

ROUGH WORK / ROFWERK

Do all your rough work on this page. This page will not be read by the examiners.
Doen al u rofwerk op hierdie bladsy. Hierdie bladsy sal nie deur die eksaminatore gelees word nie.

[TURN OVER]
[BLAAI OM]

NB: Read the instructions carefully before answering the questions. You have **enough time** to answer this paper. Plan your answers thoroughly - if you fill the space left for an answer with the wrong information, you will not have any other space in which to give the correct answer.

LW: Lees eers die instruksies deeglik deur voordat u die vrae beantwoord. U het **genoeg tyd** om die vraestel te beantwoord. Beplan u antwoorde deeglik, want as u eers 'n antwoordspasie met verkeerde inligting gevul het, het u nie nog plek om die korrekte antwoord te gee nie.

Answer ALL the questions
 Beantwoord AL die vrae.

SECTION A: MULTIPLE-CHOICE QUESTIONS (Unique number : 483398)

AFDELING A: MULTIKEUSEVRAE (Unieke nommer : 483398)

NB ANSWER THESE QUESTIONS ON THE MARK READING SHEET WHERE APPLICABLE, CHOOSE THE MOST CORRECT ANSWER

NB BEANTWOORD HIERDIE VRAE OP DIE MERKLEESBLAD. WAAR VAN TOEPASSING, KIES DIE MEES KORREKTE ANTWOORD

(1) A selects and pays for several items in a supermarket, and leaves. What type of agreement has been concluded?

- 1 An agreement creating obligations
- 2 An agreement extinguishing a debt
- 3 A real agreement
- 4 All of the above
- 5 None of the above

(2)

[TURN OVER]
[BLAAI OM]

(1) A selekteer en betaal vir verskeie items in 'n supermark, en loop Watter tipe ooreenkoms is aangegaan?

1 'n Verbintenisskeppende ooreenkoms.

2 'n Skulddelgende ooreenkoms

3 'n Saaklike ooreenkoms

4 Al bogenoemde.

5 Geeneen van bogenoemde nie.

(2)

(2) A contract that may be lawfully terminated at the instance of one of the parties is

1 void *ab initio*

2 void but partially enforceable

3 voidable

4 void and unenforceable

5 voidable and unenforceable

(2)

(2) 'n Kontrak wat regtens deur een van die partye beeindig mag word is

1 nietig *ab initio*.

2 nietig maar gedeeltelik afdwingbaar

3 vernietigbaar.

4 nietig en onafdwingbaar.

5 vernietigbaar en onafdwingbaar.

(2)

(3) Joe resides in Port Elizabeth and Steve resides in Bloemfontein. They meet coincidentally on Holiday in Cape Town, as they were staying at the same hotel. One morning at breakfast in the hotel, Joe notices and is impressed with Steve's Rolex watch. Joe offers Steve R75 000 for the watch and Steve replies that he will think about it. Two weeks later Steve telephones Joe from Johannesburg while there on business and advises him (Joe) that he (Steve) accepts the offer. Joe is at his home when he receives the call. A week later Joe sends Steve an electronic-mail from his house to make arrangements for payment of the purchase price. Steve receives the electronic-mail on his laptop while on business in Durban. Where was the contract concluded?

- 1 Cape Town
- 2 Bloemfontein
- 3 Johannesburg
- 4 Port Elizabeth
- 5 Durban

(2)

(3) Joe woon in Port Elizabeth en Steve woon in Bloemfontein. Hulle ontmoet toevallig terwyl op vakansie in Kaapstad, aangesien albei in dieselfde hotel bly. Een oggend tydens ontbyt by die hotel bewonder Joe Steve se Rolex horlosie. Joe bied Steve R75 000 aan vir die horlosie en Steve antwoord dat hy daarvoor sal dink. Twee weke later bel Steve vir Joe vanaf Johannesburg terwyl hy (Steve) daar met besigheid is en deel hom (Joe) mee dat hy (Steve) die aanbod aanvaar. Joe is tuis wanneer hy die oproep ontvang. 'n Week later stuur Joe vir Steve 'n elektroniese-posboodskap vanaf sy huis om reelings te tref vir betaling van die koopprys. Steve ontvang die elektroniese-posboodskap op sy skootrekenaar terwyl hy met besigheid in Durban is. Waar is die kontrak gesluit?

