Tutorial letter 101/3/2015

Commercial Law 1C
CLA1503

Semesters 1 & 2

Department of Mercantile Law

IMPORTANT INFORMATION:
This tutorial letter contains important information about your module.
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1 INTRODUCTION

Dear Student

We are pleased to welcome you as a student of Commercial Law 1C (CLA1503) and hope that you will find it interesting and rewarding. We shall do our best to make your studies of this module successful. You will be well on your way to success if you start studying early in the semester and resolve to do the assignments properly.

This tutorial letter (CLA1503/101/2015) contains important information about this module. We urge you to read it carefully and to keep it at hand when working through the study material, preparing the assignments, preparing for the examination and addressing questions to your lecturers.

In this tutorial letter you will find the two compulsory assignments for semester 1 and 2, instructions on the preparation and submission of the assignments (See 7.2.1 below regarding the importance of the assignments for admission to the examinations and their contribution towards a year mark for the module).

This tutorial letter also provides all the information you need with regard to the prescribed study material and how to obtain it. Finally, we include in this tutorial letter certain general and administrative information concerning this module. Please study this information carefully and make sure that you obtain the prescribed material as soon as possible. Apart from this tutorial letter, you will also receive other tutorial letters during the semester. Your study material for CLA1503 will therefore consist of a study guide and tutorial letters (namely, tutorial letters 101 (this tutorial letter); 102 (in which we confirm your lecturers and the prescribed study material, set out rules for the examination and describe the kinds of questions you may expect in the examination); and 201 and 202 (which contain the memoranda and commentaries on the assignments)) which you will receive from the university and a prescribed textbook which you must purchase. These tutorial letters will not necessarily be available at the time of registration. Tutorial letters will be dispatched to students as soon as they are available. You can also access such study material on myUnisa.

You are therefore encouraged to register on myUnisa, a tool which will enable you to communicate with other students and lecturers, submit assignments, access library resources and download study material. You can access myUnisa on http://my.unisa.ac.za

For further information on myUnisa and other administrative information please consult the publication myStudies @ Unisa.

Right from the start we would like to point out that you must read all the tutorial letters you receive during the semester immediately and carefully, as they always contain important and, sometimes, urgent information.

We hope that you will enjoy this module and wish you all the best!
2 PURPOSE OF AND OUTCOMES FOR THE MODULE

2.1 Purpose

The aim of this module is to provide you with a general understanding of the South African legal system and to equip you with knowledge, skills, attitudes and competencies to analyse and solve well-defined problems relating to the general principles of the law of contract and to specific contracts and other aspects of commercial law in South Africa.

2.2 Outcomes

The outcome of this module is threefold:

- the study units that deal with the South African legal system and science of law provide you with a general overview of the law and enable you to relate the different sections of the law to one another;
- the study units that deal with the general principles of the law of contract should enable you to identify, analyse and solve basic legal problems relating to the law of contract. You should be able to give advice on how contracts arise, what the effect of a particular clause in a contract is, what the implications of breach of contract are and how contracts are terminated; and
- the study units that deal with various types of contracts and other important aspects of commercial law are primarily to enable you to identify different types of contracts and to distinguish between them.

At the end of this module you must be in a position to analyse information relating to the functioning of the South African legal system and how it applies within the South African legal framework. You must also be able to apply the general principles of the law of contract and the general business principles relating to certain specific contracts and other aspects of commercial law within a legal framework to real life situations.

3 LECTURERS AND CONTACT DETAILS

3.1 Lecturers

The lecturers responsible for this module are as follows:

<table>
<thead>
<tr>
<th>NAME</th>
<th>TELEPHONE NUMBER</th>
<th>EMAIL ADDRESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mr MP Makakaba (Module leader)</td>
<td>012 429 8567</td>
<td><a href="mailto:makakmp@unisa.ac.za">makakmp@unisa.ac.za</a></td>
</tr>
<tr>
<td>Mr R van Niekerk</td>
<td>012 429 8394</td>
<td><a href="mailto:rvanniek@unisa.ac.za">rvanniek@unisa.ac.za</a></td>
</tr>
<tr>
<td>Mr MB Masuku</td>
<td>012 429 8836</td>
<td><a href="mailto:mankgmb@unisa.ac.za">mankgmb@unisa.ac.za</a></td>
</tr>
</tbody>
</table>

Letters should be sent to:

The Module leader (CLA1503)
Department of Mercantile Law
PO Box 392
UNISA
0003
PLEASE NOTE: Letters to lecturers may not be enclosed with or inserted into assignments.

