

# Korean Contract Law I

23 June 2016

- The duration of the examination is 75 minutes (from 9:00 am to 10:15 am).
- During the course of the examination, candidates may freely consult materials in their possession and 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 Co** is a supplier of air conditioning equipment (“Alpha”). **Beta Foundation Inc** is a non-profit corporation advocating the rights of immigrants and betterment of their living condition (“Beta”). Beta has 15 branch offices in the country. Beta decided to have the state of the art air conditioning facility for all their branch offices. Alpha was selected to carry out the work at the contract price of 500 million KRW. The parties agreed on 1 May 2016 that the price shall be paid in accordance with the following schedule:

50 million KRW	contract deposit payable on the day of signing the contract
100 million KRW	to be paid on 20 May 2016 when Alpha completes the design
300 million KRW	on 15 June 2016 upon completion of the installation and test
50 million KRW	to be paid on 31 Dec 2016

When Alpha’s engineers were allowed access of the premises of Beta in order to prepare the design, there were several incidents where Beta’s office facilities were damaged, windows were broken and some valuables were stolen or have disappeared. Alpha and Beta were accusing each other for these incidents. The design was nevertheless completed in time and 100 million KRW was paid on 20 May.

In early June, however, it emerged that the CEO of Alpha, Ms Kim, was having an affair with the managing director of Beta, Mr Park. Beta’s other directors were questioning whether the decision to select Alpha to carry out the work in the first place and to pay 100 million KRW on 20 May in spite of various pending issues regarding damaged or lost properties of Beta were all due to Mr Park’s amorous relationship with Ms Kim. There were talks of ousting Mr Park from Beta.

When Alpha completed the installation and test of the air conditioning equipment on 15 June, Beta refused to pay 300 million KRW alleging that until Alpha repairs the damaged office facilities of Beta and pays damage, Beta shall withhold payment of 300 million KRW.

Alpha was indignant and claimed that the alleged damage had nothing to do with Alpha or its employees and that, even if some of the damage was due to Alpha’s employees, Beta’s payment must be made as agreed because there is simply no ground to refuse payment.

Discuss how the dispute must be resolved. **[Please go to page 2.]**

**[2] Question 2**

**Gamma Movers** (“Gamma”) concluded a contract with **Anam Corporation** (“Anam”) for the latter’s relocation from Pusan to a new office in Seoul. According to the contract, Gamma was to provide 10 workers and 3 vehicles of agreed size. Gamma’s workers were to provide professional service of packing, loading, removal, unloading and unpacking of Anam’s properties from the old location in Pusan to the new location in Seoul. Gamma agreed to complete packing in 5 days and unpacking was to be done in three days. Anam was to pay 30 million KRW for the entire service. Half of the price has to be paid upon signing of the contract and the remaining half shall be paid upon completion of the moving which must be done by 31 May 2016.

Gamma and Anam agreed that once the packing starts, neither parties may terminate the contract.

The contract was signed on 1 May. On 20 May, Gamma sent 5 workers who started packing and they took a long time. On 31 May, they were still packing. Anam had to make an emergency arrangement with the landlord as the moving out date was being postponed. On 15 June, Anam terminated the contract, refused access to workers sent by Gamma. Anam contracted with Delta Movers to complete the moving at the price of 40 million KRW.

Gamma sues Anam alleging that Anam was in breach of contract. Gamma seeks 10 million KRW for lost profit. Anam brought a counterclaim and seeks compensation together with a confirmation that the contract with Gamma was duly terminated.

Discuss how this dispute must be resolved.

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