Cambridge International AS & A Level

Cambridge International Examinations
Cambridge International Advanced Subsidiary and Advanced Level

LAW **9084/33**

Paper 3 Law of Contract **October/November 2016**

1 hour 30 minutes

No Additional Materials are required.



READ THESE INSTRUCTIONS FIRST

An answer booklet is provided inside this question paper. You should follow the instructions on the front cover of the answer booklet. If you need additional answer paper ask the invigilator for a continuation booklet.

Answer **one** question from **Section A**, **one** from **Section B** and **one other**, thus making a total of **three** responses required.

The number of marks is given in brackets [ ] at the end of each question or part question.

This document consists of **3** printed pages, **1** blank page and **1** insert.

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Candidates must attempt **one** question from **Section A**, **one** from **Section B** and **one other**, thus making a total of **three** responses required.

Section A

1 Misrepresentation generally renders a contract voidable and the innocent party can rescind it.

Analyse the circumstances under which misrepresentation is actionable and critically assess the remedies available. [25]

2 The person who does nothing more than perform an existing contractual duty does not provide the valuable consideration required to form a binding contract.

Critically assess the truth of this statement. [25]

3 The intention to create legal relations is no longer significant to the formation of valid contracts.

Critically assess this view. [25]

Section B

4 Lana sets up her own dress-making business. She negotiates a price with Matthew for him to build her a workshop and he promises to finish the construction by 1 September. Bad weather delays the work and it is not finished until 5 November.

The delayed completion of the workshop causes Lana to lose £5000 in profit from contracts that she has to cancel between 1 September and 5 November.

She also loses a special contract to create a particularly fine wedding dress for a Hollywood star. She suffers a loss of expected profit of £2000 and significant mental distress.

Consider whether or not Matthew is liable in contract for the losses sustained by Lana. [25]

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5 Daniel places the following advertisement in a fishing magazine.

> **FOR SALE**
>
> **Commercial Fishing Nets - £5000 each.**
>
> **Orders accepted by post or telephone.**
>
> **Any quantities supplied.**
>
> **Contact Daniel, 23 Rod Lane, Seaford**
>
> **Tel No : 01212-343434**

Alastair is a commercial fisherman and a regular reader of the magazine. He sees the advertisement and responds to it by sending his standard order form to Daniel. The order form requests five nets for his fleet of boats, to be delivered by 1 November. On the back of Alastair's order form a number of terms appear in small type, including one which states that payments will only be made 30 days after receipt of goods purchased.

Daniel sends his standard order acknowledgement form back to Alastair, the front of which confirms the order quantity, price and delivery date as per Alastair's order. On the back of the form his terms provide for payment on delivery and state that his company is not liable for manufacturing faults in products supplied. Alastair files the order acknowledgement form without reading it.

The order is delivered to Alastair on 31 October and an immediate demand for payment is made. Alastair argues that his terms of business permit 30 days for payment. Alastair inspects the fishing nets and sends them back to Daniel on the grounds of defective manufacture.

Advise Daniel and Alastair of their respective rights in this situation and assess the likely success of any legal action brought to recover damages. [25]

6 Rochelle wants to sell her car. Rochelle writes a letter to her friend Shania and offers to sell it to her for £4000. She explains that she needs a reply by 30 September.

Shania posts a letter of acceptance on 25 September agreeing to pay the asking price. Rochelle does not receive the letter until 3 October. Having received no reply from Shania, on October 1 Rochelle agrees orally to sell the car to Tamisa for £4100.

Rochelle still has the car, but refuses to sell it to Shania, saying that her letter arrived too late. Shania has no proof of posting of her letter.

Assess Rochelle's contractual liability towards Shania and Tamisa in this situation. [25]

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