

4LAWS1075 / JURD7175
CONTRACTS — EXAM STUDY GUIDE

Term 1, 2026
Frameworks for Problem Questions

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How to Use This Guide

1. Each Part contains a FRAMEWORK to apply directly in problem questions
2. Steps reflect how courts approach each issue — follow them in order
3. Apply IRAC structure within each step: Issue → Rule (case/statute) → Application → Conclusion
4. Cite the leading case AND a fact-anchor (analogue/distinguish) to score 80%+
5. In a problem question, ALWAYS: (1) consider termination/breach FIRST; (2) damages SECOND; (3) vitiating factors as ALTERNATIVE/parallel claims
 - What happens when breach of contract; how contracts can be modified and/or terminated; how damages are determined/calculated; factors that invalidate contract wholesale; vitiating factors

Master Approach to Any Contracts Problem Question

★ FRAMEWORK: UNIVERSAL ATTACK PLAN

STEP 1 — Identify the parties and contractual relationships. Map who has contracted with whom, on what terms, when.

STEP 2 — Establish the terms. Are they incorporated? By signature, notice, course of dealing? What does the parol evidence rule say? Are there implied terms?

STEP 3 — Construe the terms. What do the terms mean? Apply the objective approach — Codelfa, Mt Bruce Mining.

STEP 4 — Has there been a breach? If yes, classify the term (condition / warranty / intermediate) and assess seriousness.

STEP 5 — Right to terminate? Yes if: (a) breach of condition; (b) sufficiently serious breach of intermediate term; (c) repudiation; (d) frustration.

STEP 6 — Election & ready/willing/able. Has innocent party validly exercised right to terminate? Were they themselves R/W/A to perform?

STEP 7 — Damages. Apply Robinson v Harman. Choose measure (expectation/reliance/loss of chance). Apply causation, remoteness, mitigation. Consider penalty issues.

STEP 8 — Vitiating factors (parallel/alternative). Misrep, MDC (s 18 ACL), undue influence, unconscionability (equity & ss 20-21 ACL), duress, mistake. These give rise to RESCISSION or statutory remedies.

STEP 9 — Statutory overlays. ACL consumer guarantees (s 54, 55, 60); UCT regime (ss 23-28); MDC (s 18); s 21 unconscionable conduct; Contracts Review Act 1980 (NSW).

STEP 10 — Remedies & quantum. Calculate damages numerically where possible. Address each party's claim separately.

PART A — EXPRESS & IMPLIED TERMS

Issue 1: Incorporation of Terms

★ FRAMEWORK: INCORPORATION FRAMEWORK

- 1. Signature** Was the document signed? If YES → bound by terms unless misrep / non est factum / not contractual document (L'Estrange v Graucob; Toll v Alphapharm).
- 2. Notice (unsigned documents)** (a) Notice given BEFORE or AT contract formation? (timing crucial — Thornton v Shoe Lane Parking — ticket from machine after offer accepted = too late). (b) Reasonable steps to bring terms to attention? More onerous = more notice required (red hand test). (c) Document of a kind reasonably expected to contain contractual terms? (Causar v Browne — laundry ticket NO; cf. Baltic Shipping — brochure not provided in time).
- 3. Course of dealing** Regular & consistent prior dealings importing terms? (Hollier v Rambler — 3-4 deals over 5 years = INSUFFICIENT). Australian position: La Rosa v Nudrill — actual or constructive notice required.

Application Tips

6. If question mentions a SIGNED document — start with L'Estrange and check for misrep exception (Curtis v Chemical Cleaning — false statement that document only excluded liability for damage 'to beads and sequins')
7. If UNSIGNED — apply Thornton timing test, then Parker v South Eastern Railway 'reasonable notice'
8. Onerous/unusual term + buried in fine print = NOT incorporated even if signed in some cases (Le Mans Grand Prix Circuits)

Issue 2: Parol Evidence Rule

★ FRAMEWORK: PER FRAMEWORK

- 1. Is the contract WHOLLY in writing?** Look for entire agreement clause; signed formal document → presumption of finality (Equuscorp v Glengallen).
- 2. If WHOLLY in writing, PER applies.** Cannot add to, vary, or contradict the writing.
- 3. Identify EXCEPTIONS:**
 - Contract partly oral/partly written (SRA v Heath Outdoor)
 - Collateral contract (Hoyt's v Spencer — must not contradict main contract; Saleh v Romanous — equitable estoppel can overcome)
 - Custom/trade usage
 - Vitiating factor (misrep, mistake)
 - Resolve ambiguity (limited — see Construction)
 - Establish that doc was not intended as contract

Issue 3: Statements as Terms vs Mere Representations

★ FRAMEWORK: TERM vs REPRESENTATION

Test: Objective — would reasonable person consider parties intended the statement to be a contractual promise?

Factors:

- Time gap between statement & contract (close = more likely a term)
- Importance attached to statement (high = term)