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NEW QUESTION: 1

Infra Constructions receive a contract for construction of a building, and following terms were agreed upon. "The entire cost of the project will be reimbursed to Infra Constructions (estimated cost of the project being \$ 25 million). The profits will be 20% of the entire cost of a project subject to a max of \$ 5 million." This arrangement is an example of...?

- A. Incentive pricing arrangement
- B. Gain-share/pain-share arrangement
- C. Cost-plus pricing arrangement
- D. Fixed-pricing arrangement

Answer: (SHOW ANSWER)

In the contract term, the buyer agrees to pay the contractor the cost of doing project plus a profit. This is an example of cost-plus pricing arrangement.

On the other hand, "Fixed-pricing arrangement" often refers to lump-sum contract or supply/service contract with fixed price. "Incentive pricing arrangement" and "Gain-share/pain-share arrangement" have the same meaning. In this type of arrangement, both supplier and buyer agree on a target (it can be cost, or lead time, or quality, etc). Once the supplier reaches that target, it will be rewarded with a portion of the gain that the buyer gets, and will pay the price if it fails.

Reference:

LO 3, AC 3.3

NEW QUESTION: 2

Which of the following are most likely to be substantive elements of the specification of a truck? Select TWO that apply:

- A. Guarantee
- B. Foreword
- C. Expected lifespan

D. Ethics

E. Abbreviation

Answer: (SHOW ANSWER)

The key substantive elements to be included in a specification are:

- Characteristics of the product or service
- Time scale for delivery
- Response times for defects
- KPIs relating to performance and reliability
- Lifespan and durability expectations
- Documentary requirement for training/user manual and/or management information
- Any specific requirements regarding implementation

Reference:

LO 2, AC 2.1

NEW QUESTION: 3

In order to monitor supplier's performance, an organization decides to draft performance management frameworks. Which of the following are the components of a performance management framework? Select THREE that apply:

A. Targets

B. KPIs

C. Consequences

D. Indemnity

E. Force majeure

F. Justification

Answer: (SHOW ANSWER)

There are three key components of a performance management framework:

- Key performance indicators (KPIs) - What you are measuring
- Targets - the performance level to be achieved
- Consequences - what happens if the measures are not achieved and/or if they are exceeded

Reference:

LO 1, AC 1.1

NEW QUESTION: 4

Which of the following shall help the purchaser control the selection of tier 2 suppliers?

A. Subcontracting clause

B. Warranty clause

C. Guarantee clause

D. Insurance clause

Answer: (SHOW ANSWER)

When a party takes on a contractual obligation, they are legally required to perform the obligation.

That same contracting party is still entitled to subcontract out the work to another service provider, unless the contract:

- is a contract for personal services, such an employment contract
 - contains an express term preventing subcontracting out the work, or an implied term
- Subcontracting clauses are written to control whether the contractor is entitled to subcontract, and how purchaser shall control that subcontracting process.

Reference:

- Subcontracting clauses (delegation of contractual obligations to third parties)
- CIPS study guide page 153-157

LO 3, AC 3.2

NEW QUESTION: 5

Bethy sees a coat on shop window with a \$100 price tag. She comes and asks the shop owner to buy it. The owner states that the price has not been updated and the current price for the coat is \$120. Bethy says the owner should honour the quoted price on window shop. Is Bethy correct?

- A.** Yes, the owner has made an offer by showing his product on the shop window and he must honour that offer
- B.** Yes, \$120 for a coat is extremely unreasonable and the owner's later offer therefore void
- C.** No, the display on shop window is just an invitation to treat and the owner may change the price at his will
- D.** No, the owner is revoking his initial offer to sell at \$100 and he is proposing new offer to Bethy

Answer: (SHOW ANSWER)

Based on two famous precedents, Fisher v. Bell (1961) and Pharmaceutical Society of Great Britain v. Boots Cash Chemists (1953), the display on shop window is considered as an invitation to treat. The shop owner can change the price when his customer asks to buy.

Reference:

LO 1, AC 1.2

NEW QUESTION: 6

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

- A.** Mutually agreed
- B.** Deliberately omitted
- C.** Documented
- D.** Unilaterally imposed by the purchaser
- E.** Terminated

Answer: (SHOW ANSWER)

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

NEW QUESTION: 7

Blakenall District Hospital (BDH) is a large hospital that is a major part of the government's health service. Purchasing staff are in the habit of placing many long-term contracts with suppliers and sub-contractors. Whilst these contracts are usually carried out successfully, prices are often paid that are well over budget. The purchasing manager is concerned to find that, in some cases, members of staff are forcing suppliers to accept fixed price contracts. The policy has caused several problems such as some suppliers refusing to deal with BDH and a few going out of business mid-way through performing a contract with BDH. This is due to fluctuating market prices of materials. The procurement manager suggests supplier to adopt variable pricing arrangement with price index. Is this a right course of action?

- A.** No, variable pricing would only benefit the suppliers
- B.** Yes, this type of arrangement would provide absolute certainty when budgeting
- C.** Yes, this pricing arrangement would reimburse the fluctuation of material prices
- D.** No, price adjustment should be applied to short-term supply contract only (3-month duration or less)

Answer: (SHOW ANSWER)

Procurement staff in the Hospital is forcing suppliers into fixed price contract. If the costs generally rise, supplier may operate at a loss. This situation can disrupt the relationship, that is the reason why some suppliers refusing to deal with BDH and a few going out of business mid-way.

Alternative methods could be variable pricing arrangement. This method would reimburse the fluctuation of market price. It will also benefit buyer if the market price drops. This type of arrangement should be applied to long-term contracts (i.e. 18 months or more).

Reference:

LO 3, AC 3.3

NEW QUESTION: 8

Southwark is negotiating a contract with Orchard to provide software and IT services. Orchard will manufacture and install the products which are contractually supplied by IBM. Southwark's procurement manager is worried that during the contract there would be some problems that they would not be able to claim for damages from Orchard. Which of the following should be included in the head contract so that Southward can sue IBM, should the need arise?

- A. Negligence
- B. Indemnity
- C. Collateral warranty deed
- D. Insurance

Answer: (SHOW ANSWER)

A Collateral Warranty is a contract under which a consultant, a building contractor or a sub-contractor warrants to a third party that it has fulfilled its obligations under its professional appointment, building contract or sub-contract. The purpose of a Collateral Warranty is to give a third party, who is not a party to the original contract, rights to enforce that original contract.

In this case, IBM is the subcontractor, then purchaser can use collateral warranty deed to bind them.

Reference:

- Collateral Warranties - an Overview
- CIPS study guide page 39-40

LO 1, AC 1.2

NEW QUESTION: 9

Which of the following is the best definition of "ultra vires"?

- A. Beyond powers
- B. In good faith
- C. From one party
- D. Let the buyer beware

Answer: (SHOW ANSWER)

Ultra vires is a Latin phrase, meaning "beyond the powers." Describes actions taken by government bodies or corporations that exceed the scope of power given to them by laws or corporate charters. When referring to the acts of government bodies (e.g., legislatures), a constitution is most often the measuring stick of the proper scope of power.

Reference:

LO 1, AC 1.2

NEW QUESTION: 10

- A. Right to penalise the supplier
- B. Right to terminate the contract
- C. Right of audit
- D. Right to rescind the contract

Answer: (SHOW ANSWER)

Many firms have compliance policies for suppliers in place. To ensure that the supplier actually comply with the standards set out, the purchaser can employ the right to audit.

