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Name and Surname: _____

Student Number: _____

Lecturer's Name: _____

PROGRAM : NATIONAL DIPLOMA
ACCOUNTING/BANKING/CREDIT
MANAGEMENT/LOGISTICS/MANAGEMENT/
MARKETING

SUBJECT : **BUSINESS LAW 1A**

CODE : **BSL1A11/BUS11A1/BUL41A1**

DATE : 27 JULY 2016

DURATION : 2 HOURS

TOTAL MARKS : 100

EXAMINERS : MISS N ISMAIL
MISS B KGORI
MISS T NEUHAUS
MRS S HASSEN (APB)

MODERATOR : ADV EA FREDERICKS

NUMBER OF PAGES : TWELVE (12) PAGES

INSTRUCTIONS:

1. Answer all questions.
2. Write legibly.
3. All cellphones must be switched off.
4. Write your lecturer's name on the answer sheet.

QUESTION 1: CONSENSUS

1.1 Bob lives in Pretoria. He advertises to sell his old cellphone on OLX. Tom, who lives in Johannesburg, sees the advertisement and posts an offer to purchase to Bob on the 15th of September 2016. The offer reaches Bob on the 17th of September 2016. Bob sends his acceptance letter via post on the 19th of September 2016. The letter arrives on the 21st of September 2016 and he reads the letter on the 28th of September.

1.1.1 According to South African law, which theory regarding the time and place of the conclusion of a contract, will be applicable to the abovementioned set of facts? (1)

1.1.2 When was the contract concluded? (1)

1.1.3 Where will the contract be concluded? (1)

1.1.4 Assuming the acceptance is sent via email, would this alter when and where the contract was concluded? In your answer also state when and where the contract would be concluded. (3)

1.2 State whether the following contracts are valid, voidable or void. Provide a reason for your answer.

1.2.1 Bob is selling his car to Tom. Bob is aware that his car's brake cables have been eaten by rats and that they no longer work at all. He informs Tom that his car is in perfect working order. (2)

1.2.2 Tom buys his wife a gold ring. He believes the ring is solid gold. A week after his wife has been wearing it, the gold starts to chip off. He finds out that the ring is not solid gold and that it is actually only gold plated. (2)

1.2.3 Tom's mother has been nagging him to buy his iPad for R12.50. After months he finally gives in and reluctantly sells the iPad to his mother. (2)

1.2.4 Tom threatens to leak naked photo's of Bob if he doesn't sell his car to him for R420. (2)

(14)

QUESTION 2: CAPACITY

2.1 Discuss the capacity to act for persons in the following age groups.

2.1.1 Persons aged 0-7. (1)

2.1.2 Persons aged 7-18. (1)

2.1.3 Persons older than 18. (1)

2.2 List the various matrimonial property regimes recognised by South African Law. (3)

2.3 In the following questions, state whose consent is required in order to conclude a valid contract.

2.3.1 An insolvent person. (1)

2.3.2 A spouse married in community of property. (1)

2.3.3 A child selling immovable property to the value of R90 000. (2)

2.4 Discuss a prodigal's capacity to act. (2)

(12)

QUESTION 3: POSSIBILITY OF PERFORMANCE

3.1 Suliman is employed by Mopani Jewelers as a jewelry designer. His contract of employment contains a clause which clearly states that upon resignation, retrenchment or termination of services, he is prohibited from doing the same work in the Gauteng province for a period of three (3) years after leaving Mopani Jewelers.

3.1.1 Identify the clause contained in the above scenario. (1)

3.1.2 Discuss the validity of the clause identified in question 3.1.1 above. (5)

3.2 Distinguish between the *ex turpi causa* rule and the *par delictum* rule. (4)

3.3 Distinguish between objective and subjective possibility of performance. (2)

(12)

QUESTION 4: FORMALITIES

4.1 State the general rule regarding formalities. (3)

4.2 Discuss what the requirement of formalities refers to. (2)

4.3 List at least three (3) types of contracts where the law requires formalities. (3)

4.4 List the formalities required for a valid ante-nuptial contract (ANC). (4)

(12)

QUESTION 5: TERMS OF THE CONTRACT

5.1 Define the following concepts:

5.1.1 *Essentialia* (1)

5.1.2 *Naturalia* (1)

5.1.3 *Incidentalia.* (1)

5.2 Identify the following type of time clauses or condition.

5.2.1 Busi and Sabreen conclude a contract in terms of which Sabreen will stop working for her when she reaches 25. (1)

5.2.2 Naz and Taryn conclude a contract in terms of which Naz will employ Taryn on condition that she passes all her exams. (1)

5.2.3 Imo-Rhesa concludes a contract with Eesa in terms of which Imo-Rhesa will purchase Eesa's vehicle upon Eesa's death. (1)

5.2.4 Mary and Joseph conclude a contract in terms of which Mary will rent Joseph's house. The contract includes a term that states that if Mary brings an animal onto the property the contract will terminate. (1)

5.3 Identify the following contractual terms.

5.3.1 Payton and Paige conclude a credit agreement. One of the terms in the contract states that in the event that one of the parties fails to pay an instalment, the other party will be liable to pay a fine of R250. (1)

5.3.2 Cherie and Sipho conclude a contract of sale. In the contract it states that the house that is sold must continue to be used as a soup kitchen. (1)

5.3.3 Jack and Jill conclude a contract in terms of which Jack will climb up the hill to fetch her a pail of water. The contract clearly states that if Jack is unable to fetch the pail of water, the contract will automatically terminate. (1)

5.3.4 Donald Trump concludes a contract with Hilary Clinton. The contract contains a term that states that if any alterations need to be made to the contract, they must be done in writing. (1)

5.3.5 Kanye West buys a TV from Game with an undertaking that it is without defect and should it fail in the first 24 Months, he can take it back for a full refund. (1)

(12)

QUESTION 6: INTERPRETATION

6.1 Discuss the Parol Evidence Rule. (3)

6.2 Two months after purchasing a house, Susan notices that the contract of purchase and sale reflects the incorrect purchase price as a result of a typing error. Identify and discuss the concept to remedy this error. (3)

6.3 List the guidelines used to determine parties' intention. (5)

(10)

8.1 List at least two (2) instances where an order for specific performance cannot be granted. (2)

8.2 AKA is buying Trevor Soah's house. In terms of the contract, a deposit of 50% must be paid before delivery of the keys. The deposit was not made and AKA wants delivery before the payment of the deposit.

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8.2.2 Assuming the keys have now been delivered and the purchase price has been fully paid and AKA enters the house and notices that one of the walls is broken, discuss the most appropriate remedy in this case. (2)

8.3 Discuss when cancellation of the contract can be claimed. (3)

8.4 List the requirements or factors that a court must take into account when determining damages. (4)

(13)

QUESTION 9: TRANSFER AND TERMINATION OF PERSONAL RIGHTS

9.1 Provide the period of prescription for the following:

9.1.1 Debt secured by a mortgage bond. (1)

9.1.2 A debt arising from an instalment sales agreement. (1)

9.1.3 Debts arising from a cheque. (1)

9.2 Indicate the effect that the following circumstances have on prescription and give a reason for your answer.

9.2.1 Keagan, a sixteen year old, sold his iPad Air to Saira for an amount of R12 000. (2)

9.2.2 Delane sold Kerri a 2013 Toyota 86 for R250 000, however, Kerri failed to pay the purchase price after she obtained delivery of the car. Delane serves a summons upon Kerri and claims payment of the purchase price. (2)

9.3 List at least two (2) ways in which a contract can be terminated. (2)

(9)

TOTAL [100]