

EXAMINATION OF ARTICLED CLERKS

Paper V

COMMERCIAL LAWS

Wednesday, 24<sup>th</sup> October, 2018

Time: 3 Hours (1:00 PM to 4:00 PM)

Total Marks: 100

---

*General Instructions:*

- (1) *Please answer all questions to the point.*
- (2) *Answers should be reasoned and if possible supported by case law.*

**SECTION – I**  
**THE INDIAN CONTRACT ACT, 1872**

1. Write short notes on all of the following: **10 Marks**
  - (i) Reciprocal promise.
  - (ii) Agreement to do an impossible act.
  - (iii) Time is the essence of the contract.
  - (iv) Agreement in restraint of trade
  - (v) Agreement in restraint of legal proceeding
2. Explain in the law on damages for breach of contract and liquidated damages in India with relevant case law. **10 Marks**
3. Mr. A (Licensor) and Mr. B (Licensee) enter into a Leave and License Agreement for 11 months with a lock in period of 6 months. Mr. B after a period of 3 months terminates the agreement. As per the terms of the Leave and License Agreement if Mr. B terminates the Leave and License Agreement within the lock in period Mr. A would be entitled to the License Fee for the balance lock in period. Will Mr. A be entitled to the License Fee for the balance lock in period. Explain with relevant case law. **5 Marks**

**SECTION – II**  
**THE INDIAN PARTNERSHIP ACT, 1932**

1. Write short notes on all of the following: **10 Marks**
  - (i) Effect of non registration of partnership firm.
  - (ii) Rights of a outgoing partner to carry on competing business.
  - (iii) Admission of minor to a partnership.
  - (iv) Implied authority of a partner.
  - (v) Working and sleeping partners.

2. Draft any 3 (Three) of the following: **15 Marks**
- (i) Deed of Partnership.
  - (ii) Deed of induction of a new partner.
  - (iii) Deed of Dissolution.
  - (iv) Deed of retirement of a partner.

**SECTION – III**  
**THE NEGOTIABLE INSTRUMENTS ACT, 1881**

1. What are the remedies available once cognizance is taken by a Magistrate on a complaint filed and verification recorded and process issued. What is the case law on the issue? **5 Marks**
2. Please advice your Client on the remedies available to him as one of the cheques of his purchaser has been dishonoured. **5 Marks**
3. Write short notes on the following: **5 Marks**
- (i) Noting and Protest.
  - (ii) Holder and Holder in due course.
4. Discuss in short the provisions relating to penalties in case of dishonour of cheque for insufficiency of funds in the account. **10 Marks**

**SECTION – IV**  
**SALE OF GOODS ACT, 1930**

1. What are the essential elements of a contract for sale under the Sale of Goods Act, 1930? **5 Marks**
2. Write short notes on any 3 (Three) of the following: **15 Marks**
- (i) Sale by person not the owner.
  - (ii) Duties of a seller and buyer.
  - (iii) Rights of a buyer with respect to rejected goods.
  - (iv) Sale by description.
  - (v) Sale by sample.
3. What is an auction sale? When is the sale complete? When can a sale be avoided by the buyer and what would be the buyer's remedy in such an event? **5 Marks**