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QUESTION 1

Indicate which of the following statements below are either TRUE or FALSE by placing a cross in the correct block

<table>
<thead>
<tr>
<th></th>
<th>TRUE</th>
<th>FALSE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The Bill of Rights, as contained in Chapter 2 of the Constitution of the Republic of South Africa, 1996 applies to all law and binds all three branches of government (the legislature, the executive and the judiciary)</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>According to South African law, spouses are married out of community of property unless they agree to the contrary</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>If ambiguity exists in the interpretation of the contract, that contract will usually be regarded as invalid</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Symbolic delivery takes place when the seller of a motor vehicle hands its keys to the purchaser</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>In non-indemnity insurance the insurer undertakes to pay the insured or the beneficiary a fixed sum of money if the event insured against takes place</td>
<td></td>
</tr>
</tbody>
</table>

QUESTION 2

Match EACH of the statements below with ONE of the concepts/terms provided by writing the correct concept/term in the appropriate box below

<table>
<thead>
<tr>
<th>CONCEPT/TERM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minor</td>
</tr>
<tr>
<td>Plaintiff</td>
</tr>
<tr>
<td>Clerk of the court</td>
</tr>
<tr>
<td>Prodigal</td>
</tr>
<tr>
<td>STATEMENT</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>(a) The person bringing an action in a civil case</td>
</tr>
<tr>
<td>(b) A person who habitually squanders his or her money recklessly and extravagantly</td>
</tr>
<tr>
<td>(c) A person who hears and decides cases in the superior courts</td>
</tr>
<tr>
<td>(d) The official who receives and issues legal documents or pleadings in a superior court</td>
</tr>
<tr>
<td>(e) A debtor whose estate is under sequestration</td>
</tr>
</tbody>
</table>

**QUESTION 3**

In order to conclude a contract, there are basic requirements that the contract must meet

Give **FIVE** basic requirements for the conclusion of a valid contract

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QUESTION 4

Read the following scenario and answer the questions that follow.

Moloko and Mamba enter into a contract of sale for the purchase of the farm land which Moloko has owned for ten years. A number of high profile events including Miss South Africa Beauty Pageant and Fill-up the Land Concert by a well-known Rap artist, AB Donye were hosted on the farm land. However, Mamba is not aware of this. The contract for the purchase of the land is subject to Bruto Bank’s approval of Mamba’s mortgage bond application.

(a) Is Moloko the purchaser of the land? Motivate your answer.

(b) Advise Moloko and Mamba about the formalities for the conclusion of a contract of the sale of land they need to comply with.

(c) Name and describe the type of a contractual term (condition) on which the operation of the contractual obligations between Moloko and Mamba depends.
QUESTION 5

Read the following scenario and answer the question that follows

John sells his caravan to Peter in terms of an instalment sale agreement. After paying two instalments Peter phones John one evening to inform him, that he (Peter) will not be able to pay any further instalments, as he has now bought an investment property at the coast.

Identify and discuss the type of breach of contract that Peter committed in this instance. (5)

__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________

QUESTION 6

Name any SIX rights which have been introduced by the Consumer Protection Act 66 of 2008. (6)

__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________
__________________________________________________________________________

__________________________________________________________________________
Section B

QUESTION 1

Which ONE of the following South African courts is a lower court?

1. The High Court
2. The Magistrate’s Court
3. The Supreme Court of Appeal
4. The Constitutional Court

QUESTION 2

Which ONE of the options provided below will complete the following sentence CORRECTLY?

The right to a patent is a/an

1. real right
2. intellectual property right
3. personality right
4. personal right

QUESTION 3

Which ONE of the following statements is INCORRECT?

1. Freedom to contract is considered to be one of the cornerstones of the modern law of contract
2. One is generally free to choose with whom and on what grounds to contract
3. A person may not conclude contracts which are unlawful or illegal
4. Freedom to contract may not be limited

QUESTION 4

Which ONE of the following constitutes a VALID OFFER?

1. Kobus advertises his car for sale in the local newspaper
2. Mr Smith verbally offers to buy a farm belonging to Tom for R1 3 million
3. Beauty makes Johnny a written offer to buy his farm, but her letter is lost in the post
4. Bontle says she will pay a reward of R150 to anyone who finds her lost cat

QUESTION 5

Manto is the plaintiff in a civil case. The advocate tells her that she does not have a good case. Manto decides to continue with her claim and to pay Mr Viljoen, the judge hearing her case, some money in order to ensure success. She goes to his chambers, and hands him a suitcase full of American dollar notes. Mr Viljoen promises that he will ensure that her claim succeeds. Mr Viljoen delivers judgment against Manto in favour of the defendant.

Which ONE of the following statements is CORRECT?

1. Manto will succeed with an action against Mr Viljoen to reclaim the money she paid him since he is in breach of contract
2. Manto will not succeed with an action against Mr Viljoen to reclaim the money she paid him since her agreement with him is contrary to public policy and therefore legally impossible
3. Manto will succeed with an action against Mr Viljoen to reclaim the money she paid him, because he has been unjustifiably enriched
4. Manto will not succeed with an action against Mr Viljoen since they did not reach consensus on the amount
QUESTION 6

Which **ONE** of the following contracts must be in writing and signed in order to be valid?

1. A contract where a wager is made
2. A contract where a car is sold
3. A contract where a house is leased
4. A contract where a farm is sold

(2)

QUESTION 7

Martha enters into an agreement with her friend Alina in terms of which Martha will use Alina’s house until she buys her own house.

This is an example of a

1. suspensive condition
2. resolutive time clause
3. suspensive time clause
4. resolutive condition

(2)

QUESTION 8

Koketso wants to purchase an apartment from James only if the beach is visible from the apartment. James is not sure if the beach is visible from the apartment. They agree that Koketso will purchase the apartment if the beach is visible from the apartment.

What is such a **CONTRACTUAL TERM** called?

1. a modus
2. a warranty
3. a supposition
4. a condition

(2)

QUESTION 9

**Example 1**

Paul agrees to repair Susan’s motorcycle. However, before Susan can do so, the motorcycle is burnt out owing to an electrical short-circuit. Susan was not aware of any defect in the electrical system of the motorcycle.

**Example 2**

Trevor agrees to repair Mona’s laptop. A day before Mona must deliver the laptop to Trevor, Mona intentionally drops the laptop for the purpose of claiming insurance on the laptop.

Which **ONE** of the options below **BEST DESCRIBES** the relationship between these two examples?

1. Example 1 is an instance of prevention of performance by the creditor, and example 2 is an instance of initial impossibility of performance
2. Example 1 is a case of supervening impossibility of performance, and example 2 is an instance of prevention of performance
3. In Example 1, Susan will be held liable because she was negligent in not having the electrical system repaired and, in example 2, Mona will be held liable for her intentional destruction of the laptop
4. Example 2 is a case of repudiation and example 1 a case of negligence

(2)
QUESTION 10

Which ONE of the options provided below will complete the following sentence CORRECTLY?

An order for specific performance is a court order which

1. prevents a party from doing something that is contrary to the terms of the contract
2. allows a party to a contract to withhold his or her performance until the other contracting party has performed in terms of the contract
3. orders a party to render defective performance
4. orders a party to a contract to render the performance he or she undertook to render in that contract

(2)

QUESTION 11

Which ONE of the following will terminate an obligation?

1. subjective impossibility of performance
2. partial impossibility of performance
3. cession of the obligation
4. discharge/performance of the obligation

(2)

QUESTION 12

Alfred rebuilds a "Mini" motor car. Due to the difficulty in obtaining a fanbelt for the car, he uses a nylon stocking instead. He then sells it "as is" ("voetstoots") to Mphoreng, a student with no knowledge of cars. On Mphoreng's way home the stocking melts, and that causes a serious damage to the engine.

Which ONE of the following statements is CORRECT?

1. Mphoreng has a claim against Alfred because Alfred knew about the defect, and is therefore not able to rely on the "as is" ("voetstoots") clause
2. Mphoreng has a claim against Alfred, because an implied warranty against latent defects is read into every contract of sale, notwithstanding the inclusion of an "as is" ("voetstoots") clause
3. Mphoreng has no claim against Alfred because the warranty against latent defects was excluded by stating that the "Mini" is sold "as is" ("voetstoots")
4. Mphoreng has no claim against Alfred, because Alfred's concealment of the use of a nylon stocking does not amount to misrepresentation

(2)

QUESTION 13

Gomolemo rents a house from Morwesi from where she plans to run her new advertising agency. A month after moving into the premises Gomolemo notices large diagonal cracks appearing on some of the walls in the reception area.

Which ONE of the following statements is CORRECT?

1. Gomolemo will only be liable for paying rent when the house is in a condition fit for the purpose for which it was leased
2. As the lessee Gomolemo is responsible for having the walls repaired, because there was nothing wrong with the walls when she moved in
3. Morwesi will not be liable for any damages Gomolemo might suffer, because he delivered the house in a condition fit for the purpose for which it was leased
4. As the lessee Gomolemo has a right to the delivery and maintenance of the house in a condition which is reasonably fit for the purpose for which it was leased

(2)
QUESTION 14

Which ONE of the following statements is CORRECT?

1. A contract of lease is automatically terminated by the death of the lessor or the lessee.
2. If a property already leased, is sublet, a contract arises between the original lessor and the sublessee.
3. The lessee who effected repairs on a defective object, has to prove, when claiming reduction of rent, that the repairs were effected after the lessor failed to respond to a demand to have them done.
4. The purchaser of property in respect of which a contract of lease is in existence, assumes any obligation owing by the lessor to the lessee, which arose prior to the date of sale. (2)

QUESTION 15

On his way home from work, Romeo is involved in a collision. He reports the accident to his insurance company which informs him that he chooses to repair his car rather than to compensate him. He also has to pay R1 000 because he bears a proportion of the loss himself. The insurance company also informs him that he has no choice but to comply, as these terms were agreed to in the insurance contract he concluded with the company two years before.

Which ONE of the following statements reflects Romeo’s legal position CORRECTLY?