3.2 Department

You may, alternatively also contact the departmental secretary on (012) 429 8460.

3.3 University

If you need to contact the University about matters not related to the content of this module, please consult the publication *my Studies @ Unisa* which you received with your study material. This publication contains information on how to contact the University (e.g. to whom you may write, important telephone and fax numbers, addresses and details of the times certain facilities are open).

4 MODULE-RELATED RESOURCES

4.1 A study guide and other tutorial letters

You will receive this tutorial material from the Department of Despatch. This study material can also be accessed on *myUnisa*.

4.2 Prescribed book

The prescribed textbook for CLA1503 is *General Principles of Commercial Law 8th ed (2014)* Juta co-authored by Kelbrick R, Schulze H (General Editor), Churr C, Hurter E, Manamela E, Manamela T, Masuku B and Stoop P. You must purchase this prescribed textbook. Prescribed books can be obtained from the University’s official booksellers. If you have difficulty locating your book(s) at these booksellers, please contact the Prescribed Books Section at 012 429 4152 or e-mail vospresc@unisa.ac.za.

Only the following chapters in the prescribed textbook have to be studied for this module:

- Chapter 1: The South African Legal System
- Chapter 2: Introduction to the Science of Law
- Chapter 3: Law of Contract: Introduction
- Chapter 4: Consensus
- Chapter 5: Capacity to Perform Juristic Acts
- Chapter 6: Possibility of Performance
- Chapter 7: Formalities
- Chapter 8: Terms of the Contract
- Chapter 10: Breach of Contract
- Chapter 11: Remedies for Breach of Contract
- Chapter 12: Transfer and Termination of Personal Rights
- Chapter 13: The Contract of Sale
- Chapter 14: The Contract of Lease
- Chapter 15: The Contract of Insurance
- Chapter 20: The Law of Agency
- Chapter 21: Forms of Business Enterprise
- Chapter 23: Security
- Chapter 30: Consumer Protection
4.3 Recommended books
There are no recommended books for this module.

4.4 Electronic Reserves (e-Reserves)
There are no e-Reserves for this module.

5 STUDENT SUPPORT SERVICES FOR THE MODULE
For information on the various student support systems and services available at Unisa (e.g. student counselling, tutorial classes, language support), please consult the publication *my Studies @ Unisa* which you received with your study material.

Students are also encouraged to register for myUnisa and myLife to interact with fellow students and e-tutors. E-tutors are there to guide students online through the study material. If you need further information about myUnisa and myLife, please contact myUnisaHelp@unisa.ac.za or myLifeHelp@unisa.ac.za (respectively) or send an SMS to 43582.

Unisa offers e-tutor services for students registered for CLA1503. The e-tutor is there to guide you through your study material. Once you have registered, you will be allocated to a group of students and an e-tutor. Thereafter, you will receive an sms informing you about your group, the name of your e-tutor and instructions on how to log on to myUnisa in order to receive further information on the e-tutoring process. The e-tutor service is free of charge. All you need to be able to participate in e-tutoring is a computer with internet connection. If you live close to a Unisa regional Centre or a Telecentre contracted with Unisa, please feel free to visit any of these facilities to access the internet.

6 MODULE-SPECIFIC STUDY PLAN
Refer to the publication *my Studies @ Unisa* for general time management and planning skills. Please make an immediate note of the closing dates for assignments. We may not grant extensions for the submission of assignments and failure to submit assignment 01 before the submission date or failure to submit it at all will mean that you do not have admission to the examination.

7 ASSESSMENTS

7.1 ASSIGNMENTS

7.1.1 Assignments and Learning
Assignments are seen as part of the study material for this module. When you do the assignments, study the study guide and the prescribed textbook and discuss the work with fellow students or tutors. In this way, you will be actively engaged in learning.
Your assignments must **reach** us on or before the submission date. For detailed information and requirements as far as assignments are concerned, see the publication *my Studies @ Unisa*.

### 7.1.2 General remarks

**TAKE NOTE:** **ASSIGNMENTS RECEIVED AFTER THE FINAL SUBMISSION DATE WILL NOT BE MARKED**

*No extension for the submission of the assignments will be given. Please do not approach your lecturers with such requests, as we are unable to grant extensions. The assignments are marked by computer immediately after the due date, and late submissions cannot be marked.*

### 7.1.3 Format of assignments and number of assignments

(a) Each of the two assignments consists of five multiple-choice questions for which a **mark-reading sheet** must be completed.

