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FINAL EXAMINATION**

**COURSE NAME : LEGAL ASPECTS IN HOSPITALITY
INDUSTRY**

COURSE CODE : DHM 3123

EXAMINATION : NOVEMBER 2016

DURATION : 3 HOURS

INSTRUCTION TO CANDIDATES

1. This examination paper consists of **FOUR (4)** :
 - PART A (20 Marks)
 - PART B (20 Marks)
 - PART C (30 Marks)
 - PART D (30 Marks)

2. Candidates are not allowed to bring any material to examination room except with the permission from the invigilator.

3. Please check to make sure that this examination pack consist of:
 - i. Question Paper
 - ii. Objective Answer Paper
 - iii. Answer Booklet

DO NOT TURN THIS PAGE UNTIL YOU ARE TOLD TO DO SO

*This examination paper consists of **11** printed pages including front page*

PART A

This part contains of **TWENTY(20)** questions.

Answer ALL in Objective Answer Paper.

1. _____ is the supreme legislature or law-maker of the country.
 - A. Parliament
 - B. Judiciary
 - C. Executive
 - D. Magistrates

2. What is delegated legislation mean?
 - A. Laws made by the Minister
 - B. Laws enacted by Parliament
 - C. Cases that lay down important principles
 - D. A court decision

3. The _____ also hears criminal appeals from the Court of Appeal but only where the case was heard by the High Court in its original jurisdiction.
 - A. Federal Court
 - B. High Court
 - C. Magistrates' Court
 - D. Sessions Court

4. _____ refer to the power of court.
 - A. Original Jurisdiction
 - B. Jurisdiction
 - C. Subordinate Courts
 - D. Superior Courts

5. When a person shows his willingness to do something or abstain (stop) from doing something, in exchange for something of value, makes _____
 - A. Acceptance
 - B. An offer

- C. Capacity to contract
 - D. Consideration
6. _____ must be absolute and unqualified, in other words, its must match the terms of the offer.
- A. Offer
 - B. Acceptance
 - C. Consideration
 - D. Capacity
7. Display of goods on a shop window is _____, the shop does not offer to sell the item on display and may reject a customer's request to purchase the item.
- A. Intention to create legal relations
 - B. Invitation to treat
 - C. Consideration
 - D. Acceptance
8. When we say that a person has legal _____, it means that he has the ability to understand the terms of the contract.
- A. Capacity to contract
 - B. Consideration
 - C. Intention to create legal relations
 - D. Offer
9. _____ is committed where a person commits or threatens to commit any act forbidden by the Penal Code in order to cause another person to enter into an agreement.
- A. Frustration
 - B. Coercion
 - C. Undue Influence
 - D. Fraud

10. A person who commits _____ has the intention to deceive the other and this is manifested in his action.
- A. Misrepresentation
 - B. Fraud
 - C. Coercion
 - D. Undue Influence
11. A plaintiff has to prove elements in order to establish negligence **EXCEPT**
- A. The defendant owed the plaintiff a duty of care
 - B. The breach of duty caused the defendant's damage
 - C. The defendant breached the duty of care
 - D. The damage was reasonably foreseeable
12. According to law of negligence, if a reasonable man in the defendant's position would not have done what the defendant did, the defendant is considered to have _____ towards the plaintiff.
- A. Duty of care
 - B. Breach of duty
 - C. Proof of causation
 - D. Damage not remote
13. When a defendant raises _____, he is saying that the plaintiff consented or voluntarily assumed the risk of injury.
- A. Damages
 - B. Injunction
 - C. Contributory Negligence
 - D. Volenti Non Fit Injuria
14. _____ has a duty to provide accommodation without prior contract to any traveller who seeks accommodation.
- A. Business owner
 - B. Tourist
 - C. Guest

D. Innkeeper

15. Which one of the following answer is **NOT** related of duty to provide service in non-discriminatory manner?

- A. Racial discrimination
- B. Gender discrimination
- C. Disability discrimination
- D. Religion discrimination

16. Section 5(2) of the Tourism Industry Act 1992 provides that a travel agent or tour operator must be licensed by the _____.

- A. Tourism Enterprises
- B. Tourism Training Institution
- C. Tourist Accommodation Premises
- D. Commissioner of Tourism

17. SOGA applies to contract of _____.

- A. Food Service and Consumer
- B. Travel Agent and Customer
- C. Innkeepers and Guest
- D. Sale and Agreement to sell

18. An agent _____ has the following duties towards his principles

EXCEPT

- A. To exercise his duty with care and skill
- B. Not to let his interest conflict with his duty
- C. To personally perform the agreed tasks
- D. Disclose confidential information entrusted to him by the principles

19. A consumer could also sue a food provider under _____ law.

- A. Negligence
- B. Offence
- C. Consumer Protection

D. Product Liability

20. A food provider defendant charged under the Trade Description Act 2011 may plead one or more of the following defences **EXCEPT**

- A. Offences due to fault of another person
- B. Defence of personal or domestic use
- C. Defence of mistake, accident
- D. Defence of nature or designation

[20 MARKS]

PART B

This part contains of **TWENTY(20)** questions.

Answer ALL questions in Answer Booklet.