1. Even if the parties to the insurance contract agreed, the insurance company may not legally oblige Romeo to have the car repaired instead of compensating him, nor have him pay a certain amount in order to bear a portion of the loss himself.
2. There is no principle in insurance law that allows the insurance company to have the insured pay a certain amount in order to bear a portion of the loss himself.
3. If the parties to an insurance contract agreed thereto, the insurance company may have the insured pay a certain amount in order to bear a portion of the loss himself and may reserve the right to have the risk-object repaired, instead of compensating the insured.
4. There is no principle in insurance law that allows the insurance company to reserve the right to decide to have the risk-object repaired, instead of compensating the insured. (2)

QUESTION 16

In which ONE of the following relationships is the authority of the agent NOT implied by law, but dependent on the consent of the principal?

1. Director and company
2. Curator and insane person
3. Estate agent and seller
4. Guardian and minor (2)

QUESTION 17

Which ONE of the following requirements is a basic requirement (essentiale) of a partnership?

1. mutual mandate
2. the obligation to share in the net loss
3. the expectation to share in the net profit
4. the proportion in which the assets are divided upon dissolution (2)
QUESTION 18

Which ONE of the following statements regarding a co-operative society is CORRECT?

1. Membership of a co-operative society is limited to twenty
2. Shares issued by a co-operative society are freely transferable
3. A co-operative society is a voluntary association which developed from the law of companies
4. A co-operative society promotes the business of its members and acts as their agent in the marketing of their products

(2)

QUESTION 19

Which ONE of the following statements is CORRECT?

1. Some liens arise by operation of law and others through agreement
2. In respect of useful expenses, a party to a contract can only obtain a debtor and creditor lien
3. In respect of luxurious expenses, a party to a contract can only obtain an enrichment lien
4. If the person claiming the lien loses possession of the object of the lien, he or she automatically loses the lien

(2)

QUESTION 20

With the assistance of his mother, Marie, Peter, a nine year old boy, buys a motorcycle. Which ONE of the following statements is CORRECT in terms of the Consumer Protection Act?

1. The contract of sale for the motorcycle is null and void, because in spite of the fact that his mother assisted him, Peter is a minor
2. The contract of sale for the motorcycle is null and void, because as a minor Peter is regarded as mentally unfit
3. The contract of sale for the motorcycle is valid, because as Peter was assisted by his mother, it is irrelevant that he personally lacked the capacity to act
4. The contract of sale for the motorcycle is valid, because although Peter did not have the capacity to act, he used his own savings to buy the motorcycle

(2)
October/November 2017 Suggested Solutions
Section A

Question 1
1.1. True
1.2. False
1.3. False
1.4. True
1.5. True

Question 2
a) Plaintiff
b) Prodigal
c) Judge
d) Clerk of Court
e) Insolvent

Question 3
- Parties must have contractual capacity
- There should be consensus
- Where formalities are required, they should be met
- Performance must be physically possible
- The contract must be legal

Question 4
a) No, Mamba applies for a bond to buy the land from Moloko

b) 
- The contract must be in writing
- Immovable property is transferred by way of registration in a Deeds Office.
- The seller should submit a tax clearance certificate to the Deed Office before registration above

c) Suspensive condition – the contract will only be valid after the approval of Mamba’s mortgage (a future uncertain event)
Question 5

“Repudiation” means that the debtor or the creditor shows either in words communicated to the other party or through conduct that he or she does not intend to perform his or her contractual obligations. A party may repudiate the whole contract or only some of his or her obligations or a part of the contract.

A party repudiates the whole contract by, among other ways:

- denying the existence of the contract
- giving notice that he or she cannot perform any longer

Peter’s actions comply with the second requirement and shows that he has repudiated the terms of the contract.

Question 6

- the right to equality in the consumer market
- the right to confidentiality and privacy
- the right to choose
- the right to disclose and information
- the right to fair and responsible marketing
- the right to honest dealing and fair agreements
- the right to fair, just and reasonable terms and conditions
- the right to fair value, good quality and safety

Section B

<table>
<thead>
<tr>
<th>1. 2</th>
<th>5. 3</th>
<th>9. 2</th>
<th>13. 1</th>
<th>17. 1</th>
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<tbody>
<tr>
<td>2. 2</td>
<td>6. 4</td>
<td>10. 4</td>
<td>14. 1</td>
<td>18. 3</td>
</tr>
<tr>
<td>3. 4</td>
<td>7. 1</td>
<td>11. 4</td>
<td>15. 3</td>
<td>19. 4</td>
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<td>4. 1</td>
<td>8. 4</td>
<td>12. 1</td>
<td>16. 3</td>
<td>20. 3</td>
</tr>
</tbody>
</table>
May/June 2017 Exam
Section A

QUESTION 1
VRAAG 1

Indicate which of the following statements below are either TRUE or FALSE by placing a cross in the correct block. (5)
Dui aan welke van die onderstaande stellings WAAR of VALS is deur 'n kruis in die korrekte blok aan te bring. (5)

<table>
<thead>
<tr>
<th></th>
<th>TRUE/ WAAR</th>
<th>FALSE VALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>The legal capacity of a person who has assets is not terminated by death since the law has to protect the deceased assets in his interest.</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Everyone has unlimited freedom to choose with whom and on what grounds one wants to contract.</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>According to South African law, spouses are married in of community of property unless they agree to the contrary.</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>If a lease is for a fixed period or until the occurrence of a specified event, the obligations arising from it do not automatically come to an end, but one of the parties to a lease must cancel the contract when the period ends or the event occurs.</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>There is no restriction on the maximum number of members that a cooperative may have.</td>
<td></td>
</tr>
</tbody>
</table>

   Daar is geen beperking op die maksimum aantal lede wat 'n kooperasie mag hé nie.
**QUESTION 2**  
**VRAAG 2**

Match EACH of the statements below with ONE of the concepts/terms provided by writing the correct concept/term in the appropriate box below.

<table>
<thead>
<tr>
<th>CONCEPT/TERM / BEGRIP/TERM</th>
<th>STATEMENT STELLING</th>
<th>CONCEPT / TERM KONSEP / TERM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minor / Minderjarige</td>
<td>Condition / Voorwaarde</td>
<td></td>
</tr>
<tr>
<td>Occupation / Okkupasie</td>
<td>Voetstoot / Voetstoot</td>
<td></td>
</tr>
<tr>
<td>Indemnity insurance / Skadeversekering</td>
<td>Non-indemnity insurance / Sommeversekering</td>
<td></td>
</tr>
<tr>
<td>Prodigal / Verkwisters</td>
<td>Genus / Genus</td>
<td></td>
</tr>
</tbody>
</table>

(a) The method of acquiring ownership in which a person seizes property belonging to no-one, with the intention of becoming its owner.  
Die metode van eiendomsverkying waar by 'n persoon eiendom wat aan niemand behoort in besit neem met die bedoeling om die eiendaar te wees.

(b) A person who habitually squanders his or her money recklessly and extravagantly.  
'n Persoon wat 'n neiging het om sy of haar geld op 'n onverantwoordelike en buitensporre manier te verkwis.

(c) The number of beings or objects which agree in certain general properties, common to them all.  
Die versameling wesens of voorwerpe wat almal sekere algemene eienskappe in gemeen het.

(d) A term that makes an obligation subject to an uncertain future event.  
'n Beding wat 'n kontraktuele verpligtig onderhewig aan 'n onsekere toekomstige gebeurtenis stel.

(e) An insurance contract that compensates for patrimonial loss.  
'n Versekeringskontrak wat 'n finansiële verlies vergoed
QUESTION 3
VRAAG 3

(a) Give THREE grounds of justification which render an otherwise unlawful act lawful

Noem DRIE regverdigingsgronde wat 'n andersins onregmatige handeling in 'n regmatige handeling omskep

(b) Read the following statement and answer the question that follows

Lees die volgende stelling en antwoord die vraag wat volg:

The first requirement for the conclusion of a valid contract is that there must be consensus between the parties

Die eerster vereiste vir die sluiting van 'n geldige kontrak is dat daar wilsooreenstemming (consensus) tussen die partie moet wees

Explain what is meant by the concept of "consensus"

Verduidelik die begrip "wilsooreenstemming"

QUESTION 4
VRAAG 4

(a) Read the following scenario and answer the question that follows

(a) Lees die volgende scenario en antwoord die vraag wat volg:

Zaheer, a mechanic, rents a house from Sibusiso. Zaheer and Sibusiso sign a two-year contract of lease in terms of which Zaheer is prohibited from using the house for business purposes without Sibusiso’s prior consent. Zaheer moves into the house and, without Sibusiso’s knowledge, converts part of it into a workshop to repair cars. Zaheer’s neighbours are alarmed about his business activities and the potential decrease in the value of their houses. Sibusiso decides to sell the house to Denck because of the complaints and the fact that Zaheer fell into arrears with the rent.

Zaheer, ‘n motorwerktuigkundige, huur ‘n woonhuis van Sibusiso. Hulle teken ’n twee-jaar huurkontrak ingevolge waarvan Zaheer verbied word om die huis vir besigheidsdoeleindes te gebruik sonder Sibusiso se vooraf goedkeuring. Zaheer trek in die huis in, en verander ‘n gedeelte van die huis in ‘n werkswinkel om motors te herstel. Zaheer se bure is ontsteld oor sy besigheidsbedrywighede en die potensieele waardevermindering van hulle eiendomme. Weens hulle klaagtes en die feit dat Zaheer agterstallig met sy huur geraak het, verkoop Sibusiso die huis aan Denck

(i) Is Denck bound to the contract of lease with Zaheer? Motivate your answer

(ii) Is Denck gebonde aan die huurkontrak met Zaheer? Motiveer u antwoord
(b) Study the following scenario and answer the question that follows

(b) Bestudeer die volgende scenario en antwoord die vraag wat volg

Craig borrows Grabe’s horse in order to compete in a race. Craig wins the race and decides to become a professional jockey. Without returning the horse to Grabe, he offers to buy it from him for R10 000. Grabe accepts the offer and Craig pays him there and then.

Craig leen Grabe se perd om aan ’n resies deel te neem. Craig wen die resies en besluit om ’n professionele ruiter te word. Daarom maak hy sonder om die perd eers aan Grabe terug te gee, aan hom ’n aanbod om die perd te koop vir R10 000. Grabe aanvaar die aanbod en Craig betaal Grabe daar en dan.

(i) Name and describe the form of delivery that has taken place in this scenario?

(ii) Name and describe the other FOUR forms of delivery of movable property

(iii) Bespreek die ander VIER vorme van levering van roerende goed.

