DIRECTORATE OF DISTANCE EDUCATION
NALSAR UNIVERSITY OF LAW, HYDERABAD

Advanced Diploma in Drafting, Negotiation & Enforcement of Contracts
(Batch 2021 – 2022)

Take Home – Annual Examination (June, 2022)

Paper III – 1.3. Drafting and Negotiating Contracts

TOTAL MARKS: 100

INSTRUCTIONS TO CANDIDATES

a) **Read the instructions for Take Home Examination carefully and adhere to the same.**
b) ***Please mention your name, ID No., subject name and total number of pages on the Answer Sheet.***
c) ***Clearly indicate the question numbers while answering them.***
d) ***Answer all the four questions and each question carries 25 marks.***
e) **As discussed in class, footnote any information you need from your client or the opposite party. However, keep such queries to a bare minimum. You have the liberty to make certain assumptions, if absolutely necessary. In that case, please footnote your assumptions as well. No clarifications may be sought. You will be expected to draft on the basis of your client's inputs alone and are expected to a basic research on applicable law.**
f) ***All the candidates are required to submit only word / Pdf files containing the typed answers.***
g) ***All papers will be uploaded on Turn-it-in for plagiarism check. Any paper with more than 15% similarity will be considered to be plagiarized and shall not be evaluated.***
h) ***Since this is a take home exam, we expect your answers to be analytical rather than straight answers.***
i) **Copying from any source including from other students is strictly prohibited. Plagiarism is considered as a serious academic mis-conduct and the University will take action as it deems fit.**

I. Answer the following questions:

i. Critically examine (with the help of illustrations) the need for a *force majeure* clause in a contract. **[10 marks]**
ii. Critically examine the different approaches to a negotiation **[15 marks]**

II. Answer the following questions:

i. Kindly **review (as a markup)** the following notice clause of an agreement keeping in mind the classroom discussions on the drafting principles, language, and the reading material: [**7.5 marks**]

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1. **NOTICE**

1.1. If any correspondence required, send a notice to the Parties on the addresses of the Parties.
1.2. The correspondence will be considered as complete if communication is made successfully.

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ii. Kindly **redraft** the above-mentioned notice clause keeping in mind the classroom discussions on the drafting principles, language, and the reading material. [**7.5 Marks**]
For this clause, please note that the Parties are 'Seller' and 'Buyer' of an Agreement to Sell. The details of the Parties can either be fictional or can be left blank through relevant placeholders.

iii. Kindly review (as a markup) the following term clause keeping in mind the classroom discussions on the drafting principles and the reading material: **[10 Marks]**

1. TERM

1.1. The Agreement for the Term is mutually decided by the Parties and shall be applicable from the date of the execution of the agreement unless the parties retract.

1.2. After the expiry of the Term, the Parties may consider and refresh the Agreement for such further periods, and on such terms and conditions, as may previously agreed to between them.

III. Ms. Shazia Cyrus is an established entrepreneur who has successfully built two unicorn startups. While she was participating as a judge in one of the episodes of 'Fish Tank', a reality show where different participants pitch for investment for their startups before an erudite panel of judges who are successful entrepreneurs, she got an idea of opening a train themed restaurant where the food will be served on toy trains to the customers. She felt that the advent of QSR (Quick Service Restaurants) have taken away the joy of dining out in a restaurant. In order to deliver an extra ordinary experience to the customers, she decided to open a train themed restaurant. She hunted for a property located at 301/1, Vaddy, Siolim, Goa – 403517. Since there is not much to experiment with the food and cuisines, she focused on the aesthetics and interiors of the restaurant. In search of inspiration, she followed the Architectural Digest which happens to be one the world's leading magazine for architectural and interior design. She contacted one of the design studios featured in the magazine, 'The Cyan Lane' located at 29, 1st Floor, Sonawala Building, Horns Circle, Main Road, Fort, Mumbai, Maharashtra – 400023, and had a successful meeting with them. The Cyan Lane asked Ms. Shazia to enter into a Purchase and Supply Agreement for purchasing the furnishing for the restaurant. Ms. Shazia has approached you to draft the Purchase and Supply Agreement.

Draft a purchase and supply agreement based on the following notes provided by your Client: **[25 Marks]**

1. The Cyan Lane is responsible for supplying the entire furnishing for the restaurant.
2. All the designs will be first approved by Ms. Shazia before shipping it to Goa.

3. The time is of the essence and the deliveries shall be made within a week of procuring the designs and products except the ones which are sources from international markets.
4. The payment will be made in three tranches. INR 15,00,000 per tranche and each tranche to be paid in three equal instalments of INR 5,00,000. Estimated completion of project is 3 months so the payments scheduled should be adjusted to these 3 months.
5. Products will be shipped only after Ms. Shazia approves them in writing.
6. If any of the party wishes to suggest any changes or alteration in the original products then that shall be communicated and recorded in writing before the shipping of the products.
7. Any material change in the products will be subject to the approval of Ms. Shazia and can be rejected if not found suitable.
8. The disputes are to be resolved through mutual negotiations and arbitration.

IV. 'Game Changer' is a startup which sells vegan smoothies in a bid to encourage healthy eating in the city of Hyderabad. While the founders did not anticipate that their vegan smoothies will become the most talked about thing in the city in such a short time, they did plan to expand their business and open outlets in other cities if they receive positive response. Fortunately, the sales rocketed within the first year itself and the startup earned heaps of profit. They were approached by many entities who were interested in taking their franchise and opening an outlet of Game Changer Vegan Smoothies in other cities. One, Mr. Harbhajan Smoothiewala approached the Founder of Game Changer, Mr. Poppycus Singh, a sole proprietor of Game Changer, for acquiring the franchise of Game Changer Vegan Smoothie to serve the famous smoothies in Bhopal. They negotiated their terms and conditions in a record time and mutually agreed on the following points:

i. Franchise on an exclusive basis.
ii. Agreement to be entered on August 15, 2022 for initial period of 2 years and then extendable to 5 years on mutual agreement. Franchise fee to be revised after 2 years.
iii. Franchise fee is INR 1.6 Lakhs per month to be payable on a monthly basis.
iv. Mr. Harbhajan Smoothiewala will be responsible to cook on their own and Mr. Poppycus Singh will provide the recipe, secret ingredients, and initial training for a month to Mr. Harbhajan Smoothiewala and his staff.
v. All IPRs should not be misused, and the secret ingredients cannot be disclosed to any one else apart from the cooking staff of Mr. Harbhajan Smoothiewala.
vi. No compromises on the quality or the taste of the smoothie. Mr. Poppycus Singh will be entitled to do regular quality checks.
vii. Highest quality of care to ensure that all smoothies are completely vegan.
viii. No right to transfer the franchise.
ix. Termination if the payment is not made on time or default in payment for two consequent months.
x. Disputes to be resolved through mutual negotiations or arbitration.

Mr. Poppycus Singh, the owner of Game Changer, has approached you to draft the franchise agreement for him. You are required to draft a franchise agreement based on the above-mentioned facts and the general instructions given at the beginning of the paper. [**25 Marks**]