The buyer usually obtains the right to examine records of a vendor to determine if a fraud or a violation of company policy has occurred through the following methods:

- Right-to-audit agreement The agreement can be printed on the back of a purchase order, contract, or other procurement form.
- A simple request If the right-to-audit agreement wasn't included on the procurement form, and the buyer suspects irregularities, he may have to beg the vendor to allow an audit to be performed. If the buyer is a major customer of the vendor, the buyer may be able to wield a big enough stick to obtain permission to look at the records.
- Right-to-audit Pitfalls

Reference:

- CIPS study guide page 160
 - Reserving the Right to Audit the Suspicious Vendor: Right-to-audit clauses in vendor contracts help control fraud and abuse by affording discovery devices in examinations.
- LO 3, AC 3.2

NEW QUESTION: 11

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?

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

Answer: (SHOW ANSWER)

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

NEW QUESTION: 12

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

- A. CISG
- B. GATS
- C. ADA
- D. Incoterms

Answer: (SHOW ANSWER)

- 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.
- 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.

- 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

NEW QUESTION: 13

A procurement manager is preparing a long-term contract with a major supplier. She decides to use the variable pricing arrangement using price indices. The payment terms describe the circumstances and mechanism where the price is allowed to change. In order to successfully manage this type of contract, the buying organisation should have...?

- A. Good market knowledge
- B. Selection of base year
- C. Value for money
- D. Economy of scale

Answer: (SHOW ANSWER)

There are several approaches to price adjustment for long-term contract. Describing circumstances and mechanism is one of them. Although this approach has some limitations, it is the best option. It relies on good market knowledge but provides the most equitable approach to satisfying the needs of the purchaser and the supplier.

Reference:

LO 3, AC 3.3

NEW QUESTION: 14

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

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

Answer: (SHOW ANSWER)

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:

- Low-value, low-risk purchases
- When the specifications are sufficiently defined or the product/service is standardised
- Where the suppliers are pre-qualified
- Where there is a framework agreement which specifies the contract terms and conditions.

Reference:

LO 1, AC 1.1

NEW QUESTION: 15

SFO procurement manager sent a request for quotation to Vogon International in which he determined the contract terms and specification. In SFO's standard terms and conditions, it is stated that 'Goods shall be delivered and Services performed by the applicable Delivery Date. Supplier must notify Buyer 3 days prior to the Delivery Date if Supplier is likely to be unable to meet a Delivery Date.' Vogon replied with a quotation without any amendment to SFO's terms & conditions. The SFO procurement manager found the prices were reasonable and submitted to senior management. Senior management team accepted that quotation and sent a notification to Vogon. On the Delivery Date, Vogon said they had no capacity to supply the product as the quotation due to a workers' strike. Did Vogon breach any agreement with SFO?

- A.** No, because Vogon had no intention to be bound by the quotation, therefore, it didn't constitute a contract
- B.** No, because the strike is a force majeure event, so Vogon did not breach any contract with SFO
- C.** Yes, because the contract was formed since Vogon had sent the quotation as an acceptance to SFO's offer
- D.** Yes, because the contract had been formed between SFO and Vogon with the quotation as an offer and the notification as an acceptance

Answer: D (LEAVE A REPLY)

SFO issued an RFQ with defined terms and condition and detailed specification. This RFQ can be considered as an invitation to treat. Vogon's quotation is an answer to the purchaser's RFQ and is an offer to SFO. The contract come to life at the time Vogon received the notification from SFO senior management.

The strike may be a force majeure event, depending on the contract particular clauses and jurisdiction. In common law countries, force majeure is applicable as an exclusion of liability only if the contract allows it. In many civil law countries, force majeure is an implied term. But in every jurisdiction, force majeure is only a reason for excluding liability for non-performance of a contract. In other words, the non-performance party is not liable for any breach if force majeure event occurs but the event does not exclude the breach.

LO 1, AC 1.2

NEW QUESTION: 16

A senior buyer is preparing specification for the next purchase. He intends to embed social and environmental criteria that align with his organisation's overarching strategy. Which of the following provides the social and environmental objectives that an organisation pursues?

- A. Economic performance
- B. Procurement Systems and Technology
- C. Economy of scale
- D. Organisation's CSR policies

Answer: (SHOW ANSWER)

The organisation should have an overarching strategies or policies which sets out the social and environmental objectives to be pursued via procurement and the supply chain generally. Some of these will be about the specification, but that must be tied in other aspects of the sourcing strategy. These objectives, policies and strategies can be found in corporate social responsibility policy.

Reference:

LO 2, AC 2.1

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NEW QUESTION: 17

Which of the following should include in the service level agreement that is an appendix of a contract?

1. How often the service is measured
 2. Minimum qualification of supplier staffs
 3. Remedies to resolve dispute
 4. On time service delivery
- A. 1, 3 and 4 only
 - B. 1, 2 and 3 only
 - C. 2, 3 and 4 only
 - D. 1, 2 and 4 only

Answer: (SHOW ANSWER)

When the SLA is a schedule or an appendix to the contract, it should clearly state the following:

1. KPIs: how they are to be measured, who measures them and how often
2. How the measurements convert into scores
3. Any other service level standards, which may be of lesser importance than the KPIs
4. Minimum acceptable standards or scores in each case
5. Range of scores both above and below the minimum acceptable
6. Any mitigating factors which might apply in the event of poor performance
7. Any time period permitted in which to remedy a situation or poor performance.

In this question, "2. Minimum qualification of supplier staffs" and "4. On time service delivery" are the KPIs, while "1. How often the service is measured" is the frequency in which the KPIs are measured.

The remedies available in the event of poor performance should be set out in the body of the contract, along with those for any other contractual breach. These clauses should be cross-referenced in the SLA.

Reference:

LO 2, AC 2.2

NEW QUESTION: 18

A manufacturing company signed a contract with a raw material supplier. The contract includes a clause on liquidated damages in case of late delivery. Purchaser was obliged to pay after 30 days from delivery. Eventually raw material was delivered 1 week later than initial plan due to supplier's slow production process. There is no defect in the delivered batch. Which of the following can be claimed by the manufacturing company?

- A.** Rights to refunds or repairs
- B.** Right of set-off
- C.** Right of third party
- D.** Right of extending payment

Answer: (SHOW ANSWER)

In certain circumstances, where two parties have monetary debts against each other, the right to set-off may arise. A right of set-off allows a ("Party 1") to take into account the amount owed to it by the second party ("Party 2") against any amount owed by Party 1 to Party 2, each party must be a debtor and a creditor.

Common law provides the key features that must be present for set-off to arise are;

1. mutuality of debts (each party must be the sole beneficial owner of the debt it is owed and the sole person liable for the debt it owes)
2. the claims each party has must be for non-payment of money

The common law provisions of set-off can be greatly enhanced by the inclusion of a contractual right to set-off (this is discussed further below) so that set-off is applicable in a greater range of situations. If you envisage set-off being a useful right it is not advisable to rely on the implied ability to use it (via common law or equitable set-off). Common law and

equitable set-off are subject to various conditions and limitation however, a contractual right of set-off can be drafted to ensure parties are able to agree exactly how and when set-off should be applied.

In the above scenario, the supplier owes the manufacturer the payment for damages, while the manufacturer owes the supplier the payment for goods. This is mutuality of debts, which leads to right of set off.

Reference:

- Set-off on the right foot: a practical guide to set-off
- CIPS study guide page 158-159

LO 3, AC 3.2

NEW QUESTION: 19

Michelle contacts Hannah and asks her if she would be interested in purchasing her car for £2000. Hannah immediately takes £2000 to Michelle and says she wants to buy the car. Michelle subsequently refuses to proceed. Has the contract between Michelle and Hannah been made?

