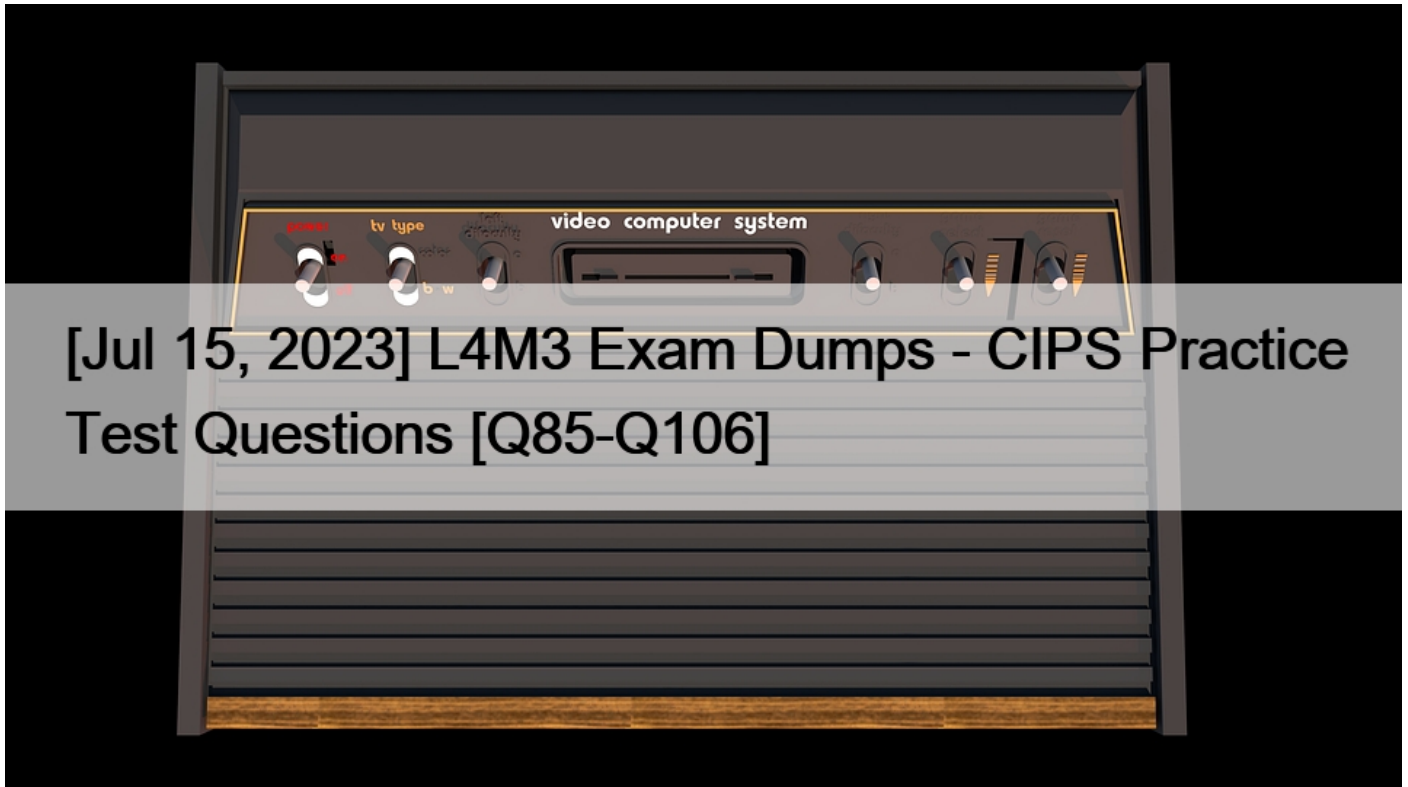


[Jul 15, 2023 L4M3 Exam Dumps - CIPS Practice Test Questions [Q85-Q106]



[Jul 15, 2023] L4M3 Exam Dumps - CIPS Practice Test Questions
New Real L4M3 Exam Dumps Questions

QUESTION 85

A procurement professional is drafting payment terms for a commercial contract. He is considering about payment method if defective products are found. Which of the following should be embedded in payment terms to control this issue?

