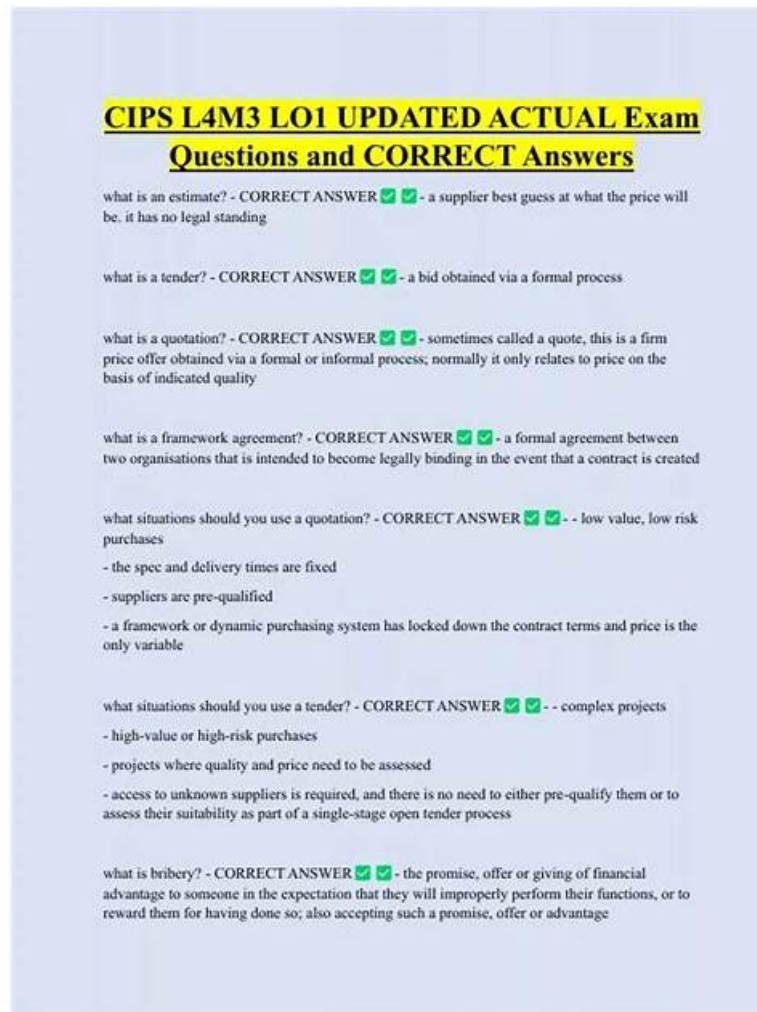


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CIPS Commercial Contracting Sample Questions (Q174-Q179):

NEW QUESTION # 174

Michelle contacts Hannah and asks her if she would be interested in purchasing her car for £2000. Hannah immediately takes £2000 to Michelle and says she wants to buy the car. Michelle subsequently refuses to proceed. Has the contract between Michelle and Hannah been made?

- **A. No, because Michelle has rejected Hannah's offer on buying the car**
- B. Yes, because both parties have full legal capability to enter into a contract
- C. Yes, by her performance Hannah has accepted Michelle's offer on selling the car
- D. No, because by refusing to proceed, Michelle rejects Hannah's counter-offer

Answer: A

Explanation:

To solve the question, you must distinguish the following notion:

- Offer: The case of *Storer v Manchester City Council* [1974] 1 WLR 1403 outlines that an offer is: An expression of willingness to contract on specified terms, with the intention that it is to be binding once accepted
- Acceptance: in order for a contract to be formed, the offer must be accepted. Acceptance represents the meeting of the minds of the parties to the contract - both agree to exchange something for the other (payment, services, goods, etc.).
- Counter offer: is an offer made in response to a prior offer.
- Invitation to treat: An important distinction to make in contract law is that between an offer and an invitation to treat. An invitation to treat is usually an invitation for another party to make an offer. It may also be defined as an indication that a party is open to negotiation.

Here are some key distinctions of offers and invitation to treats.