- 1 Kaapstad
- 2 Bloemfontein
- 3 Johannesburg
- 4 Port Elizabeth.
- 5 Durban.

(2)

(4) Which theory is applicable to the facts in question 3?

- 1 The declaration theory
- 2 The expedition theory
- 3 The reliance theory
- 4 The reception theory
- 5 The information theory (2)

(4) Watter teorie is van toepassing op die feite in vraag 3?

- 1 Die uitingsteorie.**
- 2 Die versendingsteorie**
- 3 Die vertrouensteorie**
- 4 Die ontvangsteorie.**
- 5 Die vernemingsteorie. (2)**

(5) An item displayed in a shop window, accompanied by presentation of payment for the item by a customer,

- 1 results in a contract being concluded because an offer and acceptance exists
- 2 effectively means that the customer is the offeror
- 3 effectively means that the customer is the offeree
- 4 effectively means that neither an offer nor an acceptance exists
- 5 effectively means that the customer merely indicates an invitation to do business (2)

(5) 'n Item wat ten toon gestel word in 'n winkelvenster, tesame met betaling wat deur 'n klant aangebied word,

- 1 het tot gevolg dat 'n kontrak gesluit word.**
- 2 beteken in effek dat die klant die aanbieder is.**
- 3 beteken in effek dat die klant die aannemer is.**
- 4 beteken in effek dat nog 'n aanbod nog 'n aanname bestaan**
- 5 beteken in effek dat die klant slegs 'n uitnodiging tot besigheid rig. (2)**

(6) In *National and Overseas Distributors Corporation (Pty) Ltd v Potato Board* 1958 (2) SA 473 (A) the court found that

- 1 the parties had not concluded a valid contract because there was no clear offer and acceptance
- 2 the contract was void on the basis of material and reasonable mistake
- 3 subjectively viewed, there was a contract
- 4 objectively viewed, there was a contract
- 5 estoppel did not succeed in the circumstances (2)

(6) In *National and Overseas Distributors Corporation (Pty) Ltd v Potato Board* 1958 (2) SA 473 (A) het die hof bevind dat

- 1 die partye nie 'n geldige ooreenkoms gesluit het nie omdat daar geen duidelike aanbod en aanname was nie
- 2 die kontrak nietig was op grond van wesenlike en redelike dwaling.
- 3 subjektief beoordeel daar 'n kontrak was.
- 4 objektief beoordeel daar 'n kontrak was
- 5 estoppel nie in die omstandighede geslaag het nie. (2)

(7) In *Allen v Sixteen Stirling Investments (Pty) Ltd* 1974 (4) SA 164 (D) the mistake in question was one of

- 1 error in motive
- 2 *error in substantia*
- 3 *error in persona*
- 4 *error in negotio*
- 5 *error in corpore* (2)

(7) In *Allen v Sixteen Stirling Investments (Pty) Ltd* 1974 (4) SA 164 (D) was die dwaling ter sprake

1 dwaling in motief.

2 *error in substantia*.

3 *error in persona*.

4 *error in negotio*.

5 *error in corpore*.

(2)

(8) X sells his shop in a shopping mall to Y. During the negotiations X informs Y of the overhead costs of running the shop but overestimates the shop turnover for the last year. The price is calculated by taking into account amongst other things the shop's annual profit. However, X acts reasonably and without malice in the circumstances. What cause of action will Y be able to rely on to claim a reduction of the purchase price?

1 *Dictum et promissum*

2 Innocent misrepresentation

3 Culpable misrepresentation

4 Material mistake

5 Breach of contract

(2)

(8) X verkoop sy winkel in a winkelsentrum aan Y. Gedurende die onderhandelinge deel X vir Y die bedryfskoste van die winkel mee, maar oorskat die inkomste van die winkel vir die vorige jaar. Die koopprys word bereken met inagneming van onder andere die winkel se jaarlikse profyt. X tree egter redelik en sonder kwaadwilligheid op in die omstandighede. Watter aksiegrond sal Y op kan staatmaak om prysvermindering te eis?

1 *Dictum et promissum*.

2 Onskuldige wanvoorstelling.

3 Skuldige wanvoorstelling.

4 Wesenlike dwaling

5 Kontrakbreuk.

(2)

(9) Assume the same facts as in question (8) What specific action would Y use to claim a reduction of the purchase price?

