

# **Mark Scheme for January 2012**

---

OCR (Oxford Cambridge and RSA) is a leading UK awarding body, providing a wide range of qualifications to meet the needs of candidates of all ages and abilities. OCR qualifications include AS/A Levels, Diplomas, GCSEs, OCR Nationals, Functional Skills, Key Skills, Entry Level qualifications, NVQs and vocational qualifications in areas such as IT, business, languages, teaching/training, administration and secretarial skills.

It is also responsible for developing new specifications to meet national requirements and the needs of students and teachers. OCR is a not-for-profit organisation; any surplus made is invested back into the establishment to help towards the development of qualifications and support, which keep pace with the changing needs of today's society.

This mark scheme is published as an aid to teachers and students, to indicate the requirements of the examination. It shows the basis on which marks were awarded by examiners. It does not indicate the details of the discussions which took place at an examiners' meeting before marking commenced.

All examiners are instructed that alternative correct answers and unexpected approaches in candidates' scripts must be given marks that fairly reflect the relevant knowledge and skills demonstrated.

Mark schemes should be read in conjunction with the published question papers and the report on the examination.

OCR will not enter into any discussion or correspondence in connection with this mark scheme.

© OCR 2012

Any enquiries about publications should be addressed to:

OCR Publications  
PO Box 5050  
Annesley  
NOTTINGHAM  
NG15 0DL

Telephone: 0870 770 6622  
Facsimile: 01223 552610  
E-mail: [publications@ocr.org.uk](mailto:publications@ocr.org.uk)

## Annotations

Annotation	Meaning
R	Repetition
}	Irrelevant (use for more than a couple of lines of text otherwise use the following)
S/O	Sort of
√	Knowledge (AO1)
Def	Definition (AO1)
C1 etc	To indicate cases (AO1)
(C1) etc	To indicate partially accurate/relevant cases (AO1)
n/o	To indicate use of a case but in name only
AO2	To indicate a bold comment
AO2+	To indicate developed comment/discussion
AO2++	Could use AO2++ though rarely

## SECTION A

Question	Answer	Marks	Guidance												
1*	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <ul style="list-style-type: none"> <li>• Explain the principles of offer and acceptance, sometimes called the mirror image approach to contract formation; that an offer must be unconditionally accepted in order to form a contract <i>Hyde v Wrench</i>, <i>Gibson v Manchester City Council</i></li> <li>• Explain that an attempt to incorporate extra terms in an ‘acceptance’ will not amount to an acceptance and binding contract but a counter offer, <i>Butler Machine Tool v Excel O Corp</i></li> <li>• Explain the <i>consensus ad idem</i> approach to contract formation, that a contract may be formed through execution however it is not possible to ascertain exactly what the terms are by the pre-contractual correspondence, and that the court may determine the final obligations of the parties, <i>Trentham v Archital Luxfer</i>. Credit explanation of Lord Denning’s earlier attempt to use this line of reasoning in <i>Gibson v Manchester</i></li> <li>• Explain the principles of acceptance by performance, that the performance must show specific agreement with the proposed terms and not just general agreement with the contract, <i>Brogden v Metropolitan Railway</i></li> <li>• Explain that where a contract has already been concluded any subsequent attempt to change the terms by one party sending further correspondence will be fruitless, <i>Lidl v Hertford Foods</i>, <i>GHSP v AB Electronics</i></li> <li>• Explain the postal rule and exceptions to that rule <i>Adams v Lindell</i>, <i>Getreid v Contimar</i>, <i>Holwell v Hughes</i></li> <li>• Explain the rules on acceptance by instant means <i>Entores v Miles Far East</i>, <i>Brinkibon v Stahag Stahl</i>.</li> </ul>	25	<table border="1" data-bbox="1422 316 1780 528"> <thead> <tr> <th>AO1 Level</th> <th>AO1 marks</th> </tr> </thead> <tbody> <tr> <td>5</td> <td>21-25</td> </tr> <tr> <td>4</td> <td>16-20</td> </tr> <tr> <td>3</td> <td>11-15</td> </tr> <tr> <td>2</td> <td>6-10</td> </tr> <tr> <td>1</td> <td>1-5</td> </tr> </tbody> </table> <p>Responses will be unlikely to achieve the following levels without:</p> <p><b>Level 5</b> – being able to cite at least 8 relevant cases accurately and clearly to support their argument and make reference to specific sections of the relevant statute</p> <p><b>Level 4</b> – being able to cite at least 5 relevant cases to support their argument with accurate names and some factual description and make reference to specific sections of the relevant statute</p> <p><b>Level 3</b> – being able to cite at least 3 relevant cases to support their argument with clear identification and some relevant facts and make reference to specific sections of the relevant statute</p> <p><b>Level 2</b> – being able to cite at least 1 relevant case although it may be described rather than accurately cited and make reference to specific sections of the relevant statute</p> <p><b>Level 1</b> – some accurate statements of fact but there may not be any reference to relevant cases or cases may be confused</p>	AO1 Level	AO1 marks	5	21-25	4	16-20	3	11-15	2	6-10	1	1-5
AO1 Level	AO1 marks														
5	21-25														
4	16-20														
3	11-15														
2	6-10														
1	1-5														

