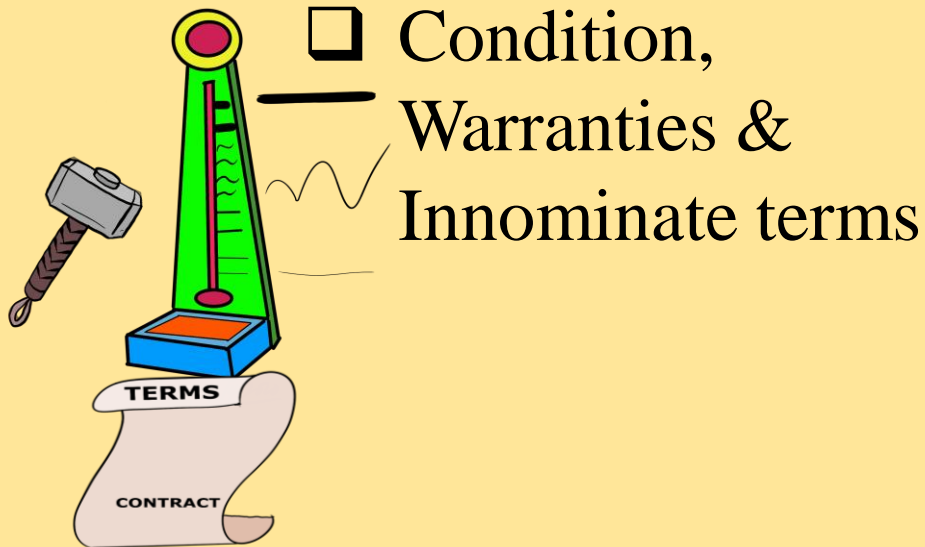


(5) CONTRACT: TERMS & EXEMPTION CLAUSES

☐ Terms of contract

☐ Express &
Implied Terms



☐ Exemption
Clauses



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L.A.C. Visual Map: Topics 03 & 04



ITT

- ☐ NEGOTIATION
- ☐ STATEMENTS

L_W



_PPLY

F_CTS:

- ☐ WH_
- ☐ WH_T
- ☐ WH_N
- ☐ WH_R_
- ☐ H_W



**C_S_ L_W



C_NCL_S__N

?

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2

Topic 05

TERMS

1

- ☐ PROMISE(S)
- ☐ PROMISE(S)
- ☐ EXCHANGE

IMPLIED TERMS

- ☐ C
- ☐ S
- ☐ C

2

EXPRESS TERMS

CATEGORIES

CLASSIFICATION

- ☐ C_ND_T__N
 - ☐ Discharge
 - ☐ Damage\$
- ☐ _NN_M_N_T_
 - ☐ RDC
- ☐ W_rr_nty
 - ☐ Damage\$

3

EXEMPTION CLAUSES

- ☐ INCORPORATION
- ☐ CONSTRUCTION
- ☐ UNUSUAL FACTORS
- ☐ UCTA: Neutralisation



Definition of TERMS:

1

Promise & undertaking given by one contracting party to another.

Categories:

o Express terms.

Explicitly agreed.

“Parol evidence rule”: contradictory oral evidence not admitted if contract in writing.

2a

o Implied terms. Terms understood to apply into contract

- Courts. [The Moorcock]
- Statute. eg. Sale of Goods Act.
- Custom or trade usage. [British Crane Hire v Ipswich Plant]

Classification:

2b

o CONDITIONS. *Poussard v Spiers*

➤ Important term.

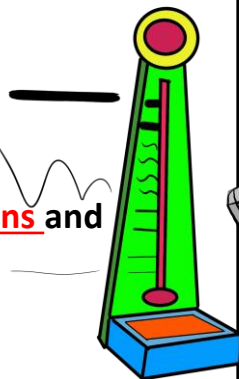
➤ Breach:

- Discharge obligations and
- claim damages.

o WARRANTIES. *Bettini v Gye*

➤ Less important.

➤ Breach: claim damages.



o Innominate terms. Depends on seriousness of breach. Singapore approach in *RDC Concrete PL v Sato Kogyo (S) PL & Another*

A. Contract clearly provides events in which party entitled to terminate the contract.

No provision to terminate if breach:

o Innocent party entitled to terminate where party renounces all obligations

o Condition / warranty approach depending on intentions of parties.

o *Hongkong Fir's* approach: innocent party entitled to terminate where consequences of breach are serious.

3

Definition of exemption clauses.

Term in the contract that excludes ["Exclusion / exception clauses"] or limit liability of party in **breach**.

Guidelines on validity of exemption clauses.

<u>VALID</u>	<u>INVALID</u>
<p>(i) <u>Incorporation</u>. "Part of" contract.</p> <p>a. <u>Signature</u>. [<i>L'Estrange v Graucob</i>]</p> <p>b. <u>Notice</u>. Before contract formed. [<i>Olley v Marlborough</i>].</p>	<p>(i) b. <u>Ticket</u> not regarded as a contractual document but merely a receipt [<i>Chapelton v Barry UDC</i>]</p>
<p>(ii) <u>Construction</u>. Wordings of clause is <u>CLEAR</u>.</p>	<p>(ii) Wordings of clause is <u>NOT CLEAR</u>: <u>contra proferentum</u> against party who drafted the exemption clause.</p>
<p>(iii) <u>Unusual factors</u>. No <u>evidence</u> of any misrepresentation about scope and extent of exemption clause.</p>	<p>(iii) <u>Misrepresentation</u> about <u>scope</u> and extent of exemption clause makes it invalid. [<i>Curtis v Chemical Cleaning</i>]</p>
<p>(iv) <u>Neutralization</u> by <u>UCTA</u>.</p> <p>• Section 2(2). Clause excludes liability for other <u>loss / damage (not death or personal injury)</u> due to negligence valid if it is <u>fair and reasonable</u> to exclude</p>	<p>• Section 2(1). Protect consumers. Clause invalid if it excludes <u>liability for death or personal injury</u>.</p> 