- A.** No, because Michelle has rejected Hannah's offer on buying the car
- B.** Yes, because both parties have full legal capability to enter into a contract
- C.** Yes, by her performance Hannah has accepted Michelle's offer on selling the car
- D.** No, because by refusing to proceed, Michelle rejects Hannah's counter-offer

Answer: (SHOW ANSWER)

To solve the question, you must distinguish the following notion:

- Offer: The case of *Storer v Manchester City Council* [1974] 1 WLR 1403 outlines that an offer is: An expression of willingness to contract on specified terms, with the intention that it is to be binding once accepted
- Acceptance: in order for a contract to be formed, the offer must be accepted. Acceptance represents the meeting of the minds of the parties to the contract - both agree to exchange something for the other (payment, services, goods, etc.).
- Counter offer: is an offer made in response to a prior offer.
- Invitation to treat: An important distinction to make in contract law is that between an offer and an invitation to treat. An invitation to treat is usually an invitation for another party to make an offer. It may also be defined as an indication that a party is open to negotiation. Here are some key distinctions of offers and invitation to treats.

Offer:

- * Certain promise to be bound
- * Clear and specified terms
- * The conduct or words of the party show certainty
- * There is no room for negotiation

Invitation to treat:

- * There is room for negotiation
- * There is an invitation for offers

* There is a request for information

* Lack of certainty

In the scenario above, initially Michelle just gives an invitation to treat because she is asking whether Hannah is interested to buy her car (request for information from Hannah). Hannah may reject or go into a negotiation with Michelle. Then, Hannah makes an offer by taking the money and shows her intention to be legally bound. At this point, when Hannah's offer is present, Michelle can accept or reject. When she rejects, the contract is not formed. The answer must be "No, because Michelle has rejected Hannah's offer on buying the car".

Reference:

- Definition of Counter Offer
- Formation of the contract
- CIPS study guide page 28-35

LO 1, AC 1.2

NEW QUESTION: 20

- A. TWO that apply
- B. Repair
- C. Decommissioning
- D. Upgrading
- E. Replacement
- F. Installation

Answer: (SHOW ANSWER)

A guarantee is an agreement given by a trader to a consumer, without any extra charge, to repair, replace or refund goods that do not meet the specifications set out in the guarantee. A guarantee is usually issued by the manufacturer of goods or by a trader that provides goods as part of a service - replacement windows, for instance. Generally, a guarantee provider undertakes to carry out free repairs, for a set period of time, for problems that can be attributed to manufacturing defects.

Reference:

- Guarantees and warranties
- CIPS study guide page 157-159

LO 3, AC 3.2

NEW QUESTION: 21

What does quantum meruit mean?

- A. As much as is earned
- B. A non-graduations promise
- C. As much as is paid
- D. An implied promise

Answer: (SHOW ANSWER)

Quantum meruit means "the amount he deserves" or "as much as he has earned". In most cases it denotes a claim for a reasonable sum in respect of services or goods supplied to the defendant.

An action in quantum meruit is available to recover money for services or goods supplied to a defendant in circumstances where the claimant is not recompensed by performing his obligations or supplying the goods. The claimant must usually show that the defendant expressly or impliedly requested or freely accepted the services or goods in question. Depending on the facts, the claimant might find it difficult to prove how much the claimant is entitled to receive under the principle of quantum meruit.

A claim for quantum meruit cannot arise if the parties have a contract to pay an agreed sum. In such circumstances, the parties' relationship is governed by the law of contract. However, a claim for quantum meruit may arise where the parties:

- Have not agreed a contract, or there is a so-called quasi-contract. For example, the parties may have agreed some of the contractual terms, but may have failed to reach an agreement on an essential term, such as price.
- Have not fixed a price for the services or goods supplied.
- Have an agreement to pay a reasonable sum for the services or goods supplied.
- Have agreed a scope of work under the original contract and the work carried out falls outside that scope.

Reference:

LO 3, AC 3.1

NEW QUESTION: 22

Since services are intangible, so KPIs for services must be qualitative in all circumstances. Is this statement correct?

- A.** No, KPIs for services must always be quantitative so that they can be measured easily
- B.** No, some KPIs for services are measurable by means of outcome, time and space performed
- C.** Yes, quantitative KPIs are limited to timeliness of supply of goods, defective rates and in-full quantities, which are applied to monitor supplier of physical goods
- D.** Yes, the only measure mattered to supply of services is end-users' satisfaction

Answer: (SHOW ANSWER)

KPIs are used to monitor supplier's performance. They can be qualitative or quantitative. Of course, service providers can be monitored by quantitative KPIs regarding the outcome achieved (such as uptime in IT contracts), timeliness of deliveries (such as in construction contracts)...

Reference:

LO 2, AC 2.2

NEW QUESTION: 23

Which of the following best defines an 'express' term in general contract arrangements?

- A.** It is a standard set of terms and conditions published by CIPS
- B.** It is not necessarily discussed by the parties, but nonetheless forms part of the contract
- C.** It is the term that is added to the contract by the law or based upon the facts of the case.
- D.** It is clearly agreed between the parties, and is virtually always written down in the contract

Answer: (SHOW ANSWER)

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.

Implied terms are terms implied into the contract by the courts. They are not expressly set out in the contract but are taken to be as effective as if they were and as if they had been included from day one of the contract. The express terms and any implied terms together create the legally binding obligations on the parties.

Reference:

- Contracts: Express and Implied Terms
- CIPS study guide 126-132
- LO 3, AC 3.1

NEW QUESTION: 24

Which of the following are commonly used as model forms of contracts in construction in the UK?

- A.** Select TWO that apply
- B.** JCT
- C.** AS
- D.** NEC
- E.** CIPS
- F.** IET

Answer: (SHOW ANSWER)

- NEC: New Engineering Contract - a family of standard contracts primarily used in construction in the UK; includes works, consultants, services
- JCT: Joint Contracts Tribunal - a family of standard contracts used in construction in the UK; includes works, consultants. subcontracts, services
- AS: Australian Standards contracts - different contracts for a range of purchase types including constructions, consultancy, periodic supply of goods
- IET: Institution of Engineering and Technology which issue jointly agreed model forms covering the design, supply and installation of electrical, electronic and mechanical plant 'including special conditions for the ancillary development of software'
- CIPS: Chartered Institute of Procurement and Supply - CIPS has developed its own suites of standard forms of contract for IT functions including: supply and installation of

computer equipment, support and maintenance of bespoke software, servicing of computer equipment.

Reference:

LO3, AC 3.1

NEW QUESTION: 25

Bandpro is a reseller of branded computer products to the private and public sector. The procurement team must purchase 500 items each day solely by multiple phone calls and emails to suppliers. Due to this practice, it takes a lot of time to track and collect relevant documents. Some important documents even get lost, which makes procurement audit more burdensome. Which of the following would increase the robustness of audit trails in procurement activities?

- A. Every evidence must be recorded by paper
- B. Adopt e-procurement
- C. Spend less time on auditing procurement procedures
- D. Rectify non-compliant activities

Answer: (SHOW ANSWER)

Audit trail is a chronological record the sequence of events connected to a given transaction, such as a purchase of raw materials, payroll disbursements, or a detailed financial statement. The record includes all the source documents connected to the transaction, providing context and clarity in the event a review is required. The more comprehensive the documentation, the more effective the audit trail is when used to create financial reports, verify information, and ensure compliance while eliminating fraud.

In the scenario, the procurement team gets the quotation from phone calls and emails which have weak audit trails and lack of transparency. One solution may be increasing the use of e-procurement system.

Reference:

- What is an audit trail?
- CIPS study guide page 6-7

LO 1, AC 1.1

NEW QUESTION: 26

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?

