

**THIS EXAMINATION CONSISTS OF 2 PAGES
PLEASE ENSURE THAT YOU HAVE A COMPLETE PAPER**

**THE UNIVERSITY OF BRITISH COLUMBIA
FACULTY OF LAW**

DECEMBER EXAMINATION 2012

**LAW 110
Contracts**

**Section 4
Professor Bruce MacDougall**

TOTAL MARKS: 100

TIME ALLOWED: 1 HOUR and 10 MINUTES

- NOTE:** 1. This is an open book examination. Students may bring into the exam room any written materials except materials borrowed from UBC Library

THIS EXAMINATION CONSISTS OF 1 QUESTION

MARKS

- 100 1. Consuelo Correcaminos runs a greenhouse. One of her specialties is growing poinsettias for the Christmas market. She starts her plants early in the year and in July she transfers the plants to larger flower pots in which the plants will be sold in November and December. Consuelo insists on quality and, therefore, uses only clay flower pots. In the past she has been supplied with clay flower pots by Pedro Picapiedra, an industrial potter.

In March, Consuelo phones Pedro and leaves a message on his answering machine saying that she will buy 2000 clay pots at \$1 per pot and that unless she hears otherwise by the end of the next day, she will presume that Pedro is agreeable. Three days later Pedro writes to say that Consuelo's proposal is not acceptable. Pedro says that he could not even consider a price of \$1 per pot unless the order was for over 3000 pots. In June, Consuelo writes to Pedro saying that she is placing an order for between 3000 and 4000 clay pots so long as the price is \$1 per pot. Consuelo does not hear back from Pedro.

Consuelo then turns for more clay pots to her father, Pato Lucas, who used to operate greenhouses and has thousands of old, spare clay pots in his former greenhouses. Lucas says that because Consuelo has done him so many little favours in the past, she should treat the pots in his South greenhouse as her own. Lucas also says that his daughter may have 1000 pots from the North greenhouse if Consuelo will be a guarantor of a first loan Lucas has so far been unable to repay at the Mármol Bank. The guarantee agreement Consuelo then signs at the Mármol Bank says that Consuelo guarantees Lucas's first loan in consideration of the Mármol Bank's continuing to provide money to Lucas under an existing second loan agreement.

Consuelo goes to Hechizada Rent-a-Truck and makes arrangements for a truck to be rented in early July to haul the pots from her father's greenhouses. However, at the end of June her father, who is known for his capriciousness, says that he has changed his mind about the pots in the South greenhouse. He says she can no longer have them because he has just given them to Consuelo's estranged husband, Sam Bigotes, in exchange for two bottles of beer. Consuelo discovers from Sam's lawyer that Lucas did not actually give the pots to Sam, but, in fact, promised Sam that Consuelo could have the pots in the South greenhouse in exchange for the two bottles of beer from Sam. Lucas then confirms this for Consuelo.

Consuelo comes to see you at the beginning of July about the contractual implications of the above set of circumstances. In particular she wants to know the contractual implications of the dealing with Pedro, whether the Mármol Bank can bring an action against her on the guarantee, and whether she will be able to get the clay pots from her father.

END OF EXAMINATION