Question	Answer	Marks	Guidance													
	<p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <ul style="list-style-type: none"> <li>• Candidates should discuss the merits of the different approaches that can be used in the battle of the forms situation.</li> </ul> <p>Mirror image:</p> <ul style="list-style-type: none"> <li>• Discuss whether this approach is realistic to deal with the complexities of business negotiations – that it can be simplistic</li> <li>• Conversely discuss whether this approach is the most satisfactory as it gives certainty for the parties and reduces the court's discretion.</li> </ul> <p>Acceptance by performance:</p> <ul style="list-style-type: none"> <li>• Discuss the limited circumstances in which this approach will be applicable</li> <li>• Discuss the merits that it is a variation on the mirror image approach and so retains certainty for the parties.</li> </ul> <p>Consensus <i>ad idem</i>:</p> <ul style="list-style-type: none"> <li>• Discuss the merits of this approach that it deals with situations where there is a contract but it isn't possible to identify agreement through correspondence. Also that the courts are free to come to the outcome that seems most just between the parties and avoids an arbitrary identification of agreement where none may have been truly intended</li> <li>• Discuss the limitations that this approach imposes an outcome on the parties rather than leaving them to negotiate their own deal.</li> </ul> <p>The postal rule and instant communications:</p> <ul style="list-style-type: none"> <li>• Discuss the extent to which it is now clear where and when a communication of acceptance will apply</li> <li>• Discuss the extent to which the <i>sound business practise</i> test in <i>Brinkibon</i> will lead to certainty between the parties.</li> </ul> <p>Reach any sensible conclusion.</p>	20	<table border="1"> <thead> <tr> <th data-bbox="1420 220 1594 256">AO2 Level</th> <th data-bbox="1594 220 1778 256">AO2 marks</th> </tr> </thead> <tbody> <tr> <td data-bbox="1420 256 1594 293">5</td> <td data-bbox="1594 256 1778 293">17-20</td> </tr> <tr> <td data-bbox="1420 293 1594 330">4</td> <td data-bbox="1594 293 1778 330">13-16</td> </tr> <tr> <td data-bbox="1420 330 1594 367">3</td> <td data-bbox="1594 330 1778 367">9-12</td> </tr> <tr> <td data-bbox="1420 367 1594 403">2</td> <td data-bbox="1594 367 1778 403">5-8</td> </tr> <tr> <td data-bbox="1420 403 1594 440">1</td> <td data-bbox="1594 403 1778 440">1-4</td> </tr> </tbody> </table>		AO2 Level	AO2 marks	5	17-20	4	13-16	3	9-12	2	5-8	1	1-4
AO2 Level	AO2 marks															
5	17-20															
4	13-16															
3	9-12															
2	5-8															
1	1-4															
	<p><b>Assessment Objective 3 – Communication and presentation</b></p> <p>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.</p>	5	<table border="1"> <thead> <tr> <th data-bbox="1420 1198 1697 1235">AO1 + AO2 marks</th> <th data-bbox="1697 1198 1868 1235">AO3 mark</th> </tr> </thead> <tbody> <tr> <td data-bbox="1420 1235 1697 1272">37-45</td> <td data-bbox="1697 1235 1868 1272">5</td> </tr> <tr> <td data-bbox="1420 1272 1697 1308">28-36</td> <td data-bbox="1697 1272 1868 1308">4</td> </tr> <tr> <td data-bbox="1420 1308 1697 1345">19-27</td> <td data-bbox="1697 1308 1868 1345">3</td> </tr> <tr> <td data-bbox="1420 1345 1697 1382">10-18</td> <td data-bbox="1697 1345 1868 1382">2</td> </tr> <tr> <td data-bbox="1420 1382 1697 1418">1-9</td> <td data-bbox="1697 1382 1868 1418">1</td> </tr> </tbody> </table>		AO1 + AO2 marks	AO3 mark	37-45	5	28-36	4	19-27	3	10-18	2	1-9	1
AO1 + AO2 marks	AO3 mark															
37-45	5															
28-36	4															
19-27	3															
10-18	2															
1-9	1															

Question	Answer	Marks	Guidance												
2*	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <ul style="list-style-type: none"> <li>• Explain the consequences of economic duress on a contract, that it becomes voidable</li> <li>• Explain that in order to claim economic duress there must be an unlawful threat, that this can be to breach a contract <i>Atlas Express v Kafco</i>, or to commit a tort <i>Universal Tankships v ITWF</i>, however ordinary commercial pressure will not amount to an unlawful threat or to duress <i>The Siboen and Sibotre, CTN Cash and Carry v Gallagher, William v Roffey</i></li> <li>• Explain that the threat must have vitiated the consent of the other side and left the other party with no realistic alternative <i>Atlas Express, Pao On v Lau Yiu Long</i></li> <li>• Explain that the party seeking to claim duress must have protested at the time and must not hesitate in taking legal action to avoid the contract <i>Pao On, The Atlantic Baron, DSND Subsea</i>.</li> </ul>	25	<table border="1" data-bbox="1384 248 1740 461"> <thead> <tr> <th>AO1 Level</th> <th>AO1 marks</th> </tr> </thead> <tbody> <tr> <td>5</td> <td>21-25</td> </tr> <tr> <td>4</td> <td>16-20</td> </tr> <tr> <td>3</td> <td>11-15</td> </tr> <tr> <td>2</td> <td>6-10</td> </tr> <tr> <td>1</td> <td>1-5</td> </tr> </tbody> </table> <p>Candidates will be unlikely to achieve the following levels without:</p> <p><b>Level 5</b> – being able to cite at least 7 relevant cases accurately and clearly to support their argument and make reference to specific sections of the relevant statute</p> <p><b>Level 4</b> – being able to cite at least 5 relevant cases to support their argument with accurate names and some factual description and make reference to specific sections of the relevant statute</p> <p><b>Level 3</b> – being able to cite at least 3 relevant cases to support their argument with clear identification and some relevant facts and make reference to specific sections of the relevant statute</p> <p><b>Level 2</b> – being able to cite at least 1 relevant case although it may be described rather than accurately cited and make reference to specific sections of the relevant statute</p> <p><b>Level 1</b> – some accurate statements of fact but there may not be any reference to relevant cases or cases may be confused</p>	AO1 Level	AO1 marks	5	21-25	4	16-20	3	11-15	2	6-10	1	1-5
AO1 Level	AO1 marks														
5	21-25														
4	16-20														
3	11-15														
2	6-10														
1	1-5														