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

Answer: (SHOW ANSWER)

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

NEW QUESTION: 27

XYZ Ltd is negotiating a long-term supply contract of important parts with a supplier. Dave, procurement manager teams up with Alla, legal manager to construct a service level agreement. Dave is concerned that poor performance of supplier may cause damages to the operations of the organisation. Which of the following can be used in conjunction with SLA to compensate the buying organisation in case of supplier's poor performance?

1. Warranties
2. Force majeure clauses
3. Penalty clauses
4. Service credits

- A.** 1 and 3 only
B. 3 and 4 only
C. 1 and 2 only
D. 4 and 2 only

Answer: (SHOW ANSWER)

Service level agreement often sets out the minimum quality standards of the services provided, remedies if that standards are not met, consequences if the targets are exceeded. Penalty clauses and service credits are remedies that are often used in conjunction with service level agreement to ensure the performance and to compensate the purchaser if targets are not met.

Reference:

LO 2, AC 2.2

NEW QUESTION: 28

Is the government only source of industrial standards within a country?

- A.** No, the government can only adopt standards regarding security and defence
B. Yes, while ISO make standards for international trade, the government standardises other facets of their country
C. No, an organisation can also generate its own internal standards
D. Yes, the standards must be made by legislative branch of the country

Answer: (SHOW ANSWER)

A standard is a document that sets out requirements for a specific item, material, component, system or service, or describes in detail a particular method or procedure. Standards are established by consensus and approved by recognized standardization bodies.

There are several different types of standards. Some of the most commonly-used standards set out the requirements that a particular kind of product, service or process must fulfil, in order to establish that it is 'fit for purpose'. Other types of standard relate to

methods of testing, terminology and definitions, information requirements, or the compatibility of connections.

Standards provide individuals, businesses and all kinds of organizations with a common basis for mutual understanding. They are especially useful for communication, measurement, commerce and manufacturing.

Standards make trade easier by ensuring compatibility and interoperability of components, products and services. They bring benefits to businesses and consumers in terms of reducing costs, enhancing performance and improving safety.

Standards are voluntary, which means that businesses and other organizations are not legally obliged to apply them. However, in certain cases standards may facilitate compliance with legal requirements, such as those contained in European directives and regulations.

Standards can be made by a company, a standard organisation (such as ISO or BSI) or regulatory bodies.

Reference:

- CIPS study guide page 93-94

- Standards and your business

LO 2, AC 2.1

NEW QUESTION: 29

Which of the following are likely to be advantages of using invitation to tender? Select TWO that apply:

- A. Short turnaround times
- B. Quick implementation
- C. Driving forward planning culture
- D. Lower administration costs
- E. Reducing risks of bribery and corruption

Answer: (SHOW ANSWER)

Advantages of using invitation to tender may be as below:

No Nepotism: Tenders or bids are evaluated on the basis of certain predetermined criteria, such as price, quality and value for money. In other words, the firm offering the highest quality product or service at the lowest price point would win the contract. As most tender documents are opened and evaluated in a public process, I think that there remains little room for nepotism or favoritism of any kind.

Value for Money: From the perspective of the client, tenders offer the greatest value for the amount of money spent. This is due to the fact that the client can choose from a wide pool of potential suppliers to select the ones that can produce the highest quality product or service at the lowest price point. This allows the company, establishment or organization to save money without having to compromise on quality. Therefore, despite being quite time consuming, tendering is, in my opinion, a profitable long-term process from an organization's point of view.

Encourages Competition: The process of tendering helps promote a competitive market. This is because a number of potential contractors, firms or suppliers get a chance to bid for every project. And because selection depends on quality and price, every bidder tries to reduce operational inefficiencies and redundancies as much as possible in order to lower expenses and improve quality. This entire process encourages healthy competition in the market and prevents complacency and laziness, which in turn provides a boost to innovation and new ideas.

Easier Entry: The system of tendering makes it easier and simpler for new firms to enter the market or even a particular industry. This is due to the fact that contracts under this system are awarded on the basis of predetermined, objective criteria. As a result, even a firm that is a new entrant to the market, having no connections or contacts in the industry, can win a prestigious and lucrative contract by providing the highest value for the client's money. This process therefore helps new firms to quickly get a foothold in the market or industry, thus significantly lowering the traditional barriers to entry.

Reference:

- Characteristics and Benefits of the Tendering Process
- CIPS study guide page 6-8

LO 1, AC 1.1

NEW QUESTION: 30

- A.** Inaccuracy in communication
- B.** Threat
- C.** Initial impossibility
- D.** Fraudulent misrepresentation

Answer: (SHOW ANSWER)

Hank's pre-contractual assurances may amount to misrepresentation. Fraudulent misrepresentation is a strong possibility since Hank had carried out no investigations into the viability of the project timescales. This could amount to recklessness in using information without taking any steps to see if it is true or not.

The scenario above was constructed based on the case BSkyB v EDS, a famous case in IT sector.

LO 1, AC 1.2

NEW QUESTION: 31

Which of the following is the best definition of consideration in contract law?

- A.** Full statement about something to provide
- B.** The act of thinking carefully about one thing
- C.** One thing given in exchange
- D.** Formal discussion between people who are trying to reach an agreement

Answer: C (LEAVE A REPLY)

A simple definition of consideration is as follows - an exchange between the parties which results in a benefit to one party, and a detriment to the other. The case of Currie v Misa (1874) LR 10 Ex 153 provides an apt description of this:

"A valuable consideration, in the sense of the law, may consist either in some right, interest, profit, or benefit accruing to the one party, or some forbearance, detriment, loss, or responsibility, given, suffered, or undertaken by the other." A practical example of this can be found by examining a simple contract. Party A offers £500 to Party B, who in exchange will fit his car with a new engine. Party A receives the benefit of his car being fixed, whilst Party B incurs the detriment of having to take time, effort, and perhaps expenses to fix the car.

Reference:

- Consideration & Promissory Estoppel
- CIPS study guide page 36-40

LO 1, AC 1.2

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NEW QUESTION: 32

If service level agreement is used as a schedule that makes up the contract, it will be most likely to be a part of...?

- A.** Pricing arrangement
- B.** Performance management framework
- C.** Exclusion of liabilities
- D.** Specifications

Answer: (SHOW ANSWER)

If a service level agreement is used as a schedule to a contract, it will generally have the following contents:

- Service definitions. If the service information is provided by the specification, SLA should only refer to the specification to avoid any inconsistencies.
- Details on how to measure KPIs, who will measure KPIs
- Minimum requirements or targets
- Remedies if the minimum requirements are not met

...

Since SLA often lists out the KPI targets, consequences for not meeting the KPI targets and remedies to situation of poor performance, it is a part of performance management.

Reference:

LO 2, AC 2.2

NEW QUESTION: 33

Which of the following are NOT covered by CISG? Select TWO that apply:

- A. Transfer of risks
- B. Contract validity
- C. Remedies for breach of contracts
- D. Liability of the seller for death or personal injury
- E. Liability to pay damages

Answer: (SHOW ANSWER)

United Nations Convention on Contracts for the International Sale of Goods (Vienna Convention or CISG) Vienna Convention was prepared by the United Nations Commission on International Trade Law (UNCITRAL) and adopted by a diplomatic conference on 11 April 1980. The Convention was welcomed by several countries from different geographic areas, with different legal and political systems. As of 20 August 2020, the Convention has 93 Contracting States. The Convention has proved the effectiveness of an uniform text on international trade law.

What CISG covers, and what it does not

In the 6 first articles of the Convention, the authors set up the boundaries of its application. First is about where it applies. According to UNCITRAL, the Convention applies to contracts of sale of goods between parties whose places of business are in different States and either both of those States are Contracting States or the rules of private international law lead to the law of a Contracting State. A few States have availed themselves of the authorisation in article 95 to declare that they would apply the Convention only in the former and not in the latter of these two situations. As the Convention becomes more widely adopted, the practical significance of such a declaration will diminish. Finally, the Convention may also apply as the law applicable to the contract if so chosen by the parties. In that case, the operation of the Convention will be subject to any limits on contractual stipulations set by the otherwise applicable law.

