



UNIVERSITY
OF
JOHANNESBURG

**EXAMINATION
MEMORANDUM**

SUBJECT : CONSTRUCTION LAW 2B

CODE : CLWCOB2

DATE : 09 NOVEMBER 2020

DURATION : 3 HOURS

TOTAL MARKS : 100

EXAMINER : MISS N ISMAIL

MODERATOR : MRS S HASSEN

NUMBER OF PAGES : 4 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

- 1.1.1 **Limited**
 - 1.1.2 **Trustee**
 - 1.2.1 **Limited**
 - 1.2.2 **Judges of HC**
Master of HC
Guardian
 - 1.3.1 **No CC**
 - 1.3.2 **None**
 - 1.4.1 **Limited**
 - 1.4.2 **Guardian**
-

QUESTION 2: Terms of the Contract

(10)

- 2.1.1 **Supposition**
 - 2.1.2 **Modus**
 - 2.1.3 **Penalty clause**

 - 2.2.1 **Resolutive condition**
 - 2.2.2 **Suspensive condition**
 - 2.2.3 **Suspensive time clause**
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QUESTION 3: Breach of Contract and Remedies

(22)

- 3.1 **Repudiation**
- 3.2 **Prevention of performance by the creditor**
- 3.3 **Positive malperformance**
- 3.4 ***Mora creditoris***
- 3.5 ***Mora debitoris***
- 3.6 **False**
- 3.7.1 **Failure of a debtor to make timeous performance without lawful justification**
- 3.7.2 **Delayed**
Claimable
- 3.7.3 **No**
No fault
- 3.8 ***Exceptio non adimpleti contractus*: definition**
Applicability
Consequences
- 3.9.1 **Cancellation**
- 3.9.2 **Prohibitory interdict**
- 3.9.3 **Cancellation**

- 3.10 **Patrimonial loss**
Foreseeable loss
Duty to mitigate loss
Causal connection...
 - 3.11 **Ex re**
-

QUESTION 4

- 4.1.1 **6**
 - 4.1.2 **30**
 - 4.1.3 **3**
 - 4.1.4 **15**
 - 4.2 **Delayed**
 - 4.3 **Cession**
 - 4.4 **Supervening impossibility of performance**
 - 4.5 **Discharge**
 - 4.6 **Compromise**
 - 4.7 **Release**
-

QUESTION 5

- 5.1 **Jenni**
 - 5.2 **Leases of Land Act: registration = valid for > 10 years against creditors & successors in title (or third parties)**
 - 5.3 **Void**
 - 5.4 **The duty to maintain the leased property**
 - 5.5 **Cancellation**
Damages
Lessee repairs the property herself and claim cost of repair from the lessor
 - 5.6 **Valid**
 - 5.7 **Sublease**
 - 5.8 **Gino does not have to leave as the doctrine “huur gaat voor koop” protects him.**
 - 5.9 **tacit hypotheec**
 - 5.10 **None of the above.**
 - 5.11.1 **Full compensation of expenses**
 - 5.11.2 **No compensation of expenses**
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QUESTION 6

- 6.1 **F**

- 6.2 **F**
 - 6.3 **F**
 - 6.4.1 **Void**
 - 6.4.2 **Valid**
 - 6.5.1 **Attornment**
 - 6.5.2 **Actual delivery**
 - 6.5.3 **Delivery with the long hand**
 - 6.5.4 **Symbolic delivery**
 - 6.6 **Warranty against latent defects**
 - 6.7 **The defect existed at the time of conclusion of the contract**
The purchaser was unaware of the defect at the time of conclusion of the contract
 - 6.8 **Cancellation**
Specific performance
Damages
 - 6.9 **30 September 2020 since the transfer of ownership takes place on registration of the property in Lenny's name**
 - 6.10 **Voetstoots clause**
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QUESTION 7

- 7.1 **Cedrick**
 - 7.2 **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.**
 - 7.3 **The duty to act in good faith has been breached**
 - 7.4 **The duty not to exceed the terms of the mandate**
 - 7.5 **To compensate the mandatary for expenses**
To pay the mandatary the agreed remuneration
 - 7.6 **Death of either party**
Mental deficiency of the mandator or mandatary
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QUESTION 8

- 8.1 **Rectification**
 - 8.2 **Written document is the only evidence that may be placed before the court to prove the contract or any terms**
 - 8.3 **duress, undue influence, mistake**
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END OF MEMORANDUM

TOTAL: 100 MARKS