PRECEDENT	FRAUD	COUNTER OFFER	NEGLIGENCE	CONSIDERATION
CONTRIBUTORY NEGLIGENCE	NON-DISCRIMINATORY	LIMITATION OF LIABILITY	HALAL CERTIFICATE	VOLENTI NON FIT INJURIA
TOUR OPERATOR	CAUSATION	TRAVEL AGENT	FRUSTRATION	SAFE CUSTODY
PARLIAMENT	STATUTE	CONSTITUTION	ACCEPTANCE	RIGHT OF LIEN
COERCION	MISTAKE	UNDUE INFLUENCE	DUTY OF CARE	BREACH OF DUTY
COMMON LAW	MATTA	PRODUCT LIABILITY	RES IPSA LOQUITOR	JURISDICTION

1. _____ is the supreme law of a country that lays down its foundational characteristics, the form and power of its government, and the fundamental principles that country should follow.

2. When we say that a court has _____ to hear a matter, it means the court has power to try the case.

3. _____ refers to a court decision that can be cited as an example to resolve similar question of law in a subsequent case.

4. _____ also known as 'judge-made' law and its also a legal principles laid down by the courts, as opposed to laws passed by Parliament.

5. _____ is a something of value that supports a promise.

6. _____ is an offer made by an offeree where he rejects (what he considers to be) an unsatisfactory offer .

7. _____ is committed where a person makes untrue statement, conceals a fact, has no intention to perform the promise he makes, or performs any act with the intention to deceive.

8. _____ is where an event outside the control of either party renders performance of the contract impossible or illegal.
9. A person is _____ if his conduct falls below the standards of behaviour established by law for the protection of others against unreasonable risk of harm.
10. _____ is the cause and effect, relationship between the defendant's act or omission and the plaintiff's injury.
11. Where a plaintiff failed to take reasonable care of his own safety, caused or worsened his injury, he is _____.
12. _____ is a person who knowingly and voluntarily takes a risk cannot demand compensation for harm that resulted from it.
13. _____ refer the practice or policy of refraining from discrimination example, treating people without prejudice.
14. _____ a creditor's right to keep possession of the debtor's property until the debt owed to him is paid.
15. _____ refer to in the context of innkeepers, an inn's services of accepting a guest's personal property for safekeeping.
16. A _____ is a written statement that serves as a disclaimer to either limits the conditions under which the disclaiming party may be held liable or limits the maximum sum that the disclaiming party can be held liable for.
17. A _____ buys travel services from suppliers and combines them into package tours.
18. A _____ sells for commission, the travel services of various suppliers and package tours of tour operators.

19. _____ is a certificate issued by an authorized body confirming that a food or other product is suitable for the consumption or use by Muslims.
20. _____ is the area of law in which manufactures, distributors, suppliers, retailers and others are held responsible for the injuries that their products cause.

[20 MARKS]

PART C

This part contains of **FIVE(5)** questions. Answer **THREE(3)** questions only.
Answer the questions in Answer Booklet.

QUESTION 1

Briefly explain the duties of an innkeeper

(10 Marks)

QUESTION 2

The Tourism Industry (Licensing and Control of Tourist Guides) Regulations 1992 laid down the Code of Ethics. It is contained in the fifth schedule (Reg 11). Identify the dos and don'ts when a licensed tourist guide exercises his duties.

(10 Marks)

QUESTION 3

Briefly explain offences in connection with misuse of Halal description and / or logo.

(10 Marks)

QUESTION 4

Justify an enforcement of the Food Act 1983.

(10 Marks)

QUESTION 5

What are the conditions and warranties which are implied under the Sale of Goods Act 1957?

(10 Marks)

[30 MARKS]

PART D

This part contains of **TWO(2)** questions. Answer the **ALL** question.

Answer the questions in Answer Booklet.

Case 1 :

Omar Gates, a computer genius refused to sit for his PMR exam and left school last year and set up his own home-based computer and software business. He contacted Hotel Berry Inn (hereinafter referred to as "the Hotel") and offered to supply 10 Hewlett-Packard computers complete with business software for the Hotel's new business centre for the price of RM80,000. The Hotel management was very impressed with the software developed by Omar Gates and wrote their letter of acceptance, accepting the offer.

Advice the Hotel on that transaction.

Case 2:

Mr Takeshi Kaneshiro, a long term guest at Hotel Pan Atlantic, Johor Bahru is a very good swimmer. Every evening, Mr Takeshi would take a swim at the hotel's swimming pool in the presence of the life-guard on duty.

On a quiet Monday evening, Mr Takeshi took his usual dip in the pool and was swimming actively. Knowing that Mr Takeshi is a good swimmer, Mat Bedul, the life-guard left his guard-post to visit the toilet.

When Mat Bedul came back from toilet, he saw Mr Takeshi's body lying at the bottom of the pool. Mat Bedul immediately performed CPR and Mr Takeshi was immediately sent to the hospital. It was found out that Mr Takeshi suffered stroke during the swim and was almost drown.

Mr Takeshi planned to sue the hotel for endangering his life. The hotel management requested for your advice.

[30 MARKS]

END OF QUESTION PAPER

