



Surname: _____

Name: _____

Student Number: _____

Lecturer's Name: _____

Q1	
Q2	
Q3	
Q4	
Q5	
Q6	
Q7	
Q8	
Total	

FACULTY : LAW
DEPARTMENT : PRACTICAL BUSINESS LAW
CAMPUS : APB & SWC
MODULE : BSL11A1/BUL41A1
BUSINESS LAW 1A
SEMESTER : FIRST
EXAM : JUNE 2019

DATE : 1 JUNE 2019 **SESSION** : 08:30-11:00

ASSESSOR(S) : MRS S HASSEN,
MR SS NKOSI
MISS N ISMAIL
: MISS DB KGORI

MODERATOR : MR IR NEL

DURATION : 2 HOURS AND
: 30 MINS **MARKS** : 100

NUMBER OF PAGES: 19 PAGES

INSTRUCTIONS:

1. Answer all questions.
 2. No marks will be awarded if answers are not written in full sentences.
 3. Write legibly.
-

QUESTION 1

Match column A with column B. Write your answers in the table provided below.

Column A		Column B	
1.	<i>Naturalia</i>	A	Terms of a contract that are automatically included at common law.
2.	Misrepresentation	B	The minimum characteristics which distinguish different contract types.
3.	Option	C	Where the same person becomes both debtor and creditor of the same debt and this results in the obligation being extinguished.
4.	Juristic Person	D	Refers to when the court orders the defaulting party to make performance in the original terms as agreed upon.
5.	Acceptance	E	Is an unqualified declaration of intent made by the offeree, approving the offer without reservation with the purpose of reaching consensus.
6.	Merger	F	Both parties assume that a certain fact actually exists and it forms part of their contract.
7.	Duress	G	A false statement of fact that induces another party to enter into a contract.
8.	An insolvent	H	Intimidating a contracting party to enter into a contract.
9.	Penalty clause	I	A person with limited contractual capacity after sequestration by order of court.
10.	Specific performance	J	Refer to where a party to a contract either expressly or tacitly without justification communicates that she/he no longer wishes to be bound to his obligation of the contract.
		K	A person under the age 7 who has no contractual capacity.
		L	A clause which entails that a party who acts contrary to his/her contractual obligations will be liable to pay an amount of money, to deliver something or to make some performance to which the other party would not be entitled to.
		M	It is when the purchaser is informed that the agreement will come into existence unless the purchaser informs the seller that she/he does not wish to proceed with the agreement.
		N	A body created under law which has its own legal personality, like a body corporate or a trust.
		O	A legal obligation on the part of the grantor to conclude a contract in future with the holder

1	2	3	4	5	6	7	8	9	10	

[10 marks]

QUESTION 2

2.1 Answer the following questions by choosing the most appropriate answer or statement in each instance by providing the corresponding letter of the alphabet in the space provided below. There is ONLY ONE correct answer per question.

2.1.1 Sakhumuzi and Molly are very drunk after consuming two bottles of red wine. Sakhumuzi concludes an agreement to sell his 2013 POLO VIVO to a stranger, Tumelo for R120 000. The contract of purchase and sale of the car is –

- (a) valid, because Sakhumuzi understood the terms, formed a will and realised the consequences of his actions.
- (b) voidable, because Tumelo was able to form a will and realised the consequences of his action.
- (c) unenforceable, because although the contract is recognised the courts cannot enforce a contract where parties were drunk.
- (d) void, because Sakhumuzi is unable to form a will because of alcohol and he is unable to realise the consequence of his/her action.
- (e) voidable, because the price of the car was the correct market value and so Tumelo can opt either to be bound by the contract or not.

Answer: _____

(1)

2.1.2 Peter who has in the past been treated for schizophrenia, a mental disorder, offers to sell his family home for R350 000 to Johanna. Just as Johanna is about to accept and sign the contract, Peter looks into the Mirror and says to himself “Yes Michael, we have to move out now and find a new house to haunt I have sold our home”. Johanna signs the contract but later discovers that Peter has been treated for schizophrenia. Is the contract binding?