Question	Answer	Marks	Guidance													
	<p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p>Candidates can answer this question by discussing different areas of the law on economic duress:</p> <p>The nature of the threat:</p> <ul style="list-style-type: none"> <li>• Discuss the kinds of threat that can amount to duress and whether the doctrine should be extended to include lawful but unfair threats such as a threat to decline further contracts when there are no viable competitors.</li> </ul> <p>The effect of the threat:</p> <ul style="list-style-type: none"> <li>• Discuss the viability of taking alternative courses of action where this may be a costly and time consuming process.</li> <li>• Discuss the requirement that a party complains immediately or risks being barred by ‘lapse of time’, that the unfair pressure may preclude taking immediate action for fear of further threats to breach the contract or actual non-performance.</li> <li>• Discuss the factor of taking legal advice – whether it is fair to say that a party who enters a further contract at arm’s length, after taking legal advice, may be less able to subsequently claim duress.</li> </ul> <p>Discuss the effects of broadening the doctrine:</p> <ul style="list-style-type: none"> <li>• Discuss whether a general requirement to act fairly would add too much vagueness to English law.</li> <li>• Discuss whether the law at present is too slanted towards protecting smaller parties at the expense of larger companies who seek to maximise the benefit of market dominance.</li> </ul> <p>Reach any sensible conclusion.</p>	20	<table border="1"> <thead> <tr> <th data-bbox="1379 217 1559 258">AO2 Level</th> <th data-bbox="1559 217 1738 258">AO2 marks</th> </tr> </thead> <tbody> <tr> <td data-bbox="1379 258 1559 300">5</td> <td data-bbox="1559 258 1738 300">17-20</td> </tr> <tr> <td data-bbox="1379 300 1559 341">4</td> <td data-bbox="1559 300 1738 341">13-16</td> </tr> <tr> <td data-bbox="1379 341 1559 383">3</td> <td data-bbox="1559 341 1738 383">9-12</td> </tr> <tr> <td data-bbox="1379 383 1559 424">2</td> <td data-bbox="1559 383 1738 424">5-8</td> </tr> <tr> <td data-bbox="1379 424 1559 466">1</td> <td data-bbox="1559 424 1738 466">1-4</td> </tr> </tbody> </table>		AO2 Level	AO2 marks	5	17-20	4	13-16	3	9-12	2	5-8	1	1-4
AO2 Level	AO2 marks															
5	17-20															
4	13-16															
3	9-12															
2	5-8															
1	1-4															
	<p><b>Assessment Objective 3 – Communication and presentation</b></p> <p>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.</p>	5	<table border="1"> <thead> <tr> <th data-bbox="1379 1185 1659 1227">AO1 + AO2 marks</th> <th data-bbox="1659 1185 1827 1227">AO3 mark</th> </tr> </thead> <tbody> <tr> <td data-bbox="1379 1227 1659 1268">37-45</td> <td data-bbox="1659 1227 1827 1268">5</td> </tr> <tr> <td data-bbox="1379 1268 1659 1310">28-36</td> <td data-bbox="1659 1268 1827 1310">4</td> </tr> <tr> <td data-bbox="1379 1310 1659 1351">19-27</td> <td data-bbox="1659 1310 1827 1351">3</td> </tr> <tr> <td data-bbox="1379 1351 1659 1393">10-18</td> <td data-bbox="1659 1351 1827 1393">2</td> </tr> <tr> <td data-bbox="1379 1393 1659 1434">1-9</td> <td data-bbox="1659 1393 1827 1434">1</td> </tr> </tbody> </table>		AO1 + AO2 marks	AO3 mark	37-45	5	28-36	4	19-27	3	10-18	2	1-9	1
AO1 + AO2 marks	AO3 mark															
37-45	5															
28-36	4															
19-27	3															
10-18	2															
1-9	1															

Question	Answer	Marks	Guidance												
3*	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Explain the ways in which a contract may be frustrated:</p> <ul style="list-style-type: none"> <li>• Impossibility of performance, <i>Nichol and Knight v Ashton Eldridge</i>, but not mere difficulty or extra expense,</li> <li>• Radical change of circumstances, <i>Krell v Henry</i></li> <li>• Illegality of performance, <i>Fibrosa v Fairbairn Lawson</i>.</li> </ul> <p>Explain the circumstances where the courts will decide that frustration will not apply.</p> <ul style="list-style-type: none"> <li>• Where performance would be possible but more difficult or expensive than originally anticipated, <i>Tsakiroglou v Noble Thorl</i></li> <li>• Where the change of circumstances is not sufficiently radical, <i>Herne Bay v Hutton, Davis Contractors v Fareham</i></li> <li>• Where the potentially frustrating event was anticipated by the parties, <i>Amalgamated Investment v John Walker</i></li> <li>• Where the impossibility of performance was due to the fault of one of the parties or due to their choice to use other means to perform a contract, <i>The Super Servant 2</i>.</li> </ul> <p>Explain the provisions of the Law Reform (Frustrated Contracts) Act 1943</p> <p>Section 1(2) where money paid in advance of the frustrating event may be reclaimed minus just expenses.</p> <p>Section 1(3) where a party has to account for any unjust enrichment they would have gained because of the frustrating event.</p>	25	<table border="1" data-bbox="1384 252 1742 464"> <thead> <tr> <th>AO1 Level</th> <th>AO1 marks</th> </tr> </thead> <tbody> <tr> <td>5</td> <td>21-25</td> </tr> <tr> <td>4</td> <td>16-20</td> </tr> <tr> <td>3</td> <td>11-15</td> </tr> <tr> <td>2</td> <td>6-10</td> </tr> <tr> <td>1</td> <td>1-5</td> </tr> </tbody> </table> <p>Responses will be unlikely to achieve the following levels without:</p> <p><b>Level 5</b> – being able to cite at least 8 relevant cases accurately and clearly to support their argument and make reference to specific sections of the relevant statute</p> <p><b>Level 4</b> – being able to cite at least 5 relevant cases to support their argument with accurate names and some factual description and make reference to specific sections of the relevant statute</p> <p><b>Level 3</b> – being able to cite at least 3 relevant cases to support their argument with clear identification and some relevant facts and make reference to specific sections of the relevant statute</p> <p><b>Level 2</b> – being able to cite at least 1 relevant case although it may be described rather than accurately cited and make reference to specific sections of the relevant statute</p> <p><b>Level 1</b> – some accurate statements of fact but there may not be any reference to relevant cases or cases may be confused</p>	AO1 Level	AO1 marks	5	21-25	4	16-20	3	11-15	2	6-10	1	1-5
AO1 Level	AO1 marks														
5	21-25														
4	16-20														
3	11-15														
2	6-10														
1	1-5														