1 The *actio redhibitoria*

2 The *actio quanti minoris*

3 Positive interest

4 *Dolus incidens*

5 *Dolus dans*

(2)

(9) Veronderstel dieselfde feite as in vraag (8). Watter spesifieke aksie sal Y gebruik om prysvermindering te eis?

1 Die *actio redhibitoria*.

2 Die *actio quanti minoris*.

3 Positiewe *interesse*

4 *Dolus incidens*.

5 *Dolus dans*.

(2)

(10) Assume the same facts as in question (8) Which case is applicable to the facts?

1 *Trotman v Edwick* 1951 (1) SA 443 (A)

2 *De Jager v Grunder* 1964 (1) SA 446 (A)

3 *Ranger v Wykerd* 1977 (2) SA 976 (A)

4 *Bayer South Africa (Pty) Ltd v Frost* 1991 (4) SA 559 (A)

5 *Phame (Pty) Ltd v Paizes* 1973 (3) SA 397 (A)

(2)

(10) Veronderstel dieselfde feite as in vraag (8). Watter saak is van toepassing op die feite?

1 *Trotman v Edwick* 1951 (1) SA 443 (A).

2 *De Jager v Grunder* 1964 (1) SA 446 (A).

3 *Ranger v Wykerd* 1977 (2) SA 976 (A)

4 *Bayer South Africa (Pty) Ltd v Frost* 1991 (4) SA 559 (A).

5 *Phame (Pty) Ltd v Paizes* 1973 (3) SA 397 (A)

(2)

- (11) In *Ranger v Wykerd* 1977 (2) SA 976 (A) the court held that damages in that case were calculated according to the measure of
- 1 *dolus dans*
 - 2 *dolus incidens*
 - 3 either *dolus dans* or *dolus incidens*
 - 4 positive interest
 - 5 breach of contract (2)
- (11) In *Ranger v Wykerd* 1977 (2) SA 976 (A) het die hof bevind dat skadevergoeding in daardie saak ooreenkomstig die maatstaf van
- 1 *dolus dans*
 - 2 *dolus incidens*
 - 3 of *dolus dans* of *dolus incidens*
 - 4 positiewe *interesse*
 - 5 kontrakbreuk
- bereken word. (2)
- (12) The courts use the hypothetical bystander test when determining the possible existence of
- 1 *essentialia*
 - 2 *naturalia*
 - 3 terms implied by law
 - 4 tacit terms
 - 5 express terms (2)

- (12) Die howe gebruik die hipotetiese bystander-toets wanneer die moontlikheid van
- 1 *essentialia*
 - 2 *naturalia*
 - 3 bedinge wat regtens veronderstel word
 - 4 stilswyende bedinge
 - 5 uitdruklike bedinge
- oorweeg word. (2)
- (13) In ticket cases, to determine if the person receiving the ticket is bound by the terms, which of the following is consistent with the three-fold test applied by the courts?
- 1 Did the person receiving the ticket know that there was writing or printing on the ticket?
 - 2 Did the person receiving the ticket sign and acknowledge receiving the ticket?
 - 3 Did the person issuing the ticket take the steps which he believed were necessary to bring the terms to the notice of the other party?
 - 4 1,2 and 3
 - 5 1 and 3 (2)
- (13) In die geval van kaartjekontrakte, om te bepaal of die persoon wat die kaartjie ontvang het gebonde is aan die bedinge waarna verwys word, welke van die volgende strook met die drieledige toets deur die howe aangewend?
- 1 Het die persoon wat die kaartjie ontvang het, geweet dat daar druk of skrif op die kaartjie was?
 - 2 Het die persoon wat die kaartjie ontvang het, geteken en ontvangs daarvan erken?
 - 3 Het die persoon wat die kaartjie uitgereik het, stappe geneem wat hy geglo het nodig was om die bedinge tot die kennis van die ander party te bring?
 - 4 1,2 en 3.
 - 5 1 en 3 (2)

(14) Which option regarding *Magna Alloys and Research (SA) (Pty) Ltd v Ellis* 1984 (4) SA 874 (A) is most correct?

