

STUDENT NO: \_\_\_\_\_

INITIALS SURNAME: \_\_\_\_\_

**PROGRAM** : **BACCALAUREUS INGENIERIAE****SUBJECT** : **LEGAL APPLICATIONS IN ENGINEERING**  
**PRACTICE 4B****CODE** : **RTI4B21****DATE** : SUMMER EXAM  
**09 NOVEMBER 2019****DURATION** : (SESSION 1) 08:30 -11:30**WEIGHT** : 20 - 80**TOTAL MARKS** : 100

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**EXAMINER** : Mr G.T. MILLARD Sanso Number**MODERATOR** : DR.MAYURI PILLAY File Number**NUMBER OF PAGES** : 12 PAGES

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**INSTRUCTIONS TO CANDIDATES.**

1. Answer all questions on the provided lines.
  2. Please read the questions carefully before answering.
  3. Please note the mark allocation for each question and structure your answer accordingly.
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## SECTION A

**CHOOSE THE CORRECT ANSWER FROM THE ALTERNATIVES GIVEN. WRITE YOUR ANSWER IN THE BLOCK PROVIDED NEXT TO EACH QUESTION.**

1. Procedural law regulates how legal rules are applied and enforced:  
Which of the following is **not** a branch of procedural law:
 

- a) Civil procedure
  - b) Criminal procedure
  - c) Administrative law
  - d) Law of evidence
  
2. A natural person is a legal subject with the capacity to hold rights and duties:  
A **juristic person** however may:
 

- a) Acquire legal personality once it has been registered,
  - b) Enter into a partnership agreement with another entity,
  - c) Enter into a contract of sale with another entity,
  - d) (a) and (b) are correct,
  - e) (a) and (c) are correct.
  
3. A valid offer to purchase immovable property,
 

- a) Must be reduced to writing,
  - b) Must be seriously intended to create a legal obligation
  - c) Must be comply with Consumer Protection Act
  - d) Must comply with the municipal by-laws,
  - e) (a) and (c) are correct
  
4. Jabu deliberately causes damage to Mike's Yamaha R1 by over revving the engine.  
Mike will now be in the legal position to:
 

- a) Lay a criminal charge of malicious damage to her property against Jabu.
  - b) Institute a delictual claim for his damages by obtaining proof of the repair costs from the Yamaha agents,
  - c) Institute a claim against Jabu's parents.
  - d) Sue Jabu in terms of a breach of trust
  - e) (a) and (b) are correct.

5. James wants to **rent** a flat from John who informs James that he will only enter into a lease agreement with him if a bank grants James a loan for the first three month's rental.

This is an example of a:

- a) Suspensive condition
- b) Resolutive condition
- c) Time clause
- d) None of the above
- e) All of the above.

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6. Where a second contract replaces the existing contract this is known as:

- a) Replacement
- b) Novation
- c) Declaration
- d) Communication
- e) Both a) and c) are correct.

☐

7. Elanor enters into a loan agreement with Gladys in order to open a clothing boutique which will be stocked with stolen items of clothing. This agreement is:

- a) Valid
- b) Void
- c) Enforceable
- d) Voidable
- e) a) and d) are correct

☐

8. Which of the following is **correct**? An agreement of sale for a wine farm between a purchaser and seller must be:

- a) Reduced to writing to satisfy the formality requirement,
- b) Conducted between fully qualified business people,
- c) Ensure that a market related price is charged
- d) Contain penalty clauses in the event of late payment,
- e) Be conducted between natural persons only

☐

9. The Latin word "*delicto*" means?

- a) Wrongfulness
- b) Negligence
- c) I do wrong
- d) None of the above

☐

10. Contractual disputes of less than R20 000.00 **MUST** be heard in a \_\_\_\_\_ court.
- a) Civil court  
b) Criminal court  
c) Small claims court  
d) All of the above
11. Which of the following is NOT a defence against wrongfulness?
- a) Provocation  
b) Sudden emergency  
c) Automatism  
d) Consent
12. In determining delictual liability, minors **under the age of 10** are regarded as being:
- a) *Doli Incapax*  
b) *Accountable*  
c) *Partially accountable*  
d) a) and c) are correct
13. Where the claimant or plaintiff is contributory negligent in causing damage, the amount of damages awarded may \_\_\_\_\_ accordingly be.
- a) Increased  
b) Multiplied  
c) Off set  
d) Reduced  
e) c) and d) are correct
14. The North Gauteng High Court is situated in:
- a) Thoyandou  
b) Cape Town  
c) Pretoria  
d) Johannesburg  
e) Bloemfontein
15. Which of the following is correct: A **trade mark** is granted for \_\_\_\_\_ years from date of filing of the complete application.
- a) 15 years  
b) 20 years  
c) 10 years  
d) 25 years  
e) 30 years

