

THE OPEN UNIVERSITY OF SRI LANKA
 FACULTY OF HUMANITIES AND SOCIAL SCIENCES
 DEPARTMENT OF LEGAL STUDIES
 LLB (HONS) DEGREE PROGRAMME
 LEVEL IV-LLU4607 LAW OF CONTRACT
 FINAL EXAMINATION -2023/2024
 DURATION - THREE (03) HOURS



Date: 11 May 2024

Time: 1.30 p.m. – 4.30 p.m.

Total number of questions **Eight (08)**.

Answer 05 questions only.

Illegible handwriting will be penalised.

Each question carries 20 marks.

1. Chameera, the CEO of TechNova (Pvt) Ltd, is preparing a bid for a large government IT project. To meet the tender requirements, he contacts Toki Suppliers (Pvt) Ltd to purchase a Quantum-X Server Unit. He discusses specifications, pricing, and delivery details over the phone with Jegan, a senior sales executive at Toki. Shortly after the call, Jegan sends an email stating:

As per our discussion, we confirm your order for the Quantum-X Server Unit at Rs. 4.5 million. Delivery will be within 3 weeks. Please find attached our standard terms and conditions. Kindly revert with confirmation or any concerns.

Chameera reads the body of the email but does not open the attached terms and conditions. He replies the same day stating: *"Thanks Jegan – happy with the offer. Please proceed. I'll send over the specs and timelines soon."* No further action is taken by Chameera. Ten days later, after receiving a more attractive offer from another vendor, he informs Jegan that he will not proceed with the order. Toki insists that a binding contract has been formed and that they have relied on the agreement in making supplier arrangements. Chameera claims the discussions were preliminary, that no contract was concluded, and that he was never fully aware of the standard terms.

Critically examine whether a valid and binding contract was formed between Chameera and Toki Suppliers. Support your analysis with relevant case law and legal principles.

(20 marks)

2. Charitha and Niroshika have been doing business together for several years. As part of their regular dealings, Charitha delivered ten barrels of tomato paste to Niroshika's warehouse for storage. A few days later, as was usual practice, Niroshika issued a receipt acknowledging delivery. The front of the receipt included a reference to "terms and conditions overleaf," and on the reverse was a printed clause stating:

"The warehouse shall not be responsible for any loss, damage, or deterioration of goods caused by the negligence, wrongful act, or default of the warehouse or its employees."

Due to careless handling by one of Niroshika's employees, the barrels were not stored in a cool, dry place as required. As a result, the contents deteriorated and were unfit for sale. Charitha brought an action against Niroshika claiming compensation for the loss. Niroshika relies on the exemption clause and argues that the standard terms bind Charitha.

Advise Niroshika drawing on relevant judicial precedents.

(20 marks)

3. Explain how any two (2) of the following events terminate a contract:
- Performance
 - Agreement
 - Breach of contract

(2 x 10 = 20 marks)

4. Analyse the legal provisions regarding formation of contracts contained in the Electronic Transactions Act No. 19 of 2006 and explain how they have changed the traditional principles on formation of contracts. Relevant statutory provisions should be referenced.

(20 marks)

5. In *The Siboen and the Sibotre* [1976] 1 Lloyd's Rep 293, Kerr J stated that the focus of duress is not simply on what is threatened, but on "*whether the effect of the threat was to bring about a coercion of the will which vitiates consent*".

Critically analyse this statement in light of modern developments regarding the law on duress.

(20 marks)

6. Indunil, a skilled watchmaker, is approached by Bandu, who proposes a business venture manufacturing and selling fake branded watches. Although Indunil is initially hesitant, Bandu assures him that "everyone does it" and that he knows how to set up the business in a way that there would be little risk of legal trouble. They form a partnership and agree to split profits equally. They also borrow one million rupees from Sithara, a private lender, to buy specialized tools for the business. Sithara is fully aware of the intended use of the loan.

Over several months, the business thrives, and substantial profits are made. However, tensions rise when Indunil discovers that Bandu has been siphoning profits into an offshore account. When Indunil confronts Bandu and demands his share of the profits, Bandu refuses, claiming that since the business involves the sale of counterfeit goods—which is a criminal offence—Indunil cannot enforce any agreement between them.

After the dispute, Indunil and Banda end the partnership and stop payment on Sithara's loan. Sithara initiates legal proceedings against them.

Discuss the legal consequences of the above incidents, supporting your analysis with relevant legal principles and case law.

(20 marks)

07. a). Can minors, i.e., persons under 18 years of age, never enter into enforceable contracts? State the reasons for your answer using established principles of law.

(08 marks)

- b). Chathura wishes to purchase a plot of land from Sahan. During negotiations, Sahan states that the land "is free from any restrictive covenants." Chathura does not independently verify this information. Later, after the sale is completed, Chathura discovers that the land is, in fact, subject to a restrictive covenant prohibiting construction above two storeys, which seriously affects his planned development.

Sahan argues that he did not lie — he merely assumed there were no restrictions based on what he heard from a former owner.

Advise Chathura whether he has a remedy under the law governing misrepresentation.

(12 marks)

08. a). Vimukthi, an art dealer, agrees to purchase a sculpture from Isuru, believing based on their negotiations and documentation, that the sculpture is the original work of the famous 19th-century artist J.R. de Silva. Isuru simply presents the sculpture and its appearance without expressly stating the artist's name. Both parties sign a written agreement describing the sale as "one marble sculpture." After finalising the sale, Vimukthi discovers through expert appraisal that the sculpture is not by J.R. de Silva but by an unknown artist, which makes its market value substantially lower than he believed.

Advise Vimukthi on whether he can have the contract declared void due to the mistake.

(12 marks)

- b). Write a short note on **one** (1) of the following:

- I. *Victoria Laundry (Windsor) Ltd v Newman Industries Ltd* [1949] 2 KB 528
- II. *Allcard v. Skinner* [1887] 36 Ch D 145
- III. *Hadley v Baxendale* (1854) 9 Exch 341

(08 marks)

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