

**GUJARAT NATIONAL LAW UNIVERSITY  
GANDHINAGAR**

**Course: Advanced Contracts (Evolving Jurisprudence in Contract Law)  
Semester-II (Batch: 2017-18)**

**LL.M. End Semester Examination: May-2018**

**Date: 09<sup>th</sup> May, 2018**

**Duration: 3 hours**

**Max. Marks: 70**

**Instructions:**

- Read the questions properly and write the answers in the given answer book.
- The respective marks for each question are indicated in-line.
- Do not write anything on the question paper.
- Indicate correct question numbers in front of the answers.
- No questions or clarifications can be sought during the exam period, answer as it is, giving reason, if any.
- **Bare Act is not allowed.**

- |     |  | <b>Marks</b> |
|-----|--|--------------|
| Q.1 | <p>‘In interpreting a contract, the Court cannot place emphasis on an isolated provision divorced from the context and unrelated to the other provisions which govern contractual obligations. Contracts represent business understandings between the parties. Commercial dealings between persons who are well versed in the transaction of business are regulated by contracts which parties opt to govern themselves. The law regulates those contracts and provides an ordered framework in which business dealings can be implemented. The duty of the Court when called upon to assess where the balance lies in a contractual dispute, is to read the contract as a whole in order to understand the business meaning which the parties attributed to their obligations. Interpretation in law must ensure in commercial matters that the view which the Court takes records the sense which the parties to an arms length transaction attribute to the terms which they incorporate. The law is not divorced from business realities nor can the vision of the Judge who interprets the law be disjointed from the modern necessities to make business sense to business dealings.’<br/>— <i>Mumbai Metropolitan Region Development Authority v Unity Infraproject Ltd</i>, 2008(5) Bom CR 196.</p> <p>In the light of the afore-stated observation, expound the principles and rules of interpretation of contracts.</p> | (14)         |
| Q.2 | <p>(a) Discuss any two types of electronic contracts in detail with the help of judicial pronouncements.</p> <p>(b) Examine the constitutionality of ‘swiss challenge method’ — as a mode of awarding infrastructure projects.</p>   | (7+7=14)     |
| Q.3 | <p>(a) Analyse the suitability of the remedy of specific performance to breach of a “sports contract” with the help of relevant case laws.</p> <p>(b) With the bringing of an action for breach of express contract, the scope of liability of the physician is greatly broadened. No allegation of negligence or carelessness need be made or proved. The burden of the plaintiff becomes immeasurably lighter. He no longer has the onerous task of providing expert medical testimony as to the negligence of the defendant, the traditional stumbling block in all malpractice suits, unless the suit happens to be one of those somewhat rare occasions when the</p>  | (7+7=14)     |

doctrine of *res ipsa loquitur* applies. Once the allegations are held to be sufficient to support a cause of action for breach of contract, then liability rests upon the simple determination by the jury whether there was in fact such a promise made and whether there was a failure to perform

Taking into consideration the foregoing observation, explicate the contractual relationship between a patient and a doctor/surgeon.

- Q.4 (a) 'Advantage of a shareholders' agreement (SHA) is that it gives greater flexibility, unlike Articles of Association. It also makes provisions for resolution of any dispute between the shareholders and also how the future capital contributions have to be made. Provisions of the SHA may also go contrary to the provisions of the Articles of Association, in that event, naturally provisions of the Articles of Association would govern and not the provisions made in the SHA.' (7+7=14)  
In view of the afore-stated observation, discuss the nature of a shareholders' agreement.
- (b) Discuss the significance of 'force majeure' and 'termination' clauses in a contract.
- Q.5 Answer **any two** of the following: (7+7=14)
- (a) 'The international character of a contract may be defined in a great variety of ways. The solutions adopted in both national and international legislation range from a reference to the place of business or habitual residence of the parties in different countries to the adoption of more general criteria such as the contract having "significant connections with more than one State", "involving a choice between the laws of different States", or "affecting the interests of international trade".' Elucidate this observation.
- (b) Elaborate the advantages and challenges of contract farming.
- (c) Write a short note on 'joint venture agreements'.

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