



Candidate Number \_\_\_\_\_

## Unit 1 Examination Paper

19 September 2022

**Time allowed: 3 hours**

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To pass this examination candidates must obtain a mark of 50% or above. **You must answer ALL of the questions in Section A and THREE out of FOUR questions in Section B.**

Write in full sentences – a yes or no answer will not earn any marks. The mark allocation for each question and part question is given and you are advised to take this into account in planning your work. Write in blue or black ink or ballpoint pen.

Please put your candidate identification number at the top right corner of each sheet of paper (NOT your name) and number the pages. At the end of the examination, collate your answers and put your answers only in proper order in the envelope. Please leave the envelope and your exam paper on your desk and wait to be directed to leave the room by the invigilator. Before leaving the room, please sign the registration form to confirm that you have left your paper on your desk.

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Please write legibly, on one side of the paper only: **Marks may be lost if the examiners cannot read your answers.**

**Do not turn over this page until instructed by the Invigilator.**

### Section A

You must answer **ALL** of the questions in this section.

1. Explain the exceptions to the principle that acceptance must be communicated.

(10 marks)

2. Explain how terms are incorporated into a contract.

(10 marks)

3. Explain the legal principles governing whether an intervening act may break the chain of causation.

(10 marks)

4. Describe what must be established in order to mount a successful claim in negligence.

(10 marks)

**Total for Section A: 40 Marks**

## **Section B**

You must answer **THREE** questions in this section out of the following four.

### **Question 5: Contract Law**

You work as a Paralegal in the Civil Litigation department at Manches and Trevors LLP in Oxford. Your firm is acting for Roger Speedy who is seeking advice in relation to a potential claim for breach of contract.

David, a keen motorcyclist decides that it is time to give up motorcycling. On 1st August he telephoned a motorcycle dealer, Speedys, to enquire whether they were interested in buying his bikes. He told them he had a Ducati 2000 XS and a Triumph 350 for sale. He also told them that the Triumph 350 had been raced by Trevor Revor, a famous Grand Prix racer.

Mr Speedy said he was interested and to bring the bikes to the dealership the following week for him to look at. David then, unsuccessfully, searched the internet for pictures of Trevor Revor racing the Triumph which he wanted to frame as a memento. It was then that he realised that Trevor Revor had never in fact raced the Triumph.

On 9 August David took his two motorcycles to Speedys. Mr Speedy was busy, so David left the bikes for him to inspect later. Later, Mr Speedy gave the bikes a quick look over but did not inspect the registration documents left by David which David had never read. The following Saturday David returned to the dealership and Mr Speedy offered him £25,000 for the Triumph and £10,000 for the Ducati. David accepted.

The bikes were in Speedys showroom for six weeks but there was little interest in either bike. Mr Speedy decided to look more closely at both bikes. Although the Ducati was badged with a 'Ducati 2000 XS' emblem his mechanic discovered that it is a less valuable Ducati 1600 TC model that has a less powerful engine. Mr Speedy then looked at the registration documents which confirmed that it is the 1600 TC model. Mr Speedy then investigated the previous owners of the Triumph and discovered that it had never been raced by Trevor Revor. The value of the bikes was much lower than he paid.

Write the body of a letter to Mr Speedy advising what misrepresentation is, whether you believe the representations made by David may amount to misrepresentation and the potential remedies available should a successful claim for misrepresentation be brought against David.

**(Total: 20 marks)**

**Question 6: Contract Law**

You work as a Paralegal in the Civil Litigation department at an SRA regulated firm in London. Your friend, Leonardo DiMarco, knows you work in law and has emailed you asking for your advice in relation to a contract problem he has.

Leonardo, who owns a vineyard in Tuscany, is a wine merchant. He has a special consignment of an Italian Barolo wine which he thinks Lixin, one of his best customers, might be interested in for his wine bar which is based in Soho. Leonardo emailed Lixin from his phone telling him that he had 2,000 bottles for £20,000, an offer which he will keep open for him until 6:00 pm that day. Lixin immediately typed a reply to the email saying he would like the wine, but he failed to notice that his phone instead of saying 'sent' said 'saved in drafts'.