- * Remedies for late payment
- * Pay-less notice
- * Invoice preparation
- * Retention clause

Retention money is the payment for a service or product that is withheld pending the completion of some specified condition. For example, buyer may withhold the amount due until the supplier replace all defective goods.

Pay-less notice is the notice under a contract which states that the invoice will only be partially paid because of some issues such as supplier has to pay the damages.

Remedies for late payment are remedies that supplier may seek when a buyer pay it later than the stated payment terms. Normally, the buyer will be charged an interest rate.

Reference:

LO 3, AC 3.3

QUESTION 86

Which of the following is the international standard for labelling hazardous substances?

- * GPS
- * HSE
- * CODEX STAN 1-1985
- * GHS

GHS stands for the Globally Harmonized System of Classification and Labelling of Chemicals. GHS defines and classifies the hazards of chemical products, and communicates health and safety information on labels and safety data sheets. The goal is that the same set of rules for classifying hazards, and the same format and content for labels and safety data sheets (SDS) will be adopted and used around the world. An international team of hazard communication experts developed GHS.

The Global Positioning System (GPS), originally NAVSTAR GPS, is a satellite-based radionavigation system owned by the United States government and operated by the United States Space Force. It is one of the global navigation satellite systems (GNSS) that provides geolocation and time information to a GPS receiver anywhere on or near the Earth where there is an unobstructed line of sight to four or more GPS satellites. Obstacles such as mountains and buildings block the relatively weak GPS signals.

CODEX STAN 1-1985 is general standard for the labelling of packaged goods.

Environment (E), health (H) and safety (S) (together EHS) is a discipline and specialty that studies and implements practical aspects of environmental protection and safety at work. In simple terms it is what organizations must do to make sure that their activities do not cause harm to anyone.

Reference:

LO 2, AC 2.1

QUESTION 87

Which of the following can be considered as implied terms in a contract?

1. Case law
 2. Statute
 3. Trade custom
 4. A term can never be implied, it must always be expressed by the parties
- * 1,3 and 4 only
 - * 1, 2 and 3 only
 - * 1, 2 and 4 only
 - * 2, 3 and 4 only

An implied term is a term which the courts imply into a contract because it has not been expressly included by the parties. This may be because the parties did not consider it, did not think that any problem would arise in relation to it or simply omitted to include it.

The courts are very reluctant to imply terms into contracts and will only do so in the following circumstances:

1. terms implied under statute

2. terms implied under common law
3. terms implied because of custom or usage
4. terms implied due to previous dealings
5. terms implied 'in fact' or to reflect the parties' intentions

Reference:

'Contracts: Express and Implied Terms

'CIPS study guide page 126

LO 3, AC 3.1

QUESTION 88

In common law, which of the following documents is legally binding without the need for consideration?

- * One-off contract
- * Hire purchase agreement
- * Deed
- * Blanket order

In common law (the legal system in which most rules come from case law or precedents, such as UK, US, Australia, etc), the contract is legally binding if it has the following requirements:

'Offer

'Acceptance

'Certainty & Intention to Create Legal Relations

'Consideration & Promissory Estoppel

'Legal capacity

According to these rules, 'Blanket order', 'One-off purchase', and 'Hire purchase agreement' are contractually binding. One of the reason is that they have consideration.

However, there is a type of legal instruments that does not need consideration to be legally binding. They are called 'Deeds'. A deed (anciently 'an evidence') is any legal instrument in writing which passes, affirms or confirms an interest, right, or property and that is signed, attested, delivered, and in some jurisdictions, sealed. It is commonly associated with transferring (conveyancing) title to property. At common law, to be valid and enforceable, a deed must meet several requirements:

'It must state on its face that it is a deed, using wording like 'This Deed' or 'executed as a deed';.

'It must indicate that the instrument itself conveys some privilege or thing to someone.

• The grantor must have the legal ability to grant the thing or privilege, and the grantee must have the legal capacity to receive it.

• It must be executed by the grantor in presence of the prescribed number of witnesses, known as instrumentary witnesses (this is known as being in solemn form).

• In some jurisdictions, a seal must be affixed to it. Originally, affixing seals made persons parties to the deed and signatures optional, but seals are now outdated in most jurisdictions, so the signatures of the grantor and witnesses are primary.