Question	Answer	Marks	Guidance													
	<p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p>Discuss whether the basis for frustration leaves too much to the discretion of the judge:</p> <ul style="list-style-type: none"> <li>• Discuss whether impossibility is quite easy to ascertain and so leaves little to judge’s discretion</li> <li>• Discuss whether illegality is also quite easy to ascertain</li> <li>• Discuss whether the wider doctrine of radical change in circumstances is less certain and can lead to a judge making an assessment of how much of the total basis of the contract has been changed in order to decide whether it is frustrated.</li> </ul> <p>Discuss the limitations on the doctrine of frustration:</p> <ul style="list-style-type: none"> <li>• Discuss whether the doctrine of choice or self-induced frustration leaves much discretion to the judge</li> <li>• Discuss whether the issue of foresight of risk gives a judge discretion as to when something was within the contemplation of the parties and so unable to amount to a frustrating event</li> <li>• Discuss whether any uncertainty as to the effect of a frustrating event could be best dealt with in advance by the parties by using a force majeure term.</li> </ul> <p>Discuss the consequences of frustration:</p> <ul style="list-style-type: none"> <li>• Discuss whether the award of a just amount under Section 1(3) LR(FC) Act gives a large amount of discretion to the judge and has little predictability as a sum.</li> </ul> <p>Reach any sensible conclusion.</p>	20	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">AO2 Level</th> <th style="text-align: center;">AO2 marks</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">5</td> <td style="text-align: center;">17-20</td> </tr> <tr> <td style="text-align: center;">4</td> <td style="text-align: center;">13-16</td> </tr> <tr> <td style="text-align: center;">3</td> <td style="text-align: center;">9-12</td> </tr> <tr> <td style="text-align: center;">2</td> <td style="text-align: center;">5-8</td> </tr> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">1-4</td> </tr> </tbody> </table>		AO2 Level	AO2 marks	5	17-20	4	13-16	3	9-12	2	5-8	1	1-4
AO2 Level	AO2 marks															
5	17-20															
4	13-16															
3	9-12															
2	5-8															
1	1-4															
	<p><b>Assessment Objective 3 – Communication and presentation</b></p> <p>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.</p>	5	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">AO1 + AO2 marks</th> <th style="text-align: center;">AO3 mark</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">37-45</td> <td style="text-align: center;">5</td> </tr> <tr> <td style="text-align: center;">28-36</td> <td style="text-align: center;">4</td> </tr> <tr> <td style="text-align: center;">19-27</td> <td style="text-align: center;">3</td> </tr> <tr> <td style="text-align: center;">10-18</td> <td style="text-align: center;">2</td> </tr> <tr> <td style="text-align: center;">1-9</td> <td style="text-align: center;">1</td> </tr> </tbody> </table>		AO1 + AO2 marks	AO3 mark	37-45	5	28-36	4	19-27	3	10-18	2	1-9	1
AO1 + AO2 marks	AO3 mark															
37-45	5															
28-36	4															
19-27	3															
10-18	2															
1-9	1															

## SECTION B

Question	Answer	Marks	Guidance												
4*	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Part payment for the waterfall:</p> <ul style="list-style-type: none"> <li>• Explain that part payment of a debt is not good consideration to discharge the whole debt, making reference to the cases <i>D&amp;C Builders v Rees</i>, <i>Pinnel's Case</i>, <i>Foakes v Beer</i>, <i>Re Selectmove</i>.</li> <li>• Explain the rule of promissory estoppel, making reference to the case <i>Central London Property Trust v High Trees House</i>.</li> </ul> <p>The extra payment for the waterfall:</p> <ul style="list-style-type: none"> <li>• Explain that consideration needs to be sufficient on each side and be seen as having some economic value, making reference to cases such as <i>Thomas v Thomas</i>, <i>Chappel v Nestle</i>.</li> <li>• Explain that consideration can include less tangible things such as keeping a child happy, <i>Ward v Byham</i>.</li> <li>• Explain that one obligation can be good consideration for two other people's promises, <i>Shadwell v Shadwell</i>, <i>Pao on v Lau Yiu Long</i>, <i>The Eurymedon</i>.</li> </ul> <p>The tree:</p> <ul style="list-style-type: none"> <li>• Explain that past consideration is not normally seen as good consideration, <i>Roscorla v Thomas</i>.</li> <li>• Explain that past consideration can be good consideration if both parties were expecting a reward to be paid, <i>Stewart v Casey</i>, and if one party acted at the request of the other, <i>Lampleigh v Braithwaite</i>.</li> </ul>	25	<table border="1" data-bbox="1406 316 1765 528"> <thead> <tr> <th>AO1 Level</th> <th>AO1 marks</th> </tr> </thead> <tbody> <tr> <td>5</td> <td>21-25</td> </tr> <tr> <td>4</td> <td>16-20</td> </tr> <tr> <td>3</td> <td>11-15</td> </tr> <tr> <td>2</td> <td>6-10</td> </tr> <tr> <td>1</td> <td>1-5</td> </tr> </tbody> </table> <p>Candidates will be unlikely to achieve the following levels without:</p> <p><b>Level 5</b> – being able to cite at least 8 relevant cases accurately and clearly to support their argument and make reference to specific sections of the relevant statute</p> <p><b>Level 4</b> – being able to cite at least 5 relevant cases to support their argument with accurate names and some factual description and make reference to specific sections of the relevant statute</p> <p><b>Level 3</b> – being able to cite at least 3 relevant cases to support their argument with clear identification and some relevant facts and make reference to specific sections of the relevant statute</p> <p><b>Level 2</b> – being able to cite at least 1 relevant case although it may be described rather than accurately cited and make reference to specific sections of the relevant statute</p> <p><b>Level 1</b> – some accurate statements of fact but there may not be any reference to relevant cases or cases may be confused</p>	AO1 Level	AO1 marks	5	21-25	4	16-20	3	11-15	2	6-10	1	1-5
AO1 Level	AO1 marks														
5	21-25														
4	16-20														
3	11-15														
2	6-10														
1	1-5														

Question	Answer	Marks	Guidance													
	<p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p><b>Part payment for the waterfall</b></p> <ul style="list-style-type: none"> <li>• Identify that this question involves part payments</li> <li>• Identify that this is a part payment situation and that part payment does not normally amount to good consideration.</li> <li>• Discuss whether anything else was given in lieu of consideration – in this case not.</li> <li>• Discuss whether the doctrine of promissory estoppel may apply here; although there appears to be a promise not to enforce a contractual right which has been relied on when the smaller sum was paid, the promise does not appear to have been voluntary or obtained honestly and so estoppel should not be a bar to John claiming the balance.</li> <li>• Conclude that John will be able to bring a successful claim for the balance.</li> </ul> <p><b>The extra payment for the waterfall</b></p> <ul style="list-style-type: none"> <li>• Identify that this question involves economic value as consideration</li> <li>• Identify that John will need to show that making Ann happy with his work is satisfactory consideration.</li> <li>• Discuss whether making Ann happy has any economic benefit and involves any actual performance from John.</li> <li>• Discuss whether this case can be distinguished from <i>Ward v Byham</i> because in that case the mother was required to go beyond the requirements normally imposed by law.</li> <li>• Discuss whether the act of installing the waterfall competently can be good consideration for the promises of both Ann and Rupert.</li> <li>• Conclude that John probably doesn't give any consideration for Rupert's promise because making Ann happy has no economic value.</li> <li>• Credit any discussion of whether making Ann happy is performance of a contract duty already owed to Ann and as such could be seen as good consideration under the doctrine in <i>Shadwell v Shadwell</i>.</li> </ul>	20	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th data-bbox="1402 217 1576 258">AO2 Level</th> <th data-bbox="1576 217 1760 258">AO2 marks</th> </tr> </thead> <tbody> <tr> <td data-bbox="1402 258 1576 300" style="text-align: center;">5</td> <td data-bbox="1576 258 1760 300" style="text-align: center;">17-20</td> </tr> <tr> <td data-bbox="1402 300 1576 341" style="text-align: center;">4</td> <td data-bbox="1576 300 1760 341" style="text-align: center;">13-16</td> </tr> <tr> <td data-bbox="1402 341 1576 383" style="text-align: center;">3</td> <td data-bbox="1576 341 1760 383" style="text-align: center;">9-12</td> </tr> <tr> <td data-bbox="1402 383 1576 424" style="text-align: center;">2</td> <td data-bbox="1576 383 1760 424" style="text-align: center;">5-8</td> </tr> <tr> <td data-bbox="1402 424 1576 466" style="text-align: center;">1</td> <td data-bbox="1576 424 1760 466" style="text-align: center;">1-4</td> </tr> </tbody> </table>		AO2 Level	AO2 marks	5	17-20	4	13-16	3	9-12	2	5-8	1	1-4
AO2 Level	AO2 marks															
5	17-20															
4	13-16															
3	9-12															
2	5-8															
1	1-4															