Second, the Convention has a list of goods that are not subject to its application in Article 2. Article 3 clarifies the differences between manufacturing contracts and sale contract.

Third, Article 4 and 5 clearly states what CISG does not covers, including grounds for contract invalidity and liabilities to death or injury of person caused by the the goods. Finally, the Convention respects the contractual freedom of the trading parties. Trading parties may select this convention as governing law or select other instrument, such as UPICC or domestic laws.

Reference:

- Governing law in International Contracts - Would you choose CISG or UPICC (Part 1)

- CIPS study guide page 49-52

LO 1, AC 1.2

NEW QUESTION: 34

Sally places a purchase order to the supplier for some components that her company requires. The supplier delivers the goods as she asks, but the quality assurance team finds that these components are defective and unfit for the company's operations. Which document is the ground to decide whether the goods received are fit for purpose?

- A. CSR policies
- B. Pre-qualification questionnaire
- C. Code of conduct
- D. Specification

Answer: (SHOW ANSWER)

According to USLegal Inc, fitness for purpose refers to the standard that must be met by a seller in the course of a business. Generally, when a buyer makes known to a seller the particular purpose for which the goods are bought, there is an implied condition that the goods are reasonably fit for that purpose (customer's requirements, needs, or desires).

Specification is the ground for deciding whether goods received are fit for purpose.

We already know that there are two types of specifications: conformance and performance specifications. With conformance specification, the buyer lists out technical requirements to which the goods must conform. Lacking of any requirement may be enough for the goods to be unfit. On the other hand, if performance specification is in use, the goods must be fit for specific outputs that buyer has listed in the specification.

Providing the 'fit for purpose' goods is one of the fundamental obligations of seller in sale contract. Unfulfilling this obligation would lead to legal consequences. If the goods are unfit for purpose, seller may have to:

- replace the non-conforming goods
- pay the damages to the buyer

Reference:

- Why you should keep attention to the specification when contracting with suppliers
- CIPS study guide page 137

LO 3, AC 3.1

NEW QUESTION: 35

Which of the following is the model form of contract for construction which is recommended by World Bank?

- A. ITC
- B. JCT
- C. CIPS
- D. FIDIC

Answer: D (LEAVE A REPLY)

FIDIC is the International Federation of Consulting Engineers (or Federation Internationale des Ingenieurs Conseils in French). FIDIC has produced many publications, including the model form contracts, best practice guidances, research on sustainability, integrity and risk management. FIDIC model form contracts have been developed by this organisation since 1999, now they consist of several different books which are marked by colours. Thus, FIDIC model contracts also have the nickname "Rainbow suite of contracts". Basically, the "Rainbow Suite" include the following books:

- * Yellow book: Plant and Design-Build Contract (2 editions: 1999 and 2017)
- * Silver book: EPC/Turnkey Contract (2 editions: 1999 and 2017)
- * Red book: Construction Contracts (2 editions: 1999 and 2017)
- * Emerald book: Conditions of Contract for Underground Works (1st Ed 2019)
- * Blue-Green book: Dredgers Contract (2 editions: 2006 and 2016)
- * Gold book: Design, Build and Operate Contract Guide
- * Pink book: Construction Contract Multilateral Development Bank Harmonised Ed (2 editions: 2005 and 2010) This type of model contract is commonly used around the world because its author, International Federation of Consulting Engineers, collaborates closely with development banks such as World Bank, Africa Development Bank, Asia Development Bank, etc. Every construction project that is financed by these institutions must adopt the FIDIC contracts.

The Joint Contracts Tribunal, also known as the JCT, produces standard forms of contract for construction, guidance notes and other standard documentation for use in the construction industry in the United Kingdom. From its establishment in 1931, JCT has expanded the number of contributing organisations.

ITC (International Trade Centre) produces contracts specifically designed for small companies doing international business, covering the sale of goods, distribution, services and joint ventures. Many small companies are now engaged in international trade, but don't have access to the necessary contract forms to protect themselves. ITC and leading legal experts developed eight generic contract templates that incorporate internationally recognized standards and laws for most small business situations.

CIPS has several model forms of contract designed specifically for IT buying and servicing.

Reference:

LO 3, AC 3.1

NEW QUESTION: 36

Streaming Ltd is a music streaming provider based in the UK. The company is looking for extending its presence in the US. To achieve this, the company needs to outsource the data centre service to a local company. To monitor the performance, the procurement manager would like to introduce a service level agreement (SLA) to the data centre service provider. Which of the following should be included in the SLA?

1. System availability
2. The mean time to recover from system failure

3. The actual number of on-time service delivery
 4. Dispute resolution procedure
- A.** 1, 3 and 4 only
B. 1, 2 and 4 only
C. 1, 2 and 3 only
D. 2, 3 and 4 only

Answer: (SHOW ANSWER)

A service-level agreement (SLA) defines the level of service you expect from a vendor, laying out the metrics by which service is measured, as well as remedies or penalties should agreed-on service levels not be achieved.

According to CIPS L4M3 study guide, SLA should cover the following:

- KPIs
- How the measurements convert into scores
- Any other service level standards
- Minimum acceptable standards or scores in each case
- Range of scores both above and below the minimum acceptable
- Any mitigating factors which might apply in the event of poor performance
- Any time period permitted in which to remedy a situation of poor performance
- Remedies available
- Dispute settlement
- How to deal with inconsistencies or conflicts between KPIs and any other documents.

In IT service (such as in the scenario), the SLA often covers:

- Uptime
- Call metrics
- Customer satisfaction
- Turn around time
- Quality
- Mean time to recovery
- Mean time between failure
- Backlog
- Business results

You can read the details of above indicators here.

Reference:

- CIPS study guide page 112-115
- 9 Examples of SLAs
- What is an SLA? Best practices for service-level agreements

LO 2, AC 2.2

NEW QUESTION: 37

What is the pricing method that incentivises the supplier to control their costs?

- A.** Penetration pricing

- B. Cost-plus pricing
- C. Target Costing
- D. Skimming pricing

Answer: (SHOW ANSWER)

Penetration pricing is a marketing strategy used by businesses to attract customers to a new product or service by offering a lower price during its initial offering. The lower price helps a new product or service penetrate the market and attract customers away from competitors.

Price skimming is a product pricing strategy by which a firm charges the highest initial price that customers will pay and then lowers it over time. As the demand of the first customers is satisfied and competition enters the market, the firm lowers the price to attract another, more price-sensitive segment of the population. The skimming strategy gets its name from "skimming" successive layers of cream, or customer segments, as prices are lowered over time.

Incentive contracts allow sharing of the risks between the contractor and the client. The contractor is reimbursed all its justifiable costs in addition to a calculated fee. Target costing is an element of incentive contracts.

Cost-plus pricing is also known as markup pricing. It's a pricing method where a fixed percentage is added on top of the cost to produce Reference:

LO 3, AC 3.3

NEW QUESTION: 38

Which of the following KPIs is qualitative?

1. Openness and co-operation of supplier
2. Responsiveness of supplier
3. Customer satisfactory ratings
4. Cost management
5. OTIF deliveries

- A. 2 and 5 only
- B. 1 and 3 only
- C. 2 and 3 only
- D. 1 and 4 only

Answer: (SHOW ANSWER)

Qualitative KPIs are based on pure opinions about how well or otherwise the goods are performing or the service is being delivered. Most often, these will be linked to, or converted into, a numerical measure. However, such satisfaction surveys often also include free fields for respondents to explain why they feel the way they do, and what they might have liked to have been different.

