

Fundamentals Level – Skills Module

# Corporate and Business Law (Global)

Monday 8 December 2014



**Time allowed:** 2 hours

This paper is divided into two sections:

Section A – ALL 45 questions are compulsory and MUST be attempted

Section B – ALL FIVE questions are compulsory and MUST be attempted

**Do NOT open this paper until instructed by the supervisor.**

**You must NOT write in your answer booklet until instructed by the supervisor.**

**This question paper must not be removed from the examination hall.**

**The Association of Chartered Certified Accountants**

# Paper F4 (GLO)

The ACCA logo consists of the letters 'ACCA' in a bold, white, sans-serif font, centered within a solid black square.

**Section A – ALL 45 questions are compulsory and MUST be attempted**

Please use the space provided on the inside cover of the Candidate Answer Booklet to indicate your chosen answer to each multiple choice question.

1 Ki entered into a contract with Li for 1,000 tonnes of coal, but Li actually delivered 2,000 tonnes.

**Which of the following correctly states Ki's situation under the UN Convention on Contracts for the International Sale of Goods?**

- A Ki can keep the excess and pay the agreed unit price
- B Ki can keep the excess but must agree a new price with Li
- C Ki must return the excess and claim any expense
- D Ki must return the whole amount and claim damages

**(2 marks)**

2 **An agency relationship which is made retrospectively is referred to by which of the following terms?**

- A Agency by estoppel
- B Agency by ratification
- C Agency by necessity

**(1 mark)**

3 **Where one party writes a letter of offer to another party giving them three days to accept the offer, which of the following states when the time period for accepting will start under the UN Convention on Contracts for the International Sale of Goods?**

- A On the date the letter is posted
- B On the date the letter is received
- C On the date shown on the envelope
- D On the date that the recipient reads the letter

**(2 marks)**

4 **In relation to a debenture, which of the following is NOT true?**

- A It may be issued at a discount
- B Interest on it may be paid from capital
- C It is paid after preference shares
- D It is freely transferable

**(2 marks)**

**5 Which of the following ICC Incoterms would be used by a seller willing to clear goods for export but not to insure them for the journey?**

- A** FOB
- B** FAS
- C** CIF

**(1 mark)**

**6 Which of the following is the drawer of an international bill of exchange?**

- A** The receiving bank
- B** The sender's bank
- C** The buyer's bank
- D** The buyer

**(2 marks)**

**7 Where directors make a false statement of solvency prior to a members' voluntary liquidation, which of the following have they committed under the relevant legislation?**

- A** A breach of criminal law with criminal penalties
- B** A breach of civil law with criminal penalties
- C** A breach of civil law with civil liability
- D** A breach of both civil and criminal law with liabilities under both

**(2 marks)**

**8 Under the UN Convention on Contracts for the International Sale of Goods, where only part of the goods delivered conformed to the requirements of the contract, which of the following rights can the buyer NOT enforce?**

- A** To give the seller additional time to correct the non-conformity
- B** To refuse delivery of the total consignment
- C** To reduce the price due under the contract

**(1 mark)**

**9 Which TWO of the following are examples of goods NOT covered by the UN Convention on Contracts for the International Sale of Goods?**

- (1) Services
- (2) Negotiable instruments
- (3) Food
- (4) Commodities not yet in existence

- A** (1) and (2)
- B** (2) and (3)
- C** (3) and (4)
- D** (1) and (4)

**(2 marks)**

**10 Which of the following applies to the concept of enlightened shareholder value?**

- A** It is the price shares can be expected to raise if they were to be sold
- B** It is the yardstick for assessing the performance of directors' duties
- C** It is the standard of behaviour expected of shareholders in general meetings

**(1 mark)**

**11 In relation to international bills of exchange, which of the following may be an acceptor?**

- A** The buyer
- B** The buyer's bank
- C** The seller's bank
- D** The recipient of an endorsed bill

**(2 marks)**

**12 What qualification is the company secretary of a private limited company required to have?**

- A** An appropriate legal qualification
- B** An appropriate professional qualification such as ACCA
- C** No qualification

