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CA FOUNDATION

**SUBJECT-Business Law and
Business Correspondence and Reporting**

Test Code – CFN 9341

BRANCH - () (Date :)

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PART A : BUSINESS LAW

ANSWER 1(a)

Invitation to offer: The offer should be distinguished from an invitation to offer. An offer is the final expression of willingness by the offeror to be bound by his offer should the party chooses to accept it. Where a party, without expressing his final willingness, proposes certain terms on which he is willing to negotiate, he does not make an offer, but invites only the other party to make an offer on those terms. This is the basic distinction between offer and invitation tooffer.

The display of articles with a price in it in a self-service shop is merely an invitation to offer. It is in no sense an offer for sale, the acceptance of which constitutes a contract. In this case, Smt. Prakash by selecting some articles and approaching the cashier for payment simply made an offer to buy the articles selected by her. If the cashier does not accept the price, the interested buyer cannot compel him to sell.

(4 MARKS)

ANSWER 1(b)

(A) Yes, it is mandatory for Navita to withdraw her nomination in the said OPC as she is leaving India permanently as only a natural person who is an Indian citizen and resident in India shall be a nominee in OPC.

(B) Yes, Navita can continue her nomination in the said OPC, if she maintained the status of Resident of India after her marriage by staying in India for a period of not less than **182 days** during the immediately preceding financial year.

(4 MARKS)

ANSWER 1(c)

Where after a contract has been made but before it has been performed, tax revision takes place. Where tax is being imposed, increased, decreased or remitted in respect of any goods without any stipulations to the payment of tax, the parties would become entitled to read just the price of the goods accordingly. Following taxes are applied on the sale or purchase of goods:

- ♦ Any duty of customs or excise on goods,
- ♦ Any tax on the sale or purchase of goods

The buyer would have to pay the increased price where the tax increases and may derive the benefit of reduction if taxes are curtailed. Thus, seller may add the increased taxes in the price. The effect of provision can, however, be excluded by an agreement to the contrary. It is open to the parties to stipulate anything regarding taxation.

(4 MARKS)

ANSWER 2(a)

An anticipatory breach of contract is a breach of contract occurring before the time fixed for performance has arrived. When the promisor refuses altogether to perform his promise and signifies his unwillingness even before the time for performance has arrived, it is called Anticipatory Breach.

Section 39 of the Indian Contract Act, 1872 deals with **anticipatory breach of contract** and provides as follows: "When a party to a contract has refused to perform or disabled himself from performing, his promise in its entirety, the promisee may put an end to the contract, unless he has signified, by words or conduct, his acquiescence in its continuance."

Effect of anticipatory breach: The promisee is excused from performance or from further performance. Further he gets an option:

- (1) To either treat the contract as "rescinded and sue the other party for damages from breach of contract immediately without waiting until the due date of performance; or
- (2) He may elect not to rescind but to treat the contract as still operative, and wait for the time of performance and then hold the other party responsible for the consequences of non-performance. But in this case, he will keep the contract alive for the benefit of the other party as well as his own, and the guilty party, if he so decides on re-consideration, may still perform his part of the contract and can also take advantage of any supervening impossibility which may have the effect of discharging the contract.

(7 MARKS)

ANSWER 2(b)

Conditions under which LLP will be liable [Section 27(2) of the LLP Act, 2008]

The LLP is liable if a partner of a LLP is liable to any person as a result of a wrongful act or omission on his part in the course of the business of the LLP or with its authority.

Conditions under which LLP will not be liable [Section 27(1) of the LLP Act, 2008]

A LLP is not bound by anything done by a partner in dealing with a person if—

- (a) the partner in fact has no authority to act for the LLP in doing a particular act; and
- (b) the person knows that he has no authority or does not know or believe him to be a partner of the LLP.

(5 MARKS)

ANSWER 3(a)(i)

Revocation of continuing guarantee (Section 38 of the Indian Partnership Act, 1932)

According to section 38, a continuing guarantee given to a firm or to third party in respect of the transaction of a firm is, in the absence of an agreement to the contrary, revoked as to future transactions from the date of any change in the constitution of the firm. Such change may occur by the death, or retirement of a partner, or by introduction of a new partner.