Question	Answer	Marks	Guidance													
	<p><b>The tree</b></p> <ul style="list-style-type: none"> <li>• Identify that this question involves past consideration</li> <li>• Identify that John's consideration is past by the time the promise of payment is made.</li> <li>• Discuss whether it may nevertheless be seen as good consideration; reward for cutting the tree down was probably in both parties' minds and he could be seen as responding to a request from Ann.</li> <li>• Conclude that John is probably able to enforce payment for cutting down the tree.</li> </ul> <p>Reach any sensible conclusions.</p>															
	<p><b>Assessment Objective 3 – Communication and presentation</b></p> <p>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.</p>	5	<table border="1"> <thead> <tr> <th data-bbox="1402 639 1682 675">AO1 + AO2 marks</th> <th data-bbox="1682 639 1850 675">AO3 mark</th> </tr> </thead> <tbody> <tr> <td data-bbox="1402 675 1682 710" style="text-align: center;">37-45</td> <td data-bbox="1682 675 1850 710" style="text-align: center;">5</td> </tr> <tr> <td data-bbox="1402 710 1682 745" style="text-align: center;">28-36</td> <td data-bbox="1682 710 1850 745" style="text-align: center;">4</td> </tr> <tr> <td data-bbox="1402 745 1682 780" style="text-align: center;">19-27</td> <td data-bbox="1682 745 1850 780" style="text-align: center;">3</td> </tr> <tr> <td data-bbox="1402 780 1682 815" style="text-align: center;">10-18</td> <td data-bbox="1682 780 1850 815" style="text-align: center;">2</td> </tr> <tr> <td data-bbox="1402 815 1682 850" style="text-align: center;">1-9</td> <td data-bbox="1682 815 1850 850" style="text-align: center;">1</td> </tr> </tbody> </table>		AO1 + AO2 marks	AO3 mark	37-45	5	28-36	4	19-27	3	10-18	2	1-9	1
AO1 + AO2 marks	AO3 mark															
37-45	5															
28-36	4															
19-27	3															
10-18	2															
1-9	1															

Question	Answer	Marks	Guidance												
5*	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <p>Explain the rules on incorporation of contract terms by:</p> <ul style="list-style-type: none"> <li>• Notice, that the terms must be available before the contract is concluded, citing cases such as <i>Thornton v Shoe Lane Parking</i>, <i>Olley v Marlborough Court Hotel</i></li> <li>• Receipts, that a term included in a receipt cannot incorporate terms into a contract if the contract has already been completed, citing cases such as <i>Chapleton v Barry UDC</i></li> <li>• Tickets, that the ticket must have been available before the contract was completed, or else that the parties were reasonably expecting there to be contractual terms on the receipt, citing case such as <i>Parker v SE Railway</i>, <i>Thompson v London Midland and Scottish Railway</i></li> <li>• By signature, that signed terms are incorporated into a contract even if not read, and that the court is reluctant to apply the doctrine of <i>non est factum</i> in the absence of clear evidence of unusual circumstances and a document of a completely different nature, citing cases such as <i>L'Estrange v Graucob</i> and <i>Saunders v Anglia Building Society</i></li> <li>• That there are times when harsh or unusual terms may not be included into a contract without reasonable prominence being given, citing cases such as <i>Interfoto v Stiletto Visual Productions</i>, <i>Thornton v Shoe Lane Parking</i></li> </ul>	25	<table border="1" data-bbox="1422 252 1780 464"> <thead> <tr> <th>AO1 Level</th> <th>AO1 marks</th> </tr> </thead> <tbody> <tr> <td>5</td> <td>21-25</td> </tr> <tr> <td>4</td> <td>16-20</td> </tr> <tr> <td>3</td> <td>11-15</td> </tr> <tr> <td>2</td> <td>6-10</td> </tr> <tr> <td>1</td> <td>1-5</td> </tr> </tbody> </table> <p>The command for this question specifies that candidates should only discuss the rules of incorporation of terms and not further rules regarding exclusion clauses. Consequently no credit will be given for discussing whether the terms are likely to be made void or subject to reasonableness under different statutory provisions.</p> <p>Candidates will be unlikely to achieve the following levels without:</p> <p><b>Level 5</b> – being able to cite at least 6 relevant cases accurately and clearly to support their argument and make reference to specific sections of the relevant statute</p> <p><b>Level 4</b> – being able to cite at least 5 relevant cases to support their argument with accurate names and some factual description and make reference to specific sections of the relevant statute</p> <p><b>Level 3</b> – being able to cite at least 3 relevant cases to support their argument with clear identification and some relevant facts and make reference to specific sections of the relevant statute</p>	AO1 Level	AO1 marks	5	21-25	4	16-20	3	11-15	2	6-10	1	1-5
AO1 Level	AO1 marks														
5	21-25														
4	16-20														
3	11-15														
2	6-10														
1	1-5														