**(1 mark)**

**13 Under the UNCITRAL Model Law on International Credit Transfers, which of the following is NOT considered to be an originator?**

- A** The sender's bank
- B** The sender
- C** Any intermediary bank between the sender's bank and the beneficiary's bank

**(1 mark)**

**14 In relation to wrongful trading, the standard against which the conduct of directors will be assessed is which of the following?**

- A** Purely subjective, depending on the actual skill of the director
- B** Purely objective, depending on what is expected of a director in that position
- C** A mixture of subjective and objective but only to increase potential liability
- D** A mixture of subjective and objective but only to reduce potential liability

**(2 marks)**

**15 In relation to the UN Convention on Contracts for the International Sale of Goods contract, the market rule arises in relation to which of the following?**

- A** Offer
- B** Consideration
- C** Remoteness
- D** Mitigation

**(2 marks)**

**16 Under the UN Convention on Contracts for the International Sale of Goods, which of the following is NOT a potential outcome of a fundamental breach of contract?**

- A** The aggrieved party can avoid the contract and claim damages
- B** The aggrieved party can avoid the contract but cannot claim damages
- C** The aggrieved party can require substitute goods

**(1 mark)**

**17 Which of the following are ordinary partnerships UNABLE to create in relation to their property?**

- A** Mortgages
- B** Fixed charges
- C** Floating charges

**(1 mark)**

**18 Under the UNCITRAL Model Law on International Commercial Arbitration, which of the following will NOT allow a party to apply to court to have the arbitral award set aside?**

- A** Substantive injustice in relation to the decision of the panel
- B** Incapacity on the part of the claimant or respondent
- C** Lack of appropriate notice to either party
- D** Lack of validity of the claim in the state under which the action is heard

**(2 marks)**

**19 Which of the following ICC Incoterms places the GREATEST burden on the purchaser in respect of responsibility for transport costs and risks incurred in transit?**

- A** EXW
- B** DAP
- C** DAT
- D** FCA

**(2 marks)**

**20 Which of the following requires court approval before the appointment of an administrator?**

- A** Creditors
- B** Holders of floating charges
- C** The directors of the company
- D** The company itself

**(2 marks)**

21 In the United Kingdom a criminal case must be proved beyond reasonable doubt.

**This concept relates to which of the following?**

- A The burden of proof
- B The standard of proof
- C The balance of probabilities
- D The reverse burden of proof

(2 marks)

22 Which of the following is NOT a source of English law?

- A Custom
- B Equity
- C Public law
- D European Union directives

(2 marks)

23 Which of the following is NOT an automatic consequence of a compulsory winding up order against a public limited company?

- A Transfers of shareholdings are suspended
- B Liquidation is deemed to start on the date of the issuing of the order
- C Directors cease to exercise any management power
- D Employees are immediately dismissed

(2 marks)

24 Which TWO of the following apply to shares of companies whose names end in 'Ltd'?

- (1) They may not be issued to non-members
- (2) They may not be offered to the public
- (3) They may not be transferred
- (4) They may not be traded on the stock exchange

- A (1) and (2)
- B (2) and (3)
- C (1) and (4)
- D (2) and (4)

(2 marks)

25 Which of the following statements regarding the age limits for serving as a director in a public limited company is true?

- A Minimum age 16 years and no maximum age
- B Minimum age 21 years and no maximum age
- C Minimum age 21 years and maximum age 75 years
- D Minimum age 16 years and maximum age 75 years

(2 marks)

**26 In the event of the respondent failing to appear at an arbitration hearing, under the UNCITRAL Model Law on International Commercial Arbitration which of the following consequences will follow?**

- A** The hearing will be postponed until the respondent can ensure attendance
- B** The hearing will be cancelled and the decision will be declared in favour of the claimant
- C** The hearing will continue on the basis of the evidence supplied by the claimant
- D** The hearing will be cancelled and the respondent will have to pay all the costs relating to the arbitration

**(2 marks)**

**27 In which procedure does a liquidation committee operate?**

- (1) Compulsory liquidation
- (2) A members' voluntary liquidation
- (3) A creditors' voluntary liquidation
- (4) Administration

