

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:–

B.A.

Contract

COURSE CODE : **LAWS6101**

UNIT VALUE : **1.00**

DATE : **02-MAY-06**

TIME : **10.00**

TIME ALLOWED : **3 Hours 15 Minutes**

CONTRACT

Answer **FOUR** questions including at least one from **PART A** and one from **PART B**.

PART A

1. Agnes is an electronics supplier, who sells specialist 'ITAC' personal electronic organisers. She purchases these from GottoGetaGadget.com on a monthly basis using their standard order form. Over the years, Agnes and GottoGetaGadget.com have developed an arrangement where she phones up when she requires the ITACs and payment and the delivery arrangements are sorted out over the phone. Agnes has been dealing with GottoGetaGadget.com for many years, but she has never bothered to read the terms on the back of the order form they send her with the ITACs. It is almost impossible to read the contract terms in any event, as they are in size 8 font and printed in pale blue type on a pale blue background.

When sorting out the April 2006 delivery, Agnes decides to order an extra ITAC for herself. She already has a laptop for work, but she has found in the past that the ITAC is ideal for ensuring she does not miss birthdays and other critical personal engagements.

The consignment arrives on 14 April. Agnes is very excited and at once downloads all her personal data, birthdays, anniversaries and addresses into the ITAC. After downloading the last of the information she then wipes the hard drive of her laptop which had previously contained the personal data. Before she can check the data on the ITAC, she receives an important business call and does not then get back to looking at the ITAC until 30 April. Unfortunately, when she switches on the ITAC, an error message appears on its screen, there is a loud screech and it then explodes. Agnes is unharmed, but devastated that she has lost all her personal information.

Agnes complains to GottoGetaGadget.com who refuse to give her any compensation and instead refer her to terms on the back order form which say: "We are not responsible for any loss of data arising from the use of this machine unless any defects have been notified to us within 10 days from the purchase of the product."

Advise Agnes.

TURN OVER

2. Sid is a market gardener who rents a plot of land from his uncle Arthur on which he grows vegetables. Sid pays Arthur £20 in cash per month in return for the use of the plot. Sid leaves the money in a large metal biscuit tin at the entrance to his shed and Arthur collects it every three or four months when he is short of cash. Sid is only able to pay the rent because he sells his prize-winning potatoes to the local greengrocer.

In May 2006, the greengrocer contacts Sid to tell him that he is going on holiday for three months and so will not require the potatoes. In fact the greengrocer tells Sid he is not even sure he will return, but will let him know in due course. Sid is very worried that he will not be able to pay the rent, so he asks Arthur whether he could pay £5 per month and in return Arthur could visit the vegetable patch and enjoy some peace and quiet away from Arthur's nagging partner, Margery. Arthur says that he is sure they can work something out about the money later, but he starts to visit the vegetable plot. Sid leaves the reduced rent in the biscuit tin anyway as per their previous practice.

On 1 August, Margery phones Sid to tell him that Arthur will no longer be visiting the vegetable patch as he will now be spending more time with his family. The increased costs for the family outings mean that Arthur will require the £45 rent arrears and the rent will increase to £20 per month from 2 August.

Advise Sid.

3. "A narrow doctrine of common law mistake...supplemented by the more flexible doctrine of mistake in equity...seems...to be an entirely sensible and satisfactory state of law." (*Associated Japanese Bank v Crédit du Nord* (1983) as per Steyn J.)

To what extent did the decision in *The Great Peace* deprive the law of valuable flexibility?

4. "*South Caribbean Trading Ltd v Trafigura Beheer BV* [2005] 1 Lloyds Rep 128 finally resolves the role that *Williams v Roffey* plays in the doctrine of consideration."

Discuss.

CONTINUED

5. Gertie is a collector of very rare porcelain vases from the Mung Dynasty. She is always trying to expand her collection. On 1 March she places a notice in the trade journal 'Mung Monthly' saying: "Mung vase wanted. Rare 'wood nymph' design needed for expanding collection. Genuine collector. Will pay £2000. Payment made against Mung Monthly authenticity certificate. Contact Gertie." Email and mobile phone numbers are then given.

Maurice sees the notice in Mung Monthly. Maurice has 2 Mung vases: one 'wood nymph' vase and the other a 'tree frog' design. On 6 March, Maurice phones Gertie and asks her whether a 'tree frog' vase would do. She says that whilst that design is interesting, it is not the same as the 'wood nymph' vase. Maurice then decides to obtain the Mung Monthly authenticity certificate for his 'wood nymph' vase, which he then posts to Gertie using the latest QuickPost private letter delivery service.

On 7 March Fred sees the notice. He also has a Mung 'wood nymph' vase which he wishes to sell. He does not contact Gertie, but instead just goes to Mung Monthly's offices to get the certificate. On his way to the office, Fred meets Maurice who tells him that he already obtained a certificate on the 6 March and has in fact already posted it to Gertie.

Despite this, Fred decides to email Gertie later on 7 March with a scanned copy of his authenticity certificate. Unfortunately due to a problem with the network Gertie subscribes to, the email is held in a computer server for 6 hours. It arrives in her inbox at 11pm on 7 March when she is out partying with her friends.

Maurice's letter arrives at 9am on 8 March. Gertie does not read her email till 10am. Both Maurice and Fred say that Gertie should buy their vase.

Advise Gertie.

