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Exam : L5M3

Title : Managing Contractual Risk

Version : DEMO

1.A breach of representation by party A in a contract would allow party B to do what?

- A. rescind the contract
- B. claim damages
- C. rescind the contract and claim damages
- D. nothing - this is not a fundamental breach

Answer: C

Explanation:

A breach of representation is a major/ fundamental breach and allows the innocent party to rescind the contract and claim damages. A Breach of Representation is when you provide false information about who you are- this might have been a fundamental reason as to why the contract went ahead. If it turns out not to be true, the other party has the right to cancel the contract and claim damages. See p.126

2.What is a Prime Contract?

- A. A contract between a buyer and main supplier
- B. A contract between an end customer and a company which has full responsibility for its performance
- C. A contract between a supplier and a subcontractor
- D. A contract between a public sector organisation and the taxpayer

Answer: B

Explanation:

"A contract between an end customer and a company which has full responsibility for its performance" is the correct answer. This is the definition of Prime Contract given on p. 47

3.Mark is a consultant who works with building managers and advises them on how to make their buildings safer.

What type of insurance should Mark have?

- A. Public Liability
- B. Product Liability
- C. Professional Indemnity
- D. Property Insurance

Answer: C

Explanation:

Mark needs professional indemnity insurance. Types of insurance is a known exam topic and the study guide does not cover this particularly well. Types of insurance is mentioned on p.25 but Professional Indemnity Insurance isn't really explained and this does come up in the exam. Professional Indemnity Insurance is needed when your job is to give advice to people (like as a Consultant). It's used for if the advice you give turns out to be bad. For example, if Mark told the building manager he should get ABC Fire Alarm installed, and actually this Fire Alarm doesn't meet the necessary Health and Safety standards, he could get sued by the building manager. He could then claim on his Professional Indemnity Insurance.

4.Which of the following will you put into box 1?

- A. anticipatory breach
- B. fundamental breach
- C. payment terms

D. specification

Answer: A

Explanation:

The correct answers are as follows:

| | Issue | Solution |
|------------|-----------------------|----------------|
| Supplier A | 1 anticipatory breach | 5 adjudication |
| Supplier B | 2 payment terms | 6 mediation |
| Supplier C | 3 fundamental breach | 7 litigation |
| Supplier D | 4 specification | 8 arbitration |

Table

Description automatically generated

This is an anticipatory breach as the breach hasn't happened yet- it's about what will happen to the future summer order.

5.Jenny has received a written offer from a supplier. She emails them to clarify if they can do next day delivery. The supplier does not reply. The next day Jenny makes the payment.

Has a contract been formed?

A. yes- the supplier made an offer and Jenny accepted it by making a payment

B. yes- a counter offer has been made

C. no- the clarification constitutes a conditional acceptance

D. no- a contract has not been signed

Answer: A

Explanation:

Yes- the supplier made an offer and Jenny accepted it by making a payment is the correct answer. The other three options are incorrect: 'yes- a counter offer has been made' = there is no counter-offer made in this example - a clarification is not a counter-offer / 'no- the clarification constitutes a conditional acceptance' = clarifications are not conditional acceptance / 'no- a contract has not been signed' = there doesn't need to be a signed document- acceptance can be through performance. Issuing the payment would be considered acceptance via performance. See p 2-12 for more information on conditional acceptance, counter offers and acceptance of offers.