(b) Assignments consisting of multiple-choice questions **must be answered on a mark-reading sheet** that will be marked by computer. Check that **Unisa** has supplied you with mark-reading sheets.

(c) **Students may submit assignments done on mark-reading sheets by post or electronically via myUnisa.** Assignments may **not** be submitted by fax or e-mail. **Written answers on a sheet of paper will not be marked.**

(d) For detailed information and requirements as far as assignments are concerned, see the publication *my Studies @ Unisa* which you received with your study material. You will find instructions on the use of mark-reading sheets for answering multiple-choice questions in the publication *my Studies @ Unisa*. Read these instructions carefully and follow them strictly to avoid unnecessary mistakes.

(e) Assignments should be addressed to:

The Registrar  
PO Box 392  
UNISA  
0003

(f) When submitting an assignment on a mark-reading sheet by mail, you must send **ONLY YOUR MARK-READING SHEET** in an envelope. **Do not** include a cover sheet with your mark-reading sheet.
(g) To submit an assignment via myUnisa:

Go to myUnisa

- Log in with your student number and password.
- Select the module.
- Click on assignments in the left-hand menu.
- Click on the assignment number you want to submit.
- Follow the instructions on the screen.

(h) Please remember to allocate the same unique number to the assignment as the one given in the tutorial letter. Remember that your first assignment must be numbered 01 and your second assignment must be numbered 02.

(i) Please ensure that your name, address, student number, module code, assignment number and unique number for the assignment (see 7.1.5 below) appear on the mark reading sheet, and that this information is correct.

(j) It is wise to make copies of assignments before submitting them, in case they get lost in the post.

(k) Do not submit the same assignment a second time. The computer will simply reject it as a duplicate assignment.

(l) Soon after the closing date of each assignment you will receive a computer printout giving your answers, the correct answers, and your marks for the assignment. You will also receive tutorial letters CLA1503/201/2015 for assignment 1 and CLA1503/202/2015 for assignment 2 with detailed commentary on each question of each of the two assignments.

Please note: Each year a number of students submit faulty mark-reading sheets which cannot be processed by the computer. Sheets that are rejected by the computer are returned to students without being marked.

THEREFORE, PLEASE FOLLOW THE INSTRUCTIONS CAREFULLY.

7.1.4 Commentaries and feedback on the assignments

The commentaries on the two compulsory assignments will be send to all students registered for this module in Tutorial Letters CLA1503/201/2015 and CLA1503/202/2015 as mentioned above.

As soon as you have received the commentaries, please check your answers. The assignments and the commentaries on the assignments constitute an important part of your study material for the examination.
7.1.5 Assignment submission dates and unique numbers

The closing dates for the submission of the assignments are:

**FIRST SEMESTER**

The first semester assignments can be found under the Addendum.

<table>
<thead>
<tr>
<th>Assignment number</th>
<th>Submission date</th>
<th>Unique number</th>
</tr>
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<tbody>
<tr>
<td>Assignment 01:</td>
<td>12 March 2015</td>
<td>582245</td>
</tr>
<tr>
<td>Assignment 02:</td>
<td>02 April 2015</td>
<td>582258</td>
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**SECOND SEMESTER**

The second semester assignments can be found under the Addendum.

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<thead>
<tr>
<th>Assignment number</th>
<th>Submission date</th>
<th>Unique number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assignment 01:</td>
<td>03 September 2015</td>
<td>582355</td>
</tr>
<tr>
<td>Assignment 02:</td>
<td>25 September 2015</td>
<td>582369</td>
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7.2 EXAMINATION

For general information and requirements about the examination, see the publication *my Studies @ Unisa*.

7.2.1 Examination admission

All students who submit the compulsory assignment 01 in time (before or on the date of submission) will be admitted to the examination regardless of the mark obtained for the assignment. Students, who do not submit this compulsory assignment before or on the due date, will not receive admission to write the examination. The mark obtained for the compulsory assignments will count 20% towards your final mark, provided you obtain an examination mark of at least 40%. Therefore you need to obtain a sub minimum of at least 40% in the examination before your year mark will be taken into account. This means that a student who has obtained at least 40% in the examination and who has a good year mark will have a great advantage above another student who has no year mark or a poor year mark.

7.2.2 Examination period

This module is a semester module. This means that if you are registered for the first semester you will write the examination in **May/June 2015** and the supplementary examination will be written in **October/November 2015**. If you are registered for the second semester you will write the examination in **October/November 2015** and the supplementary examination will be written in **May/June 2016**.