On the other hand, quantitative KPIs are based on numerical measure with either definite number (e.g., actual number of orders incomplete or otherwise inaccurate during the time

period) or as a percentage (e.g. number of inaccurate orders as a percentage of the total number of orders).

Openness and co-operation means that supplier is open and co-operative in its relationship with purchaser, e.g., in terms of joint problem solving. This KPI is qualitative since it is measured by individual judgement.

Responsiveness of supplier means the supplier responds rapidly to requests for information and support without having to be chased. It is measured by the number of times requests chased as a percentage of number of requests. It is a quantitative KPI.

Customer satisfactory ratings means the level of customer's satisfaction. This KPI is measured by periodic survey and it is a qualitative KPI.

Cost management is another quantitative KPI. It can be measured by comparing between the actual costs and the contractual costs.

OTIF (one-time in-full) deliveries is a quantitative KPI. It can be measured by counting the inaccurate deliveries in the period or inaccurate deliveries as a percentage of total number of deliveries for period.

Reference:

LO 2, AC 2.2

NEW QUESTION: 39

Which of the following is a key feature of liquidated damage clauses?

- A.** The amount of damage is predetermined
- B.** Liquidated damage is a penalty
- C.** The amount of liquidated damages must be exceptionally larger than the actual damages incurred
- D.** The liquidated damages are non-negotiable

Answer: (SHOW ANSWER)

Liquidated damages are presented in certain legal contracts as an estimate of otherwise intangible or hard-to-define losses to one of the parties. It is a provision that allows for the payment of a specified sum should one of the parties be in breach of contract.

Understanding Liquidated Damages

Liquidated damages are meant as a fair representation of losses in situations where actual damages are difficult to ascertain. In general, liquidated damages are meant to be fair, rather than punitive.

Liquidated damages may be referred to in a specific contract clause to cover circumstances where a party faces a loss from assets that do not have a direct monetary correlation. For example, if a party in a contract were to leak supply chain pricing information that is vital to a business, this could fall under liquidated damages.

A common example is a design phase for a new product that may involve consultation with outside suppliers and consultants in addition to a company's employees. The underlying plans or designs for a product might not have a set market value. This may be true even if the subsequent product is crucial to the progress and growth of a company. These plans

may be deemed to be trade secrets of the business and highly sensitive. If the plans were exposed by a disgruntled employee or supplier, it could greatly hamper the ability to generate revenue from the release of that product. A company would have to make an estimation in advance of what such losses could cost in order to include this in a liquidated damages clause of a contract.

Limitations of Liquidated Damages

It is possible that a liquidated damages clause might not be enforced by the courts. This can occur if the monetary amount of liquidated damages cited in the clause is extraordinarily disproportional to the scope of what was affected by the breached contract. Such limitations prevent a plaintiff from attempting to claim an unsubstantiated exorbitant amount from a defendant. For instance, a plaintiff might not be able to claim liquidated damages that amount to multiples of its gross revenue if the breach only affected a specific portion of its operations. The concept of liquidated damages is framed around compensation related to some harm and injury to the party rather than a fine imposed on the defendant.

The courts typically require that the parties involved make the most reasonable assessment possible for the liquidated damages clause at the time the contract is signed. This can provide a sense of understanding and reassurance of what is at stake if that aspect of the contract is breached. A liquidated damages clause can also give the parties involved a basis to negotiate from for an out-of-court settlement.

Reference:

- Liquidated Damages
 - CIPS study guide page 158-159
- LO 3, AC 3.2

NEW QUESTION: 40

- A.** Qualitative assessment
- B.** Numerical measure
- C.** Binary measure
- D.** Subjective measure

Answer: (SHOW ANSWER)

Number of on-time deliveries can be quantified, then numerical measures can be applied. Frequency of on-time deliveries is measured as on-time deliveries as a percentage of total no. of deliveries for period.

LO 2, AC 2.2

NEW QUESTION: 41

XYZ Ltd is negotiating a long-term supply contract of important parts with a supplier. Dave, procurement manager teams up with Alla, legal manager to construct a service level agreement. Dave is concerned that poor performance of supplier may cause damages to

the operations of the organisation. Which of the following can be used in conjunction with SLA to compensate the buying organisation in case of supplier's poor performance?

1. Warranties
2. Force majeure clauses
3. Penalty clauses
4. Service credits

- A.** 1 and 3 only
B. 3 and 4 only
C. 1 and 2 only
D. 4 and 2 only

Answer: (SHOW ANSWER)

Service level agreement often sets out the minimum quality standards of the services provided, remedies if that standards are not met, consequences if the targets are exceeded. Penalty clauses and service credits are remedies that are often used in conjunction with service level agreement to ensure the performance and to compensate the purchaser if targets are not met.

Reference:

LO 2, AC 2.2

NEW QUESTION: 42

Which of the following is likely to reduce risks of different rules regarding when offers and acceptance become effective between legal systems?

- A.** Withdrawal protocol
B. Letter of intent
C. Time lapse
D. Deemed receipt protocol

Answer: (SHOW ANSWER)

Regarding rule of offer and acceptance, there are some differences among legal system around the world. For example, mailbox rule is generally applied in common law countries such as UK, US, Australia,.. while it is ignored in civil law countries. To clarify on rule of offer and acceptance in international trade, offerors may use expressed terms in their offers. These terms known as deemed receipt protocol.

Reference:

LO 1, AC 1.2

NEW QUESTION: 43

XYZ Ltd and Engineer Corp signed a long-term supply contract in which both parties had agreed on performance targets. Recently, due to increased customer demands, XYZ Ltd realises that they should make changes to the contract with Engineer Corp with regards to performance management. These changes are approved and signed by both the buyer and seller. The changes to the contract are known as...?

- A. An amendment to the prime contract
- B. A stand-alone subcontract to the prime contract
- C. An appendix to the prime contract
- D. A separate counter-offer to the supplier

Answer: (SHOW ANSWER)

The changes are made to the prime contract. They are also signed and approved by both parties. These changes are known as amendment (variation) to the contract. A contract amendment allows the parties to make a mutually agreed-upon change to an existing contract. An amendment can add to an existing contract, delete from it, or change parts of it. The original contract remains in place, only with some terms altered by way of the amendment.

Reference:

- Modify an Existing Contract with a Contract Amendment
 - CIPS study guide page 26-28
- LO 1, AC 1.1

NEW QUESTION: 44

Which of the following is regulated by standard ISO 14001?

- A. Energy management
- B. Quality management systems
- C. Environmental management
- D. Information security management

Answer: (SHOW ANSWER)

ISO has about 22,000 international standards covering a vast range of aspects of product or service quality. Below are some of the most common ISO standards:

- ISO 9001: Quality management system
- ISO 27001: Information security management
- ISO 5001: Energy management
- ISO 14001: Environmental management

Reference:

- ISO 14001:2015 Environmental management systems - Requirements with guidance for use
 - CIPS study guide page 86
- LO 2, AC 2.1

NEW QUESTION: 45

Which of the following are the 'fundamental' labour standards laid down by the International Labour Organisation?

1. Elimination of child labour
2. Payment of a minimum wage
3. The right to collective bargaining

4. Abolition of forced labor

A. 1, 2 and 4 only

B. 2, 3 and 4 only

C. 1, 3 and 4 only

D. 1, 2 and 3 only

Answer: (SHOW ANSWER)

ILO Declaration on Fundamental Principles and Rights at Work was adopted in 1948. The Declaration commits Member States to respect and promote principles and rights in four categories, whether or not they have ratified the relevant Conventions.

These categories are: freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect of employment and occupation.

