

MULTIPLE CHOICE. Choose the one alternative that best completes the statement or answers the question.

- 1) When Carrie and Emily were discussing whether Emily would buy Carrie's road bike, Carrie made some comments about the bike which would be classified as 'opinions' under common law. Soon after Emily purchased the bike she learnt that Carrie's 'opinions' were not correct. Which of the following statements about Emily's legal rights is most accurate?
- A) She has no rights because an opinion is not legally binding under common law.
  - B) She has the right to sue Emily for breach of contract because opinions become terms of a contract.
  - C) She has the right to sue Emily for breach of contract because an opinion is a legally binding statement.
  - D) She has no rights because an opinion is not legally binding under common law.

Answer: D

- 2) Under common law, which of the following statements is most accurate in relation to representations (statements) that parties make before they enter into a contract?
- A) Representations are never legally binding unless they are fraudulent.
  - B) Representations could be legally binding.
  - C) Representations are only legally binding if they are connected to the contract.
  - D) Representations are always legally binding even when they do not form part of the contract.

Answer: B

- 3) I am a case where a court decided that because of one party's special skill and knowledge, the statement that party made before the formation of a contract was a term of the contract. What is my name?
- A) The *Oscar Chess case*.
  - B) The *White Ants Invasion case (Van Den Esschert v Chappell)*.
  - C) *De Laselle v Guilford*.
  - D) The *Dick Bentley case*.

Answer: D

- 4) The parol evidence rule states that once an agreement has been put into writing oral statements by the parties:
- A) are not taken into account unless they add to, delete, vary, or contradict the written agreement.
  - B) can parenthetically never be taken into account.
  - C) are taken into account if the written agreement has been lost or destroyed
  - D) are not taken into account if they add to, delete, vary or contradict the written statement.

Answer: D

- 5) Which of the following circumstances in the creation of a contract create an exception (or exceptions) to the parol evidence rule?
- A) Custom or trade usage.
  - B) The written document showed only part of the agreement.
  - C) One party innocently made a false statement.
  - D) All of the above.
  - E) A and B only.

Answer: E

- 6) Which of the following is not an exception to the parol evidence rule?
- A) Oral (spoken) evidence can be accepted if it shows evidence of custom or trade usage.
  - B) Oral evidence can be accepted where the written agreement has been made in anticipation of an oral agreement.
  - C) Oral evidence can be accepted where it clarifies and corrects ambiguous language in the written document.
  - D) Oral evidence can be accepted where the true intentions of the parties were not expressed in the written document.

Answer: B

- 7) A term in a contract that is regarded as essential in the performance of the contract is known as:
- A) a unilateral term.
  - B) a condition.
  - C) an innominate term.
  - D) a warranty.

Answer: B

- 8) Which sequence shows the order of importance of terms of a contract, from the most important to least important?
- A) Conditions, warranties and intermediate terms.
  - B) Warranties, conditions, intermediate terms.
  - C) Conditions, intermediate terms, warranties.
  - D) Intermediate terms, conditions, warranties.
  - E) Intermediate terms, warranties, conditions.

Answer: A

- 9) What common law remedy or remedies are available to an innocent party where the other party has breached a condition of the contract?
- A) Damages and injunctions.
  - B) Termination of the contract or an order for specific performance or both remedies.
  - C) Termination of the contract or damages or both remedies.
  - D) Damages only.

Answer: C

- 10) When a warranty in a contract has been breached what remedies are available to the innocent party?
- A) Termination of the contract or damages or both remedies.
  - B) Damages and injunctions.
  - C) Damages only.
  - D) Termination of the contract or an order for specific performance or both remedies.

Answer: C

- 11) In the *Ginger Meggs Case* (*Associated Newspapers Ltd v Bancks*) the High Court determined that when a newspaper breached its contract by moving a cartoon strip from page 1 to page 3 for three Sundays, it had breached:
- A) a condition.
  - B) the implied term of good faith but not a term of the contract.
  - C) an intermediate term.
  - D) a warranty.