Question	Answer	Marks	Guidance												
			<p><b>Level 2</b> – being able to cite at least 1 relevant case although it may be described rather than accurately cited and make reference to specific sections of the relevant statute</p> <p><b>Level 1</b> – some accurate statements of fact but there may not be any reference to relevant cases or cases may be confused</p>												
	<p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p>The term with <b>Red Nile</b>:</p> <ul style="list-style-type: none"> <li>• Identify that this is an internet contract and so Zara is likely to have made an offer to buy goods.</li> <li>• Discuss whether clicking on a button on the website is likely to have incorporated a term into the offer she made to the company.</li> <li>• Discuss whether the terms were made adequately available to her at the time of contracting; it appears they were although she didn't read them.</li> <li>• Conclude that the term is incorporated into the contract.</li> <li>• Credit any discussion about whether the term could be seen as harsh or unusual and so should be made prominent, and if so whether it was made prominent in this case.</li> </ul> <p>The term with the <b>Royal Theatre</b>:</p> <ul style="list-style-type: none"> <li>• Identify that this is a ticket case.</li> <li>• Discuss whether the ticket is one where a customer would generally expect there to be a reference to terms on the back.</li> <li>• Discuss whether the term was made sufficiently available to her if she was unlikely to have seen the ticket until just before the performance, despite the contract having been made some time before.</li> <li>• Conclude that the term is probably not incorporated into her contract with the theatre.</li> </ul>	20	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">AO2 Level</th> <th style="text-align: center;">AO2 marks</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">5</td> <td style="text-align: center;">17-20</td> </tr> <tr> <td style="text-align: center;">4</td> <td style="text-align: center;">13-16</td> </tr> <tr> <td style="text-align: center;">3</td> <td style="text-align: center;">9-12</td> </tr> <tr> <td style="text-align: center;">2</td> <td style="text-align: center;">5-8</td> </tr> <tr> <td style="text-align: center;">1</td> <td style="text-align: center;">1-4</td> </tr> </tbody> </table>	AO2 Level	AO2 marks	5	17-20	4	13-16	3	9-12	2	5-8	1	1-4
AO2 Level	AO2 marks														
5	17-20														
4	13-16														
3	9-12														
2	5-8														
1	1-4														

Question	Answer	Marks	Guidance													
	<p>The term with <b>Gusts</b>:</p> <ul style="list-style-type: none"> <li>• Identify that this situation deals with signed contracts.</li> <li>• Discuss whether the general rule applies, that signature indicates agreement with all the terms in the written document.</li> <li>• Discuss whether this is a harsh or unusual term and so should have been made prominent in the document.</li> <li>• Discuss whether the rule of <i>non est factum</i> applies here, there was a misrepresentation but the term is probably not significantly different to what she thought she was signing, and there are no exceptional circumstances to justify her not reading the document.</li> <li>• Conclude that the term is likely to be incorporated unless seen as sufficiently harsh as to justify being made more prominent.</li> </ul> <p>Reach any sensible conclusions.</p>															
	<p><b>Assessment Objective 3 – Communication and presentation</b></p> <p>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.</p>	5	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">AO1 + AO2 marks</th> <th style="text-align: center;">AO3 mark</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">37-45</td> <td style="text-align: center;">5</td> </tr> <tr> <td style="text-align: center;">28-36</td> <td style="text-align: center;">4</td> </tr> <tr> <td style="text-align: center;">19-27</td> <td style="text-align: center;">3</td> </tr> <tr> <td style="text-align: center;">10-18</td> <td style="text-align: center;">2</td> </tr> <tr> <td style="text-align: center;">1-9</td> <td style="text-align: center;">1</td> </tr> </tbody> </table>		AO1 + AO2 marks	AO3 mark	37-45	5	28-36	4	19-27	3	10-18	2	1-9	1
AO1 + AO2 marks	AO3 mark															
37-45	5															
28-36	4															
19-27	3															
10-18	2															
1-9	1															

Question	Answer	Marks	Guidance												
6*	<p>Potential answers may:</p> <p><b>Assessment Objective 1 – Knowledge and understanding</b></p> <ul style="list-style-type: none"> <li>• Explain the rules of privity; that a contract can only be enforced by and against the parties to the contract, <i>Tweddle v Atkinson</i>, <i>Dunlop v Selfridge</i>.</li> <li>• Candidates may explain that the rule comes from the need for the parties to have given consideration to the agreement in order to enforce it.</li> </ul> <p>Explain statutory exceptions:</p> <ul style="list-style-type: none"> <li>• Contract (Rights of Third Parties) Act 1999; allowing a party who was intended to benefit from a contract, which they were not a party to, to enforce the contract in their own right. <i>Nisshih shipping</i></li> </ul> <p>Explain the exceptions developed by the courts:</p> <ul style="list-style-type: none"> <li>• Collateral contracts; where a new contract was imposed by the court between a person making a representation and the person who acted on that representation, <i>Shanklin Pier v Detel Products</i>.</li> </ul> <p>Credit can also be given for any other discussion of ways that the rule of agency may be avoided at common law: assignment, agency, suing under the law of negligence and special cases – <i>Jackson v Horizon Holidays</i>, <i>Lindan Gardens v Lenerta</i>, <i>Woodas v Wimpey</i>.</p>	25	<table border="1" data-bbox="1402 248 1760 459"> <thead> <tr> <th>AO1 Level</th> <th>AO1 marks</th> </tr> </thead> <tbody> <tr> <td>5</td> <td>21-25</td> </tr> <tr> <td>4</td> <td>16-20</td> </tr> <tr> <td>3</td> <td>11-15</td> </tr> <tr> <td>2</td> <td>6-10</td> </tr> <tr> <td>1</td> <td>1-5</td> </tr> </tbody> </table> <p>Candidates will be unlikely to achieve the following levels without:</p> <p><b>Level 5</b> – being able to cite at least 5 relevant cases accurately and clearly to support their argument and make reference to specific sections of the relevant statute</p> <p><b>Level 4</b> – being able to cite at least 4 relevant cases to support their argument with accurate names and some factual description and make reference to specific sections of the relevant statute</p> <p><b>Level 3</b> – being able to cite at least 3 relevant cases to support their argument with clear identification and some relevant facts and make reference to specific sections of the relevant statute</p> <p><b>Level 2</b> – being able to cite at least 1 relevant case although it may be described rather than accurately cited and make reference to specific sections of the relevant statute</p> <p><b>Level 1</b> – some accurate statements of fact but there may not be any reference to relevant cases or cases may be confused</p>	AO1 Level	AO1 marks	5	21-25	4	16-20	3	11-15	2	6-10	1	1-5
AO1 Level	AO1 marks														
5	21-25														
4	16-20														
3	11-15														
2	6-10														
1	1-5														