(c) Name any FOUR rights which the Consumer Protection Act 68 of 2008 introduces

(c) Noem enige VIER regte verleen aan verbruikers in terme van die Wet op 68 van 2008.
Section B

QUESTION 1

Which ONE of the following is the supreme law of South Africa?

1. Customary law
2. English law
4. Roman Dutch law

VRAAG 1

Watter EEN van die volgende is die hoogste reg van Suid-Afrika?

1. Gewoontereg
2. Engelse reg
3. Die Grondwet van die Republiek van Suid-Afrika, 1996
4. Romeins-Hollandse reg

QUESTION 2

Which ONE of the options provided below will complete the following sentence CORRECTLY?

The right to claim performance from someone is a/an

1. personal right
2. personality right
3. real right
4. intellectual property right

VRAAG 2

Watter EEN van die onderstaande opsies sal die volgende sin KORREK voltooi?

Die reg om prestatie van 'n persoon te eis, is 'n ...

1. persoonlike reg.
2. persoonlikeheidsreg
3. saaklike reg.
4. intellektueelgoederereg.
QUESTION 3

Which ONE of the following statements regarding the estate of a deceased person is CORRECT?

1. The debts of the deceased person are binding on the estate and the executor personally
2. A deceased estate consists of all the assets and liabilities belonging to the deceased
3. The executor, together with the deceased person, can sue and be sued with regard to matters of the estate
4. Where the deceased left a valid will, the estate passes according to the rules of intestate succession

VRAAG 3

Watter EEN van die volgende stellings aangaande die boedel van 'n oorledene is KORREK?

1. Die skulde van die oorledene bind die boedel en die eksekuteur persoonlik.
2. Die bestorre boedel bestaan uit al die bates en laste van die oorledene
3. Die eksekuteur, te same met die oorledene, kan dagvaar en gedagvaar word in verband met die sake van die boedel.
4. Waar die oorledene 'n geldige testament nagelaat het, vererf die boedel volgens die reëls van die intestate erfopvolging

... 

QUESTION 4

Kgothatso helped Albert to move her furniture to his new house. Kgothatso's left leg was injured during the move due to Albert's negligence. She suffered both physical injuries and patrimonial damages. She claimed an amount of R3 500 as patrimonial damages from Albert. Albert offered to pay R2 500 in full and final settlement of Kgothatso's claim. Kgothatso refused and expressly stated that she would only accept an offer of R3 000. Albert refused to increase the offer.

Which ONE of the following statements is CORRECT?

1. Kgothatso can accept the original offer after her request for an increased offer was rejected
2. The request made by Kgothatso is a counter offer and as a result the original offer falls away
3. Kgothatso's offer remains open for a specific period of time
4. Kgothatso cannot accept the original offer, because it was revoked

VRAAG 4

Kgothatso het Albert gehelp om haar meubels na sy nuwe huise te trek. Weens Albert se nalatigheid is Kgothatso se linkerbeen tydens die trek beser. Kgothatso doen fisiese beseings op, en ly ook vermoënskade. Sy eis vir haar vermoënskade van Albert. Albert bied aan om R2 500 ter volle voldoening aan Kgothatso se eis te betaal. Kgothatso weier die aanbod en verklaar uitdruklik dat sy net 'n aanbod van R3 000 sal aanvaar. Albert weier om haar aanbod te verhoog.

Watter EEN van die volgende stellings is KORREK?

1. Kgothatso kan die oorspronklike aanbod aanvaar nadat haar versoek om 'n verhoogde bedrag verwerp is.
2. Kgothatso se versoek is in teenaanbod en gevolglik verval die oorspronklike aanbod.
QUESTION 5

Prof Venter parks his car in front of a shopping mall. After having done his shopping, he cannot find his car. Under the impression that it has been stolen, he buys a second-hand car from T & C Motor Trading Store. An hour after he has concluded the contract of sale with T & C Motor Trading Store, the police inform him that his car has not been stolen but was parked a few parking spaces from where he thought he had parked it.

Which ONE of the following statements is CORRECT?

1. The contract between Prof Venter and T & C Motor Trading Store is valid because mistake in motive has no influence on consensus.
2. The contract between Prof Venter and T & C Motor Trading Store is valid because Prof Venter made an innocent misrepresentation.
3. The contract between Prof Venter and T & C Motor Trading Store is void because Prof Venter made a mistake of fact.
4. The contract between Prof Venter and T & C Motor Trading Store is voidable because Prof Venter made the misrepresentation that his car had been stolen.

VRAAG 5

Prof Venter parkeer sy motor voor 'n inkopiesentrum. Nadat hy sy inkopies gedoen het, kan hy nie sy voertuig vind nie. Onder die indruk dat sy voertuig gesteel is, koop hy 'n tweedehandse voertuig van T & C Motor Trading Store. 'n Uur nadat hy die koopkontrak met T & C Motor Trading Store gesluit het, lig die polisie prof Venter in dat sy voertuig nie gesteel is nie, maar dat hy dit bloot 'n paar parkeerspasia verder parkeer het as wat hy gedink het.

Watter EEN van die volgende stellings is KOREK?

1. Die kontrak tussen prof Venter en T & C Motor Trading Store is geldig omdat dwaling in beweegrede geen invloed op wilsooreenstemming het nie.
2. Die kontrak tussen prof Venter en T & C Motor Trading Store is geldig omdat prof Venter 'n onskuldige wanvoorstelling gemaak het.
3. Die kontrak tussen prof Venter en T & C Motor Trading Store is nietig omdat prof Venter gedwaal het ten aansien van 'n feit.
4. Die kontrak tussen prof Venter en T & C Motor Trading Store is vernietigbaar omdat prof Venter die wanvoorstelling aan T & C Motor Trading Store gemaak het dat sy voertuig gesteel is.
QUESTION 8

Bricks wants to purchase an apartment from Morake only if the beach is visible from the apartment. Morake is not sure whether the beach is visible from the apartment. They agree that Bricks will purchase the apartment if the beach is visible from the apartment.

What is such a contractual term called?

1. a modus
2. a warranty
3. a supposition
4. a condition

VRAAG 8

Bricks wil 'n woonstel by Morake koop, maar net as die strand vanaf die woonstel sigbaar is. Morake is egter nie seker of die strand vanaf die woonstel sigbaar is nie. Hulle kom ooreen dat Bricks die woonstel sal koop mits die strand vanaf die woonstel sigbaar is.

Wat word so 'n kontraksbeting genoem?

1. 'n lasbepaling
2. 'n waarborg
3. 'n veronderstelling
4. 'n voorwaarde

QUESTION 9

Which ONE of the following statements is CORRECT?

1. Repudiation is a form of breach of contract which always entitles the innocent party to cancel the contract.
2. Repudiation is a form of breach of contract which never entitles the innocent party to cancel the contract.
3. Repudiation is not a form of breach of contract and therefore does not entitle the innocent party to cancel the contract.
4. Repudiation is a form of breach of contract, however, it does not necessarily entitle the innocent party to cancel the contract.

VRAAG 9

Watter EEN van die volgende stellings is KORREK?

1. Repudiasie is 'n vorm van kontraktebreuk wat die onskuldige party sonder meer daarop geregte maak om die kontrak te kanselleer.
2. Repudiasie is 'n vorm van kontraktebreuk wat nooit die onskuldige party daarop geregte maak om die kontrak te kanselleer nie.
3. Repudiasie is nie 'n vorm van kontraktebreuk nie.
4. Repudiasie is 'n vorm van kontraktebreuk, maar dit maak nie sonder meer die ander party daarop geregte om die kontrak te kanselleer nie.
QUESTION 6

Which ONE of the following statements is CORRECT?

1. The performance due in terms of a contract will be determined only if it is not divisible
2. The performance due in terms of an alternative obligation is determined by describing a kind (genus) of commodity in terms of number or mass or measure
3. The performance due in terms of a generic obligation is determined by selecting from two or more alternatives
4. The performance due in terms of a contract will be ascertainable if, at the time of concluding the contract, the parties agree on a criterion or a formula to identify the performance or if they agree that a specified person will determine the performance

VRAAG 6

Watter EEN van die volgende stellings is KORREK?

1. Die prestasie wat ingevolge 'n kontrak verskuldig is, sal bepaald wees slegs indien dit ondeelbaar is
2. Die prestasie wat ingevolge 'n alternatiewe verbintenis verskuldig is, word bepaal deur 'n soort (genus) komoditeit te beskryf volgens getal of massa of maat.
3. Die prestasie wat ingevolge 'n generieke verbintenis verskuldig is, word bepaal deur 'n keuse tussen twee of meer alternatiewe.
4. Die prestasie wat ingevolge 'n kontrak verskuldig is, sal bepaalbaar wees as die partye ten tyde die sluiting van die kontrak ooreenkoms op 'n maatstaf of formule om die prestasie te identifiseer of ooreenkoms dat 'n gespesifiseerde persoon die prestasie sal aandui

QUESTION 7

Which ONE of the options provided below will complete the following sentence CORRECTLY?

The requirement that a contract of suretyship must be in writing and signed by or on behalf of the surety was introduced by

1. legislation
2. common law
3. our courts
4. customary law

VRAAG 7

Watter EEN van die onderstaande opsies sal die volgende sin KORREK voltooi?

Die vereiste dat 'n borgkontrak op skrif gestel en deur of namens die borg onderteken moet wees, is ingevoer deur...

1. wetgewing
2. die gemenereg
3. ons howe
4. gewoontereg
QUESTION 8

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3 Repudiasie is nie ’n vorm van kontrakbreuk nie
4 Repudiasie is ’n vorm van kontrakbreuk, maar dit maak nie sonder meer die ander party daarop geregty om die kontrak te kanselleer nie
QUESTION 10

Which **ONE** of the options provided below will complete the following sentence **CORRECTLY**?

An order for specific performance is courts order which

1 prevents a party from doing something that is contrary to the terms of the contract
2 allows a party to a contract to withhold his or her performance until the other contracting party has performed in terms of the contract
3 orders a party to render defective performance
4 orders a party to a contract to render the performance he or she undertook to render in that contract

VRAAG 10

Watter **EEN** van die onderstaande opsies sal die volgende sin **KORREK** voltooi?