Offer:

- * Certain promise to be bound
- * Clear and specified terms
- * The conduct or words of the party show certainty
- * There is no room for negotiation

Invitation to treat:

- * There is room for negotiation
- * There is an invitation for offers
- * There is a request for information
- * Lack of certainty

In the scenario above, initially Michelle just gives an invitation to treat because she is asking whether Hannah is interested to buy her car (request for information from Hannah). Hannah may reject or go into a negotiation with Michelle. Then, Hannah makes an offer by taking the money and shows her intention to be legally bound.

At this point, when Hannah's offer is present, Michelle can accept or reject. When she rejects, the contract is not formed. The answer must be "No, because Michelle has rejected Hannah's offer on buying the car".

Reference:

- Definition of Counter Offer
 - Formation of the contract
 - CIPS study guide page 28-35
- LO 1, AC 1.2

NEW QUESTION # 175

Buyer D agrees a contract with Supplier C which includes the words 'to be agreed' in relation to the date for delivery of the goods. At the time of the contract, Buyer D is aware that the goods take two days to produce and one day to deliver. Buyer D contacts the supplier one week later, requesting the goods be delivered the following day. Supplier C is unable to deliver the next day but rather delivers the goods three days later. Is it the case that Buyer D can legally refuse to pay for the goods because Supplier C is in breach

of contract?

- A. No, because the goods were delivered within a reasonable time
- B. Yes, because the goods should have been delivered within three days
- C. No, because there is a contract in place and the delivery date does not matter
- D. Yes, because the delivery date is an express term within the contract

Answer: A

Explanation:

In the absence of a clearly defined delivery date, contract law defaults to performance within a "reasonable time." Given that no firm delivery date was agreed upon and the goods were delivered in a timeframe consistent with known production and delivery times, the supplier is not in breach.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 3, Section 3.1.1 - Implied terms and delivery timelines.

NEW QUESTION # 176

As part of a long-term contract, a buyer may wish to use separate service level agreements (SLAs). If the targets are not met, which of the following options would compensate the purchaser?

- A. Service standards
- B. Service schedules
- C. Service credits
- D. Service guarantees

Answer: C

Explanation:

Service credits are financial compensations provided to the buyer when the supplier fails to meet the agreed- upon service levels outlined in the SLA. They serve as a remedy for underperformance. Service guarantees are commitments to meet certain standards, service standards define the expected level of service, and service schedules outline the timing of service delivery, but none directly compensate the buyer for service failures.

Reference:CIPS L4M3 Commercial Contracting Study Guide, Chapter 2, Section 2.2.2 - The use of service level agreements (SLAs).

NEW QUESTION # 177

In the UK, Unfair Contract Terms Act 1977 regulates which of the following?

- A. Rules regarding battle of the forms
- B. Effectiveness of contract terms in the standard terms and conditions
- C. Rule of offer and acceptance
- D. Validity of a contract when it is formed on the basis of misrepresentation

Answer: B

Explanation:

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.

Under this regulation, if a clause within the standard terms in use is considered as 'unfair', the clause will be ineffective (or the other party will be entitled to avoid the clause). At court, the clause that is deemed to be unfair will undergo a 'reasonableness' test or an 'unfairness' test.

Reference:

- Maybe your standard terms are ineffective. Here's why

- CIPS study guide page 135

LO 3, AC 3.1

NEW QUESTION # 178

Which of the following is a disadvantage of using input specifications?

- A. There is no limit to the number of suppliers who can quote
- B. It requires a more proactive approach to monitoring
- C. There is less opportunity for innovation
- D. It is difficult to assess suitability of each quotation

Answer: C

Explanation:

Input specifications detail exactly how a supplier must provide the service or make the product. While this ensures compliance, it limits the supplier's ability to innovate or offer alternative, potentially more efficient solutions. Performance specifications, in contrast, focus on outputs and encourage innovation.

Reference: CIPS L4M3 Commercial Contracting Study Guide, Chapter 2, Section 2.1.3 - Types of specification including input and output-based.

NEW QUESTION # 179

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