Not hearing from Lixin, Leonardo emailed Sofia who he knows has just opened a new Italian restaurant, San Marco, and will be looking to stock her cellar. He offered the same 2,000 bottles to her for the same price. Sofia replied immediately by email saying she is looking forward to doing business with Leonardo and could she have the wine delivered in five instalments on credit terms. Unfortunately, the email was automatically directed into Leonardo's spam filter and subsequently deleted.

That evening Leonardo met Lixin at his bar. Lixin told Leonardo how much he was looking forward to receiving the new wine. Leonardo then text Sofia to say that the wine has been sold elsewhere and that he hopes to be able to do business with her in the future.

Leonardo has asked you to advise whether he had formed a binding agreement with Lixin or Sofia. He has also asked you to advise that if a contract had been formed what remedies would be available to Lixin and Sofia.

Write the body of an email to Leonardo advising whether any contracts have been formed and setting out the remedies available for breach of contract.

**(Total: 20 marks)**

**Question 7: Tort Law**

You work for Johnsons' Solicitors in Bicester. Mr Johnson is a Senior Partner at the firm

and he has approached you to do some work on the file of Aero Namics Ltd, a recent incident has led Aero Namics Ltd to seek advice from your firm on any potential liability.

During a routine take off from Bicester Aerodrome a small single seater plane, flown by Donald, got into difficulty as a result of mechanical problems. Shortly after take-off the plane crashed on the airfield.

The plane had just been serviced by Aero Namics Ltd. During the take-off Donald was in contact with Raj, an aircraft flight controller. Raj realised Donald was in difficulty and heard the crash on his radio. He did not see the aftermath of the accident. Raj now suffers from flashbacks and nightmares about the event and has been signed off sick from work.

Shumi is part of the Fire crew that attended the crash site. She entered the burning plane to retrieve Donald. Unfortunately, he died at the scene. Alisha, a keen plane spotter, watched the events unfold from a location just outside the airfield. She saw the crash but did not see Donald or the aftermath of the incident.

Both Shumi and Alisha suffer nightmares and psychological ill health following the accident. Donald's wife, Daisy, heard about the crash on the radio and although her husband was not identified she feared for his safety. She later discovered from the police that he was involved and had died. She suffered a breakdown as a result of his death.

You have been asked to advise Aero Namics Ltd on any claims that may exist and, if so, against whom. Prepare a summary of advice for Aero Namics Ltd on what must be demonstrated for a claimant to be owed a duty of care as a primary or secondary victim in the context of psychiatric injury.

**(20 marks)**

### **Question 8: Tort Law**

You work for Donald and Rufus LLP in Blackpool. You are a Paralegal in the Civil Litigation department and your firm is acting for Charlene Murphy. Miss Murphy is a teacher at a local primary school, she is getting married in December.

You have been instructed by Charlene that she and her best friend, Louise, spent

the day in Blackpool looking at wedding dresses. Following a long and emotional day, before going home, they decided to go to a new roof top cocktail bar to celebrate finding 'the one'.

Later, Louise offered Charlene a lift home in her car. She assured Charlene that she was fine to drive because she was 'probably only just over the drink-drive limit'. On the journey home Louise lost control of the car and crashed into a tree. Charlene suffered minor cuts and bruises but was taken to hospital for a check-up.

At the hospital Charlene contracted an infection in a cut to her right arm. Dr Parnell, the doctor on duty, decided not to treat the infection with antibiotics immediately as he has recently read a report in a little-known medical journal which suggested that it is better to allow the body 'time to heal' following a trauma. Charlene's right arm became partially paralysed.

Write the body of a letter of advice to Charlene advising whether she has a claim against Louise and the Doctor.

**(20 marks)**

**Total for Section B: 60 Marks**

**END OF PAPER**