'n Bevel vir spesifieke nakoming is 'n bevel wat

1 voorkom dat 'n kontrakparty iets doen wat teen die bedinge van die kontrak is
2 'n kontrakparty toelaat om sy of haar prestasie te weerhou tot die ander kontrakparty ingevolge die kontrak presteer het.
3 'n kontrakparty beveel om gebrekkige prestasie te lewer
4 'n kontrakparty beveel om te presteer soos hy of sy in die kontrak onderneem het om te doen

QUESTION 11

Sdumo undertakes to paint Hendry's house on 3 October. On that day, Sdumo does not arrive. On 15 October Hendry hears that Sdumo is on holiday until 1 February of the following year and that he on his return intends to move to another city.

Which **ONE** of the following statements is **CORRECT**?

1 The contract has become void because of supervening impossibility of performance
2 Because Sdumo is in *mora ex persona*, Hendry may claim damages from him
3 Sdumo is released from his obligation to perform, because he has prevented his own performance
4 Hendry may reasonably conclude that Sdumo no longer intends to paint the house, and is consequently entitled to the remedies for breach of contract

VRAAG 11

Sdumo onderneem om Hendry se huis op 3 Oktober te verf. Op daardie dag daag Sdumo nie op nie. Op 15 Oktober hoor Hendry dat Sdumo weg is met vakansie tot 1 Februarie die volgende jaar en dat hy van plan is om na 'n ander stad te verhuis wanneer hy terugkeer.

Watter **EEN** van die volgende stellings is **KORREK**?

1 Die kontrak het nietig geword weens onmoontlik wording van prestasie.
2 Aangesien Sdumo in *mora ex persona* is, kan Hendry skadevergoeding van hom eis.
3 Sdumo word vrygeskeld van sy plig om te presteer, aangesien hy sy eie prestasie onmoontlik gemaak het.

4 Hendry kan redelikerwys tot die slotsom kom dat Sdumo nie meer van plan is om die huis te verf nie en sy is dus geregtig op die regsmiddel vir kontrakbreuk

QUESTION 12

George orders a ‘Ferrari car’ cake for his son’s third birthday party from Karabo. George agrees to pay R1000 for the cake and Karabo agrees to deliver the cake at George’s house at 11h00 on the day of the party.

Which ONE of the following circumstances is an example of supervening impossibility of performance which terminates the obligations arising from the contract?

1 Karabo’s kitchen is destroyed in a fire caused by lightning and she cannot bake the cake.
2 Karabo oversleeps and only delivers the cake at 13h00, one hour after the start of the birthday party.
3 Karabo does not possess the necessary skill to decorate party cakes and the cake resembles a BMW car.
4 Karabo drives at a very high speed to George’s house and the cake is destroyed in an accident.

VRAAG 12

George bestel 'n ‘Ferrari motor’ koek vir sy seun se derde verjaarsdagpartytjie van Karabo. George stem in om R1000 vir die koek te betaal en Karabo onderneem om die koek om 11h00 die oggend van die partytjie by George se huis af te lever.

Watter EEN van die volgende omstandighede is 'n voorbeeld van onmoontlikwording van prestasie wat die verpligtinge wat uit die ooreenkoms onstaan, beeindig?

1 Karabo se kombuis word vernietig in 'n brand wat deur weergelig veroorsaak is, en sy kan nie die koek bak nie.
2 Karabo verslaap en lever die koek eers om 13h00 af, 'n uur nadat die partytjie begin het.
3 Karabo beskik nie oor die nodige vaardigheid om partytjekoeke te versier nie, en die koek lyk soos 'n BMW motor.
4 Karabo jaag teen 'n geweldige hoë spoed na George se huis en die koek word in 'n motorbotsing vernietig.

QUESTION 13

Alfred rebuilds a ‘Mini’ motor car. Due to the difficulty in obtaining a fanbelt for the car, he uses a nylon stocking instead. He then sells it ‘as is’ (‘voetstoots’) to Mphoreng, a student with no knowledge of cars. On Mphoreng’s way home the stocking melts, and that causes a serious damage to the engine.

Which ONE of the following statements is CORRECT?

1 Mphoreng has a claim against Alfred because Alfred knew about the defect, and is therefore not able to rely on the ‘as is’ (‘voetstoots’) clause.
2 Mphoreng has a claim against Alfred, because an implied warranty against latent defects is read into every contract of sale; notwithstanding the inclusion of an 'as is' ('voetstoots') clause.
3 Mphoreng has no claim against Alfred because the warranty against latent defects was excluded by stating that the 'Mini' is sold 'as is' ('voetstoots').
4 Mphoreng has no claim against Alfred, because Alfred's concealment of the use of a nylon stocking does not amount to misrepresentation.

VRAAG 13

Alfred bou 'n 'Mini' motorkar op. Omdat dit so moeilik is om 'n waaierband vir so 'n motor in die hande te kry, gebruik Alfred 'n sykous in die plek daarvan. Hy verkoop dit, soos dit staan, ('voetstoots') aan Mphoreng, 'n student wat niks van voertuie af weet nie. Op Mphoreng se pad huis toe smelt die sykous, en veroorsaak ernstig skade aan die enjin.

Watter EEN van die volgende stellings is KORREK?

1 Mphoreng het 'n eis teen Alfred en Alfred kan nie op die 'soos dit staan' ('voetstoots') klausule staam nie, aangesien Alfred bewus was van die gebrek.
2 Mphoreng het 'n eis teen Alfred ongeag die 'soos dit staan' ('voetstoots') klausule, aangesien 'n waarborg teen verborge gebreke by elke koopkontrak ntbegryp word.
3 Mphoreng het geen eis teen Alfred nie, omdat die waarborg teen verborge gebreke uitgesluit is deur te meld die 'Mini' word verkoop, 'soos dit staan' ('voetstoots').
4 Mphoreng het geen eis teen Alfred nie, aangesien Alfred se versuim aangaande die sykous, nie op wanwoordstelling neerkom nie.

QUESTION 14

Stefan rents a house from Happy for R2 000 per month. The roof of the main bedroom starts to leak when it rains. Stefan now has to sleep in another bedroom.

Which ONE of the following statements is CORRECT?

1 Stefan is entitled to refuse to pay the rent.
2 The defect is not material and Happy is therefore not obliged to have the roof repaired.
3 If Happy refuses to repair the roof, Stefan is entitled to have the roof repaired and to claim a reduction of the rent on the grounds of the repairs he made.
4 Happy is entitled to maintenance of the house in a fit condition and Stefan is therefore obliged to have the roof repaired.

VRAAG 14

Stefan huur 'n huis by Happy teen R2 000 per maand. Die dak in die hoofslaapkamer begin lek as dit reen. Stefan is nou verplig om in 'n ander slaapkamer te slaap.

Watter EEN van die volgende stellings is KORREK?

1 Stefan is daarop geregtig om te weier om die huurgeld te betaal.
2 Die gebrek is nie wesentlik nie en Happy is daarom nie verplig om die dak te laat herstel nie.
Indien Happy weier om die dak te laat herstel, is Stefan daarop geregig om herstelwerk aan die dak te laat doen en op grond daarvan vermindering van die huurgeld te eis vir die herstelwerk wat hy gedoen het

Happy is daarop geregig dat die huis in ’n gesikte toestand onderhou word. Stefan is daarom verplig om die dak te laat herstel

**QUESTION 15**

Which ONE of the options provided below will complete the following sentence **CORRECTLY**?

In an insurance contract an uncertain event insured against is known as

1. a risk
2. an insurable interest
3. an excess clause
4. subrogation

**VRAAG 15**

Watter **EEN** van die onderstaande opsies sal die volgende sin **KORREK** voltoo? In ’n versekeringskontrak staan die onseker gebeurtenis waarteen verseker word, bekend as ...

1. ’n risiko
2. ’n verskerbare belang
3. ’n bybetalingsklausule
4. subrogasie

**QUESTION 16**

Which **ONE** of the following statements is **CORRECT**?

1. The mandatory must be reimbursed for all expenses incurred in good faith
2. The contract of mandate is gratuitous and there is no need to compensate the mandatory for any expenses
3. The mandatory need not be indemnified in respect of liability which may arise from the execution of the mandate
4. The parties may not agree to exclude the obligation of the mandator to compensate the mandatory for expenses incurred in executing the mandate

**VRAAG 16**

Watter **EEN** van die volgende stellings is **KORREK**?

1. Die lashebber moet vergoed word vir alle uitgawes wat ter goeder trou aangegaan is
2. Die lasgewingskontrak is ’n gratis onderneming en daar bestaan geen verpligtig om die lashebber vir uitgawes te vergoed nie.
3. Die lashebber hoef nie gevrywaar te word teen aanspreeklikheid wat voortvloei uit die uitvoering van die mandaat nie.
4. Die partye mag nie ooreenkoms om die lasgewer se verplichting uit te sluit om die lashebber te vergoed vir uitgawes aangegaan in die uitvoering van die mandaat nie.

QUESTION 17

Joseph Kobong resides in Tshwane and wishes to build a holiday home on a stand he owns in Alexandra Bay. He appoints Johan Kruger as an agent to arrange for the building of the house on his behalf.

Which ONE of the following actions may Johan Kruger take in his capacity as agent?

1. He may appoint Wonder Pools to build a pool next to the house.
2. He may appoint an architect to draw up the building plans without informing the architect that he, Johan Kruger, is acting on behalf of someone else.
3. He may come to an arrangement with the builder that the builder will purchase all the required building materials from JK Building Supplies CC of which Bright Barry is the only member.
4. He may appoint a builder who, in his opinion, will do the best work at the most reasonable price.

VRAAG 17

Joseph Kobong bly in Tshwane en wil 'n strandhuis oprig op 'n erf wat hy by Alexandra Baai besit. Hy stel vir Johan Kruger aan as 'n verteenwoordiger om die bou van die huis namens hom te organiseer.

Watter EEN van die volgende mag Johan Kruger in sy hoedanigheid as agent doen?

1. Hy mag vir Wonder Pools aanstel om 'n swembad langs die huis te bou.
2. Hy mag 'n argitek aanstel om die planne op te trek sonder om aan die argitek bekend te maak dat hy, Johan Kruger, namens 'n ander persoon optree.
3. Hy mag met die bouer ooreenkoms dat die bouer al die nodige boumateriaal sal koop by JK Bouhandelaars BK, waarvan Blink Barnie die enigste lid is.
4. Hy mag 'n bouer aanstel wat na sy oordeel die beste werk sal lewer teen die redelikste prys.