(2 MARKS)

OR

ANSWER 3(a)(ii)**Partnership vs. Hindu Undivided Family**

Basis of difference	Partnership	Joint Hindu family
Mode of creation	Partnership is created necessarily by an agreement.	The right in the joint family is created by status means its creation by birth in the family.
Death of a member	Death of a partner ordinarily leads to the dissolution of partnership.	The death of a member in the Hindu undivided family does not give rise to dissolution of the family business.
Management	All the partners are equally entitled to take part in the partnership business.	The right of management of joint family business generally vests in the Karta, the governing male member or female member of the family.
Authority to bind	Every partner can, by his act, bind the firm.	The Karta or the manager, has the authority to contract for the family business and the other members in the family.
Liability	In a partnership, the liability of a partner is unlimited.	In a Hindu undivided family, only the liability of the Karta is unlimited, and the other co-partners are liable only to the extent of their share in the profits of the family business.
Calling for accounts on closure	A partner can bring a suit against the firm for accounts, provided he also seeks the dissolution of the firm.	On the separation of the joint family, a member is not entitled to ask for account of the family business.

(2 MARKS)**ANSWER 3(b)**

The following are implied conditions in a contract of sale by sample in accordance with Section 17 of the Sale of Goods Act, 1930;

- that the bulk shall correspond with the sample in quality;
- that the buyers shall have a reasonable opportunity of comparing the bulk with the sample.
- that the goods shall be free from any defect, rendering them unmerchantable, which would not be apparent on a reasonable

examination of the sample [Section 17(2)].

Implied Warrants:

1. Warranty of quiet possession [Section 14(b)]: In a contract of sale, unless there is a contrary intention, there is an implied warranty that the buyer shall have and enjoy quiet possession of the goods. If the buyer is in any way distributed in the enjoyment of the goods in consequence of the seller's defective title to sell, he can claim damages from the seller.
2. Warranty of freedom from encumbrances [Section 14(c)]: The buyer is entitled to a further warranty that the goods are not subject to any charge or encumbrance in favour of a third party. If his possession is in any way disturbed by reason of the existence of any charge or encumbrance on the goods in favour of any third party, he shall have a right to claim damages for breach of this warranty.
3. Warranty as to quality or fitness by usage of trade [Section 16(3)]. An implied warranty as to quality or fitness for a particular purpose may be annexed by the usage of trade.
4. Warranty to disclose dangerous nature of goods: Where a person sells goods, knowing that the goods are inherently dangerous or they are likely to be dangerous to the buyer and that the buyer is ignorant of the danger, he must warn the buyer of the probable danger, otherwise he will be liable in damages.

(6 MARKS)

ANSWER 3(c)

As regards the question whether in the case of a registered firm (whose business was carried on after its dissolution by death of one of the partners), a suit can be filed by the remaining partners in respect of any subsequent dealings or transactions without notifying to the Registrar of Firms, the changes in the constitution of the firm, it was decided that the remaining partners should sue in respect of such subsequent dealings or transactions even though the firm was not registered again after such dissolution and no notice of the partner was given to the Registrar.

- (i) The test applied in these cases was whether the plaintiff satisfied the only two requirements of Section 69 (2) of the Act namely,
- (ii) the suit must be instituted by or on behalf of the firm which had been registered.

(4 MARKS)

ANSWER 4(a)

Appropriation of Payments: In case where a debtor owes several debts to the same creditor and makes payment which is not sufficient to discharge all the debts, the payment shall be appropriated (i.e. adjusted against the debts) as per the provisions of Section 59 to 61 of the Indian Contract Act, 1872.

- (i) As per the provisions of 59 of the Act, where a debtor owing several distinct debts to one person, makes a payment to him either with express intimation or under circumstances implying that the payment is to be applied to the discharge

of some particular debt, the payment, if accepted, must be applied accordingly.

Therefore, the contention of Mr. Datal is correct and he can specify the manner of appropriation of repayment of debt.

- (ii) As per the provisions of 60 of the Act, where the debtor has omitted to intimate and there are no other circumstances indicating to which debt the payment is to be applied, the creditor may apply it at his discretion to any lawful debt actually due and payable to him from the debtor, where its recovery is or is not barred by the law in force for the time being as to the limitation of suits.

Hence in case where Mr. Datal fails to specify the manner of appropriation of debt on part repayment, Mr. Sonal the creditor, can appropriate the payment as per his choice.

- (iii) As per the provisions of 61 of the Act, where neither party makes any appropriation, the payment shall be applied in discharge of the debts in order of time, whether they are or are not barred by the law in force for the time being as to the limitation of suits. If the debts are of equal standing, the payments shall be applied in discharge of each proportionately.

Hence in case where neither Mr. Datal nor Mr. Sonal specifies the manner of appropriation of debt on part repayment, the appropriation can be made in proportion of debts.