• It must be delivered to (delivery) and, in some jurisdictions, accepted by the grantee (acceptance).

Reference:

• Deed • Wikipedia

• Formation of the contract

• CIPS study guide page 40

LO 1, AC 1.2

QUESTION 89

Which of the following are implied terms in sales contracts? Select THREE that apply.

- * Payment method
- * Customer satisfaction
- * Transfer of ownership
- * Risk transfer
- * Fitness for purpose
- * Mode of transportation

Generally, under the Sale of Goods Acts (in UK, Singapore, Australia,•) or Commercial Codes (in France, Germany, Vietnam,•), the sale contracts have the following implied terms:

• the seller has the right to sell the goods. This is also a condition of the contract

• the goods are free from undisclosed security interests

• the goods supplied under the contract will be reasonably fit for any purpose which the buyer made known to the seller

• sales of unseen goods will be of merchantable quality, and match their description and conform with a sample.

• Passing of risk

• Passing of possession and title

•

Reference:

LO 3, AC 3.1

QUESTION 90

CMS Corp goes into a gainshare agreement with the contractor, EIP Ltd. Both parties agree that the final fee will be calculated on target cost \pm target fee basis. Which of the following will affect the final fee payable in this gainshare agreement? Select TWO that apply:

- * Accrual expense
- * Final price
- * Purchaser goodwill
- * Supplier share
- * Actual cost

An incentive contract is a sub-segment of a fixed-price or cost-reimbursement contract when there are specific cost or time commitments that are desired for a project. The standard incentive contract will allow for a fixed price to be paid for work to be completed by a specific deadline and at a specific cost.

There are two major types of incentive contracts: Cost-plus-incentive fee and Fixed-price incentive (firm target) contracts. Both types have the same formula for calculating final fee and final price.

The target fee is the amount that will be paid if the actual costs (which can be proven) match the target costs. The actual fee will be adjusted in proportion to the difference between the target cost and the actual cost. The usual calculation is:

Target fee + ((target cost \pm actual cost) x Supplier share) = final fee
The final price then becomes:

Actual cost + final fee = final price

Reference:

LO 3, AC 3.3

QUESTION 91

Which of the following regulates barriers to the provision of services between countries?

- * CISG
- * GATS
- * ADA
- * Incoterms

\pm ; The General Agreement on Trade in Services (GATS) is a treaty of the World Trade Organization (WTO) that entered into force in January 1995 as a result of the Uruguay Round negotiations. The treaty was created to extend the multilateral trading system to service sector, in the same way the General Agreement on Tariffs and Trade (GATT) provides such a system for merchandise trade.

\pm ; CISG is the Vienna Convention on Contracts for the International Sale of Goods. This is a voluntary treaty under United Nations Commission on International Trade Law (UNCITRAL). The purpose of the Vienna Convention is to set out a framework for international transactions based on a uniform approach. It establishes substantive rules that regulate the duties and obligations of both parties, including the delivery of goods, contract formation, and remedies for breach of contract.

\pm ; The Incoterms or International Commercial Terms are a series of pre-defined commercial terms published by the International Chamber of Commerce (ICC) relating to international commercial law. They are widely used in international commercial transactions or procurement processes and their use is encouraged by trade councils, courts and international lawyers. A

series of three-letter trade terms related to common contractual sales practices, the Incoterms rules are intended primarily to clearly communicate the tasks, costs, and risks associated with the global or international transportation and delivery of goods. Incoterms inform sales contracts defining respective obligations, costs, and risks involved in the delivery of goods from the seller to the buyer, but they do not themselves conclude a contract, determine the price payable, currency or credit terms, govern contract law or define where title to goods transfers.

ADA is Anti-Dumping Agreement (Implementation of Article VI of the GATT).

LO 1, AC 1.3

QUESTION 92

A purchase order can become a contract between supplier and purchaser if it is:

- * Received by the supplier
- * Accepted by the supplier
- * Issued by the buyer
- * Edited by the supplier

A purchase order is a document sent from a buyer to a seller, with a request to order a product. The purchase order often has its number, description and quantity of the goods, unit prices and total price, name of issuer, time of delivery, standard terms and conditions, etc. It is effectively an offer to supplier. The purchase order will become a formal contract if supplier accepted it by written notice or by performance (such as deliver the goods to the buyer's premise).