QUESTION 18

Which ONE of the following is NOT a requirement for the creation of a business trust?

1. The object of the trust must be to protect and preserve the trust assets.
2. The trust assets and trust beneficiaries must be readily ascertainable.
3. It must be possible to define the object of the trust with reasonable certainty.
4. The founder of the trust must have the serious intention of creating a trust.
VRAAG 18

Watter EEN van die volgende is NIE 'n vereiste vir die oprigting van 'n besigheidstrust NIE?

1. Die oogmerk van die trust moet wees om die trustbates te beskerm en te bewaar
2. Die trustbates en trustbegunstigdes moet redelik vasstelbaar wees
3. Die doel van die trust moet met redelike sekerheids bepaal kan word
4. Die oprigter van die trust moet die ernstige bedoeling hê om 'n trust te skep

QUESTION 19

Which ONE of the following statements is CORRECT?

1. A contract of suretyship is terminated by the death of the principal debtor
2. A contract of suretyship will be void if it is not signed by or on behalf of the principal debtor
3. A contract of suretyship will be void if it is not signed by or on behalf of the surety
4. A contract of suretyship may only be terminated in writing

VRAAG 19

Watter EEN van die volgende stellings is KORREK?

1. 'n Borgkontrak word beeindig by die afsterwe van die hoofskuldenaar
2. 'n Borgkontrak sal nietig wees as dit nie deur of namens die hoofskuldenaar onderteken is nie.
3. 'n Borgkontrak sal nietig wees as dit nie namens die borg onderteken is nie
4. 'n Borgkontrak mag slegs skriftelik beeindig word.

QUESTION 20

Kamo Stores sends an electronic brochure to Thuso advertising their new football kits. Thuso is interested in one of the football kits and orders it from Kamo Stores. The football kit is delivered to Thuso but Thuso is not happy with the quality.

Which ONE of the following statements is CORRECT in terms of the Consumer Protection Act 68 of 2008?

1. The contract of the sale for the football kit is null and void, because in terms of the Consumer Protection Act, Thuso's right to privacy was infringed when the brochure was sent to him electronically.
2. The contract of sale for the football kit is not null and void, because Thuso did not waive his right to restrict the unwanted direct marketing of products
3. In terms of the Consumer Protection Act, Thuso has a cooling-off period of five business days after a contract of sale is concluded by direct marketing during which Thuso can rescind the contract without being subject to a penalty.
4. In terms of the Consumer Protection Act, Thuso has a cooling-off period of ten business days in the case of a contract concluded as result of direct marketing, during which to cancel the contract, but Thuso could be subject to a penalty should he return the football kit.
May/June 2017 Suggested Solutions
Section A

Question 1
1. True
2. False
3. True
4. False
5. True

Question 2
a) Occupation
b) Prodigal
c) Condition
d) Non-indemnity insurance

Question 3
- necessity
- self-defence
- consent:
  - to injury
  - to the risk of injury
- statutory authority
- provocation

Question 4
The basis of consensus is a common intention to be contractually bound, which the respective contracting parties make known to one another.

- Also known as true agreement
- Reached if:
  - Each part has serious intention
  - The parties have common intentions
  - Each party's intention is known to the other
Question 5

a) (i)
Zaheer breached the contract by:

- Falling into arrears
- Using the leased property contrary to the terms of the contract

Therefore, Sibusiso has the right to terminate the contract with Zaheer.

Once the contract is terminated, Zaheer ceases to be a lessee in respect of the property in question so that Derick is no longer bound by the original agreement between Zaheer and Sibusiso.

b) (i)
Delivery with short hand – at the date and time of delivery, Craig already possesses the horse on other basis than ownership.

b) (ii)
1) Actual delivery

Actual delivery refers to the surrender of control and possession of property by the vendor and the assumption of possession by the vendee. It is the transferring of a deed from the grantor or seller to the grantee or buyer by personally handing the deed to the grantee or sending it by certified mail.

2) Symbolic delivery

Symbolic delivery refers to delivery of goods by way of gift or sale, when it is either inaccessible or cumbersome. Goods under symbolic delivery are offered through substitute article that indicates the donative's intent of the donor or seller and is accepted as the representative of the original item.

3) Delivery with the long hand

This refers to the act of delivery of a transferring party to the receiving party who does not yet have the object in their possession.

4) Constitutum possessorium

The change in intention of one having legal possession of real or personal property whereby the original possessor of the property remains in control but transfers the legal possession to another.

c)

i) the right to equality in the consumer market
ii) the right to confidentiality and privacy
iii) the right to choose
iv) the right to disclose and information
v) the right to fair and responsible marketing
vi) the right to honest dealing and fair agreements
vii) the right to fair, just and reasonable terms and conditions
viii) the right to fair value, good quality and safety
### Section B

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October/November 2016

QUESTION 1

Constitutional supremacy means that

1. there may be no interference with judicial independence when a court applies the Constitution
2. Parliament is the highest legislative body and is entitled to make legislation without any interference
3. no right given by the Constitution may be limited
4. the Constitution is the highest law of the country and any law which is contrary to its provisions may be declared invalid (2)

QUESTION 2

Mr and Mrs Taukgale want to apply for a divorce

Which of the following courts can they approach to have the matter heard?

1. The Supreme Court of Appeal
2. The Constitutional Court
3. Regional Magistrate’s Court
4. None of the above (2)

QUESTION 3

Which ONE of the following subdivisions of the law forms part of private law?

1. Criminal law
2. International law
3. Company law
4. Law of contract (2)

QUESTION 4

Which ONE of the elements of a delict is absent when the perpetrator has acted like a reasonable person?

1. An act
2. Unlawfulness
3. Fault
4. Damage or impairment of personality (2)
QUESTION 5

What is the right called that an artist has to his or her works which prevents others from imitating such works?

1 Intellectual property right
2 Personality right
3 Personal right
4 Ownership

(2)

QUESTION 6

Which ONE of the following is NOT a requirement for the conclusion of a valid contract?

1 The contract must be permitted by law
2 Each party to the contract must have capacity to act
3 The contract must be in writing, signed and dated
4 There must be consensus between the parties

(2)

QUESTION 7

Gontse helped Jan to move her furniture to his new house. Gontse was injured during the move due to Jan’s negligence. Gontse’s left leg was injured and she suffered both physical injuries and patrimonial damages. She claimed for her patrimonial damages from Jan. Jan offered to pay R2 500 in full and final settlement of Gontse’s claim. Gontse refused and expressly stated that she would only accept an offer of R3 000. Jan refused to increase the offer.

Which ONE of the following statements is CORRECT?

1 The request made by Gontse is a counter offer. Therefore, the original offer falls away.
2 Gontse can accept the original offer after her request for an increased offer was rejected.
3 Gontse’s offer remains open for a specific period of time.
4 Gontse cannot accept the original offer, because it was revoked

(2)

QUESTION 8

Kgotso makes an offer to buy Mpho’s motor car for R10 000. He gives Mpho ten days to accept his offer. On the ninth day, Mpho informs Kgotso that he accepts the offer, but that he wants an amount of R10 200.

Which ONE of the following statements is CORRECT?

1 A contract came into existence between Kgotso and Mpho with a purchase price of R10 200.
2 No contract came into existence between Kgotso and Mpho as Mpho made a counter-offer, which has not yet been accepted.
3 A contract came into existence between Kgotso and Mpho with a purchase price of R10 000.
4 Kgotso’s offer still stands.

(2)
QUESTION 9

Mr Smith wishes to offer Karabo Kgorong a job. He asks his secretary to telephone Karabo so that he can talk to him. The secretary dials the wrong number. Karabo Kobong answers the telephone. Mr Smith, who is under the impression that he is talking to Karabo Kgorong, offers the job to Karabo Kobong. Karabo Kobong accepts the offer.

Which **ONE** of the following statements is **CORRECT**?

1. The contract between Mr. Smith and Karabo Kobong is void owing to misrepresentation.
2. The contract between Mr. Smith and Karabo Kobong is void owing to mistake.
3. Mr Smith and Karabo Kobong reached consensus and will be bound in terms of their agreement.
4. The contract between Mr. Smith and Karabo Kobong is valid since Mr. Smith made a mistake which is not material. (2)

QUESTION 10

Moremi holds a pistol to Koos’s head and threatens to kill him should he not sell his house to him (Moremi). Koos agrees and the contract of sale is signed by both parties.

Which **ONE** of the following statements is **CORRECT**?

1. The contract is void as a result of duress.
2. There is no consensus between Moremi and Koos.
3. The contract is voidable because Koos signed it under duress.
4. The contract is invalid due to duress. (2)

QUESTION 11

Which **ONE** of the following statements is **CORRECT**?

1. Maria, a seven year old girl, inherits a very valuable diamond ring from her grandmother. Mr Morake, Maria’s father, sells the ring to Peter for R10 000, while its actual value is R70 000. Maria will never be able to remedy this detrimental contract.
2. Mr More agrees with his best friend, Tathego, that his seventeen year old daughter, Montle, will marry Tathego. Montle refuses to marry Tathego, because she wants to study medicine at the Medical University of South Africa. The marriage nevertheless takes place without her consent, because arranged marriages are part of her culture. The marriage is valid.
3. George, a thirteen year old boy, undergoes an HIV test without his guardian’s consent. George is able to do so lawfully.
4. None of the above. (2)
QUESTION 12

Which ONE of the following could have an influence on a natural person’s legal capacity?

1. Mental deficiency
2. Being under the influence of alcohol or drugs
3. Having been declared a prodigal by the High Court
4. None of the above

(2)

QUESTION 13

After ten years in a business partnership, which sells tyres, Martin wants to terminate Martin and Samson’s business partnership. Since Martin’s business partner, Samson, will be entitled to half the assets of the partnership at the time of the termination, he concludes a contract with a professional killer, Madlaya, in terms of which he will pay Madlaya the amount of R100 000 to kill Samson. The next day Samson dies of natural causes.

Which ONE of the following statements is CORRECT?

1. Madlaya is entitled to payment in terms of the contract because performance has become impossible
2. Madlaya is not entitled to payment in terms of the contract because performance has become impossible
3. Madlaya is not entitled to payment because the agreement between him and Martin is contrary to public policy.
4. Madlaya is not entitled to payment because it is an implied term of the contract that Samson must be killed by Madlaya, not die of natural causes

(2)

QUESTION 14

Prince undertakes to deliver his Rally mountain bike to Mafikeng. The contract further provides that Prince may, at his sole discretion, deliver another mountain bike of similar quality.