- A** (1) and (2)
- B** (2) and (4)
- C** (1) and (3)
- D** (3) and (4)

**(2 marks)**

**28 The category of treasury shares comes into existence under which of the following circumstances?**

- A** They are issued as such by a private company
- B** They are issued as such by a public company
- C** They are purchased as such by the exchequer
- D** They are purchased as such by a private or public company

**(2 marks)**

**29 Which of the following is NOT a source of Sharia law?**

- A** Figh
- B** Hadith
- C** Riba
- D** Court judgements

**(2 marks)**

**30 In the context of the UN Convention on Contracts for the International Sale of Goods, which of the following is the place of delivery in contracts involving carriage, if the contract is silent on the matter?**

- A** The seller's place of business
- B** The place where the goods are handed to the first carrier for transmission to the buyer
- C** The purchaser's place of business

**(1 mark)**

**31 Which of the following provides the greatest assurance of being paid?**

- A International bill of exchange
- B International promissory note
- C Letter of credit

**(1 mark)**

**32 Which party to an international bill of exchange instructs the payment to be made?**

- A The payee
- B The drawer
- C The drawee

**(1 mark)**

**33 Which of the following is by definition non-negotiable?**

- A A bill of lading
- B A bill of exchange
- C A letter of credit
- D A letter of comfort

**(2 marks)**

**34 Which TWO of the following are private law actions?**

- (1) Those between individuals
- (2) Those between business organisations
- (3) Those between individuals and the state

- A (1) and (2)
- B (1) and (3)
- C (2) and (3)

**(1 mark)**

**35 Which of the following exists as a separate legal entity from its members?**

- A An ordinary partnership
- B A limited partnership
- C A limited liability partnership

**(1 mark)**

**36 Which of the following must a private company ALWAYS have?**

- A Shares
- B Limited liability
- C A company secretary
- D A registration certificate

**(2 marks)**

**37 Judges have the greatest scope to create law in which of the following legal systems?**

- A** Common law
- B** Sharia law
- C** Civil law

**(1 mark)**

**38 Which of the following statements in relation to an offer is correct under the UN Convention on Contracts for the International Sale of Goods?**

- A** It must be in writing
- B** It must refer to price and quantity
- C** It can be made to the world at large

**(1 mark)**

**39 In relation to the UN Convention on Contracts for the International Sale of Goods requirements as to conformity of goods, which of the following is INCORRECT?**

- A** The seller must ensure the goods conform to all laws in force in the buyer's state
- B** The goods must be fit for any purpose the buyer made known to the seller
- C** The goods must be fit for the purpose for which such goods are ordinarily used

**(1 mark)**

**40 An offer in a letter becomes effective at which of the following times under the UN Convention on Contracts for the International Sale of Goods?**

- A** When the letter is posted to the recipient
- B** When the letter is delivered to the recipient
- C** When the letter is read by the recipient
- D** When the offer is accepted by the recipient

**(2 marks)**

**41 Which of the following is an institution of the United Nations?**

- A** UNCITRAL
- B** UNIDROIT
- C** WTO

**(1 mark)**

**42 Which of the following is a function of a non-negotiable bill of lading?**

- A** Proof of ownership of the goods
- B** An indicator that risk may have passed from seller to buyer
- C** Confirmation of the right to take custody of the goods

**(1 mark)**

**43 In relation to agency law, 'warranty of authority' is provided by which of the following?**

- A** The agent
- B** The principal
- C** The third party

**(1 mark)**

**44 Which of the following describes civil law?**

- (1) A legal system which relies heavily on statutory codes
- (2) A classification of law which applies between private individuals
- (3) A legal system which relies on law made by judges
- (4) A classification of law which applies between private individuals and the State

- A** (1) and (2)
- B** (2) and (3)
- C** (1) and (4)
- D** (3) and (4)

**(2 marks)**

**45 Under UNCITRAL Model Law on International Commercial Arbitration, what is the default number of arbitrators?**

- A** One
- B** Two
- C** Three

**(1 mark)**

**Section B – ALL FIVE questions are compulsory and MUST be attempted**

Please write your answers to all parts of these questions on the lined pages within the Candidate Answer Booklet.