(6 MARKS)

ANSWER 4(b)

As per the provisions of Section 30(5) of the Indian Partnership Act, 1932, at any time within six months of his attaining majority, or of his obtaining knowledge that he had been admitted to the benefits of partnership, whichever date is later, such person may give public notice that he has elected to become or that he has elected not to become a partner in the firm, and such notices shall determine his position as regards the firm.

However, if he fails to give such notice, he shall become a partner in the firm on the expiry of the said six months.

If the minor becomes a partner by his failure to give the public notice within specified time, his rights and liabilities as given in Section 30(7) are as follows:

- (A) He becomes personally liable to third parties for all acts of the firm done since he was admitted to the benefits of partnership.
- (B) His share in the property and the profits of the firm remains the same to which he was entitled as a minor.

- (i) In the instant case, since, X has failed to give a public notice, he shall become a partner in the M/s ABC & Co. and becomes personally liable to Mr. L, a third party.

- (ii) In the light of the provisions of Section 30(7) read with Section 30(5) of the Indian Partnership Act, 1932, since X has failed to give public notice that he has not elected to not to become a partner within six months, he will be deemed to be a partner after the period of the above six months and therefore, Mr. L can recover his debt from him also in the same way as he can recover from any other partner.

ANSWER 5(a)

(i) According to section 44 of the Sales of Goods Act, 1932, when the seller is ready and willing to deliver the goods and requests the buyer to take delivery, and the buyer does not within a reasonable time after such request take delivery of the goods, he is liable to the seller for any loss occasioned by his neglect or refusal to take delivery and also for a reasonable charge for the care and custody of the goods.

The property in the goods or beneficial right in the goods passes to the buyer at a point of time depending upon ascertainment, appropriation and delivery of goods. Risk of loss of goods prima facie follows the passing of property in goods. Goods remain at the seller's risk unless the property therein is transferred to the buyer, but after transfer of property therein to the buyer the goods are at the buyer's risk whether delivery has been made or not.

In the given case, since Mr. G has already intimated Mr. H, that he wanted to store some other goods and thus Mr. H should take the delivery of goods kept in the godown of Mr. G, the loss of goods damaged should be borne by Mr. H.

- (ii) If the price of the goods would not have settled in cash and some amount would have been pending then Mr. G will be treated as an unpaid seller and he can enforce the following rights against the goods as well as against the buyer personally:
- Where under a contract of sale the property in the goods has passed to the buyer and the buyer wrongfully neglects or refuses to pay for the goods according to the terms of the contract, the seller may sue him for the price of the goods. [Section 55(1) of the Sales of Goods Act, 1930]
 - Where under a contract of sale the price is payable on a certain day irrespective of delivery and the buyer wrongfully neglects or refuses to pay such price, the seller may sue him for the price although the property in the goods has not passed and the goods have not been appropriated to the contract. [Section 55(2) of the Sales of Goods Act, 1930].

(6 MARKS)**ANSWER 5(b)**

The Memorandum of Association of a company is in fact its charter; it defines its constitution and the scope of the powers of the company with which it has been established under the Act. It is the very foundation on which the whole edifice of the company is built.

Object of registering a memorandum of association:

- It contains the object for which the company is formed and therefore identifies the possible scope of its operations beyond which its actions cannot go.
- It enables shareholders, creditors and all those who deal with the company to know what its powers are and what activities it can engage in.

A memorandum is a public document under Section 399 of the Companies Act, 2013. Consequently, every person entering into a contract with the company is presumed to have the knowledge of the conditions contained therein.

- The shareholders must know the purposes for which his money can be used by the company and what risks he is taking in making the investment.

A company cannot depart from the provisions contained in the memorandum however imperative may be the necessity for the departure. It cannot enter into a contract or engage in any trade or business, which is beyond the power conferred on it by the memorandum. If it does so, it would be ultra vires the company and void.

Contents of the memorandum: The memorandum of a company shall state—

- (a) the name of the company (Name Clause) with the last word “Limited” in the case of a public limited company, or the last words “Private Limited” in the case of a private limited company. This clause is not applicable on the companies formed under section 8 of the Act.
- (b) the State in which the registered office of the company (Registered Office clause) is to be situated;
- (c) the objects for which the company is proposed to be incorporated and any matter considered necessary in furtherance thereof (Object clause);
- (d) the liability of members of the company (Liability clause), whether limited or unlimited
- (e) the amount of authorized capital (Capital Clause) divided into shares of fixed amounts and the number of shares which the subscribers to the memorandum have agreed to take, indicated opposite their names, which shall not be less than one share. A company not having share capital need not have this clause.
- (f) the desire of the subscribers to be formed into a company. The Memorandum shall conclude with the association clause. Every subscriber to the Memorandum shall take at least one share, and shall write against his name, the number of shares taken by him.