This is a(n)

1. facultative obligation
2. generic obligation
3. alternative obligation.
4. invalid contract

(2)

QUESTION 15

Which ONE of the following contracts must be in writing and signed in order to be valid?

1. A contract where a house is leased
2. A contract where a wager is made
3. A contract where a car is sold
4. A contract where land is sold

(2)
QUESTION 16

Mphoreng takes her friends Sarah and Queen to a restaurant. When Mphoreng wants to pay, she discovers that she does not have her purse with her. Sarah agrees to pay the bill, but she suspects that Mphoreng will not repay her. Sarah therefore asks Queen if she will bind herself as surety for Mphoreng’s debt. Queen agrees by nodding her head.

Which ONE of the following statements regarding the validity of the agreement between Queen and Sarah is CORRECT?

1. The agreement is void because formalities have not been complied with
2. The agreement is void due to a lack of consensus
3. The agreement is void because it is contrary to good morals
4. A valid contract has been concluded

(2)

QUESTION 17

More agreements are concluded electronically than previously. The Electronic Communications and Transactions Act 25 of 2002 provides that data messages (electronic messages) are recognised as writing if the document is accessible for future use, except in respect of specific transactions concluded under specific Acts.

Under which ONE of the following Acts will electronic messages be recognised as writing?

1. National Credit Act 34 of 2005
3. National Stamp Duties Act 77 of 1968
4. National Wills Act 7 of 1953

(2)

QUESTION 18

Mr King donates his computer to Give-a-Book Library in a written contract of donation. Mr King and the librarian agree that Mr King will only deliver the computer on 18 November, as Mr King first needs to complete a project on the computer.

Which ONE of the following statements is CORRECT?

1. Give-a-Book Library may demand delivery of the computer from Mr King on 18 November as the contract will only be enforceable on this date
2. Give-a-Book Library may demand delivery of the computer from Mr King at any time as the computer has already been donated to the library
3. Mr King may refuse to deliver the computer to Give-a-Book Library if he changes his mind about donating it to the library
4. Mr King may refuse to deliver the computer to Give-a-Book Library if he has not completed his project by the end of the year

(2)
QUESTION 19

Hosca wants to purchase an apartment from Morake only if the beach is visible from the apartment. Musa is not sure whether the beach is visible from the apartment. They agree that Hosca will purchase the apartment if the beach is visible from the apartment.

What is such a contractual term called?

1. a modus
2. a warranty
3. a supposition
4. a condition

(2)

QUESTION 20

Ben, Joshua, and Kobus are members of a close corporation known as BJK Firefire CC, a business which sells fireplaces. The association agreement contains a restraint of trade clause which regulates the situation should one of them resign as a member of the close corporation. The restraint of trade clause provides that in such a case, neither of the members will carry on the business of selling fireplaces within seven kilometers of the premises of BJK Firefire CC for a period of one year after resignation. Ben resigns as a member of BJK Firefire CC and immediately opens another shop selling fireplaces just around the corner from BJK Firefire CC.

Which ONE of the following statements is CORRECT?

1. Ben’s behavior amounts to repudiation, because it indicates that he does not intend honouring his obligations in terms of the association agreement.
2. Ben is not in breach of contract, because he has resigned as member of BJK Firefire CC and in doing so is no longer bound to the terms of the association agreement.
3. Although Ben is in breach of contract, Joshua and Kobus cannot enforce the restraint clause unless they can prove that it is reasonable.
4. Unless Ben can show that the restraint clause is contrary to public policy, his contravention of the restraint clause will constitute breach of contract and the restraint clause will be enforceable.

(2)

QUESTION 21

Which ONE of the following statements about repudiation is CORRECT?

1. Repudiation is a form of breach of contract which always entitles the innocent party to cancel the contract.
2. Repudiation is a form of breach of contract, but it does not necessarily entitle the innocent party to cancel the contract.
3. Repudiation is a form of breach of contract which never entitles the innocent party to cancel the contract.
4. Repudiation is not a form of breach of contract.

(2)
QUESTION 22

The remedy of execution of the contract is the obvious remedy for breach of contract

Which **ONE** of the following orders is an order for the execution of the contract?

1. An order for increased performance
2. An order for reduced performance
3. An order for payment of damages
4. None of the above  \( (2) \)

QUESTION 23

Matome undertakes to paint Freddy’s house on 3 October. On that day, Matome does not arrive. On 15 October Freddy hears that Matome is on holiday until 1 February of the following year and that he on his return intends to move to another city.

Which **ONE** of the following statements is **CORRECT**?

1. The contract has become void because of supervening impossibility of performance
2. Because Matome is in *mora ex persona*, Freddy may claim damages from him
3. Freddy may reasonably conclude that Matome no longer intends to paint the house, and is consequently entitled to the remedies for breach of contract
4. Matome is released from his obligation to perform, because he has prevented his own performance  \( (2) \)

QUESTION 24

Trevor and Phuti enter into an agreement in terms of which Trevor undertakes to manufacture electrical motors for use in the manufacturing of washing machines at an agreed price, and according to certain specifications. On delivery of the motors to him, Phuti pays the purchase price of the motors to Trevor. However, all the motors are materially defective in that they do not comply with the specifications and are therefore completely useless for application in the manufacturing of washing machines.

Which **ONE** of the following statements is **CORRECT**?

1. Because the agreement does not contain a *lex commissoria* (cancellation clause), Phuti is not entitled to cancel the contract on the ground of Trevor’s breach of contract
2. Phuti is entitled to cancel the contract and hold Trevor liable for damages suffered by him as a result of Trevor’s breach of contract
3. Phuti is not entitled to cancel the contract since the defect is not of such a serious nature that he cannot reasonably be expected to abide by the contract
4. If Phuti elects to cancel the contract, he need not return the motors, because he has suffered damage as a result of Trevor’s breach of contract  \( (2) \)
QUESTION 25

Tebogo owes Ntleko R 30 000 in respect of several debts. Tebogo pays Ntleko an amount of R10 000, but does not stipulate which debt/s he is actually paying.

Which ONE of the following principles will apply in this case?

1. Capital is paid before interest
2. Due debts are paid before debts which have not yet fallen due
3. Onerous debts do not have preference over non-onerous debts
4. Old debts do not have preference over new debts

(2)

QUESTION 26

Tshepiso undertakes to build a wall around Andrew’s property. However, Tshepiso realises that he has too much work and persuades Thabo to take over the job. Tshepiso, Thabang, and Thabo now agree to this arrangement.

Which ONE of the following terms will complete the sentence below CORRECTLY?

Tshepiso’s obligation is extinguished because of

1. delegation
2. settlement
3. set-off
4. cession

(2)

QUESTION 27

Consider the following requirements

A. Agreement on the purchase price
B. Agreement regarding a warranty against latent defects
C. Agreement regarding the 
D. Agreement that the 

Which of the above are the essential characteristics of a contract of sale?

1. Only A and C
2. Only B and C
3. Only A and D
4. Only B and D

(2)
QUESTION 28
Morwadi goes to Bundas Café to buy a tin of tuna. After taking the money, Mr Mabunda, the shop owner, takes the tuna from the shelf behind him and gives it to Morwadi.

Which ONE of the following forms of delivery has taken place?

1. Symbolic delivery
2. Actual delivery
3. Delivery with the short hand
4. Delivery with the long hand (2)

QUESTION 29

Which ONE of the following statements describes the duties of a lessor?

1. The lessor must pay rent, take care of the thing let and must restore the thing let on termination of the lease
2. The lessor must conclude a new contract with the lessee upon the expiry of their existing lease agreement
3. The lessor must exercise his or her tacit hypothec when the lessee falls into arrears with his or her rent
4. The lessor must deliver the thing let to the lessee, maintain the thing let in a proper condition and ensure the lessee’s undisturbed use and enjoyment of the thing let (2)

QUESTION 30

Ntando rents a house from Tiro for R4 500 per month. The roof of the main bedroom starts to leak when it rains. Ntando is now obliged to sleep in another bedroom.

Which ONE of the following statements is CORRECT?

1. Ntando is entitled to refuse to pay the rent
2. If Tiro refuses to repair the roof, Ntando is entitled to have the roof repaired and to claim a reduction of the rent on the grounds of such repairation
3. The defect is not material and Tiro is therefore not obliged to have the roof repaired
4. Tiro is entitled to maintenance of the house in a fit condition and Ntando is therefore obliged to have the roof repaired (2)
QUESTION 31

Which **ONE** of the following statements regarding the “huur gaat voor koop” doctrine is **INCORRECT**?

1. The purchaser is bound by the lease that exists in respect of the property at the time of alienation
2. The tenant is bound by the lease that exists in respect of the property at the time of alienation
3. The purchaser will not be bound by the doctrine if the tenant neglects to pay the rent
4. All rent which was in arrear and which was owed by the tenant to the previous owner (the seller), at the time of alienation, accrues to the new owner (purchaser) (2)

QUESTION 32

Pret leases his house to Gomolemo. Piet and Buang agree that their contract of lease will come to an end when Piet’s son, Daniel, comes back from the UK.

A year after conclusion of the agreement, Daniel comes back from the UK.

Which **ONE** of the following forms of termination of lease will take place?

1. The lease agreement will be terminated by notice because the contract is for an indefinite period
2. The lease agreement will not be terminated by notice because the parties did not mention in their contract that the contract will be terminated by notice
3. The lease agreement will not be terminated by effluxion of time because it was not known when the event will take place
4. The lease agreement will be terminated by effluxion of time because its existence depends on the occurrence of a specified event (2)

QUESTION 33

Phil is mandated by Joe to find and buy him a 2015 Ford Ranger Wildtrak with low mileage. Phil finds and buys such a vehicle, but decides to buy the trailer, with which it was offered for sale, as well.

Which **ONE** of the following statements is **CORRECT**?

1. Phil can claim the expenses incurred in buying the trailer, from Joe
2. Phil can claim remuneration for the trailer from Joe
3. Phil can claim remuneration for the sourcing and the buying of the Ford Ranger from Joe
4. Phil cannot claim anything from Joe because he did what he was not supposed to do, that is buying the trailer in addition to the Ford Ranger (2)
QUESTION 34

Which ONE of the following is NOT a requirement for estoppel?