- (a) The contract is void because Peter has a mental disorder that prevents him from forming a will and from acting in accordance with such a will.
- (b) The contract is valid because Peter is not necessarily certified or declared to be a mental health care user and of unsound mind.
- (c) The contract is voidable because when entering the contract Johanna was not aware that Peter is insane.
- (d) The contract is valid because Peter was lucid at the moment when the contract was entered.
- (e) The contract is valid because Peter knew what he was doing at the time of conclusion of the contract.

Answer: _____

(1)

2.1.3 State which of the following statement is INCORRECT? A minor can attain majority in the different ways –

- (a) by reaching the age of 21 years.
- (b) through an order of court.
- (c) by concluding a valid marriage.
- (d) by reaching the age of 18 years.
- (e) by attaining majority.

Answer: _____

(1)

2.1.4 A sale of a house must comply with the following formality or formalities in order to be valid –

- (a) verbal agreement and registration at the Deeds Office.
- (b) writing.
- (c) writing and registration at the Deeds Office.
- (d) court order.
- (e) (a) and (b) are correct.

Answer:_____

(1)

2.1.5 The rule which provides that where the contract is wholly in writing, the contents of such document constitute the only evidence which may be placed before the court to prove the terms of the contract, is called the –

- (a) *par delictum* rule.
- (b) parol evidence rule.
- (c) *ex turpi causa* rule.
- (d) *exceptio non adimpleti contractus* rule.
- (e) *caveat subscriptor* rule.

Answer:_____

(1)

2.2 Identify the legal principle or concept by filling in the missing word(s) in each of the following instances.

2.2.1 A _____ term is a term which has not been expressed in words but is based on the parties' true intention or their intention as imputed by the law. (1)

2.2.2 _____ is when consent is given by a guardian after a minor concludes a contract without the necessary assistance. (1)

2.2.3 The _____ theory states that the contract is concluded at the time and place that the acceptance is received by the offeror. (1)

2.2.4 When the parties to a contract owe each other money, these amounts may be _____ against each other which then has the effect of partially or totally discharging the obligations. (1)

2.2.5 A/n is an order of court by which a party is restrained from performing a forbidden act, or by which he/she is ordered to undo what he/she has done in contravention to his/her contractual obligations. (1)

[10 marks]

QUESTION 3

3.1 Identify the following contractual terms.

3.1.1 Ryan and Lerato conclude a contract in terms of which Lerato will stop playing netball as a goal shooter for Ryan's netball team when she reaches the age of twenty-two. (1)

3.1.2 Muneer and Lorraine conclude a contract in terms of which Muneer will employ Lorraine on condition that she obtains her gun license. (1)

3.1.3 Cindy and Sandile conclude a contract of donation whereby Sandile donates his house to Cindy on condition that one of the bedrooms must be used to accommodate a homeless student for free. (1)

3.1.4 Jitesh owns an apartment in Durban. They agree that Sam will buy the apartment provided that it has a view of the harbour. (1)

3.1.5 Jack and Jill conclude a contract in terms of which Jack will build a three bedroom house for Jill. The contract clearly states that if Jack is unable to complete the construction of the house within one year, the contract will automatically be terminated. (1)

3.1.6 Douglas concludes a contract of lease with Harriot. The contract contains a term that states that if any amendments need to be made to the contract, it must be done in writing. (1)

3.1.7 Annie and Sumeshni agree in the event of breach of contract, the defaulting party will lose any performance rendered. (1)

3.1.8 Kimberly 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)

3.2 Define the following concepts:

3.2.1 *Essentialia* (1)

3.2.2 *Incidentalia* (1)

[10 marks]

QUESTION 4

Identify the form of breach of contract in the following instances and provide a reason for your answer.

4.1 Jacob and Aslam agree that Jacob would clean Aslam's pool on Friday, 14 May 2019. Jacob arrives at Aslam's mansion on the agreed day and cannot get access to the pool as Aslam is on holiday in Jamaica.

4.1.1. Identify the form of breach of contract and provide a reason for your answer.

(2)

4.1.2. Assume for this question only, that Aslam forgot about his agreement with Jacob and went shopping with his wife. Would he be guilty of breach of contract? Provide a reason for your answer.

(2)

4.1.3. Assume for this question only, that Aslam was unable to accept performance because he was in a coma. Would he be guilty of breach of contract? Provide a reason for your answer.

