

Roll No: -----

**UNIVERSITY OF PETROLEUM
AND ENERGY STUDIES**



End Semester Examination, May 2018

Program/course: B.A., LL.B. (HONS.) ENERGY LAWS 2017 (BATCH I & II)/ B.A., LL.B. (HONS.) CRIMINAL/LABOUR LAW 2017 (BATCH I & II)/ B.B.A, LL.B. (HONS.) CORPORATE LAWS 2017(BATCH I & II)/ B.B.A, LL.B. (HONS.) BANKING, INSURANCE AND FINANCE/ B.COM, LL.B. (HONS.) TAXATION LAWS 2017 (BATCH I & II)

Semester – II

Code: CLCC 1004

No. of page/s: 03

Subject: Law of Contract-II

Max. Marks: 100

Duration : Three Hrs.

SECTION A

Multiple Choice Questions:

(1*10)

1. Under section 4 of the Indian Partnership Act, partnership is a
 - a. compulsory legal relation
 - b. creation of the choice and voluntarily agreement between the concerned parties
 - c. a relation arising from status
 - d. Either (a) or (b) or (c).
2. What is meant by “partnership at will”
 - a. Partnership by meeting of mind
 - b. Partnership by consensus
 - c. Partnership when no time and duration mentioned
 - d. None of the above.
3. When can an unpaid seller use the right to lien?
 - a. When goods are with the carrier company.
 - b. When goods are in possession of the agent of the seller.
 - c. When the goods has been handed over the buyer.
 - d. When the goods are in transit.
4. Sub agent is directly answerable to:
 - a. The principal
 - b. The agent

- c. The third party
 - d. All of the above
5. Section 124 defines:
- a. Contract of guarantee
 - b. Right of subrogation
 - c. Contract of indemnity
 - d. Rights of indemnity holder when sued
6. “Agreement to sale” is
- a. a contingent contract
 - b. executed contract
 - c. executory contract
 - d. void agreement
7. A partnership firm is
- a. a distinct legal entity from its partners
 - b. not a distinct legal entity from its partners
 - c. a juristic person
 - d. either (a) or (c).
8. Partnership is a contract of
- a. master servant relationship
 - b. employer employee relationship
 - c. mutual trust and confidence
 - d. none of the above
9. When can an agent personally enforce or be bound by a contract with a third party?
- a. in case of necessity
 - b. when the principal is residing abroad
 - c. When communication cannot be made with the principal.
 - d. When the principal is in the prison.
10. A partnership cannot be constituted by
- a. two individuals
 - b. two Hindu joint families
 - c. both (a) and (b)
 - d. Neither (a) or (b).

SECTION B

Write short notes on any 4 of the following:

(4*5)

1. Distinguish between a sale and an agreement to sell. Give examples.
2. What are the differences between sale and hire purchase agreement?
3. State differences between sub-agent and substituted agent.

4. Differentiate between a condition and warranty.
5. Differentiate between Partnership at will and Particular Partnership.
6. Differentiate between a partnership firm and a company.

SECTION C

**Answer any two questions with help of relevant provisions, case laws and illustrations:
(2*10)**

1. A partnership could be dissolved only in the modes prescribed by sections 40 to 44 of the Partnership Act, 1932. Elaborate the modes of dissolution of partnership.
2. No one can transfer a better title than he himself has". Comment. Are there any exceptions to this rule?
3. Generally, the seller is under no duty to disclose all the facts to the buyer during negotiation, the buyer should protect his own interest unaided. Comment.

SECTION D

**Answer any five questions with help of relevant provisions, case laws and illustrations:
(5*10)**

1. A, B and C constituted an unregistered partnership. C files a suit against A and B for the accounts of the firm. Answer whether the suit is maintainable under the provisions of the Partnership Act, 1932. Explain.
2. B has signed a contract of sale for sale of rice to A. The payment had to be made on 15th April, after confirmation of which the rice was to be delivered to A's godown. A defaulted and did not make the payment as required under the contract. What rights does B have against the bags of rice that he has in his custody? Can he sue A for the payment of the price or not? Explain with help of relevant provisions, and examples.
3. A & B took a loan from C & Co. for starting a partnership firm. A and B agreed to share the profit of the firm with C & Co. in lieu of payment of the debt. C & Co. also participated in the meetings of the partnership firm but it was agreed between them that as soon as the loan is repaid, the C & Co. will not be attending any of the meeting and their relationship will end. Decide whether C & Co. can be considered as partners in the given facts. Also briefly explain the essentials of partnership.
4. A partnership firm of X, Y and Z were carrying on business as goldsmiths. Mr. X was the managing partner while Y and Z were sleeping partners. Mr. X while dealing with the customer S, provided gold ornaments to him of 18 carats of gold while charged the money as per 22 carats of gold for the same. S came to know about this fraud committed by X. He sued the firm. Determine the liability of the firm by applying the relevant statutory provisions of partnership and case laws on the point.
5. A appoints B as a factor for sale of his house as A is planning to move abroad. B after trying his best is not able to find a suitable buyer for the house. Thus without informing A

decides to purchase the house for himself at a lower price. After certain years A comes to know about this and also that B had later on sold off the house to someone else at a much higher price.