1. The third party must have acted to his or her detriment on the basis of the representation
2. The third party must have known that the agent was not authorised to conclude juristic acts
3. The principal must have represented to the third party that the agent had authority to act on his or her behalf.
4. The representation must have been of such a nature that it could reasonably have been expected that the third party would be misled (2)

QUESTION 35

Jopie, Mosidi, and Muvhango want to start a business. They agree that Jopie and Mosidi will each contribute R40 000, while Muvhango will contribute R50 000. They want to operate their business in the form of a partnership, but are not sure about their duties and rights as partners.

Which ONE of the following statements regarding the rights and duties of partners is CORRECT?

1. Each partner is entitled to share equally in the profits of the partnership
2. Each partner is entitled to participate in the management of the partnership in proportion to the contribution he or she made to the partnership
3. The partners may use the assets of the partnership for personal aims
4. If one of the partners fails to deliver his or her contribution to the partnership the other partners may use the actio pro socio to force him or her to deliver such contribution (2)

QUESTION 36

Which ONE of the following is a natural consequence (a naturale) of a partnership contract?

1. The expectation to share in the net profit
2. The partnership should be formed in the common interest of the partners
3. The main object of the partnership must be to make profit
4. In the absence of a provision to the contrary, losses are shared in the same proportion as profits (2)

QUESTION 37

Which ONE of the following statements regarding the contract of suretyship is INCORRECT?

1. The surety cannot be liable for more than the principal debt
2. A valid contract of suretyship may be concluded orally or in writing
3. More than one person may render themselves liable for the same principal debt
4. The contract of suretyship is automatically terminated when the principal obligation is terminated (2)
QUESTION 38

Which **ONE** of the following forms of real security must be registered to exist?

1. A hypothec
2. A pledge
3. A mortgage bond
4. A lien

(2)

QUESTION 39

Which **ONE** of the following is **NOT** an “accountable institution” in terms of the FICA, which could potentially be used for money laundering purposes?

1. Universities
2. Attorneys
3. Banks
4. Members of the Stock Exchange (JSE)

(2)

QUESTION 40

Mohammad & Ahmed Stores sends an electronic brochure to Sunnyboy advertising their new football kits. Sunnyboy is interested in one of the football kits and orders it from Mohammad & Ahmed Stores. The football kit is delivered to Sunnyboy but Sunnyboy is not happy with the quality.

Which **ONE** of the following statements is **CORRECT** in terms of the Consumer Protection Act?

1. In terms of the Consumer Protection Act, Sunnyboy has a cooling-off period of five business days after a contract of sale is concluded by direct marketing during which Sunnyboy can rescind the contract without being subject to a penalty.
2. The contract of sale for the football kit is null and void, because in terms of the Consumer Protection Act, Sunnyboy’s right to privacy was infringed when the brochure was sent to him electronically.
3. The contract of sale for the football kit is null and void, because Sunnyboy did not waive his right to restrict the unwanted direct marketing of products.
4. In terms of the Consumer Protection Act, Sunnyboy has a cooling-off period of ten business days in the case of a contract concluded as result of direct marketing, during which to cancel the contract, but Sunnyboy could be subject to a penalty should he return the football kit.

(2)
### October/November 2016 Suggested Solutions

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QUESTION 1

Which ONE of the following sources of the law has only persuasive authority in a South African court and is NOT viewed as an authoritative source?

1. English law
2. Judgments of the Dutch courts before 1652
3. Dutch legislation before 1652
4. Roman law (2)

QUESTION 2

Which ONE of the following statements regarding the Corpus Iuris Civilis is CORRECT?

1. It is a codification of Roman-Dutch law
2. It is a codification of Roman law and English law
3. It is a codification of Roman law
4. It is a codification of English law (2)

QUESTION 3

Which ONE of the following is the most important part of a judgment?

1. Stare decisis
2. Obiter dictum
3. Incidental remarks
4. Ratio decidendi (2)

QUESTION 4

Bontle and Mandla establish a company under the name BM (Pty) Ltd and appoint Mpho as Chief Executive Officer and Makgosi as Chief Financial Officer.

Which ONE of the following statements is CORRECT?

1. BM (Pty) Ltd is a natural person which acquires rights and is subject to duties in its capacity as a company
2. BM (Pty) Ltd is a juristic person which acquires rights and is subject to duties in its capacity as a company
3. Mpho and Makgosi are juristic persons who acquire rights and are subject to duties in their capacity as a Chief Executive Officer and Chief Financial Officer respectively
4. Bontle and Mandla are the juristic persons who acquire rights and are subject to duties in their capacity as the owners. (2)
QUESTION 5

Senzo is a famous inventor of new environmentally friendly trucks. He stands in his ultra-modern workshop admiring the revolutionary new electrically powered tractor that he designed for the company, Casper (Pty) Ltd, who still owes him R2 million.

This sentence contains four legal objects, one from each of the four categories of Senzo’s subjective rights:
The R2 million owed to Senzo is an example of
1 a real right
2 a personality right
3 a personal right
4 an immaterial property right

(2)

QUESTION 6

When does the legal capacity of a human being come into existence?

1 at his or her conception
2 at his or her birth
3 when he or she reaches the age of eighteen
4 when he or she concludes a marriage

(2)

QUESTION 7

Which ONE of the following statements about the requirements for the conclusion of a valid contract is INCORRECT?

1 The contract which is objectively impossible to perform will be valid if it is legally possible to perform
2 The parties to a contract must have capacity to act
3 The parties to a contract must make their intentions known to one another
4 The general rule is that no formalities are required for the formation of contracts

(2)

QUESTION 8

Gugu and Nonhlanhla entered into an oral contract. Gugu wanted a motorbike for her son and was under the impression that they had entered into a contract of sale for a motorbike. Nonhlanhla however was under the impression that a contract of lease for the motorbike had been concluded. Gugu approaches you for advice regarding the validity of the contract.

Which ONE of the following statements is CORRECT?

1 The contract is valid because both Gugu and Nonhlanhla had the intention to be contractually bound
2  The contract is void because there was no consensus between Gugu and Nonhlanhla
3  The contract is voidable because the parties can rectify the contract
4  The contract is valid in all material respects because there was offer and acceptance  (2)

**QUESTION 9**

Mpho and Molefe arrange telephonically to meet at a coffee shop at 10h00 the next day

Which ONE of the following statements is CORRECT?

1  A contract arises as consensus exists
2  No contract arises as Mpho and Molefe have no intention to be legally bound
3  A contract has come about as a common intention exists and it has been made known to the other party
4  No contract arises as nothing was put in writing  (2)

**QUESTION 10**

Morongwa’s motorbike was involved in an accident. She now wishes to rent a car. She concludes an oral agreement with Moreki in terms of which she will rent his car. However, Moreki is labouring under the impression that Morongwa is buying the car from him.

Which ONE of the following statements is CORRECT?

1  A valid contract has come into existence between Morongwa and Moreki
2  The contract is void because the parties have not reached consensus on the nature of the contract
3  The parties have no intention to be contractually bound
4  There is no consensus with regard to the object of performance  (2)

**QUESTION 11**

Which ONE of the following persons has full capacity to perform juristic acts?

1  Paseka, a 17 year-old divorced mother
2  Thabo, a 17-year-old girl
3  Ingrid, a 25-year-old woman who has been certified mentally deficient
4  S & G (Pty) Ltd, a private company that has been duly incorporated and registered in accordance with the Companies Act 71 of 2008  (2)
QUESTION 12

Which ONE of the following persons has limited capacity to perform juristic acts?

1. an unmarried adult who has been drinking heavily
2. a divorced woman of seventeen years old
3. a man who has been declared a prodigal by the court
4. a minor under the age of seven years

(2)

QUESTION 13

Kobus, a sixteen year old boy, inherited horses worth R90 000 from his late grandfather. Kobus lives in a flat with his parents. He would therefore like to sell the horses and invest the money.

Which ONE of the following statements is CORRECT?

1. Kobus does not need his parents’ assistance to sell the horses because he inherited them.
2. Kobus does not need his parents’ assistance to sell the horses because he reached majority at the age of fourteen
3. Kobus needs his parents’ assistance to sell the horses because the value of the horses is more than R50 000
4. Kobus needs his parents’ assistance to sell the horses because he is a minor

(2)

QUESTION 14

Which ONE of the following statements about “gambling” is CORRECT?

1. Gambling contracts are not enforceable in a court of law
2. It is illegal to engage in a gambling activity in South Africa
3. There are some gambling activities which are regulated by legislation in South Africa
4. All gambling contracts are regulated by common law

(2)

QUESTION 15

Tshepo is employed by a company manufacturing skin care products as a sales manager. In his contract of employment there is a clause that states that the employee agrees and undertakes that he shall not for a period of thirty-six months and within a 300 kilometre radius of the premises of the employer, after the termination of the employment contract, alone or jointly with any person carry on a business that manufactures skin care products or related products.

Which ONE of the following options represents the name of the clause included in Tshepo’s contract of employment?

1. Restraint of trade clause
2. Rouwkoop clause
QUESTION 16

Which ONE of the following statements is CORRECT?

1. Jeffrey and Joel decide to run a brothel and draw up an agreement on how they will divide the profits. A valid contract comes into existence.
2. If Samuel, who is deeply in love with Karabo, promises Margate beach to her in a contract of donation, a valid contract does not come into existence because the objects of the donation is not capable of being privately owned.
3. If Joel bets Sandle R2000 that Zambia will win the next Africa Nation’s Soccer Cup, the contract between them is void, because it is a wagering contract.
4. If Rocher, the famous chef and owner of Greenfields, agrees with Joel, the buyer of the restaurant, that Rocher will never again open or work in a restaurant in South Africa, the contract will be enforceable, because it is a principle of South African law that parties have freedom to contract.

(2)

QUESTION 17

Which ONE of the following statements about consumer contracts is CORRECT?

1. A franchise agreement that is concluded orally is valid.
2. Where the Consumer Protection Act of 2008 requires the supplier to provide the consumer with a copy of the contract, an electronic copy of the contract will not suffice.
3. The National Credit Act of 2005 specifically prescribes that a credit agreement must be in writing in order to be valid.
4. In terms of the National Credit Act of 2005 the credit provider can provide the consumer with a copy of the agreement in a printable electronic form.

