



**EXAMINATIONS OF \_\_\_\_\_ APRIL/MAY 2005**

**CODE AND NAME OF COURSE:** LA12B (LAW1410) - LAW OF CONTRACT I

**DATE AND TIME:**

**DURATION: 2 HOURS**

**INSTRUCTIONS TO CANDIDATES: This paper has 3 pages and 6 questions.**

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Answer **THREE** (3) questions. Answers may be confined to the law of any jurisdiction in the Commonwealth Caribbean unless the context indicates otherwise.

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1. No third party should be able to sue on a contract to which she is not a party.  
  
Discuss.
2. Critically analyse the different types of implied terms.
3. "For a contract to be enforceable, the parties must have agreed on all material terms and [the contract] must not be too vague in any significant particular ..."  
  
Critically examine this statement.
4. Rad and Andre are keen fans of the National Basketball Association (NBA) competition played in the United States of America. During a recent holiday to Chicago, Rad purchased the shorts worn by the famous basketball player Michael Jordan in his last game for the Chicago Bulls team in the NBA competition. Upon his return to Erehwon he wrote a letter to Andre offering to sell him the shorts for \$3000. Andre received the letter on 27 February 2005. Andre, who thought Jordan was the best basketball player ever, decided to buy the shorts and wrote back to Rad accepting his offer. He posted this letter on the morning of 28 February 2005.

**PLEASE TURN OVER**

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A few hours after Andre posted his letter accepting Rad's offer, Andre's friend Sasha, a dealer in Michael Jordan memorabilia, telephoned Andre and offered to sell him the shoes that Jordan had worn in his last game for the Chicago Bulls for a price of \$4,000. Andre did not have enough money to buy the shoes, although he preferred the shoes to the shorts that he had agreed to buy from Rad. Sasha asked Andre to think it over, and get back to her quickly if he wanted to buy the shoes.

The next day, 1 March 2005, Andre telephoned Rad to tell him that he did not want to buy the shorts. He also told Rad to ignore the letter of acceptance that he had posted the previous day. Andre then posted a letter to Sasha accepting her offer to sell him the shoes. Andre then went to his local newsagency and purchased a 'scratchie' instant lottery ticket. Within minutes of purchasing the ticket, he discovered that he had won \$10,000. He was delighted because he could now afford to buy both the shorts from Rad and the shoes from Sasha. He went home and immediately telephoned Rad to tell him that he was, after all, accepting the offer Rad had made in the letter of 27 February 2005.

On 3 March 2005, Rad received the letter Andre had posted to him on 28 February 2005. Also on that day, Sasha telephoned Andre to tell him that she would not sell him the shoes.

On 4 March 2005 Rad telephoned Andre and told him that he would not sell the shorts to him. Later that day Sasha received Andre's letter to her posted on 1 March 2005.

Advise Andre.

5. Adam had a contract to decorate Bill's restaurant. He subcontracted to Colin the plastering work needed to be done before he could begin to decorate. Bill's grand opening had been advertised for the 4<sup>th</sup> of December and Bill had told Adam that if the work was not completed by then, Adam would receive only half of his fee. Adam had known that the decorating would take him four days. He had made it a term of his agreement with Colin that the plastering must be completed by the 29<sup>th</sup> of November. On the 25<sup>th</sup> of November Colin had informed Adam that he would not be able to complete the plastering on time because he had been delayed by damp weather slowing the drying time of the plaster. However, he had also told Adam that if Adam would pay an extra \$500, he would work extra hard from then on and complete on time. Adam reluctantly agreed. All the work was completed on time.
- (a) Advise Adam whether he is bound to pay Colin the extra \$500;
- (b) Would it make any difference if, on the 25<sup>th</sup> of November, Colin had not only promised to work extra hard but also to hire some special industrial heaters to dry out the plaster more quickly?

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6. Gara is a professional photographer from Utopia who travels the world taking scenic photographs which she sells. As part of her business, she also maintains a collection of photographs for hire. Gara's friend, Sybil, is a tourism promoter focusing on tourism in the Caribbean.

Recently, Sybil visited Gara's library and arranged to hire some photographs of Caribbean beaches. Sybil wanted to use them for a promotional campaign on behalf of her government to encourage Utopian tourism to the Caribbean. Gara said she would make an appropriate selection of photographs and forward them to Sybil in plenty of time for Sybil's presentation.

A few days later, Sybil received a packet of 20 photographs. A covering letter indicated: (i) that the hiring fee for the photographs was \$10 per day; (ii) that they had to be returned to Gara within 10 days; and (iii) that an attached typed sheet of conditions in very fine print, otherwise governed the contract between them.

Sybil's presentation was very successful. However, she was five days late in returning the photographs to Gara. Gara referred Sybil to the sheet of conditions and claimed that Sybil had to pay a 'late return fee' of \$5,000 in accordance with Clause 17 of their contract. This clause stipulated that a 'late return fee' was payable if photographs were returned after the due date at the rate of \$50 per day, per photograph.

Sybil, who had not previously read the sheet of conditions, seeks your advice as to whether clause 17 is part of the contract.

Advise Sybil.

**END OF PAPER**