Question	Answer	Marks	Guidance													
	<p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p><b>Hans’ claim for the 5%:</b></p> <ul style="list-style-type: none"> <li>• Identify that there is an issue of privity of contract because Hans is not party to the contract between George and Fruito</li> <li>• Discuss whether the Contract (Rights of Third Parties) Act 1999 applies in this situation; this is likely to be the case because Hans appears to be mentioned in the contract and it purports to give him a benefit</li> <li>• Conclude that Hans will not be prevented by privity from bringing a successful case against George.</li> </ul> <p><b>Rypee’s claim for the loss of fruit:</b></p> <ul style="list-style-type: none"> <li>• Identify that there is an issue of privity of contract here because Rypee do not have a contract with George and have not given him any consideration</li> <li>• Discuss whether the Contract (Rights of Third Parties) Act applies in this situation; this is unlikely to be the case because it does not appear that Rypee are named or described in the contract so it could not be said to purport to give them a benefit</li> <li>• Discuss whether any common law exceptions or methods of avoiding privity could be used by Rypee to bring a claim against George – collateral contracts are the most likely if George has made any promises directly to Rypee. This is unlikely to form a collateral contract however because Rypee do not appear to have given any consideration to George</li> <li>• Conclude that Rypee will be prevented by privity from bringing a successful case against George.</li> </ul>	20	<table border="1"> <thead> <tr> <th data-bbox="1402 217 1576 258">AO2 Level</th> <th data-bbox="1576 217 1758 258">AO2 marks</th> </tr> </thead> <tbody> <tr> <td data-bbox="1402 258 1576 300">5</td> <td data-bbox="1576 258 1758 300">17-20</td> </tr> <tr> <td data-bbox="1402 300 1576 341">4</td> <td data-bbox="1576 300 1758 341">13-16</td> </tr> <tr> <td data-bbox="1402 341 1576 383">3</td> <td data-bbox="1576 341 1758 383">9-12</td> </tr> <tr> <td data-bbox="1402 383 1576 424">2</td> <td data-bbox="1576 383 1758 424">5-8</td> </tr> <tr> <td data-bbox="1402 424 1576 466">1</td> <td data-bbox="1576 424 1758 466">1-4</td> </tr> </tbody> </table>		AO2 Level	AO2 marks	5	17-20	4	13-16	3	9-12	2	5-8	1	1-4
AO2 Level	AO2 marks															
5	17-20															
4	13-16															
3	9-12															
2	5-8															
1	1-4															
	<p><b>Assessment Objective 3 – Communication and presentation</b></p> <p>Present logical and coherent arguments and communicate relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.</p>	5	<table border="1"> <thead> <tr> <th data-bbox="1402 1158 1677 1200">AO1 + AO2 marks</th> <th data-bbox="1677 1158 1845 1200">AO3 mark</th> </tr> </thead> <tbody> <tr> <td data-bbox="1402 1200 1677 1241">37-45</td> <td data-bbox="1677 1200 1845 1241">5</td> </tr> <tr> <td data-bbox="1402 1241 1677 1283">28-36</td> <td data-bbox="1677 1241 1845 1283">4</td> </tr> <tr> <td data-bbox="1402 1283 1677 1324">19-27</td> <td data-bbox="1677 1283 1845 1324">3</td> </tr> <tr> <td data-bbox="1402 1324 1677 1366">10-18</td> <td data-bbox="1677 1324 1845 1366">2</td> </tr> <tr> <td data-bbox="1402 1366 1677 1407">1-9</td> <td data-bbox="1677 1366 1845 1407">1</td> </tr> </tbody> </table>		AO1 + AO2 marks	AO3 mark	37-45	5	28-36	4	19-27	3	10-18	2	1-9	1
AO1 + AO2 marks	AO3 mark															
37-45	5															
28-36	4															
19-27	3															
10-18	2															
1-9	1															

## SECTION C

Question		Answer	Marks	Guidance												
7	(a)	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p><b>P1</b> Reason that as Larry and Davina are related, there is a presumption against them forming legal relationships</p> <p><b>P2</b> Reason that the presumption can be rebutted if they are not acting in a domestic manner</p> <p><b>P3</b> Reason that Larry’s contract to build a garage will be seen as more of a commercial than domestic agreement</p> <p><b>P4</b> Reason that there will be a binding contract between Larry and Davina</p> <p><b>P5</b> Conclude that the statement is inaccurate</p>	5	<table border="1"> <thead> <tr> <th>AO2 Level</th> <th>AO2 Marks</th> </tr> </thead> <tbody> <tr> <td>5</td> <td>5</td> </tr> <tr> <td>4</td> <td>4</td> </tr> <tr> <td>3</td> <td>3</td> </tr> <tr> <td>2</td> <td>2</td> </tr> <tr> <td>1</td> <td>1</td> </tr> </tbody> </table>	AO2 Level	AO2 Marks	5	5	4	4	3	3	2	2	1	1
AO2 Level	AO2 Marks															
5	5															
4	4															
3	3															
2	2															
1	1															
	(b)	<p><b>P1</b> Reason as Larry and Jules are friends they will be presumed not to have an intention to create legal relations</p> <p><b>P2</b> Reason that the presumption can be rebutted if they are acting in a commercial manner</p> <p><b>P3</b> Reason that an exchange of garden produce for a service like this is not likely to be seen as commercial in character</p> <p><b>P4</b> Reason that the presumption will not be rebutted between Larry and Jules</p> <p><b>P5</b> Conclude that the statement is accurate</p>	5													
	(c)	<p><b>P1</b> Reason that in commercial agreements there is an intention to be legally bound</p> <p><b>P2</b> Reason that the agreement between Larry and Shane is commercial</p> <p><b>P3</b> Reason that the commercial presumption can be rebutted by clear words to show no legal intent</p> <p><b>P4</b> Reason that in calling the discount a gentleman’s agreement Shane has probably acted to rebut the commercial presumption</p> <p><b>P5</b> Conclude that the statement is accurate</p>	5													
	(d)	<p><b>P1</b> Reason that consideration can consist of Larry promising to do something or to give up a specific right</p> <p><b>P2</b> Reason that Larry has the general right to buy his materials wherever he wants</p> <p><b>P3</b> Reason that therefore a promise to only buy them from Shane does have economic value</p> <p><b>P4</b> Reason that Larry does give consideration for Shane’s promise</p> <p><b>P5</b> Conclude that the statement is inaccurate</p>	5													