Reference:

LO 1, AC 1.2

QUESTION 93

Standard terms and conditions should become the governing terms for which group of items?

- * Leverage items
- * Bottleneck items
- * Strategic items
- * Routine items

Standard terms and conditions are set of terms that is prepared by an organisation. These terms can become the governing terms in low-value, low-risk transactions (or Routine items according to Kraljic's portfolio model). They can be a reference when negotiating for more important contract.

Reference:

LO 3, AC 3.1

QUESTION 94

Which of the following documents are likely to have legal standing? Select TWO that apply:

- * Quotation
- * Request for information
- * Tender
- * Requisition
- * Estimate

A quotation and a tender are both firm offers which have legal standing to the offeror. Tenders are more detailed than quotations and

will include quality aspects as well as prices.

LO 1, AC 1.1 & AC 1.2

QUESTION 95

In which of the following section of a specification, requirements for training to use the equipment will be set out?

- * Performance
- * Consultation requirements
- * Implementation
- * Issue reference

Implementation is a substantive requirement which covers the following areas:

– Will there be a need to train the staff to use the equipment?

– Are there integration requirements with other systems or processes?

– How will this work?

– What are the timescales?

– Are detailed method statements required?

Consultation requirements regards to explicitness of compliance with any national or local legal requirements Reference:

LO 2, AC 2.1

QUESTION 96

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

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

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

QUESTION 97

Which of the following is always automatically considered as a contract?

- * Call-off
- * Framework arrangement
- * Performance management framework
- * Framework agreement

– A call off or a term contract is one which exists for a fixed period of time, rather than for a specific purpose

– A formal framework agreement does have some legal standing but it is not a contract, primarily because there is no consideration involved, but it is an overarching (or umbrella) agreement under which contracts can be created (this holds true in English law but may not be right in other jurisdiction)

– A framework arrangement is a rather loose set-up, without any legal standing. It usually occurs when an organisation has decided for itself to limit the number of suppliers it is willing to work with and, through a purely internal process, sets up an approved list of such suppliers.

– A performance management framework including KPIs and targets, the assessment scheme and incentives, disincentives, bonuses and penalties. It is a schedule to a contract and only legally binding if it is referred from contract clauses.

Reference:

LO 1, AC 1.3

QUESTION 98

Cleveland Insurance (Cleveland) offers a range of insurance services. The main software used in the call centre is a customer relationship management (CRM) system. Cleveland perceived an urgent need to replace the existing CRM system to deal with the increasing number of customers and services.

Urgent Digital Ltd (Digital) is one of the bidders of Cleveland’s ITT for designing, building and managing the new CRM system. Its bid team is led by Hank Irvine, its technical director. Hank realises that winning the Cleveland contract (valued at approximately £50M) will enhance his career. During discussions with Cleveland, Hank offers certain assurances regarding timescales for the project. He has not carried out any investigations into the viability of the timescales. Hank has little idea whether the timescales can be met.

Cleveland decides that Digital’s bid meets with its requirements, especially given the assurances in timescale offered by Hank, and decides to proceed with it, subject to a formal contract. Eventually, a formal contract is signed by both parties. The initial assurances given by Hank about the timing of the project are never going to be achieved and are at best grossly exaggerated.

Cleveland brought the case to the court and sought rescission of contract with Digital. Is Cleveland’s claim appropriate in this case?

- * Yes, because Cleveland needs to seek rescission first before claiming for damages
- * Yes, because both parties agreed with rescission of their contract
- * No, because the work had been carried out which could not be returned
- * No, because the contract does not include any provision on rescission

Hank’s pre-contractual assurances may amount to misrepresentation. Remedies for misrepresentation could be rescission of

contract or damages. Rescission will be impossible in the following instance:

– Where the innocent party has affirmed the contract; that is, acted in a way confirming that they wish it to continue

– Where the claim has not been brought within a reasonable time (this is a point of general law)

– Where restitution (returning to the pre-contractual position) is impossible (e.g. because the goods have been consumed or have deteriorated)

– Where there has been intervention of innocent third-party (e.g., if the goods have been sold on) In this case, the subject of contract is designing, building and managing the new CRM system which is impossible to be restituted. Therefore, the contract cannot be rescinded.