- 1 The court confirmed the prevailing position regarding restraint of trade contracts
- 2 The court held that restraint of trade contracts were *prima facie* invalid and unenforceable
- 3 The court held that restraint of trade contracts were *prima facie* valid and enforceable
- 4 1 and 2
- 5 1 and 3

(2)

(14) Watter opsie met betrekking tot *Magna Alloys and Research (SA) (Pty) Ltd v Ellis* 1984 (4) SA 874 (A) is mees korrek?

- 1 Die hof het die heersende posisie met betrekking tot handelsbeperkings bevestig.
- 2 Die hof het bevind dat handelsbeperkings *prima facie* ongeldig en onafdwingbaar was.
- 3 Die hof het bevind dat handelsbeperkings *prima facie* geldig en afdwingbaar was.
- 4 1 en 2.
- 5 1 en 3.

(2)

(15) A contract for the benefit of a third party relates to which legal concept?

- 1 set-off
- 2 *novatio*
- 3 delegation
- 4 *stipulatio alteri*
- 5 cession

(2)

- (15) 'n Kontrak ten behoeve van 'n derde party het betrekking op watter regsbegrip?
- 1 skuldvergelyking.
 - 2 *novatio*
 - 3 delegasie.
 - 4 *stipulatio alteri*
 - 5 sessie. (2)
- (16) The Appellate Division came to the conclusion that the *exceptio doli* did not form part of South African law in
- 1 *Vasco Dry Cleaners v Twycross* 1979 (1) SA 603 (A)
 - 2 *Bloom v The American Swiss Watch Company* 1915 AD 100
 - 3 *Bird v Summerville and another* 1961 (3) SA 194 (A)
 - 4 *Bank of Lisbon and South Africa Ltd v De Ornelas and another* 1988 (3) SA 580 (A)
 - 5 *Van den Berg v Termer* 1975 (2) SA 268 (A) (2)
- (16) Die Appélhof het tot die slotsom gekom dat die *exceptio doli* nie deel van die Suid-Afrikaanse reg is nie in
- 1 *Vasco Dry Cleaners v Twycross* 1979 (1) SA 603 (A).
 - 2 *Bloom v The American Swiss Watch Company* 1915 AD 100.
 - 3 *Bird v Summerville and another* 1961 (3) SA 194 (A).
 - 4 *Bank of Lisbon and South Africa Ltd v De Ornelas and another* 1988 (3) SA 580 (A)
 - 5 *Van den Berg v Termer* 1975 (2) SA 268 (A). (2)

(17) Paul goes to a new attorney Jack for legal advise Paul has a one hour consultation with Jack Three weeks later Paul receives an account from Jack, for R2 500 Paul is furious as his previous attorney (who is now living overseas) used to charge him R1 000 per hour Subsequently Paul has several discussions with Jack wherein he (Paul) disputes the amount Jack claims Paul sends a cheque for R1 500 to Jack, which includes a note that reads "This cheque is sent in full and final settlement of my account in order to avoid litigation and bring finality to our dispute Once you deposit this cheque, you will have no further claim against me " Jack then deposits the cheque and advises Paul in writing that he rejects Paul's offer in full and final settlement and instead, he (Jack) accepts Paul's cheque as partial payment towards the account Jack then sues Paul for R1 000 Which of the following (if any) reflects the correct legal position?

- 1 Jack will be successful in his claim because no further agreement was concluded between both parties regarding their dispute
- 2 Jack will not be successful in his claim because an agreement was reached between both parties, when Jack deposited the cheque
- 3 Jack will be successful in his claim because he expressly rejected Paul's offer, therefore he can claim for the balance (R1 000)
- 4 None of the above

5 1 and 3

(2)

(17) **Paul besoek 'n nuwe prokureur Jack vir regsadvies. Paul en Jack konsulteer vir een uur Drie weke later ontvang Paul 'n rekening van R2 500 vanaf Jack. Paul is woedend aangesien sy vorige prokureur (wat nou oorsee woon) hom R1 000 per uur gevra het. Daarna het Paul verskeie gesprekke met Jack waarin hy (Paul) die bedrag wat Jack eis betwis Paul stuur 'n tjek aan Jack vir R1 500 met 'n nota wat lees "Hierdie tjek word gestuur in volle en finale vereffening van my rekening om litigasie te vermy en ons geskil finaal op te los Sodra u hierdie tjek deponeer sal u geen verdere eis teen my hê nie." Jack deponeer die tjek en stel Paul skriftelik daarvan in kennis dat hy Paul se aanbod verwerp en die tjek slegs as gedeeltelike betaling van die rekening aanvaar Jack dagvaar Paul vir R1 000. Welke van die volgende (indien enige) weerspieel die korrekte regsposisie?**