Question	Answer	Marks	Guidance												
8  (a)	<p>Potential answers may:</p> <p><b>Assessment Objective 2 – Analysis, evaluation and application</b></p> <p><b>P1</b> Reason that for the contract to be void the facts must be essentially and radically different to what Alice thought they were</p> <p><b>P2</b> Reason that where a contract is made face to face the seller intends to deal with the person in front of them, whatever identity they claim for themselves</p> <p><b>P3</b> Reason that in this case Alice intended to deal with the person in front of her, Michael</p> <p><b>P4</b> Reason that Alice will not be able to avoid the contract for unilateral mistake</p> <p><b>P5</b> Conclude that the statement is inaccurate</p>	5	<table border="1"> <thead> <tr> <th data-bbox="1686 252 1861 288">AO2 Level</th> <th data-bbox="1861 252 2040 288">AO2 Marks</th> </tr> </thead> <tbody> <tr> <td data-bbox="1686 288 1861 325">5</td> <td data-bbox="1861 288 2040 325">5</td> </tr> <tr> <td data-bbox="1686 325 1861 362">4</td> <td data-bbox="1861 325 2040 362">4</td> </tr> <tr> <td data-bbox="1686 362 1861 399">3</td> <td data-bbox="1861 362 2040 399">3</td> </tr> <tr> <td data-bbox="1686 399 1861 435">2</td> <td data-bbox="1861 399 2040 435">2</td> </tr> <tr> <td data-bbox="1686 435 1861 472">1</td> <td data-bbox="1861 435 2040 472">1</td> </tr> </tbody> </table>	AO2 Level	AO2 Marks	5	5	4	4	3	3	2	2	1	1
AO2 Level	AO2 Marks														
5	5														
4	4														
3	3														
2	2														
1	1														
(b)	<p><b>P1</b> Reason that if the contract between Alice and Michael was not void, good title to the watch passed to Michael</p> <p><b>P2</b> Reason that Alice could have avoided the contract before the sale to Sparkles if she had realised about the fraud in time</p> <p><b>P3</b> Reason that this is unlikely to be the case as the sale to Sparkles was immediately after the sale to Michael and Alice would not have realised the cheque was worthless at this time</p> <p><b>P4</b> Reason that Michael was therefore able to pass good title to Sparkles</p> <p><b>P5</b> Conclude that the statement is accurate</p>	5													
(c)	<p><b>P1</b> Reason that a contract can be void for mutual mistake if Alice and Elsa have not come to a true agreement on the terms of the contract</p> <p><b>P2</b> Reason that a difference in value will not in itself lead to a contract being void</p> <p><b>P3</b> Reason that there was nothing to indicate to Elsa that it was a term of the contract that it was a diamond ring</p> <p><b>P4</b> Reason that caveat emptor applies and Elsa will not be able to avoid the contract</p> <p><b>P5</b> Conclude that the statement is inaccurate</p>	5													
(d)	<p><b>P1</b> Reason that this is a unilateral mistake that is known to Alice.</p> <p><b>P2</b> Reason that where one party knows of the other's mistake it may render the contract void depending on whether or not the mistake relates to a term in the contract.</p> <p><b>P3a</b> Reason that there was a term in the contract that this was a diamond ring.</p> <p><b>P3b</b> Reason that if there was no term in the contract that the ring was a diamond ring.</p> <p><b>P4a</b> Reason that the contract is void.</p> <p><b>P4b</b> Reason that the contract is not void.</p> <p><b>P5a</b> Conclude that the statement is true.</p> <p><b>P5b</b> Conclude that the statement is false.</p>	5													

### Advanced GCE Law Levels of Assessment

There are **five** levels of assessment of AOs 1 and 2 in the A2 units. The first four levels are very similar to the four levels for AS units. The addition of a fifth level reflects the expectation of higher achievement by candidates at the end of a two-year course of study. There are **four** levels of assessment of AO3 in the A2 units. The requirements and number of levels differ between AS and A2 units to reflect the expectation of higher achievement by candidates at the end of a two-year course of study.

Level	Assessment Objective 1	Assessment Objective 2	Assessment Objective 3 (includes QWC)
5	Wide ranging, accurate, detailed knowledge with a clear and confident understanding of relevant concepts and principles. Where appropriate candidates will be able to elaborate with wide citation of relevant statutes and case-law.	Ability to identify correctly the relevant and important points of criticism showing good understanding of current debate and proposals for reform <b>or</b> identify all of the relevant points of law in issue. A high level of ability to develop arguments <b>or</b> apply points of law accurately and pertinently to a given factual situation, and reach a cogent, logical and well-informed conclusion.	
4	Good, well-developed knowledge with a clear understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate by good citation to relevant statutes and case-law.	Ability to identify and analyse issues central to the question showing some understanding of current debate and proposals for reform <b>or</b> identify most of the relevant points of law in issue. Ability to develop clear arguments <b>or</b> apply points of law clearly to a given factual situation, and reach a sensible and informed conclusion.	An accomplished presentation of logical and coherent arguments and communicates relevant material in a very clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
3	Adequate knowledge showing reasonable understanding of the relevant concepts and principles. Where appropriate candidates will be able to elaborate with some citation of relevant statutes and case-law.	Ability to analyse most of the more obvious points central to the question <b>or</b> identify the main points of law in issue. Ability to develop arguments <b>or</b> apply points of law mechanically to a given factual situation, and reach a conclusion.	A good ability to present logical and coherent arguments and communicates relevant material in a clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
2	Limited knowledge showing general understanding of the relevant concepts and principles. There will be some elaboration of the principles, and where appropriate with limited reference to relevant statutes and case-law.	Ability to explain some of the more obvious points central to the question <b>or</b> identify some of the points of law in issue. A limited ability to produce arguments based on their material <b>or</b> limited ability to apply points of law to a given factual situation but without a clear focus or conclusion.	An adequate ability to present logical and coherent arguments and communicates relevant material in a reasonably clear and effective manner using appropriate legal terminology. Reward grammar, spelling and punctuation.
1	Very limited knowledge of the basic concepts and principles. There will be limited points of detail, but accurate citation of relevant statutes and case-law will not be expected.	Ability to explain at least one of the simpler points central to the question or identify at least one of the points of law in issue. The approach may be uncritical and/or unselective.	A limited attempt to present logical and coherent arguments and communicates relevant material in a limited manner using some appropriate legal terminology. Reward grammar, spelling and punctuation.

**OCR (Oxford Cambridge and RSA Examinations)**  
1 Hills Road  
Cambridge  
CB1 2EU

**OCR Customer Contact Centre**

**Education and Learning**

Telephone: 01223 553998

Facsimile: 01223 552627

Email: [general.qualifications@ocr.org.uk](mailto:general.qualifications@ocr.org.uk)

**[www.ocr.org.uk](http://www.ocr.org.uk)**

For staff training purposes and as part of our quality assurance programme your call may be recorded or monitored

**Oxford Cambridge and RSA Examinations**  
is a Company Limited by Guarantee  
Registered in England  
Registered Office; 1 Hills Road, Cambridge, CB1 2EU  
Registered Company Number: 3484466  
OCR is an exempt Charity

**OCR (Oxford Cambridge and RSA Examinations)**  
Head office  
Telephone: 01223 552552  
Facsimile: 01223 552553

© OCR 2012