(2)

QUESTION 18

Which ONE of the following statements is INCORRECT?

1. Express terms are terms that are expressed in words.
2. For a trade usage to be implied as a term of a contract it will need to meet certain requirements.
3. Implied terms are terms expressed in words.
4. A tacit term is imported into a contract if it is reasonable and necessary for achieving the contract’s desired commercial effect.

(2)
QUESTION 19

Which ONE of the following statements regarding a condition is INCORRECT?

1. Conditions can be classified into various categories
2. An event that has already occurred at the time the contract is concluded cannot be a condition
3. An event must be specified and it can be certain or uncertain whether the event will indeed occur
4. A condition can be described as a contractual term which renders the operation and consequences of the contract dependent on the occurrence or non-occurrence of a specified uncertain future event  

QUESTION 20

Mora creditoris is a form of breach of contract which can occur only where discharge of the debtor’s obligation involves a bilateral juristic act

Which ONE of the following is NOT an element of mora creditoris?

1. The debtor should offer proper performance as specified in the contract and must call upon the creditor to co-operate
2. Performance outstanding to the creditor must be physically and legally capable of being discharged.
3. The creditor must fail to give his or her co-operation and thereby delay performance
4. The creditor must at least co-operate with the debtor so that performance can take place

QUESTION 21

In which ONE of the following examples has repudiation NOT taken place?

1. Dumelo (an employee) and Jeffrey (the employer) agree that after termination of their employment contract, Dumelo will not start the same business as Jeffrey for a period of one year. Eight months after the termination of their employment relationship Dumelo starts a similar business just across the street
2. Dumelo tells Jeffrey that the discussion between them did not result in a contract as they were merely talking
3. Dumelo tries to rescind a contract based on duress when, in fact, no duress ever occurred
4. Dumelo and Jeffrey agree that Dumelo will build a house for Jeffrey and they also agree that Dumelo will use his money to buy the necessary building materials. A few days later Dumelo informs Jeffrey that he is waiting for Jeffrey to buy the materials in order for him to start with the work as agreed. He denies that they ever agreed that he (Dumelo) would buy the material
QUESTION 22

Sipho contracts with Sizwe Solar Solutions (Pty) Ltd, which undertakes to manufacture solar geysers for houses he has to build. The specifications for manufacturing of the solar geysers are clearly described in the contract. After receiving the solar geysers from Sizwe Solar Solutions (Pty) Ltd it becomes apparent to Sipho that the solar geysers have not been made to the specifications as set out in the contract, and cannot be used for the houses he is building.

Which type of breach of contract has Sizwe Solar Solutions (Pty) Ltd committed?

1. default by the creditor
2. positive malperformance
3. default by the debtor
4. prevention of performance

(2)

QUESTION 23

Which ONE of the following options is NOT a ground upon which a court will refuse an order for specific performance?

1. Where the defendant would be unreasonably harshly affected
2. Where the order would comprise an injustice
3. Where the order would be inequitable under all the circumstances
4. Where the defendant refuses to render specific performance

(2)

QUESTION 24

Sam and Willy conclude a contract in terms of which Sam will do the interior decorating of Willy’s holiday flat. The contract price of R25 000 includes the work and materials. Before Sam can start with the project, the flat is completely destroyed by fire as a result of Willy’s negligence.

Which ONE of the following statements is CORRECT?

1. Sam cannot claim anything from Willy, since the contract has been terminated
2. Sam can claim the full contract sum of R25 000 from Willy as damages
3. Sam can claim R25 000 from Willy, less the amount she has saved by not having to perform
4. Sam can claim only in respect of expenses she has already incurred

(2)
QUESTION 25

Which ONE of the following is a consequence of cession?

1 The right forms part of the patrimony of the cessionary and of the cedent
2 The claim is transferred to the cessionary in its entirety together with benefits such as interest
3 The cessionary receives the claim without the disadvantages attached to it
4 Both the cessionary and the cedent have the right to collect the debt (2)

QUESTION 26

Consider the following statements:

A Johan agrees in writing to deliver his farm “Doorong” to Alistair in exchange for Alistair’s farm “Berger”
B Johan agrees in writing to deliver his farm “Doorong” to Julius against payment of R1, 8 million
C Johan agrees in writing to deliver a game farm to Jopie for free
D Johan agrees in writing to deliver his farm “Doorong” to Eddie against payment of a price to be determined by Brand’s Bank

In which of the above statements were valid contracts of sale concluded?

1 only B and D
2 only A and C
3 only A, B and D
4 only B and C (2)

QUESTION 27

Which ONE of the following statements about a voetstoots clause is CORRECT?

1 The inclusion of a voetstoots clause in a contract of sale will make the contract invalid
2 A voetstoots clause is the opposite of an “as is” clause and must not be included in a contract of sale
3 A voetstoots clause is a clause in a contract used to exclude the warranty against latent defects
4 The inclusion of a voetstoots clause in a contract of sale implies that the article is sold brand new (2)
QUESTION 28

Which ONE of the options below will serve as security in respect of unpaid rent?

1. the lessor’s tacit hypothec
2. the lessor’s claim for damages
3. the lessor’s right to physically seize the lessee’s goods
4. the lessor’s right to cancel the contract of lease (2)

QUESTION 29

Which ONE of the following statements regarding the Extension of Security of Tenure Act 62 of 1997 is CORRECT?

1. There should always be a lease agreement in existence between the occupiers and owners of the land in order for the Extension of Security of Tenure Act 62 of 1997 to apply
2. The High Court will have exclusive jurisdiction over matters relating to the Extension of Security of Tenure Act 62 of 1997.
3. The Extension of Security of Tenure Act 62 of 1997 will apply to all types of land
4. The Extension of Security of Tenure Act 62 of 1997 provides that the owner of the land must, after termination of the right of residence, give the occupier at least two months’ written notice of intention to obtain an order for eviction (2)

QUESTION 30

Which ONE of the following statements regarding the “huur gaat voor koop” doctrine is INCORRECT?

1. The purchaser is bound by the lease that exists in respect of the property at the time of alienation
2. The tenant is bound by the lease that exists in respect of the property at the time of alienation
3. All rental which was in arrear and which was owed by the tenant to the previous owner (the seller), at the time of alienation, accrues to the new owner (purchaser)
4. The purchaser will not be bound by the doctrine if the tenant neglects to pay the rent (2)

QUESTION 31

Mr Leeto, a representative of an insurance company and a complete stranger to Mrs Van Tonder, phones her and tells her that she can take out free household insurance at his insurance business.

Which ONE of the following statements is CORRECT regarding this contract?

1. An insurance contract has been concluded because there is an undertaking by Mr Leeto to compensate the Mrs Van Tonder for patrimonial loss.
2. An insurance contract has not been concluded because it is unknown if Mrs Van Tonder’s household contents will be damaged or stolen in future.
QUESTION 35

A group of twenty two auditors meet to consider forming a partnership. They meet to agree on the contribution each one of them will make to the partnership. Some of the partners want the partnership to deal only with audits and others want it to deal only with tax matters.

Which ONE of the following issues needs to be addressed before the requirements for a partnership will be satisfied?

1. The parties need to reduce the number of prospective partners to less than twenty
2. The parties need to put the agreement in writing
3. The parties must stipulate the amount each member must contribute
4. The parties must determine a common objective

QUESTION 36

Which ONE of the following is NOT a requirement for the creation of a business trust?

1. The trust assets and trust beneficiaries must be readily ascertainable.
2. It must be possible to define the object of the trust with reasonable certainty
3. The founder of the trust must have the serious intention of creating a trust
4. The object of the trust must be to protect and preserve the trust assets

QUESTION 37

Which ONE of the following is a form of personal security?

1. Pledge
2. Mortgage bond
3. Suretyship
4. Lien

QUESTION 38

Which of the following liens is/are enrichment liens?

1. only salvage liens
2. only improvement liens
3. both salvage liens and improvement liens
4. both improvement liens and debtor and creditor liens
An insurance contract has been concluded because it is the intention of Mrs Van Tonder and Mr Leeto to protect Mrs Van Tonder's estate against risks.

QUESTION 32

Sarah insures her motor vehicle, valued at R40 000, for R40 000 with insurer Abbi, for R30 000 with insurer Yuba and for R20 000 with insurer Lulu. R20 000 damage is caused to the motor vehicle in a collision caused by Peter's negligence.

Which **ONE** of the following statements is CORRECT?

1. Sarah may claim R 20 000 from Abbi, R 20 000 from Yuba and R 20 000 from Lulu - in other words a total of R 60 000
2. Sarah may choose from which insurer she will claim R 20 000. That insurer will then have the right of subrogation against the other insurers.
3. Sarah may claim R 20 000 from one of the insurers as well as R 20 000 from Peter.
4. Sarah may recover her total loss pro rata from each of the insurers concerned.

QUESTION 33

Which **ONE** of the following is NOT a requirement for estoppel?

1. The third party must have acted to his or her detriment on the basis of the representation.
2. The third party must have known that the agent was not authorised to conclude juristic acts.
3. The principal must have represented to the third party that the agent had authority to act on his or her behalf.
4. The representation must have been of such a nature that it could reasonably have been expected that the third party would be misled.

QUESTION 34

Which **ONE** of the following statements is **CORRECT**?

1. Ratification can be express or tacit.
2. Ratification is a bilateral juristic act.
3. Ratification operates retroactively from the moment the agreement concerned was concluded between the agent and the principal.
4. There is no need for the person who ratifies to have knowledge of the particular juristic act which is being ratified.
QUESTION 39

In terms of the Consumer Protection Act 68 of 2008 a consumer has certain rights to disclosure and information.

Which ONE of the following rights is NOT included in this right of a consumer?

1. the right to fair and honest dealings
2. the right to the record of a sale
3. the right to information in plain and understandable language
4. the right to disclosure in the case of reconditioned and grey-market goods

(2)

QUESTION 40

Which ONE of the following is NOT an “accountable institution” in terms of the Financial Intelligence Centre Act, which could potentially be used for money laundering purposes?

1. Attorneys
2. Banks
3. Owners of fast food restaurants
4. Members of the Stock Exchange (JSE)

(2)
May/June 2016 Suggested Solutions

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