16. Which of the following is **correct**? The \_\_\_\_\_ Act provides for the registration and granting of patents for inventions.
- a) Patents Act 67 of 1987  
b) Patents Act 57 of 1989  
c) Patents Act 57 of 1978  
d) Patents Act 58 of 1978  
e) Patents Act 67 of 1978
17. Which of the following is **incorrect**? The extrinsic characteristics pertaining to a patent includes the following.
- a) Novelty  
b) Utility  
c) Applicability  
d) Profitability  
e) Not obvious
18. Which of the following is **correct**? An agreement for the disposal of a hazardous nuclear waste material between two parties is legally required to be/does ....
- a) Reduced to writing to satisfy the transparency requirement  
b) Conducted between qualified natural persons only  
c) Ensure that a world market related price is charged  
d) Contain penalty clauses in the event of non performance  
e) Comply with the procedures as contained in the relevant environmental and security legislation.
19. Who invented the flush toilet system?
- a) Willian Shanks  
b) Johan Armitage  
c) Pierre Lavatorius  
d) Michael Plumen  
e) Thomas Crapper
20. The court case between \_\_\_\_\_ dealt with the negligent conduct of a civil engineer which resulted in a balcony collapsing at a house in Cape Town.
- a) Pienaar and others v Brown and others [2009] JOL 24661 SCA  
b) Bonthuis v Paarden Civils [2005] WDL  
c) Moore v Wright [2003] WLD  
d) State v Watson [2001]TPD.

**SUB TOTAL SECTION A:**

**[20]**

**SECTION B****QUESTION 1**

1.1 Describe the purpose and function of the law. (4)

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1.2 Describe what is meant by the Arbitration process and list the advantages thereof. (8)

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**[12]****QUESTION 2:**

2.1. List the **five** elements that a claimant will have to prove in order to succeed with a delictual claim for compensation. (5)

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2.2. Define **defamation**.

(3)

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2.3. Give the definition of a **patent**

(3)

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[11]

### QUESTION 3:

Adrian Newey is a junior Professional Engineer in the firm of Istruct Civils PTY(Ltd), which is contracted to complete the alterations to a Sandton shopping mall. Adrian is tasked with the design and erection of a steel lattice beam to the roof section of the mall.

Following two weeks of load shedding and other delays, Adrian requests permission for access to the crowded mall for a heavy-duty crane which he intends to use to lift the completed steel beam section into position.

Adrian is however confronted by the wealthy owner of the mall, who denies Adrian's request to allow access of a heavy-duty crane into the busy mall. The irate owner aggressively states, "how much more revenue do you expect the shops in the mall to lose, if it is not Escom then it is you, make an alternative plan or I will see you in court".

Adrian, against his better judgement, had the structure fabricated in sections as opposed to a single uniform structure. The sections were taken up on scaffolding, clamped and then welded together by a welder who Adrian did not know and whose level of competency could not be timeously verified.

Following an expert collapse analysis investigation into the uncontrolled collapse, a finding was made that Adrian's conduct was negligent insofar as he failed to perform, at the very least, a non-destructive test of the completed welding work.

- 3.1. Is Adrian delictually liable for the loss and damage caused by this incident and if so, you are required to discuss the element of **FAULT**.

[illegible]

- 3.2. Which statutory entity is authorised to conduct a disciplinary hearing and or investigation into the incident?

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- 3.3. Considering the delictual element of **CONDUCT** explain whether or not  
The owner of the mall could be held delictually liable for the incident. (4)

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- 3.4. The Ocean Basket will, given the extent of the damage to their kitchen, have  
to temporarily relocate to alternative premises in order to continue operations.

The relocation will force them to shut the restaurant for seven days during  
which time the said restaurant will not be able to operate and generate  
any income. The relocation will cost R 200 000.00.

Explain what type of **loss** the restaurant would experience and how  
the compensation, if any, would be calculated. (5)

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#### QUESTION 4

- 4.1. List the **remedies** available to the aggrieved party in the event of a **breach of contract**. (6)

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4.2. Draft an **Non Variation** clause in a contract.

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[12]

### QUESTION 5

- 5.1. What would the effect of contributory negligence be on the respective claims of Fernando and Lewis who have been involved in a collision at the intersection of Empire and University Road.

The collision occurred when Lewis skipped a red robot and collided into the side of Fernando for whom the robot was green. Lewis was driving a Chevy Spark which sustained **R60 000.00** worth of damage. Fernando was driving his McLaren P1 which sustained damage in the amount of **R18 000.00** only.

Accept that Lewis was **70%** to blame for causing the accident.

You may do a simple calculation in addition to explaining the theory relevant to this answer.

(8)

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**[8]****QUESTION 6**

Hercules (Pty) Ltd, which is contracted to Kelvinator to control their moving production line, employs Mitch in the Kelvinator plant as a specialised production control technician. This is a skilled job and which will require of Mitch to undergo specialised training at the expense of the Hercules (Pty) Ltd.

Mitch, on commencing with his employment, signs a contract of service, which contains a clause which states that, on resignation from his employment with the company, he will not be permitted to work in the field of production in the Appliance Industry in Gauteng for a period of **twenty five** months.

After **18 months** Mitch resigns as he has received a better job offer from Visco (Pty) Ltd, who are contracted to Whirlpool (Pty) Ltd, and he immediately commences with his new employment as a production technician at the service centre in Midrand, Gauteng. The CEO of Hercules (Pty) Ltd is unimpressed on hearing about this.

6.1. What is the clause which is contained in the service contract referred to as?

(2)

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6.2. What right does Hercules (Pty) Ltd have in terms of this clause?

(5)

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**[7]****QUESTION 7**

7.1 At which institution are patents registered at? (2)

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7.2 Give the definition of a **computer programme**, as defined by the Copyright Act, Act 98 of 1978. (4)

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7.3 List the legal remedies which are available to either a patent holder or a License holder where their rights have been infringed by another person. (4)

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**[10]****SUBTOTAL: SECTION B****[80]**

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**TOTAL****[100]**

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