Reference:

- ILO Declaration on Fundamental Principles and Rights at Work

- CIPS study guide page 161-163

LO 3, AC 3.2

NEW QUESTION: 46

Which of the following is an invitation to treat?

A. Purchase order

B. Invoice

C. Price list

D. Tender bid

Answer: C (LEAVE A REPLY)

An invitation to treat is an action inviting other parties to make an offer to form a contract.

These actions may sometimes appear to be offers themselves, and the difference can sometimes be difficult to determine. The distinction is important because accepting an offer creates a binding contract while "accepting" an invitation to treat is actually making an offer.

One simple test to distinguish an offer and an invitation to treat is to ask what this statement will become when it is accepted. Now we apply this test to four options:

- Tender bid: Tender bid is submitted by a supplier to an invitation to tender from the buyer. It states the specific quantity, price and other elements. If buyer accepts the bid, there will be a contract between them. Therefore, a tender bid is an offer.

- Purchase order: Purchase order which is sent by a buyer will state the items, the quantity, the price and terms and conditions. If supplier accepts the purchase order, there will also be a contract between two parties. It is also an offer.

- Price list: Price list is prepared by a supplier. The price list often states the items and unit price. If a buyer accepts it, the contract has not yet been formed since the contract scope has not yet been decided. It is an invitation to treat.

- Invoice: Invoice is often sent after a contract is formed. It is in fact a request for payment, neither offer nor invitation to treat.

Reference:

- CIPS study guide page 29-32

- What Is an Invitation to Treat?

LO 1, AC 1.1

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NEW QUESTION: 47

Which of the following regulates barriers to the trade of goods between Member States of WTO?

- A. NAFTA
- B. GATT
- C. CISG
- D. TRIPS

Answer: (SHOW ANSWER)

- The General Agreement on Tariffs and Trade (GATT) is a legal agreement between many countries, whose overall purpose was to promote international trade by reducing or eliminating trade barriers such as tariffs or quotas. According to its preamble, its purpose was the "substantial reduction of tariffs and other trade barriers and the elimination of preferences, on a reciprocal and mutually advantageous basis."

- 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.

- The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an international legal agreement between all the member nations of the World Trade Organization (WTO). It sets down minimum standards for the regulation by national governments of many forms of intellectual property (IP) as applied to nationals of other WTO member nations.

- The North American Free Trade Agreement (NAFTA; Spanish: Tratado de Libre Comercio de America del Norte, TLCAN; French: Accord de libre-echange nord-americain, ALeNA) is an agreement signed by Canada, Mexico, and the United States, creating a trilateral trade bloc in North America.

Reference:

LO 1, AC 1.3

NEW QUESTION: 48

A supermarket purchases a new batch of house cleaner from new supplier. The supermarket is concerned about possible damage that the house cleaner may cause to consumers' floor. What type of insurance must they cover?

- A.** Fire and explosion insurance
- B.** Product liability insurance
- C.** Professional indemnity insurance
- D.** Public liability insurance

Answer: (SHOW ANSWER)

Product Liability Insurance is a form of general liability insurance meant to protect a business from financial and legal consequences as a result of bodily injury or property damage due to the use of the business's sold goods or products. Situations that are typically covered by Product Liability Insurance may include:

- A customer harms herself because of the faulty packaging on one of your products
 - A drapery set that a customer purchased from your business was highly flammable and caught on fire, eventually damaging her entire kitchen
 - A customer with a severe allergy finds trace amounts of tree nuts in your homemade gourmet muffins
 - A homemade house cleaner that you sell damaged one of your customer's entire hardwood floor
 - A customer becomes sick with food poisoning after eating old shellfish at your restaurant, goes to the hospital, and incurs medical costs caused by your contaminated food products
 - A customer's pet becomes ill from ingesting some lining in a pet toy product that you sell
- In the scenario above, the supermarket is purchasing and reselling house cleaner, which can be covered by product liability insurance.

Public liability insurance is a type of business insurance that covers the cost of claims made by the public that happen in connection with the business activities.

Professional indemnity (PI) insurance is a commercial policy designed to protect business owners, freelancers and the self-employed if clients claim a service is inadequate.

Reference:

LO 3, AC 3.2

NEW QUESTION: 49

Which of the following may be a benefit for purchaser in using call off contract?

- A. Ability to discover new potential suppliers
- B. No long-term commitment required
- C. Secured supply
- D. Maintaining a degree of competition between suppliers

Answer: (SHOW ANSWER)

Benefits for the purchaser in using call off contract are as below:

- The benefit of a call off contract is that they allow the supply of materials, goods and services to be secured over multiple delivery dates across the length of a project.
- Agreed prices, either fixed or pre-agreed mechanism for adjustment. This helps with setting and controlling budgets.
- Simple order mechanisms at the point of need
- Schedules of rates pricing enables electronic procure-to-pay systems, which gives greater control and visibility of spend
- The value of spend ad length of contract justify the cost of proper market engagement and tender or negotiation processes resulting in better value for money
- The longer the contract, the greater the opportunities for aligning working practices to create joint efficiency.

Reference:

- Call Off Contracts - What are they and how are they used?
- CIPS study guide page 63-64

LO 1, AC 1.3

NEW QUESTION: 50

- A. Right
- B. Risk
- C. Legal responsibility
- D. Contractual obligation

Answer: (SHOW ANSWER)

An insurance policy transfers a specific set of risks such as the fire and flood risk for a particular asset.

The legal liability does not transfer to the insurance company (known as insurer).

Reference:

LO 3, AC 3.2

NEW QUESTION: 51

A company needs to source a product from overse

a. It wants to overcome technical barrier to cross-border trade by using standards in the specification. Which of the following is most likely to be incorporated into that specification?

- A. National standards
- B. Company standards
- C. Brands

D. International standards

Answer: (SHOW ANSWER)

Exporting enterprises must sometimes incur additional costs as they adapt their production to the changing legal requirements of the recipient country. Such requirements can thus create technical barriers to trade. Discrepancies between product rules adopted by different countries can involve numerous aspects: weight, size, packaging, ingredients, mandatory labeling, shelf-life conditions, testing and certification procedures etc. One way to overcome these barriers is to adopt international standards. Overseas companies may be more familiar with international standards without looking at specific regulations of importing countries.

Reference:

- What is a technical barrier to trade?
- CIPS study guide page 88-89

LO 2, AC 2.1

NEW QUESTION: 52

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

- A. 2 and 4 only
- B. 1 and 4 only
- C. 1 and 3 only
- D. 2 and 3 only

Answer: (SHOW ANSWER)

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

NEW QUESTION: 53

Nestle gave away records of "Rockin' Shoes" or a voucher to people who sent in three wrappers from Nestle's 6d. milk chocolate bars as well as 1s 6d. Which of the following were the consideration of Nestle's customer? Select TWO that apply

- A.** Three wrappers
- B.** 1s 6d
- C.** "Rockin' Shoes" record
- D.** The voucher
- E.** Milk chocolate bar

Answer: A,B (LEAVE A REPLY)

Consideration is one thing given in exchange for another.

In this case, considerations of customers are three wrappers and 1s6d. Consideration of Nestle is Rockin' Shoes record or a voucher.