During the course of the semester, the Examination Section will provide you with information regarding examination venues, examination dates, examination times and the examination in general.
7.2.3 Examination paper

At the end of the semester you will write one two-hour paper on this module. The examination paper consists of 40 multiple-choice questions only; each correct answer to a question counts two marks. The total allocation for the paper is 80 marks. In Tutorial Letter CLA1503/102/3/2015 we shall send you more information on the format of the examination paper.

7.2.4 Previous examination papers

Previous examination papers are available to students on myUnisa. However, please note that the lecturers will not mark these papers, nor supply the correct answers to the questions. Previous examination papers will give you an idea of the kind of questions you may expect in the examination.

You may also accept that examination questions will be similar to the questions asked in the activities in your study guide and in the assignments.

8 FREQUENTLY ASKED QUESTIONS

See the publication my Studies @ Unisa brochure which contains an A-Z guide of the most relevant study information.
ADDENDUM

APPENDIX A: FIRST SEMESTER COMPULSORY ASSIGNMENTS

ASSIGNMENT 01
FIRST SEMESTER UNIQUE NUMBER: 582245
(CLOSING DATE: 12 MARCH 2015 )
Prescribed chapters 1, 3, 6, 8 and 11

QUESTION 1

The law in South Africa, authoritative and persuasive, is drawn from a number of sources.

These may include:

A  a single recorded and comprehensive piece of South African legislation
B  the codified legal systems of certain continental European countries
C  works of Roman-Dutch authors
D  judgments of local and foreign courts

Which ONE of the following is CORRECT?

1  only A
2  A and B
3  B, C and D
4  only C and D
5  A, C and D

QUESTION 2

In which ONE of the following situations was a VALID contract concluded?

1  Sally engages a professional seafood caterer to provide seafood for her birthday party, to which twenty guests have been invited. All the guests confirm that they will attend Sally’s birthday party. The day before the party ten of the guests inform Sally that they will not attend the party because they prefer to attend a street party on the same time and date in Sandton.
2  Nicolas enters into an agreement with himself and undertakes that he will save R500 each month by paying R500 into his savings account on the first day of each month.
3  Peter purchases a new pair of running shoes for R600 on the official website of Nike. The shoes will be delivered at his flat in Pretoria.
4  Reeze undertakes to sell the moon and one star to Shana for R500.

QUESTION 3

After 12 years in a business partnership, which sells tyres, Timothy wants to terminate Timothy and Polly’s business partnership. Since Timothy’s business partner, Polly, will be entitled to half the assets of the partnership at the time of the termination, he concludes a contract with a professional killer, Mr Assassin, in terms of which he will pay Mr Assassin the amount of R10 000 to kill Polly. The next day Polly dies of natural causes.
Which **ONE** of the following statements is **CORRECT**?

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

**QUESTION 4**

Lindiwe donates a large property in Johannesburg to the Care for Kids Foundation, a charitable organisation. In terms of the contract of donation the Care for Kids Foundation is obliged to erect a child care centre on the premises. The Care for Kids Foundation feels, however, that the property is better suited for the construction of a Hospital for HIV/AIDS patients and proceeds with this.

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

1. The Care for Kids Foundation has become the owner of the property and is free to use the property for any purpose.
2. The Care for Kids Foundation Charity has committed breach of contract because it has not complied with the modus.
3. The Care for Kids Foundation has committed breach of contract because it has not complied with the suspensive condition.
4. The Care for Kids Foundation has committed breach of contract because it has not complied with the supposition under which the donation was made.

**QUESTION 5**

Floodwaters Local Council contracts with Bessy for the construction of a bridge for R5 million. The bridge must have four lanes: two for vehicle traffic, one for pedestrians and one for trains. When finished, the bridge has only two lanes for vehicle traffic. The Local Council finds out that it will cost another R3 million to add the lanes for pedestrians and trains. The Local Council refuses to pay Bessy any money.

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

1. Bessy may use the *exceptio non adimpleti contractus* to institute action for payment.
2. The *exceptio non adimpleti contractus* does not apply to this case, because the contract is not reciprocal.
3. The Local Council will have to pay Bessy the agreed R5 million if it decides to use the defective bridge.
4. The Local Council could raise the *exceptio non adimpleti contractus* when Bessy claims payment.

**Total:** [10]
QUESTION 1

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

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

Mike’s obligation is extinguished because of ...

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

(2)

QUESTION 2

Troy leases his citrus farm Wonderboom, to Brian for a period of twelve years in exchange for 10% of the crop produced each season. Troy and Brian sign a written lease agreement, but the lease is not registered against the farm’s title deed.