- 1 Jack sal slaag in sy eis aangesien geen ooreenkoms tussen die partye omtrent hulle geskil gesluit is nie
- 2 Jack sal nie slaag in sy eis nie aangesien 'n ooreenkoms tussen die partye aangegaan is toe Jack die tjek gedeponeer het.
- 3 Jack sal slaag in sy eis aangesien hy uitdruklik Paul se aanbod van die hand gewys het, en derhalwe die balans kan eis.
- 4 Geeneen van bogenoemde nie.

5 1 en 3.

(2)

[TURN OVER]
 [BLAAI OM]

(18) Assume the same facts as in question (17) Assume further that if the parties did conclude a contract regarding their dispute, what is the nature of that contract?

- 1 Release
- 2 Novation
- 3 Compromise
- 4 Delegation
- 5 Discharge

(2)

(18) **Veronderstel dieselfde feite as in vraag (17). Veronderstel verder dat indien die partye wel 'n kontrak omtrent hulle geskil gesluit het, wat is die aard van daardie kontrak?**

- 1 Kwytskelding.**
- 2 Skuldvernuwing.**
- 3 Kompromis.**
- 4 Delegasie**
- 5 Voldoening.**

(2)

(19) H lets a business premises to D for R5 000 per month. The written lease contains a clause prohibiting D from sub-letting the premises without the written consent of H. A further clause requires, that for any variation of the contract to be valid (including this clause), it has to be in writing and signed by both parties. Subsequently H and D orally agreed that D can sub-let the premises, for which D will pay an additional R2 000 per month. D then sub-let the premises to Y. After H received a rental income of R7 000 per month from D for a period of six months, he (H) cancels the lease agreement with D because D breached the contract by sub-letting the premises. Which answer reflects the correct legal position?

- 1 H validly cancelled the contract
- 2 H's attempted cancellation has no effect on the validity of the contract
- 3 Because H orally agreed that D can sub-let the premises, it is in fact H that has breached the lease agreement by cancelling the contract
- 4 Because H collected an additional R2 000 per month for six months from D, the oral variation to the contract is valid
- 5 The contractual relationship between the parties has become void for vagueness

(2)

(19) H verhuur 'n besigheidperseel aan D vir R5 000 'n maand. Die skriftelike huurkontrak bevat 'n klousule wat D verbied om onder te verhuur sonder die skriftelike toestemming van H. 'n Verdere klousule vereis dat enige wysiging van die kontrak (insluitende hierdie klousule) op skrif gestel en deur albei partye onderteken moet word ten einde geldig te wees. Daarna kom H en D mondeling ooreen dat D die perseel kan onderverhuur, waarvoor D 'n addisionele R2 000 'n maand sal betaal. D onderverhuur die perseel aan Y Nadat H huurgeld ten bedrae van R7 000 'n maand vanaf D vir ses maande ontvang, kanselleer hy (H) die kontrak omdat D kontrakbreuk gepleeg het deur onder te verhuur Watter antwoord weerspieel die korrekte regsposisie?

1 H se kansellering van die kontrak is geldig.

2 H se gepoogde kansellering van die kontrak het geen uitwerking op die geldigheid daarvan nie.

3 Aangesien H mondeling ingestem het dat D die perseel kan onderverhuur, is dit inderdaad H wat kontrakbreuk gepleeg het deur die kontrak te kanselleer.

4 Aangesien H 'n addisionele R2 000 'n maand vir ses maande van D ontvang het, is die mondelinge wysiging van die kontrak geldig.

5 Die kontraktuele verhouding tussen die partye het nietig geword weens vaagheid. (2)

(20) Which case is applicable to the facts in question (19)?

1 *Dickinson Motors (Pty) Ltd v Oberholzer* 1952 (1) SA 443 (A)

2 *Magwaza v Heenan* 1979 (2) SA 1019 (A)

3 *Neethling v Klopper* 1967 (4) SA 459 (A)

4 *SA Sentrale Ko-op Graanmaatskappy Bpk v Shifren* 1964 (4) SA 760 (A)

5 *Jurgens Eiendomsagente v Share* 1990 (4) SA 664 (A) (2)

(20) Watter saak is van toepassing op die feite in vraag (19)?