Reference:

LO 1, AC 1.2

NEW QUESTION: 54

Which of the following are key features of standard terms and conditions? Select TWO that apply

- A.** Standard terms always comply with implied terms
- B.** Specific to each purchase order
- C.** Non-disclosure
- D.** Non-negotiable
- E.** Designed to be used in repetitive transactions

Answer: (SHOW ANSWER)

The key features, advantages and disadvantages of standard terms are summarised below:

- Form: Concise, generic and designed to be attached to purchase or sales orders
- Non-negotiable
- Ineffective terms: may be replaced by implied terms or national legal code rules, or subject to court 'balance of interest' judgement.
- Advantages: Basic contractual protection for most common circumstances; Avoid having to create new contract for repeat business.
- User friendly
- Usage: Low value, low risk, repetitive transactions

- Coverage: Definitions, relationship to other contracts, formation of the contract, order of precedence, price, invoicing and payment, specification, legal compliance, warranty and liability, ownership and risk, intellectual property, data management and ethics.
- Disadvantages: Does not allow for specific circumstances; Risk for creating battle of the forms; Can create contractual uncertainty if used with purchase orders under call-off contracts.

Reference:

LO 3, AC 3.1

NEW QUESTION: 55

Which of the following is the most suitable model contract for car lift manufacturing?

- A.** ITC
- B.** FIDIC
- C.** IMechE/IET
- D.** CIPS

Answer: (SHOW ANSWER)

IMechE/IET: Institution of Mechanical Engineers/Institution of Engineering and Technology - two separate institutes that issue jointly agreed model forms covering the design, supply and installation of electrical, electronic and mechanical plant including special conditions for the ancillary development of software. Car lifts are mechanical products, so IMechE/IET is the most suitable model contract for this type of product.

FIDIC is a French language acronym for Federation Internationale Des Ingenieurs-Conseils, which means the international federation of consulting engineers. It was started in 1913 by the trio of France, Belgium and Switzerland. The United Kingdom joined the Federation in 1949. FIDIC is headquartered in Switzerland and now boasts of membership from over 60 different countries. FIDIC published its first contract, titled The Form of contract for works of Civil Engineering construction, in 1957. As the title indicated, this first contract was aimed at the Civil Engineering sector and it soon became known for the colour of its cover, and thus, The Red Book. It has become the tradition that FIDIC contracts are known in popular parlance by the colour of their cover. This first contract by FIDIC was undertaken jointly with the International federation of Building and Public works. FIDIC's concerted effort at achieving broad consultation and acceptance of its contract forms has seen subsequent editions of its contracts being ratified by the International Federation of Asian and Western Pacific Contractors Association, Associated General Contractors of America and the Inter-American Federation of the Construction Industry, Multilateral Development Banks among others. Because of the broad support it enjoys, FIDIC contracts are the foremost contracts in international construction.

The Chartered Institute of Procurement and Supply (CIPS) has some model contracts for IT functions including: supply and installation of computer equipment, support and maintenance of bespoke software, servicing of computer equipment,...

The International Trade Centre (ITC) produces contracts specifically designed for small companies doing international business, covering the sale of goods, distribution, services and joint ventures.

Reference:

LO 3, AC 3.1

NEW QUESTION: 56

ABC Ltd is a UK based company. It plans to enter into a contract with XYZ Ltd which is based in Singapore. Which of the following are the mandatory elements for the contract between ABC Ltd and XYZ Ltd to be legally binding? Select THREE that apply.

- A. All parties must have capacity to contract
- B. The two parties must have intention to be bound
- C. The invitation to tender must be sent by the agreed deadline
- D. There must be an offer and an acceptance
- E. An amount of money must be paid upfront
- F. There must be an invitation to treat

Answer: (SHOW ANSWER)

The formation of the contract is where the contractual journey begins; if no contract is formed, neither of the parties can be under any obligations. Therefore, it is very important to have an understanding of each part of a contract's formation.

In order for a legally binding agreement to be formed, there are four basic requirements to be met:

- 2.1 Offer
- 2.2 Acceptance
- 2.3 Certainty & Intention to Create Legal Relations
- 2.4 Consideration & Promissory Estoppel

Reference:

- CIPS study guide page 28-42
- Formation of the contract

LO 1, AC 1.2

NEW QUESTION: 57

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

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

Answer: (SHOW ANSWER)

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

NEW QUESTION: 58

According to mailbox rule in some common law countries, at which point the offeree's acceptance will be effective?

- A.** When the letter of acceptance is opened and its contents read by the offeree.
- B.** When the letter of acceptance is received by the offeror.
- C.** When the letter of acceptance has been written.
- D.** When the letter of acceptance has been correctly addressed, its postage paid, and posted.

Answer: (SHOW ANSWER)

When parties do not negotiate face-to-face, a key Question: becomes when things like acceptances, rejections and revocations take effect. The general rule is that acceptances are effective on dispatch (when they are mailed). Everything else becomes effective when the offeror actually receives them. This idea is codified by the "mailbox rule" which states that acceptance is effective on dispatch, even before the offeror has received it. (The one minor exception to this rule involves option contracts for which acceptances are not effective until they are received by the offeror.) Reference:

- The Mailbox Rule
- CIPS study guide page 34

NEW QUESTION: 59

Which of the following should be specially noticed in market dialogue with suppliers in specification development?

- A.** Both parties must respect confidentiality
- B.** The buying organisation must avoid social media at all cost
- C.** Market dialogue is banned in the public sector
- D.** Market dialogue should only be conducted with well-known supplier

Answer: (SHOW ANSWER)

Being clear on your objectives helps you to design the best approach to the dialogue.

There are some notices in developing dialogue with suppliers:

- All meetings should be documented

- Respect commercial confidentiality. Although insights gained from one conversation lead to questions in another, you must be very careful not to allow this to happen in a way that breaches the confidentiality of the first conversation.

Reference:

LO 2, AC 2.1

NEW QUESTION: 60

- A. Design specification
- B. Technical specification
- C. Conformance specification
- D. Output specification

Answer: ([SHOW ANSWER](#))

Developing and using generic specifications is as important in the sustainable procurement process as it is in the traditional procurement process. During this stage, human/labour rights and environmental performance criteria should be translated into specifications that meet specific requirements of the specified outcome, desired by the procurement action. The specification stage is key to all types of contract. Building in environmental and social considerations at this early stage, provides a clear indication to suppliers that sustainability is important to the UN organization. Consider available alternatives which are less environmentally and socially damaging. Consider all the phases of a product's life cycle (e.g. production, transportation, maintenance, disposal, etc) when determining its cost and environmental impact. Assess the overall environmental and social integrity of suppliers by looking at their policies and practices.

Specifications which are output-based rather than input-based can increase supplier innovation, reduce waste and minimise harmful social and environmental impacts.

Reference:

- Sustainable Procurement
- CIPS study guide page 95-99

LO 2, AC 2.1

NEW QUESTION: 61

Danielle buys a car from Aaron. Not long after, she receives an proposal from Brian, who is interested in buying the car but his budget is very constraint. Then, Brian decides to sign a hire purchase agreement with Danielle which lasts 4 years. Brian lives very far from Danielle, so he hires Charlie to deliver the car to his place. During the transport, Charlie has an accident and the car is written off. At the time of accident, who has the title of the car?

- A. Charlie
- B. Aaron
- C. Brian
- D. Danielle

Answer: (SHOW ANSWER)

Hire purchase is an arrangement for buying expensive consumer goods, where the buyer makes an initial down payment and pays the balance plus interest in installments. The ownership of the merchandise is not officially transferred to the buyer until all the payments have been made.

Danielle has purchased the car from Aaron, which means its title has been transferred to her. The accident happens before the last instalment is paid. Therefore, the ownership of the car still belongs to Danielle Reference:

LO 1, AC 1.3

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NEW QUESTION: 62

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

- A. Leverage items
- B. Bottleneck items
- C. Strategic items
- D. Routine items

Answer: (SHOW ANSWER)

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

NEW QUESTION: 63

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

- A. Quotation
- B. Request for information
- C. Tender
- D. Requisition
- E. Estimate

Answer: A,C (LEAVE A REPLY)

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

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