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

1 The contract of lease is invalid because the rent is not a determinable amount (determinable in money).
2 The contract of lease is invalid because a long lease must be registered against the title deed of the property in order to be binding.
3 The contract of lease is valid because rent that consists of a share of the fruit of a farm amounts to valid rent.
4 The contract of lease is invalid because the lease period exceeds ten years.

(2)

QUESTION 3

Khomotso and Stanford, an estate agent, enter into a contract in terms of which Stanford undertakes to sell a poultry farm on behalf of Khomotso. They agree that if Stanford succeeds in selling the property, Khomotso will pay him seven per cent of the selling price as commission. Their contract also provides that Khomotso will not be liable for expenses incurred in the execution of the task. Because of financial problems, Stanford’s estate is sequestrated before the property is sold.

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

1 Khomotso need not pay Stanford any commission if Stanford sells the farm, since a contract of mandate is a gratuitous undertaking to perform a task.
2 The contract between Khomotso and Stanford is invalid, since it excludes Khomotso’s liability for expenses incurred during the execution of the task.
3 The contract between Khomotso and Stanford is terminated when Stanford’s estate is sequestrated.
4 Khomotso may only revoke their contract for a legally acceptable reason, otherwise the revocation itself may amount to breach of contract.

(2)

QUESTION 4

Paulus owes money to Paul. The full amount of the debt is secured by a suretyship contract in which Evert is the surety; and also by a cession to Paul of Paulus’s right to receive payment from Ryan.

Which ONE of the following statements is INCORRECT?

1 Paulus may cede to Evert his right to receive payment from Ryan.
2 Paulus is not entitled to sue Ryan for the money he owes him in order to pay Paul.
3 Evert is not entitled to the benefit of division if Paul attempts to recover the entire debt from him.
4 Evert may possibly obtain a right to the money which Ryan owes to Paulus if he settles the entire debt.

(2)

QUESTION 5

John sells his pink motorcycle to Peter privately. The next morning when Peter wants to take the motorcycle for a ride, the motorcycle’s ignition does not start.

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

1 If the motorcycle is defective, Peter will enjoy the protection of the Consumer Protection Act and will have the right to return the motorcycle to John.
2 If the motorcycle is defective, Peter will be protected by the Consumer Protection Act, because the transaction was done in the ordinary course of business.
3 If the motorcycle is defective, Peter will not be protected by the Consumer Protection Act, because when Peter bought the motorcycle privately, he was aware that the motorcycle was defective.
4 If the motorcycle is defective, Peter will not be protected by the Consumer Protection Act, because this was a once-off transaction and is therefore not a transaction to which the Consumer Protection Act applies.

(2)

Total: [10]
APPENDIX B: SECOND SEMESTER COMPULSORY ASSIGNMENTS

ASSIGNMENT 01
SECOND SEMESTER UNIQUE NUMBER: 582355
(CLOSING DATE: 03 SEPTEMBER 2015)
Prescribed chapters 2, 3, 4, 5 and 10

QUESTION 1
In which ONE of the following circumstances did ownership indeed pass from one party to the other?

1. Nigel hands the Mona Lisa painting he inherited from his father to Delia after Delia agreed to accept the painting in lieu of payment of R100 000 for medical services rendered.
2. Ron delivers his new rugby ball to David under the impression that he is lending it to David, and David receives it thinking it is a gift.
3. Loyiso hands the keys to his holiday home to Ernie who already paid Loyiso the full purchase price of R900 000 the day before.
4. Carmel donates a hundred packets of stationary to the Kiddies Corner Nursery School and tells the teacher that she may collect the books from her house at any time convenient to her. (2)

QUESTION 2
In which ONE of the following situations was a VALID contract concluded?

1. Lauren engages a professional caterer to provide food for a party to which ten guests have been invited. Thirty minutes after the agreed time, five guests phone Lauren and inform her that they will miss the appointment. Lauren wants to sue the guests for breach of contract.
2. John, exceedingly drunk, undertakes in front of witnesses at Papa’s Bar, to give one of his cars to Alex if Alex fixes his house’s broken windows. Moments later John collapses in the street. The next morning he remembers nothing of his agreement with Alex.
3. The organizers of the Rhino 2008 Rally make an offer to pay Rex R20 000 if he can drive the 500 kilometers between Johannesburg and Bloemfontein in an hour. Rex accepts the offer.
4. Peter and Andrew agree that Peter will give Andrew R100 and that Andrew will hand over his silver pen to Peter in full exchange. (2)  

