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Question 1

Question Type: MultipleChoice

GoGo Ltd has contracted Reny Manufacturing to produce a bespoke piece of equipment for them. It is an asset and costs a significant amount of money. A contract is drawn up which states that GoGo Ltd has the right to terminate the contract at any time for any reason. Halfway through production of the asset, GoGo Ltd calls Reny Manufacturing to cancel the order. Reny Manufacturing has incurred many costs already. Can GoGo Ltd cancel the order?

Options:

- A- yes- the order has not yet been delivered meaning that GoGo Ltd can cancel- there has been no transfer of ownership
- B- no- Reny Manufacturing will sue for damages
- C- yes- there is a termination clause in the contract
- D- no- the termination clause is unfair

Answer:

C

Explanation:

The correct answer is 3 - 'yes there is a termination clause in the contract'. In this scenario it would be immoral for GoGo Ltd to cancel, but it wouldn't be illegal. They have the right to use the clause that's been put into the contract. It's possible that Reny might sue for damages, but this doesn't prevent GoGo Ltd from cancelling the order (they might be okay with paying the damages). There is a very similar question to this in the exam. Termination clauses are discussed on p.134 - I recommend brushing up on this topic before the exam.

Question 2

Question Type: MultipleChoice

Terry's Toys is a Toy Manufacturer who has an agreement to provide Toys to an online re-tailer. The retailer has ordered 500 toys from Terry and Terry has incurred costs of 3000 manufacturing the toys. Halfway through production the retailer calls Terry to cancel the order. Terry reads through the contract and sees a liquidated damages clause of 1000. What should Terry do?

Options:

- A- Terry can apply to the court to increase the liquidated damages to 3000
- B- Terry can sue the retailer for the additional costs incurred above the liquidated damages
- C- Terry can deliver the toys as agreed as there is a contract in place

D- Terry can do nothing and must pay the additional 2000 out of his own pocket

Answer:

D

Explanation:

The correct answer is 4- Terry can do nothing and must pay the additional 2000 out of his own pocket. Liquidated damages are a pre-estimate of loss - they can't be changed by a court and you can't demand the buyer pays any higher than this if you actually lose more than is stated. This is one of the major disadvantages of having liquidated damages. Option 3 is a bad idea- the retailer has communicated that they do not want the toys so Terry is likely to only incur additional costs if he continues manufacturing them and delivers them. See p.106. There are lots of questions like this in the exam. Remember to think what the study guide would say- rather than what would happen in real life. Don't over complicate things.

Question 3

Question Type: MultipleChoice

Dianne has a loan agreement which contains a clause for default. What does a clause for default imply?

Options:

- A- this allows the lender to demand overdue payments are made straight away
- B- this allows a lender to demand payment from a guarantor if the borrower is unable to pay
- C- this allows the lender to declare insolvency
- D- this allows the lender to demand full payment of the outstanding balance

Answer:

D

Explanation:

A Clause for Default 'allows the lender to demand full payment of the outstanding balance'. See p.102. And always read the small print before you sign a loan agreement :)

Question 4

Question Type: MultipleChoice

Derrek owns a factory and employs a Facilities Management Company called Balls FM to look after certain aspects of the factory including cleaning and testing the machinery to ensure they are in good working condition. One day he realises that one of the cleaners doesn't work for Balls FM, he works for another company called Bells FM. Which of the following statements regarding subcontracting is true?

Options:

- A- Subcontracting would be if Derrek delegated responsibility for managing the contract to a member of his team
- B- Balls FM have committed a fundamental breach of the contract
- C- It is okay for Balls FM to subcontract out part of the contract to Bells FM if they are unable to fulfil their obligations
- D- Subcontracting is never allowed in a contract unless specifically mentioned.

Answer:

C

Explanation:

'It is okay for Balls to subcontract' is the correct answer. This question is testing whether you know that subcontracting can be a remedy in a contract. It is usually okay for a supplier to use a subcontractor if they're unable to fulfil their responsibilities and the alternative would be to breach the contract. This is a difficult question because you don't get a lot of context- it's based on a similar question in the exam- but just remember subcontracting can be a solution if one party can't fulfil their obligations in a contract. This is better than them breaching the contract. See p.89 for more information on subcontracting

Question 5

Question Type: MultipleChoice

R3D3 is a computer manufacturer who has had an issue with their supplier. They are seeking a conflict resolution approach which is flexible but will provide a binding and enforceable outcome. They would like the resolution to be confidential and directed by an independent third party that is appointed for them. Which of the following would be the best conflict resolution for them to select?

Options:

- A- mediation
- B- arbitration
- C- negotiation
- D- litigation

Answer:

B

Explanation:

Arbitration ticks all of the boxes required by R3D3. Mediation isn't correct because it's not binding. Negotiation isn't correct because there's no 3rd party. Litigation isn't correct because it's not confidential. See p. 80 for more on arbitration.

Question 6

Question Type: MultipleChoice

Which of the following statements about adjudication is true?

Options:

- A-** adjudicators are appointed at random and therefore may not have specific knowledge of the subject matter
- B-** the decision making process can be lengthy and expensive
- C-** parties are expected to present their cases in person in front of the adjudicator
- D-** the decision made by the adjudicator is binding and usually communicated within 28 days

Answer:

D

Explanation:

The true statement is 'the decision made by the adjudicator is binding and usually communicated within 28 days'. The other three are false- adjudicators are usually experts in their field, the decision making process has a tight timescale and parties present their arguments in writing. This is the only written conflict resolution method.

Question 7

Question Type: MultipleChoice

Which of these statements about mediation is true? Select TWO

Options:

- A- mediation is flexible
- B- mediation produces legal precedents
- C- mediation can be used as a stalling tactic

D- mediation is expensive

E- mediation involves a third party who makes a judgement on the issue

Answer:

A, C

Explanation:

The correct answers are 1 and 3. The other options are false; Mediation does not produce legal precedents- only litigation can do this. Mediation is a cheap dispute resolution option (much cheaper than arbitration or litigation) and the third party has no authority on the matter- they are there as a facilitator of dialogue, not to make a judgement. For more information on mediation see p.74

Question 8

Question Type: MultipleChoice

Which of the following conflict resolution styles may involve a private caucus and a joint session?

Options:

A- mediation

B- adjudication

C- negotiation

D- litigation

Answer:

A

Explanation:

This is Mediation. The private caucus is when each of the parties meets in private with the media-tor, this is usually after a joint session between the three parties. See p.71 for more information on mediation

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