(6 MARKS)

ANSWER 6(a)

The law provides that a contract should be supported by consideration. So long as consideration exists, the Courts are not concerned to its adequacy, provided it is of some value. The adequacy of the consideration is for the parties to consider at the time of making the agreement, not for the Court when it is sought to be enforced (**Bolton v. Madden**). Consideration must however, be something to which the law attaches value though it need not be equivalent in value to the promise made.

According to Explanation 2 to Section 25 of the Indian Contract Act, 1872, an agreement to which the consent of the promisor is freely given is not void merely because the consideration is inadequate but the inadequacy of the consideration may be taken into account by the Court in determining the question whether the consent of the promisor was freely given.

(5 MARKS)

ANSWER 6(b)

Conclusive evidence of partnership: Existence of Mutual Agency which is the cardinal principle of partnership law is very much helpful in reaching a conclusion with respect to determination of existence of partnership. Each partner carrying on the business is the principal as well as an agent of other partners. So, the act of one partner done on behalf of firm, binds all the partners. If the element of mutual agency relationship exists between the parties constituting a group

formed with a view to earn profits by running a business, a partnership may be deemed to exist.

Circumstances when partnership is not considered between two or more parties: Various judicial pronouncements have laid to the following factors leading to no partnership between the parties:

- (i) Parties have not retained any record of terms and conditions of partnership.
- (ii) Partnership business has maintained no accounts of its own, which would be open to inspection by both parties
- (iii) No account of the partnership was opened with any bank
- (iv) No written intimation was conveyed to the Deputy Director of Procurement with respect to the newly created partnership.

(4 MARKS)

ANSWER 6(c)

A, an assessee, had large income in the form of dividend and interest. In order to reduce his tax liability, he formed four private limited company and transferred his investments to them in exchange of their shares. The income earned by the companies was taken back by him as pretended loan. Can A be regarded as separate from the private limited company he formed? affairs liable for the acts of the company. Where a company is incorporated and formed by certain persons only for the purpose of evading taxes, the courts have discretion to disregard the corporate entity and tax the income in the hands of the appropriate assessee.

In *Dinshaw Maneckjee Petit* case it was held that the company was not a genuine company at all but merely the assessee himself disguised that the legal entity of a limited company. The assessee earned huge income by way of dividends and interest. So, he opened some companies and purchased their shares in exchange of his income by way of dividend and interest. This income was transferred back to assessee by way of loan. The court decided that the private companies were a sham and the corporate veil was lifted to decide the real owner of the income.

In the instant case, the four private limited companies were formed by A, the assessee, purely and simply as a means of avoiding tax and the companies were nothing more than the façade of the assessee himself. Therefore, the whole idea of Mr. A was simply to split his income into four parts with a view to evade tax. No other business was done by the company.

Hence, A cannot be regarded as separate from the private limited companies he formed.

(3 MARKS)

PART B: BUSINESS CORRESPONDENCE AND REPORTING

ANSWER 7 (a)

- (1) b
- (2) d
- (3) a
- (4) c
- (5) c

(5 MARKS)

ANSWER 7 (b)

(I) Human Nature

- 1. Hmn Ntr
 - 1.1 Expctns
 - 1.1.1 hurt when notmet
 - 1.2 Cnfrntns
 - 1.2.1 are avoided byhmns
 - 1.2.2 areunplsnt
 - 1.2.3 dmgrlstnsps
 - 1.2.4 Styles ofcnfrntns:
 - 1.2.4.1 Chrctrbsd
 - 1.2.4.1.1 Help ventanger
 - 1.2.4.1.2 Cse angryshwdns
 - 1.2.4.1.3 Haltdscssns
 - 1.2.4.1.4 Dtrmntl toslf-img
 - 1.2.4.2 Issuebsd
 - 1.2.4.2.1 Lead tortnldlg
 - 1.2.4.2.2 Helpans:
 - 1.2.4.2.2.1 Prblm
 - 1.2.4.2.2.2 Cses
 - 1.2.4.2.2.3 Chngrqd inothrprsn
 - 1.3 Slf-img
 - 1.3.1 Is how we prcvourselves
 - 1.3.2 How othrsprcvus
 - 1.3.3 We tryavdngdmg
 - 1.3.4 Seekaprvlfrmothrs
 - 1.3.5 Bldschrcr