QUESTION 3
Mary and Susan entered into an oral contract. Mary wanted to buy a motorbike for her son and was under the impression that they had entered into a contract of sale for a motorbike. Susan however was under the impression that a contract of lease for the motorbike had been concluded. Mary 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 Mary and Susan had the intention to be contractually bound.
2 The contract is void because there was no consensus between Mary and Susan.
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 4**

Mandla is a general dealer. He needs to appoint a sales person and to replace his delivery van with a bigger vehicle. If Mandla finds a buyer for the van and a suitable sales person he will conclude two contracts: a contract of sale in respect of the old vehicle and a contract of employment with the suitable applicant.

Which **ONE** of the following persons does **NOT** have the full capacity to conclude both of the contracts with Mandla?

1. Gloria, a seventeen years old girl, who has been married to Dan for the last two years. They are married out of community of property.
2. Steven, whose estate was sequestrated after he lost a fortune in a shady business deal. Steven has not been rehabilitated yet.
3. Arthur, who is married in community of property to Stella.
4. Themba, a sixteen years old boy, whose parents left him behind when they emigrated to America because he had his own job and flat. (2)

**QUESTION 5**

**Example 1**
Paul agrees to repair Susan's motorcycle. Before Susan can do so, however, 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. On the 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 2 is a case of repudiation and example 1 a case of negligence.
3. Example 1 is a case of supervening impossibility of performance, and example 2 is an instance of prevention of performance.
4. 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. (2)

Total: [10]
QUESTION 1
Johann wants to buy 20 bags of corn from Zinkwazi Mills.

Which ONE of the following will NOT qualify as an acceptable purchase price?

1. 200 loaves of bread
2. R4 000
3. an amount determined by Luke, a financial adviser
4. R25 per bag of flour

QUESTION 2
Sam buys a flat for R200 000. It is a bargain since the flat is worth R230 000 at the time of the sale. Sam suspects that the value of the flat may increase in future and insures it for R250 000. During the currency of the insurance the flat burns down. The flat is worth R240 000 at the time of the accident.

Which ONE of the following amounts may Sam claim from the insurer?

1. R200 000
2. R230 000
3. R240 000
4. R250 000

QUESTION 3
Themba, Philip and Sophy want to start a business. They agree that Themba and Philip will each contribute R50 000, while Sophy will contribute R80 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. 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. Each partner is entitled to share equally in the profits of the partnership.
3. Each partner is entitled to participate in the management of the partnership in proportion to the contribution he or she made to the partnership.
4. The partners may use the assets of the partnership for personal aims.
QUESTION 4

Mrs Louw takes her ring to Marvin’s Jewellers for repairs. Marvin does the repairs. He mistakenly thinks that Mrs Louw has paid for the repairs, and delivers the ring to her home. Mr Louw wishes to have the ring valued for insurance purposes, and four days later he takes it back to Marvin’s Jewellers. Marvin values it. At the end of the month, the ring is still in the possession of Marvin’s Jewellers and the Louws have not paid Marvin.

Which ONE of the following statements is CORRECT?

1. Marvin has a lien in respect of the repairs but not in respect of the valuation.
2. Marvin has a lien in respect of the valuation but not in respect of the repairs.
3. Marvin has a lien in respect of the repairs and the valuation.
4. Marvin does not have a lien in respect of the repairs or the valuation.

(2)

QUESTION 5

John goes to Big Sales to buy a blue Blackberry cellphone. One of the sales representatives of Big Sales tells John that he is obliged to first buy a blue Blackberry cellphone memory card if he wants to buy a blue Blackberry cellphone.

Which ONE of the following statements is CORRECT?

1. The convenience of the transaction that a blue Blackberry cellphone memory card must be bought with the blue Blackberry cellphone, outweighs the limitation of John’s right to choose the supplier from whom he wants to buy the blue Blackberry cellphone memory card.
2. It would be to John’s economic benefit if he buys the blue Blackberry cellphone memory card together with the blue Blackberry cellphone.
3. The fact that John must buy the blue Blackberry cellphone memory card together with the blue Blackberry cellphone constitutes “bundling” which is prohibited in terms of the Consumer Protection Act.
4. The fact that the blue Blackberry cellphone and blue Blackberry cellphone memory card are offered at individual prices, is a defence against bundling and will not constitute bundling.

(2)

Total: [10]

We hope that you will enjoy this module and we wish you success with your studies.

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