**1** Abe, a commodities broker, was expecting to receive a large consignment of grain on 1 May.

On 1 April, he wrote to Bo offering to supply up to 500 tonnes of grain at \$5,000 per tonne for orders over 100 tonnes for delivery to be made before 31 May. Bo immediately wrote back ordering 75 tonnes for delivery on 30 May.

Abe also wrote to Chi offering to supply him grain at \$6,000 per tonne and Chi immediately wrote back ordering 150 tonnes for delivery on 30 June.

After he had sent the above letters and before he received the replies, Abe discovered that he would not be able to secure the delivery of the grain.

**Required:**

**In the context of the rules governing the creation of contracts under the UN Convention on Contracts for the International Sale of Goods:**

- (a) Explain the precise legal nature of Abe’s letters to Bo and Chi;** (2 marks)
- (b) Explain whether Bo has any right of action against Abe;** (2 marks)
- (c) Explain whether Chi has any right of action against Abe.** (2 marks)

**(6 marks)**

**2** Fred is a member of Glad Co, a small publishing company, holding 100 of its 500 shares. The other 400 shares are held by four other members.

It has recently become apparent that Fred has set up a rival business to Glad Co and the other members have decided that he should be expelled from the company.

To that end they propose to alter the articles of association to include a new power to ‘require any member to transfer their shares for fair value to the other members upon the passing of a resolution so to do’.

**Required:**

- (a) State the procedure which Glad Co must follow to alter its articles of association.** (2 marks)
- (b) Explain the effect of the requirement that any alteration to a company’s articles of association must be for the benefit of the company as a whole.** (2 marks)
- (c) Explain whether or not the articles of association of Glad Co can be altered as proposed.** (2 marks)

**(6 marks)**

- 3** Three years ago Ho subscribed for shares in two companies: Ice Co and Jet Co, a listed company. In relation to the shares in Ice Co, Ho was only required to pay 50 cents per \$1 share when he took the shares and was assured that he would not be required to make any further payment on them to Ice Co and the company passed a resolution to that effect.

Unfortunately, Ice Co has gone into insolvent liquidation owing a substantial sum of money to its creditors.

In relation to the shares in Jet Co, Ho was required to pay a premium of 50 cents per \$1 share. The shares are currently trading at 75 cents per share.

**Required:**

- (a) Describe any potential liability Ho may have with regard to the shares he holds in Ice Co and to whom any such liability would be owed.** (2 marks)
- (b) Explain the meaning and purposes of a share premium account.** (2 marks)
- (c) Explain whether Ho can gain access to the premium paid on the shares in Jet Co.** (2 marks)

**(6 marks)**

- 4** Kut Co is a small private company. Although there are three members of its board of directors, the actual day-to-day running of the business is left to Leo, who simply reports back to the board on the business he has carried out. Leo refers to himself as the chief executive officer of Kut Co, although he has never been officially appointed as such.

In October 2014, Leo entered into a normal business contract on Kut Co's behalf with Max. However, the other members of the board have subsequently lost confidence in Leo and have refused to pay Max, claiming that Leo did not have the necessary authority to enter into the contract with him.

**Required:**

- (a) State the usual authority of individual directors to enter into binding contracts on behalf of their company.** (2 marks)
- (b) Explain whether or not Kut Co is liable to pay Max.** (4 marks)

**(6 marks)**

- 5** Nit is involved in illegal activity, from which he makes a large amount of money.

He also owns a legitimate taxi company and passes off his illegally gained money as profits of that business. Nit employs Owen, who is aware of the illegal source of the money, to act as the manager of the taxi company, and Pat as his accountant to produce false business accounts for the taxi business.

**Required:**

**In the context of the law relating to money laundering:**

- (a) Explain the meaning of layering.** (2 marks)
- (b) Explain whether any criminal offences relating to money laundering may have been committed by Nit, Owen and Pat.** (4 marks)

**(6 marks)**

**End of Question Paper**