1 *Dickinson Motors (Pty) Ltd v Oberholzer* 1952 (1) SA 443 (A).

2 *Magwaza v Heenan* 1979 (2) SA 1019 (A)

3 *Neethling v Klopper* 1967 (4) SA 459 (A).

4 *SA Sentrale Ko-op Graanmaatskappy Bpk v Shifren* 1964 (4) SA 760 (A).

5 *Jurgens Eiendomsagente v Share* 1990 (4) SA 664 (A). (2)

(21) X buys a lounge suite from a furniture store. The parties agree that the lounge suite will be delivered by the furniture store to X's residence on Friday the thirteenth. The store sends the delivery van on Friday the thirteenth to X's residence but X cannot take delivery of the lounge suite because she has gone on holiday abroad. X will only return in six months time. There is also no other person available to collect the lounge suite on X's behalf. Which answer reflects the correct legal position?

1 X is not in *mora* because the furniture store has not yet formally demanded co-operation from X.

2 The form of breach is *mora debitoris*.

3 The furniture store cannot validly cancel the contract.

4 The furniture store can cancel the contract because the agreement has prescribed a time for performance by the furniture store and thus a time for co-operation by X.

5 2 and 4

(2)

(21) X koop 'n sitkamerstel by 'n meubelwinkel. Die partye kom ooreen dat die winkel die sitkamerstel op Vrydag die dertiende by X se woonhuis sal aflewer. Die winkel stuur die afleweringstrok op Vrydag die dertiende na X se woonhuis maar kan nie die sitkamerstel aflewer nie omdat X op reis in die buiteland is. X sal eers na ses maande terugkeer. Daar is ook geen ander persoon beskikbaar om die sitkamerstel namens X in ontvangs te neem nie. Watter antwoord weerspieël die korrekte regsposisie?

1 X is nie in *mora* nie want die meubelwinkel het nog nie formeel X se samewerking vereis nie.

2 Die tipe kontrakbreuk is *mora debitoris*.

3 Die meubelwinkel kan nie die kontrak geldiglik kanselleer nie.

4 Die meubelwinkel kan die kontrak kanselleer omdat die ooreenkoms 'n tyd vir prestasie deur die meubelwinkel bepaal en derhalwe ook 'n tyd wanneer X sy samewerking moet verleen.

5 2 en 4.

(2)

(22) What is the general effect of supervening impossibility of performance?

1 The contractual obligation is terminated.

2 The contract is rendered voidable at the instance of the creditor.

3 The contract is rendered voidable at the instance of the debtor.

4 The creditor is guilty of contractual breach.

5 The debtor is guilty of contractual breach.

(2)

[TURN OVER]
 [BLAAI OM]

(22) Wat is the algemene gevolg van latere onmoontlikwording van prestasie?

1 Die kontraktuele verbintenis word beeindig

2 Die kontrak is vernietigbaar na gelang die keuse van die skuldeiser.

3 Die kontrak is vernietigbaar na gelang die keuse van die skuldenaar

4 Die skuldeiser is skuldig aan kontrakbreuk.

5 Die skuldenaar is skuldig aan kontrakbreuk.

(2)

(23) X owns 500 shares in a company listed on the stock exchange Y offers to purchase all 500 shares at a certain price and X accepts the offer Y pays for all 500 shares, but X only transfers 400 shares to Y Y institutes application proceedings against X seeking an order of court compelling X to deliver the outstanding 100 shares X refunds Y for the 100 shares that were not transferred to Y X opposes the application because he reasons that Y can buy the very same shares on the local stock market, without any difficulty X further submits that he will compensate Y for damages suffered Choose the answer that reflects the correct legal position

1 Y will not succeed in his application

2 Y will succeed in his application

3 An application such as Y's will not succeed where the other party has offered to pay compensatory damages to the aggrieved party (Y)

4 1 and 3

5 None of the above

(2)

(23) X is die eienaar van 500 aandele in maatskappy wat op die effektebeurs gelys is. Y bied aan om al 500 aandele teen 'n bepaalde prys te koop en X aanvaar die aanbod. Y betaal vir al 500 aandele maar X dra slegs 400 aandele oor aan Y. Y stel 'n aansoek in teen X en versoek 'n hofbevel wat X verplig om die uitstaande aandele te lewer. X maak 'n terugbetaling aan Y vir die 100 aandele wat nie aan Y oorgedra is nie. X opponeer die aansoek omdat hy reken dat Y dieselfde aandele op die aandelebeurs kan koop, sonder enige moeite. X is verder bereid om Y te vergoed vir enige skade deur Y gely. Kies die antwoord wat die korrekte regsposisie weerspieel.