Key:

Hmn: Human/s

Ntr: Nature

Expctns: Expectations

cnfrntns: confrontations

unplsnt: unpleasant

dmg: damage

rlstnsps: relationships

chrctr: character

bsd: based

cse: cause

shwdns: showdowns

dscssns: discussions

dtrmntl: detrimental

slf-img: self-image

rtnl:rational

dlg: dialogue

anls: analyse

prblm:problem

chnng:change

rqd: required

othr:other

prsn:person

prcv: perceive

othr: other/s

avdng: avoiding

aprvl: approval

blds:builds

(3 MARKS)

(ii) Summary

We feel hurt when our expectations from others are not met. We avoid confrontations, as they are displeasing and can affect relations. More often, it is the style of confrontation that causes

problems rather than the underlying issue. We generally indulge in character-based confrontations, letting out our anger. Our image is important as it builds our character. Therefore, we must indulge in issue-based confrontations where we analyze our disagreements and identify the actions in others that bother us and to resolve the issue.

Candidates who have given abbreviations as below or any other suitable abbreviations, should also be given due credit. For Example:

Confrontation	-Confront
Expectation	-Expat
Self-Image	-Selfina
Problem	-Probe

(2 MARKS)

ANSWER 8 (a)

Attitude barriers refer to personal attitudes of employees that can affect communication within the organization. A proactive, motivated worker will facilitate the communication process, whereas a dissatisfied, disgruntled, shy, introvert or lazy employee can delay, hesitate in taking the initiative, or refuse to communicate.

Attitude problems can be addressed by good management, periodic training and regular interaction with staff members.

(2 MARKS)

ANSWER 8 (b)

(i) b

(ii) c

(iii) The Prime Minister's speech was cheered loudly by the audience.

(3 MARKS)

ANSWER 8 (c)

Précis':

Exploring ancient DNA: Innovations and Findings

Contrary to their earlier belief, in the late 1980s, scientists/researchers could search for remnants of DNA that existed in the primitive era/times after the development of the PCR technique (Polymerase Chain Reaction) that could copy minute quantities of DNA.

More recently, researchers have isolated DNA from 20-million-year-old magnolia leaves and successfully extracted DNA from a 135-million-year-old weevil found in amber. Microbiologist Scoot R. Woodward with his team were the first to find genetic material belonging to a dinosaur. He pulled two bone fragments from a Cretaceous siltstone layer from the top of a coal seam from which researchers isolated strands of DNA and used PCR to copy a segment that codes for

a protein called Cytochrome b. DNA sequence was determined from the copies. Due care was taken to avoid contamination of samples with modern DNA. Evidence indicated that the samples found belonged to one or two dinosaur species.

(5 MARKS)

ANSWER 9 (a)

A **communication network** refers to the method and pattern used by members of an organization to pass on information to other employees in the organization. Network helps managers create various types of communication flow according to requirement of the task at hand. Some companies have established and predefined networks of communication for specified venture.

(1 MARK)

ANSWER 9 (b)

(i) a

(ii) c

(iii) You must complete the test in one hour.

(iv) The principal said that we could go.

(1*4= 4 MARKS)

ANSWER 9 (c)

Letter

Manager

Date:

Your Own Office supplies Ltd.
New Delhi

Manager

Name of client company
New Delhi

Dear Sir/Madam

Sub: Apology for delay in shipment of Order No. 12345

This with reference to the order placed by your organization for supply of stationary items (Order No. 12345) dated 12th Aug., 2018. I sincerely apologize for the delay in the shipment of the same. Due to heavy rains in Mumbai, our dispatch section at the head office (based in Mumbai) could not send any orders for 3 days due to thin staff attendance and slow movement of traffic around the area resulting in inadvertent delay in shipment.

Please accept my sincere apologies for the inconvenience caused. We are a trusted name in office supplies and we have always delivered your orders in time. We hope that you will give us many more opportunities to deal with you. Looking forward to a long term business relationship.

Thanks for the cooperation.