(2)

- 4.2. Jacob and Aslam agree that Jacob would clean Aslam's pool on Friday, 14 May 2019. Jacob arrives at Aslam's mansion on the agreed day only to find that the entire property has been destroyed. It comes to Jacob's knowledge that Aslam set his mansion on fire in order to claim from his insurance because he is bankrupt. Identify the form of breach of contract and provide a reason for your answer. (2)
-
-
-

- 4.3. Aslam and Jacob agree that Jacob will paint Aslam's house white. However, Jacob paints Aslam's house purple as he believes that the colour suits Aslam's vibrant personality. Identify the form of breach of contract and provide a reason for your answer. (2)
-
-
-

4.4. Jacob hires Aslam to cater Indian cuisine for his wedding on 25 May 2019. Aslam arrives at the wedding venue on the morning of the 25 May 2019. Aslam is informed that the wedding has been cancelled as the bride-to-be found out that Jacob is already married.

4.4.1 Identify the form of breach of contract and provide a reason for your answer. (2)

4.4.2 Assume for this question only that on the day of the wedding Aslam does not arrive nor does he answer his phone. Jacob is forced to buy KFC for his guests. (2)

4.4.3 Identify the appropriate remedies available to Jacob, the aggrieved party from the form of breach of contract identified in Question 4.4.2 above. (2)

QUESTION 5

5.1 Identify the factor that influences consensus in the following instances **and** indicate what effect it has on the validity of the contract.

5.1.1 Sipho thinks that he is selling his house to Jimmy whereas Jimmy thinks he is actually leasing the house from Sipho. (2)

5.1.2 Elizabeth's pastor convinces her to sell her house and donate the proceeds thereof to the church because she will be blessed with an even bigger and better house. (2)

5.1.3 Tumi is under the assumption that she is signing a contract of employment with Vodanet for the position of Chief Executive Officer (CEO) but the position that she is given is that of a regional manager. (2)

5.1.4 Thulani sold Bella an Apple iPad, only to find out that, it was a Samsung tablet and that Thulani placed an Apple sticker placed over the Samsung logo. (2)

5.2 Discuss the difference between objective and subjective impossibility. Your answer should also contain the effect it has on the validity of a contract. (4)

5.3 Identify any three instances where formalities are required by law. (3)

QUESTION 6

6.1 List the guidelines used to determine parties' intention when interpreting a contract. (5)

This image shows a blank sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page, providing a template for writing. There are no margins, text, or other markings on the paper.

6.2 List the six requirements for an offer and acceptance. (6)

[illegible]

6.3 List the four requirements to be met in order to claim damages. (4)

6.4 List any five factors that could potentially affect a natural person's capacity to perform juristic acts. (5)

[20 marks]

QUESTION 7

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

7.1.1 Travis, a 13 year old boy, sold his Playstation 4 to Sam for an amount of R3 000. (3)

7.1.2 Denisha sold Kerri a car for R250 000, however, Kerri failed to pay the purchase price after she obtained delivery of the car. Denisha serves a summons upon Kerri and claims payment of the purchase price. (3)

7.2 Provide the periods of prescription for the following:

7.2.1 A loan of R4 000. (1)

7.2.2 A judgment debt. (1)

7.2.3 A debt arising from a cheque. (1)

7.2.4 A debt owed to the State arising by the sale of land by the State to the debtor.
(1)

[10 marks]

QUESTION 8

Victoria and David are married out of community of property subject to the accrual system, however, both spouses are unhappy in their marriage and seek a divorce. Their respective estates are comprised of the following:

SPOUSE	VICTORIA	DAVID
ESTATE PRIOR TO THE MARRIAGE	<ul style="list-style-type: none">• An apartment worth R600 000;• A car worth R300 000;• Jewellery worth R50 000;• A home loan of R300 000; and• Vehicle finance to the value of R100 000.	<ul style="list-style-type: none">• A house worth R1 000 000;• A home loan of R400 000;• A car worth R750 000; and• R50 000 in savings.
ESTATE UPON DIVORCE	<ul style="list-style-type: none">• A car worth R400 000;• Vehicle finance to the value of R150 000;• A house worth R1 000 000;• A holiday home worth R1 000 000; and• R100 000 in savings.	<ul style="list-style-type: none">• A car worth R800 000;• A house worth R1 200 000; and• Vehicle finance to the value of R50 000.

[illegible]

[100 marks]