Reference:

LO 1, AC 1.2

QUESTION 99

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
- * 2 and 3 only
 - * 1 and 4 only
 - * 3 and 4 only
 - * 1 and 2 only

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

QUESTION 100

A retailer prefers to display its best selling products and promotion programme on the building windows. According to rule of contract formation, this act will generally constitute an invitation to treat?

- * An invitation to treat
- * A legal capacity
- * An offer
- * A mailbox rule

Fisher v Bell [1960] and Pharmaceutical Society of Great Britain v Boots Cash Chemists [1953] identified that the courts will generally consider goods advertised in shop windows or those with a price tag attached to constitute an invitation to treat. An invitation to treat is a concept in contract law. It refers to an invitation for a party to make an offer enter into contractual negotiations.

Invitations to treat can be anything displayed to a large number of people, as long as there is no defined way to choose who can accept. Items on display in a shop, advertisements, and catalogues are all common examples of invitations to treat.

However, there are cases in the US shows that under some circumstances an advertisement can become an offer (see Leftkowitz v Great Minneapolis Surplus Stores [1957]).

Reference:

Q11; What is an Invitation to Treat in Contract Law?

Q11; CIPS study guide page 29

LO 1, AC 1.2

QUESTION 101

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

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

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:

Q11; Low-value, low-risk purchases

Q11; When the specifications are sufficiently defined or the product/service is standardised

Q11; Where the suppliers are pre-qualified

Q11; Where there is a framework agreement which specifies the contract terms and conditions.

Reference:

LO 1, AC 1.1

QUESTION 102

Which of the following statement is true about one-off contract?

- * Suppliers have many opportunities to improve the quality during the performance of one-off contract
- * One-off contracts can be used for services and works
- * Ad-hoc purchase is not a type of one-off purchase
- * One-off contracts only apply to low-value, low-risk purchase

One-off contract is the type of contract that relates to a single purchase. One-off contracts can be used for goods, services or works. One-off contract can be simple (such as buying a small number of office stationeries) or complex (such as a construction project or buying an aircraft).

A one-off contract lasts until completion of the obligations of the parties. The performance is unlikely to be improved during contract performance since the duration is relatively shorter than framework agreement or call-off contract.

Ad-hoc purchase is an item bought for a single and non-recurring use or purpose. Ad-hoc purchase is a type of one-off contract.

Reference:

LO 1, AC 1.3

QUESTION 103

Consequences and actions that arise from certain KPI scores must be? Select TWO that apply.

- * Mutually agreed
- * Deliberately omitted
- * Documented
- * Unilaterally imposed by the purchaser
- * Terminated

Supplier performance management and monitoring is a fundamental part of contract management. It starts with setting KPIs, targets and consequences or actions that arise from KPI scores. The measures, objectives and targets used in the monitoring of the supplier's performance must reflect those that were agreed when the contract was let. That is why it is important to specify a commitment to continuous improvement at the outset. It would be unfair to the supplier to suddenly introduce a range of measures after the contract had begun; however if such an introduction mid-term through the contract is unavoidable then it should be negotiated and agreed in a professional manner and not merely imposed on the supplier.

In conclusion, the details of how KPIs will be monitored and the actions or consequences resulting from scores achieved must be documented and agreed between the parties. This details may be embedded in the specification or the main body of the contract or it may be set out in a SLA.

Reference:

Performance Monitoring of Suppliers; CIPS Knowledge summary

CIPS study guide page 101-109

LO 2, AC 2.2

QUESTION 104

Which of the following encourages social and environmental criteria in public sector contracting in the UK?

- * Social Action, Responsibility and Heroism Act
- * The Public Services Act

- * Children and Social Work Act
- * Supply and Appropriation Act

Social and environmental criteria are increasingly encouraged in public sector contracting. In the UK, The Public Services (Social Value) Act 2012 encourages public organising to apply social and environmental criteria in contract.