Can A sue B for hiding essential facts and for earning undue profit? What are the remedies available to A as a principal under the contract of Agency? Explain with the help of the provisions and illustrations and case laws.

6. Meenakshi, a minor on her 16th birthday on Feb. 10, 1991, is admitted to the benefits of a partnership firm consisting of Anil and Arun. The firm borrows Rs. 5 Lakhs from Tarun in Oct. 1991. In Jan 1993, Tarun files a suit against Anil/Arun for the recovery of the amount. Subsequently Meenakshi becomes major on Feb 10, 1993 and chooses to become a partner of the firm. Answer whether Meenakshi can be held liable for the borrowed money with the help of relevant provisions.

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SECTION A

Multiple Choice Questions:

(1*10)

1. Property in goods means
 - a. Possession of the goods.
 - b. rights and liabilities attached to the goods
 - c. Title to the goods.
 - d. both b and c

2. 'Goods' as defined under Sales of goods Act do not include:
 - a. Timber
 - b. Electricity
 - c. Collectable currency notes
 - d. Rs 2000/- note

3. The right of the agent to see the accounts is
 - a. statutory right
 - b. equitable right

- c. there is no such right
 - d. legal right
4. Partnership is a contract of
- a. Master- servant relationship
 - b. employer -employee relationship
 - c. mutual trust and confidence
 - d. none of the above
5. What is meant by “partnership at will”
- a. Partnership by meeting of mind
 - b. Partnership by consensus
 - c. Partnership when no time and duration mentioned
 - d. None of the above.
6. Sub agent is directly answerable to:
- a. The principal
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7. When can an agent personally enforce or be bound by a contract with a third party?
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8. Section 124 defines:
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 - c. Contract of indemnity
 - d. Rights of indemnity holder when sued
9. Agreement to sale” is
- a. a contingent contract
 - b. executed contract
 - c. executory contract
 - d. void agreement

10. The banker has which of the following right
- a. right of particular lien
 - b. right of general lien

SECTION B

Write short notes on any 4 of the following:

(4*5)

1. Difference between contract of sale and agreement to sale
2. Concept of particular lien
3. The rights and duties of a factor
4. Buyer Beware
5. Duties of the agent

SECTION C

Answer to the questions with help of relevant provisions, case laws and illustrations: (2*10)

1. A is a garage owner who repairs cars. Once B gave his car for repair to A, which he never came to claim even after passage of 1 year. So A decided to sell of the car in the market considering that it was a fairly new car. When he sells off the car to C, B the very next day comes to take back the possession.
 - a. Can B still claim the car back or not?
 - b. Did A have a right to sell off the car?
 - c. Explain the various exceptions to the maxim “Nemo dat quod non habet”.

2. B has signed a contract of sale for sale of rice to A. The payment had to be made on 15th April, after confirmation of which the rice was to be delivered to A’s godown. A defaulted and did not make the payment as required under the contract.
 - a. Who is an unpaid seller? define
 - b. Is B an unpaid seller?
 - c. What the right does B have against the bags of rice that he has in his custody? Can he sue A for the payment of the price or not?
Explain with help of relevant provisions, and examples.

SECTION D

(5*10)

1. Reema, wife of Raj is staying at her parent's house during which she pledges her jewelry in order to take a loan from the Pawnee. When the loan becomes due she informs the pawnee that her husband would be repaying the loan. Can Raj be made liable in such a condition? Explain with relevant provisions, case laws and illustrations.
2. A appoints B for sale of his house as A is planning to move abroad. B after trying his best, is not able to find a suitable buyer for the house. Thus without informing A decides to purchase the house for himself at a lower price. After certain years A comes to know about this and also that B had later on sold off the house to someone else at a much higher price.
Can A sue B for hiding essentials facts and earning undue profit? What are the remedies available to A as a principal under the contract of Agency? Explain with the help of the provisions and illustrations and case laws.
3. B gives his car for repair to A's garage. After the repair the same was to be returned to B on 5th April. But due to default on part of A, he was not able to finish the work on time. On 10th April in a mishap, the garage catches fire and the car gets destroyed.
Who will be responsible for the damages in such a case considering A had taken reasonable steps to keep the garage safe and was not negligent from his side? Explain with relevant provisions, case laws and illustrations.
4. A hires B as his agent and gives him the takes to get a contract signed with the government department for supply of raw materials. A instructs B to get the contract signed by any means possible including quoting lower prices...Etc.
B gets the contract signed on behalf of A by misrepresenting certain important facts and gets the work done as assigned to him. Who shall be liable for the misrepresentation made in such a case, A or B? What will be the status of such a contract, will it be valid or not?

Explain with relevant provisions, case laws and illustrations.

5. A is surety for performance of B towards his boss, C. B under the contract of the employment is work as a bank manager and will be dealing with sanctioning of loans to the extent of Rs 10 lakhs. If any kind of default takes place on part of B, A shall be responsible as a surety to C.

After a passage of 6 months, impressed by B's work, C promotes him and his responsibility also increases from sanctioning loan of Rs 10 lakhs to Rs 50 lakhs.

While making this change in the contract of employment A is neither consulted nor informed about it. Will A be still liable if any kind of default takes place on part of B or not. Explain with the help of relevant provisions, examples and case laws.