Regards,

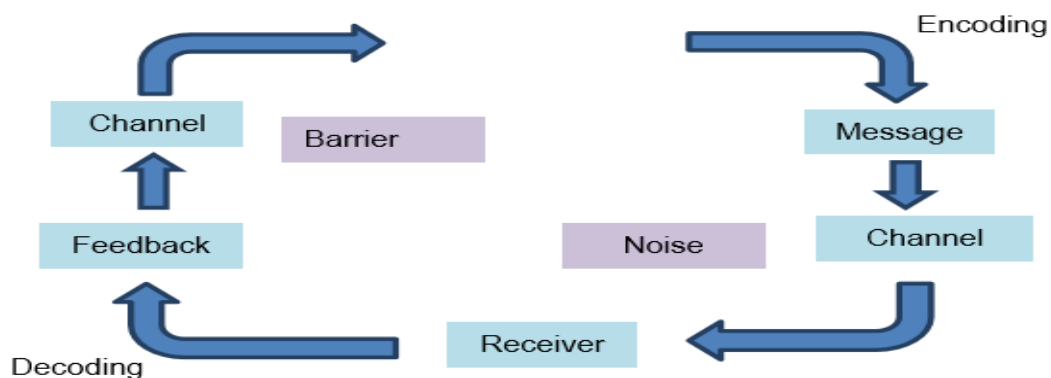
Manager, Office and food supplies ltd.

(5 MARKS)

ANSWER 10 (a)

The process of communication entails:

1. The purpose or reason for the communication.
2. The framing of the content of the message
3. The medium used for conveying the message. (For example, internet, written text, speech, pictures, gestures and soon).
4. Transmitting the formulated message.
5. Messages are often misinterpreted due to external disturbances such as noise created by humans, traffic and natural forces. These factors can result in miscommunication.
6. Receiving the message.
7. Deciphering and making sense of the message. decode
8. Interpreting and figuring out what the receiver thinks is the real message.



(2 MARKS)

ANSWER 10 (b)

(i) b

(ii) b

(iii) Elders always say that if you work hard, you will succeed. (Universal truth)

(1*3= 3 MARKS)

ANSWER 10 (c)

Article: The Importance of Water Conservation

-By (Writer's name)

Water is one of the three basic resources for the survival of human kind besides air and food. More than 90 percent of human body is composed of water. Though water is abundantly available

on our planet, with $\frac{2}{3}^{\text{rd}}$ of earth covered by water, still fresh, clean water is a limited resource. Rivers, fresh water lakes, waterfalls, natural springs, ground water and rain are the natural resources of fresh water.

With indiscriminate rise in human population worldwide, the pressure on these natural resources has increased manifold. In many developing countries, due to incessant industrialization leading to exponential rise in migration to big cities/townships, contamination of ground water and rivers has not only led to scarcity of pure drinking water but also emerged as a serious healthhazard.

Over reliance on ground water and rivers for construction/infrastructure development projects in urban areas and little or no awareness about water conservation has led to fast depletion of these natural resources. It is about time we realized the importance of clean water as water tables are fast declining, rivers and lakes are drying or being polluted/contaminated especially in thickly populated urban areas such as NewDelhi, Hyderabad and Bangalore. According to a study these urban areas will have little or no ground water left that will lead to a drought like situation in a few years time.

As progressive citizens, we must take immediate measures to not only restrict our water consumption but also devise innovative conservation methods to provide sustainable sources of clean drinking water. While Rain water harvesting and reducing water consumption are effective methods of water conservation in urban areas, construct ion of small dams to provide huge water reservoirs holds the key to effective water conservation in ruralareas.

(5 MARKS)

ANSWER 11(a)

A complete communication conveys all facts and information required by the recipient. It keeps in mind the receiver's intellect and attitude and conveys the message accordingly. A complete communication helps in building the company's reputation, aids in better decision making as all relevant and required information is available with thereceiver.

(1 MARK)

ANSWER 11(b)

- (i) a
- (ii) c
- (iii) d
- (iv) d

(1*4= 4 MARKS)

ANSWER 11 (c)

Coverletter

Your address Date

Manager

Agro Power Ltd,

Sukhdev Vihar

New Delhi 110025

Dear Sir,

Subject: Application for the post of Accountant

This is with reference to your advertisement in Hindustan Times dated 13/2/2020 for the post of

Accountant in your esteemed organization.

My abilities and experience in Accounts makes me a suitable candidate for the job. I have worked for over 6 years as a **Junior Accountant** in the leading MNC **XYZ Ltd**. I am proficient in **Tally** as well as **MS-Excel** and good knowledge of other software tools inAccounts.

I am task oriented, self motivated and can assure utmost sincerity and dedication towards the role assigned to me. Given a chance, I hope to be an asset to yourorganization.

Thanks for considering my candidature.

Sincerely,

Your signature

(5 MARKS)