

Law of Obligations II – 23 October 2010

- The duration of the examination is 75 minutes.
- During the course of the examination, candidates may freely consult Statutes and dictionaries of their own.
- On each Answer sheet, candidates must write their **student number only**. Please do **not** write your name or major subject of study.
- **All** candidates **must** attempt Question 1.
- Candidates may attempt **only one** topic from the two topics presented in Question 2.

[1] Question 1

Amita, Co. is a manufacturer of LCD display panels for mobile devices. **Bodhi, Co.** manufactures smart phones known as “Zen” and sells them to **Chakra, Co.**, a mobile operator.

Amita sold 100,000 units of LCD display panels to **Bodhi** at a price of \$50 per unit. Upon taking the delivery of the shipment, **Bodhi** conducted a random check of the quality of the display panels. According to **Bodhi**'s estimate, about 0.2% of the delivered units appeared to be defective. **Amita** and **Bodhi** had a discussion about the result of this quality check. **Amita** proposed to reduce the contract price to \$45 per unit on condition that there shall be no return or refund for defective units. **Bodhi** considered that the proposed rebate was substantial enough to meet the costs for estimated warranty repairs for smart phones sold to **Chakra**. **Bodhi** accepted **Amita**'s proposal. **Bodhi** began manufacturing the smart phones and sold them to **Chakra**.

It turned out, however, that about 10% of the display units supplied by **Amita** turned out to be defective. The defective display units randomly show yellow strips or became totally black. There was a vehement outcry from **Chakra**'s customers who bought “Zen” smart phones manufactured by **Bodhi**. **Chakra** sued **Bodhi** and sought compensation. They settled on the terms that **Bodhi** pays \$10million to **Chakra** in addition to complete replacement of defective smart phones with new smart phones. This settlement would cost **Bodhi** about \$30million in total.

Bodhi purported to terminate the contract with **Amita** claiming that the loss sustained as a result of the defect of **Amita**'s LCD displays far exceeded the entire value of shipment delivered by **Amita**. In addition, **Bodhi** claimed compensation from **Amita** in the amount of \$30million.

Amita vigorously defended that the parties explicitly agreed that there shall be no warranty as to the quality of the delivered LCD panels. **Amita** further argued that this agreement was made when **Bodhi** had possession and full control of the panels and was in a position to have accurate knowledge of the quality of the shipment. It would be, **Amita** goes on to argue, unjust in the extreme to allow **Bodhi** to rely on its own inadequate sample testing and its own misjudgment to claim compensation now.

Discuss the Korean legal issues and appropriate solutions to this dispute. Your answer should address *at least* the following issues (these are not exhaustive and not intended to suggest that your answer should necessarily be structured in the order of these issues):

[Please turn to the next page]

- (1) Is **Bodhi**'s termination justified?
- (2) Was there **Bodhi**'s acceptance of goods delivered by **Amita**?
- (3) Was there a waiver of warranty?
- (4) Is **Amita** required to pay damage?
- (5) Regardless of whether your conclusion to **Amita**'s damages liability is in the affirmative or in the negative, what is the measure of damage applicable to breach of warranty and to breach of contract, respectively?

[2] Question 2

Please choose and answer only **one** of the following topics:

What remedies are available to a buyer who purchased an item in an 'official' auction?

or

Explain and compare the 'option to purchase' and 'sale and repurchase'.

[End of questions]