TURN OVER

PART B

6. "If the vendor was aware that the purchaser thought the article possessed that quality, and would not have entered into the contract unless he has so thought, still the purchaser is bound...a mere abstinence from disabusing the purchaser of that impression is not fraud or deceit; for whatever may be the case in a court of morals, there is no legal obligation on the vendor to inform the purchaser that he is under a mistake, not induced by the act of the vendor."
Per Blackburn J *Smith v Hughes* (1870-71) LR 6 QB 597.

Discuss.

7. Rita Rich is keen to organise a number of surprises for her daughter Camilla's 21st birthday on 1 July 2006.

Rita arranges with a popular band The Benthams to come and perform a live concert on the evening of Camilla's birthday. The fee for this service is £10,000. To host this concert she also contracts with Bodge-It R Us Ltd. to build a temporary stage in the grounds of the Rich's estate. Bodge-It R US Ltd charge Rita £15,000 for the stage. Rita is careful to explain the full nature of the celebrations to Bodge-It R Us Ltd. The contract includes a clause stipulating that the work must be finished by 1 June 2006 to enable the band to rehearse on the new stage prior to the event.

Caught up in the fervour of gift buying, Rita also decides to treat herself, and contracts with Mel-A-Noma Ltd. to build a south facing sun terrace at the back of the family home. Rita plans to use this terrace to perfect her overall tan in the privacy of her own garden. She is careful to stipulate the precise measurements of this sun terrace so that at no point can it be overlooked by neighbouring gardens. Mel-A-Noma Ltd charge £12,000.

Unfortunately, Bodge-It R Us Ltd. use inferior materials for the stage. Following an unusually heavy rainfall the stage starts to collapse on 3 June 2006. It is considered unsafe to use. Rita is so caught up with the party plans that she does not notice this until 20 June. In a state of distress she panics and immediately telephones The Benthams to cancel the concert. She is informed that she has to pay cancellation fees of £6000 since she has not given 3 weeks' notice. With the concert cancelled, she also decides to cancel the caterers whose services she had engaged for the evening. Cancellation fees for the caterers are £3000. Rita had also spent £1500 on a new dress for that particular evening. On the completion of the sun terrace Rita discovers that it has been built 1/2 metre longer than was specified. A survey reveals that the cost of reducing the terrace would be £20,000 since it would have to be completely rebuilt. There is little difference in value between a terrace of the correct size and the terrace that has been built. Rita is distraught at the resulting sun terrace.

Advise Rita.

8. Roughage & Co are manufacturers of breakfast cereals. They wish to take advantage of the new trend in low fat diets and produce a new breakfast cereal. Roughage & Co have already started designing the packaging for the new cereal, using a company, Grabbit Inc, even though a director of Roughage & Co was locked in the meeting room at Grabbit Inc with its director and five large security people until he signed the contract.

Publicity for the new cereal is put in place by Bryan, the advertising director of Roughage & Co. Bryan enters into one advertising contract for £3 million for a full page advert in 'Knitters' Monthly' magazine to promote the new cereal. Knitters' Monthly's current circulation figures per year are 150 copies and Roughage & Co need to sell over 10 million boxes of cereals to make the new cereal a success. Bryan and the advertising executive of Knitters' Monthly belong to the same religious community.

Roughage & Co also enter into a contract for the supply of bran for the new cereal with Sludge Plc. Unfortunately the bran is delivered to the wrong storage depot and then stolen. Sludge Plc threatens to withdraw the credit facilities extended to Roughage & Co unless Roughage & Co pays for the stolen bran. The contract between Roughage & Co and Sludge Plc does not state that credit facilities should be available. As there is a worldwide shortage of bran, Roughage & Co pays for the stolen bran.

The production of the new cereal is proving far more problematic than Roughage & Co first thought. Roughage & Co now seek your advice whether they can withdraw from all the contracts without incurring liability.

Advise Roughage & Co.

TURN OVER

9. Bob is an avid fan of opera, particularly when sung by his favourite operatic tenor, Jürgen Voiceloud. He notes that Jürgen Voiceloud is giving a special concert performance at the London Opera House at 8pm on 30 June and he rushes to make arrangements to attend. First, he books 6 tables at Rory's Restaurant for a pre-concert meal at 6pm, as Bob knows that this is Jürgen Voiceloud's favourite restaurant where he always has a celebratory drink before he goes on stage. Rory agrees to provide celebratory concert programmes and special table decorations containing Jürgen Voiceloud's picture for each of the tables booked by Bob. Bob agreed to pay £400 for the meal and the decorations; £100 is payable immediately, and the balance is payable on the night of the meal. Second, Bob books 20 seats in a block booking at the London Opera house for the concert. The tickets cost £1000 in total, all payable in advance of the concert. Finally, Bob gets in touch with Jürgen Voiceloud's manager to arrange a meeting with the singer for himself and all his friends after the concert. As Bob has been a devoted member of the Jürgen Voiceloud fan club for many years, the publicist agrees in return for a donation of £50 to a charity of Jürgen Voiceloud's choice.

Unfortunately, at 2pm on 30 June, Jürgen Voiceloud miscalculates the amount of Tequila he can safely drink before the concert and passes out on the floor of his dressing room and sleeps till the next day. Although Jürgen Voiceloud is not able to perform at the concert, he is replaced by his understudy, Kurt Whatarow, who everyone agrees is much better. Despite this, Bob is furious and insists on a full refund for the tickets. The London Opera House refuses.

Rory now claims £300 which he argues is due under his contract with Bob. Rory refuses to return the deposit as he has already incurred expenses of £200 for the preparation of the tables. Jürgen Voiceloud's publicist says that she should still receive the £50 donation for the charity. Bob insists that he should be able to obtain a refund for the opera tickets from the London Opera House.

Advise Bob.

END OF PAPER