in a contract are many and varied and will depend on the type of contract. Any term written into the contract is an express term and may refer to price, time scales, warranties and indemnities, limitations on liability, conditions precedent and so on.

Reference:

- Contracts: Express and Implied Terms
- CIPS study guide page 32

LO 1, AC 1.2

NEW QUESTION # 167

Which of the following sections would typically be included in a specification for services? Select THREE that apply.

- A. The service start and end dates
- B. A description of the service requirements
- C. The terms and conditions of the contract
- D. The fault rectification timeframes
- E. Questions relating to methods
- F. The tender evaluation methodology

Answer: A,B,D

Explanation:

A well-drafted service specification includes a clear description of the services to be delivered, fault rectification timelines, and the duration of service. These define scope, performance expectations, and timelines. Evaluation methodology and contract terms are important, but they are part of separate procurement or contractual documentation.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 2, Section 2.1.3 - Components of service specifications.

NEW QUESTION # 168

Which of the following are examples of conformance specification? Select TWO that apply:

- A. Output-focused specification
- B. Product sample
- C. Outcome-focused specification
- D. Statement of work
- E. Technical drawing

Answer: B,E

Explanation:

There are two main types of specification: performance specification and conformance specification (sometimes called prescriptive or technical specifications).

A conformance specification establishes the characteristics a commodity must possess, including details of how the commodity will be manufactured; engineering plans, drawings, or blueprints may be included. The design specification states in prescriptive terms what the potential offeror must provide to the buyer.

Conformance specifications have following features:

- Focus on inputs
- Give specific method, processes and materials
- May identify specific manufacturers or components
- The 'how' as well as the 'what'
- Ties supplier to set details

Reference:

- Public Procurement Practice: SPECIFICATIONS
- CIPS study guide page 8-10

LO 1, AC 1.1

NEW QUESTION # 169

A construction company often subcontracts approximately 50% of the project works because of unpredictable customer's demand. Although larger corporate customers require quick response to RFQ, the time lapse between tender bid submission and contract commencement is usually long. Which of the following arrangement would benefit both the contractor and customer?

- A. Indemnity agreement
- B. Framework agreement
- C. Bilateral contract
- D. Collateral contract

Answer: B

Explanation:

According to the scenario, customers' demand changes regularly but the construction project commencement often delays. If the contractor and the customer mutually sign a legally binding contract too soon long before the commencement, the contractor may suffer poor cash flow (it must buy the materials first but has to wait for long time to be paid). A framework agreement may help both parties.

A framework agreement is a formal agreement between two organisations that is intended to become legally binding in the event that a contract is created.

A framework agreement could benefit the both parties in the following ways:

- At the time of signing, the framework agreement has not yet become a legally binding contract. The contractor and client only agree on the principles of future contracts (such as whether the work can be subcontracted or how payment will be proceeded). A well structured framework agreement will allow both parties to apply changes before contract commencement, especially regarding price and quality.
- The framework agreement assures a certainty between the contractor and client.
- The administrative works is reduced under a framework agreement.

Reference:

- CIPS study guide page 60-62
- Framework Agreements: Practice and Pitfalls

LO 1, AC 1.3

NEW QUESTION # 170

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