Answer: A

12) Which of the following statements is/are true regarding the *Luna Park case*?

- A) The tram company breached a warranty to transport commuters during peak travel times.
- B) The court confirmed that any failure to perform a condition, no matter how small, will breach the contract and give the innocent party the right to terminate the contract.
- C) The tram company won the case and was awarded damages of more than \$50 000.
- D) All of the above.

Answer: B

13) An implied term of a contract can be incorporated into a contract if several conditions are satisfied. Which of the following is not one of the conditions that must be satisfied?

- A) The implied term must be an oral statement.
- B) The implied term must be capable of clear expression.
- C) The implied term must be so obvious that it 'goes without saying'.
- D) The implied term must be reasonable and equitable.

Answer: A

14) Which of the following is not a term which can be included in a contract as an implied term?

- A) One implied by uncertainty
- B) One implied by previous dealings or conduct.
- C) One implied by the courts.
- D) One implied by custom or usage.
- E) One implied by statute.

Answer: A

15) Sometimes terms of a contract are uncertain, meaning they fail to give a clear indication of the intentions of the parties. What is the legal effect of uncertainty?

- A) A breach of a condition has occurred.
- B) The contract is void.
- C) A breach of an intermediate term has occurred which makes the contract illegal.
- D) A breach of a warranty has occurred.

Answer: B

16) Two parties sue over a dispute regarding a term in a contract. The court determines that the clause in dispute is so badly drafted that a reasonable person would not be able to determine its meaning. The term is not essential to the contract. What is the most likely court decision?

- A) The specific clause is void. It can be severed from the contract.
- B) The contract is void. The parties must enter a new contract.
- C) The specific clause is void. The parties enter into a new contract to finalise the issue in conflict.
- D) The whole contract is void. The parties are released from future obligations.

Answer: A

17) Sometimes an agreement includes a condition that a contract will only come into existence if a specific event occurs. This condition is known as:

- A) a condition ancillary to the original contract.
- B) a condition collateral to the original contract.
- C) a condition precedent.
- D) a condition subsequent.

Answer: C

18) Where a contract states that the occurrence of a specific event external to the contract will end the contract, this event is known as:

- A) a condition ancillary.
- B) a condition collateral.
- C) a condition precedent.
- D) a condition subsequent.

Answer: D

19) Some contracts include exclusion clauses. These clauses are often included:

- A) to ensure that one of the parties will not be liable in specific circumstances, including for a breach of the contract.
- B) to limit the legal rights of minors or persons with disabilities.
- C) to ensure that only the contracting parties have legal rights and obligations.
- D) to allow both parties to avoid liability for statutory or exculpatory breaches.

Answer: A

20) Under common law, the courts have been willing to recognise the validity of an exclusion clause in a contract if:

- A) the weaker party agreed to the clause because they were in an unfair bargaining position.
- B) the weaker party had previously entered into similar agreements with similar exclusion clauses.
- C) the dominant party is able to avoid paying damages because of the clause.
- D) all of the above situations exist.

Answer: B

21) Delrado signed a contract that contained an exclusion clause but he reasonably believed he was signing an entry form for a competition and not entering into a contract. What is the most likely legal result?

- A) The contract is probably valid because Delrado is legally obliged to read any document before signing it.
- B) The exclusion clause is probably not valid.
- C) The exclusion clause is probably valid provided it was written in plain English.
- D) The contract is probably valid but Delrado is entitled to damages.

Answer: B

22) Which of the following are implied terms regarding goods that cannot be excluded under the *Sale of Goods Act*?

- A) Goods must correspond (match) their description.
- B) Goods must be of merchantable quality.
- C) Goods must be fit for their intended purpose.
- D) All of the above.
- E) A and b only.

Answer: D

23) Which of the following statements about exclusion clauses is/are true?

- A) Some exclusion clauses are prohibited or modified by statute.
- B) A person who signs a receipt containing an exclusion clause will usually be bound by the clause.
- C) An exclusion clause may not be valid because its wording was unclear or inappropriate.
- D) All of the above.
- E) A and b only

Answer: D