

Korean Contract Law II

1 December 2014

- The duration of the examination is 90 minutes (from 9:00 am to 10:30 am).
- During the course of the examination, candidates may freely consult materials of their own, including online resources.
- On each Answer sheet, candidates must write their **student number only**. Please do **not** write your name.
- ALL candidates must attempt the following **two (2)** Questions.

[1] Question 1

Alpha Machineries, Co. (“Alpha”) is a manufacturer of spray painting chambers. Beta Automotive Ltd (“Beta”) placed an order with Alpha, who is to supply 10 units of spray painting chambers to Beta at the contract price of 1 billion KRW. The painting chambers are to be manufactured in accordance with technical specifications and requirements which would be prepared by Beta in consultation with Alpha. Upon completion of the manufacture of the painting chambers, Beta’s technical staff will inspect the spray painting chambers. The delivery shall take place within 10 days after the approval of the Beta’s technical staff.

The painting chambers were completed on 15 October 2013. The inspection of Beta’s technical staff was done on 17 October and the chambers were delivered on 25 November 2013. Beta began to use the chambers in the production line of its passenger vehicles.

However, it soon emerged that the paint nozzle was often blocked and the paint was not evenly applied. The heating mechanism of the chambers was also defective so that the chambers were sometimes overheated, resulting in discoloring of the finished vehicles.

Substantial number of vehicles needed to be repainted or abandoned. Beta demanded Alpha to immediately replace the painting chambers. But Alpha argued that the paint nozzle and the heating elements were strictly in compliance with the technical specifications supplied by Beta. Alpha further claimed that Beta was negligent in the inspection of the completed painting chambers. Alpha argued that even if there was a defect of the painting chambers, Beta either knew it or should have known it.

The parties were attempting to resolve the dispute amicably for about 6 months. But no amicable solution was found. In June 2014, Beta sues Alpha and demand compensation for replacement costs for 10 spray painting chambers, damages resulting from the faulty or diminished production of vehicles during the period beginning from 25 November 2013.

Discuss how this dispute should be resolved.

[2] Question 2

Gamma Education Services (“Gamma”) runs a network of teachers giving private tuitions for children between the ages of 10 and 15. To qualify as an authorized Gamma Academy teacher, an individual must conclude a contract with Gamma, maintain the standard of

tuition prescribed by Gamma, use the teaching materials which are provided by Gamma for a fee and pay a monthly license fee to Gamma. In return, Gamma will promote the brand, provide regional meeting rooms where Authorized Gamma Academy teachers can use for teaching purposes. There are some 2000 authorized Gamma Academy teachers nationwide.

Alice and Bob are authorized Gamma Academy teachers. They are earning on the average 3 million KRW per month from tuitions of the children recruited under the brand name of Gamma Academy.

Gamma Academy teachers recently elected Alice and Bob as teachers' representatives. They were trying to form a trade union of Gamma Academy Teachers to improve the status of Gamma Academy teachers vis-à-vis Gamma.

Gamma sent a termination notice to Alice and Bob revoking their license as Gamma Academy teachers. The contract between Gamma and authorized Gamma Academy teachers stipulates that Gamma may terminate the contract in the event that a teacher is in breach of the license agreement or is convicted of a sexual offence involving children. Alice and Bob did not commit a breach of the license agreement. They did not commit any criminal offence.

Alice and Bob sue Gamma and seek compensation for loss of earning as they can no longer work as Gamma Academy teachers. Gamma denies liability.

Discuss how this dispute must be resolved.

[End of questions. You must answer **both questions**.]