



UNIVERSITY
OF
JOHANNESBURG

**EXAMINATION
MEMORANDUM**

SUBJECT : CONSTRUCTION LAW 2B
CODE : CLWCOB2
DATE : 25 NOVEMBER 2019
DURATION : 3 HOURS
TOTAL MARKS : 100

EXAMINER : MISS N ISMAIL
MODERATOR : MRS S HASSEN
NUMBER OF PAGES : 5 PAGES

INSTRUCTIONS:

1. Answer all questions.
2. Questions must be answered on the question paper.
- 3. No marks will be awarded if answers are not written in full sentences.**
4. Write legibly.

QUESTION 1

- 1.1 **Limited.Trustee**
 - 1.2 **Limited. Judges of the High Court; Master of the High Court & guardian**
 - 1.3 **No CC. None**
 - 1.4 **Limited. Guardian**
 - 1.5 **Full. None**
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QUESTION 2

- 2.1.1 **Supposition**
 - 2.1.2 **Modus**
 - 2.1.3 **Penalty**
 - 2.1.4 **Forfeiture**

 - 2.2.1 **Resolutive condition**
 - 2.2.2 **Suspensive condition**
 - 2.2.3 **Suspensive time clause**
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QUESTION 3

- 3.1.1 ***Mora debitoris***
Failure of a debtor to make timeous performance without lawful excuse
- 3.1.2 **Delayed**
Claimable (no question of late performance)
- 3.1.3 **Normal contractual remedies**
- 3.1.4 **No**
Legal justification/no fault

- 3.2 ***Exceptio non adimpleti contractus*: definition**
Applicability
Consequences

- 3.3.1 **Cancellation**
- 3.3.2 **Specific performance**

QUESTION 4

- 4.1.1 **6**
- 4.1.2 **30**
- 4.1.3 **3**
- 4.1.4 **15**

4.2 Delayed for one year

Creditor is a juristic person & the debtor is a member of the governing body of the juristic person

- 4.3 **Use you discretion for appropriate examples**
 - 4.4 **Release**
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QUESTION 5

- 5.1 **Jenni**
- 5.2 **Use and enjoyment**
Temporary
Pay rent
- 5.3 **Leases of Land Act: registration = valid for > 10 years against creditors & successors in title (or third parties)**
- 5.4 **Void**
Rent is not certain or ascertainable
- 5.5 **Valid**
Exception: agricultural land
- 5.6 **Duty to maintain the leased object in a way that renders it suitable for the purpose for which it was hired**

Normal contractual remedies +

Reduction in rent

Lessee repairs the property + claim cost thereof

QUESTION 6: The Contract of Sale

(20)

- 6.1 **Nature of contract**
Thing sold
Purchase price
- 6.2 **Warranty against latent defects**
The Seller is liable for latent defects which existed in the *merx* at the conclusion of the sale

- 6.3 **Material defect**
 - Existed at the time of conclusion of the contract
 - Latent
 - Purchaser was unaware ... at the time of conclusion of the contract.
 - 6.4 **Actio empti: Cancellation**
 - Specific performance
 - Damages
 - Actio redhibitoria: Rescission**
 - Restitution
 - Actio quanti minoris: Reduction in the purchase price**
 - 6.5 **No**
 - No remedy
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QUESTION 7

- 7.1 **Cedrick**
 - 7.2 **Carry out the mandate**
 - Not to exceed the terms of the mandate
 - Perform the mandate personally
 - Act with care and skill
 - Act in good faith
 - Render accounts
 - Account
 - 7.3 **Death of the mandator or mandatary**
 - Sequestration of the estate of the mandator or mandatary
 - Insanity of the mandator or mandatary
 - Revocation by the mandatary
 - Renunciation by the mandatary
 - 7.4 **Doctrine of undisclosed principal applies. Agent will be personally liable.**
 - Principal may demand performance from the third party, provided that the third party did not perform to the agent.
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QUESTION 8

- 8.1 **Rectification**
 - Amendment of written document → record the parties' true intention
 - Requirements
- 8.2 **Written document is the only evidence that may be placed before the court to prove the contract or any terms**

8.3 The signatory is usually bound by the ordinary meaning and effect of the words which appear over his or her signature, as the signature signifies assent to the document

Misrepresentation, fraud, illegality, duress, undue influence and mistake

END OF MEMORANDUM

TOTAL: 100 MARKS