Reference:

LO 2, AC 2.1

QUESTION 105

GPP, the employer, and Prosolia UK, the contractor, entered into five EPC contracts for the development of five different solar power generation plants in the United Kingdom. Four out of the five developments failed to be commissioned by the relevant due dates, with the delays ranging from 44 to 285 days.

Among other claims, GPP, acting through its two investment vehicles, claimed liquidated damages of £500 per day in all four contracts for Prosolia UK's failure to achieve completion of the plants by the due date. The liquidated damages claimed amounted to £1,804,221 across the four delayed contracts.

Prosolia, alongside various other defences, raised the defence that the liquidated damages provision in each contract was a penalty, and therefore unenforceable against it. Is Prosolia contractually obliged to make the payment to the plaintiff?

- * No, the amount claimed is too excessive and it may put Prosolia into insolvency. The clause must be void
- * No, the clause must be treated as a penalty clause which is unenforceable in UK
- * Yes, the amount is a reward to the employer as they have supervised and monitored the projects
- * Yes, the clause is a genuine estimate of possible losses that GPP may have suffered and therefore, it is enforceable.

A liquidated damages clause specifies a predetermined amount of money that must be paid as damages for failure to perform under a contract. The amount of the liquidated damages is supposed to be the parties' best estimate at the time they sign the contract of the damages that would be caused by a breach. If a breach occurs and the liquidated damages clause is enforceable, the parties do not calculate the actual damages (i.e., how much money a party actually lost as a result of the breach). Instead, the breaching party pays the predetermined sum provided by the liquidated damages provision.

To be enforceable, a liquidated damages clause should meet the following criteria.

Damages are difficult to estimate. A court will be more likely to enforce a liquidated damages provision if the damages that will be incurred as a result of a breach of the contract are difficult to estimate when the contract is entered into. In certain situations, injuries are easy to prove. For example, if a breach will result in the loss of sales, it is easy to determine the actual damages by calculating lost profits. Others are more difficult, like the harm caused by breach of a confidentiality agreement or theft of trade secrets. To be enforceable, the damages should be either uncertain or difficult to quantify at the time the contract is entered into.

The amount is reasonable and not a penalty. If the amount of the liquidated damages is grossly disproportionate to the actual harm incurred, a court will likely find it is a penalty or punishment and will not enforce the provision. When making this analysis, courts usually consider what was reasonable at the time the contract was entered into as opposed to when the breach occurred. There have been cases, however, where courts will decide the reasonableness of the damage estimate based on the actual harm at the time of the breach.

The scenario is excerpted and edited based on a real world case law. In that case, the court held that GPP was entitled to liquidated damages under all four of the EPC contracts, ruling that the provisions did not amount to unenforceable penalties in each of the contracts.

Reference:

– CIPS study guide page 158-159

– Liquidated damages in energy projects

– What Is a Liquidated Damages Provision?

LO 3, AC 3.2

QUESTION 106

Which of the following are the conditions for revocation of offer to be valid?

1. The offeree has not received the offer yet
 2. Revocation of offer must be communicated with the offeree
 3. Revocation of offer must be sent via email
 4. Offeree has not accepted the offer yet
- * 2 and 4 only
 - * 1 and 4 only
 - * 1 and 3 only
 - * 2 and 3 only

A revocation of offer is the withdrawal of a previous offer to engage in some sort of legally binding contract. The previous offer had to have been such that it would have immediately become legally binding if the other party had formally agreed to it.

A core ruling defining revocation of offers was established by *Payne v. Cave*. This case established that neither party is bound to an agreement until an offer has been made by one and formally accepted by the other.

If an offer has been made, the offering party has a right to withdraw it up to formal acceptance by the offeree. Revocation basically serves as formal, legally verifiable notice that a withdrawal was made, and it’s valid so long as it is communicated to the offeree before they accept.

The case of *Byrne v. Van Tienhoven* supports this by establishing that the withdrawal of an offer by telegram is only valid if the telegram is received before the offer is accepted. The case of *Dickinson v. Dodds* further establishes that the party making the offer can communicate the revocation through a third party.

Reference:

– What Is a Revocation of Offer?

– CIPS study guide page 31

LO 1, AC 1.2

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