1 Y sal nie in sy aansoek slaag nie.

2 Y sal wel in sy aansoek slaag.

3 'n Aansoek soos Y s'n sal nie slaag waar die ander party aanbied om skadevergoeding aan die verontriefde party te betaal nie (Y).

4 1 en 3

5 Geeneen van bogenoemde nie.

(2)

(24) What remedy is applicable to question (23)?

1 Cancellation

2 Damages

3 Cancellation and possible damages

4 Specific performance

5 Cancellation and specific performance

(2)

(24) Watter remedie is van toepassing op vraag (23)?

1 Kansellasië.

2 Skadevergoeding.

3 Kansellasië en moontlike skadevergoeding.

4 Spesifieke nakoming

5 Kansellasië en spesifieke nakoming.

(2)

(25) Which case illustrates the principle in question (23)?

- 1 *Swart v Vosloo* 1965 (1) SA 100 (A)
- 2 *Lavery & Co Ltd v Jungheinrich* 1931 AD 156
- 3 *Whitfield v Phillips* 1957 (3) SA 318 (A)
- 4 *Shatz Investments (Pty) Ltd v Kalovyrnas* 1976 (2) SA 545 (A)
- 5 *Benson v SA Mutual Life Assurance Society* 1986 (1) SA 776 (A) (2)

(25) Watter saak illustreer die beginsel in vraag (23)?

- 1 ***Swart v Vosloo* 1965 (1) SA 100 (A).**
- 2 ***Lavery & Co Ltd v Jungheinrich* 1931 AD 156**
- 3 ***Whitfield v Phillips* 1957 (3) SA 318 (A).**
- 4 ***Shatz Investments (Pty) Ltd v Kalovyrnas* 1976 (2) SA 545 (A).**
- 5 ***Benson v SA Mutual Life Assurance Society* 1986 (1) SA 776 (A).** (2)
[50]

SECTION B: FILL-IN QUESTIONS**AFDELING B. INVULVRAE**

NB ANSWER THESE QUESTIONS IN THE SPACES BELOW

NB: BEANTWOORD HIERDIE VRAE IN DIE SPASIES HIERONDER

QUESTION 1 / VRAAG 1

List and very briefly discuss the requirements for a valid offer and acceptance (10)

Lys en bespreek baie kortliks die vereistes vir 'n geldige aanbod en aanname. (10)

[TURN OVER]
[BLAAI OM]

[10]

QUESTION 2 / VRAAG 2

Y signs and delivers a written offer (including all the material terms) to Z on 1 July, for the purchase of Z's waterfront apartment. Y's offer is for R800 000 and one of the terms of the offer states "This offer lapses on 30 August." However, whilst Z is still considering Y's offer, Y delivers a letter to Z on 20 July, advising Z that his (Y's) offer is cancelled. Z insists that the offer is valid until 30 August, and on 25 July Z delivers a letter to Y, advising Y that he (Z) accepts Y's offer. Has a valid contract of sale been created between Y and Z? Discuss with reference to *Brandt v Spies* 1960 (4) SA 14 (E) and other relevant case law.

(10)

Y teken en lewer 'n skriftelike aanbod (insluitend alle wesentliche bedinge) aan Y op 1 Julie om Z se waterfront woonstel te koop. Y se aanbod is vir R800 000 en een van die bedinge van die aanbod bepaal: "Hierdie aanbod verval op 30 Augustus." Tewel Z nog egter besig is om Y se aanbod te oorweeg, lewer Y 'n brief aan Z op 20 Julie waarin hy vir Z inlig dat sy (Y se) aanbod gekanselleer is. Z dring daarop aan dat die aanbod tot 30 Augustus geldig is, en op 25 Julie lewer Z 'n brief aan Y waarin hy (Z) Y se aanbod aanvaar. Het Y en Z 'n geldige koopkontrak gesluit? Bespreek met verwysing na *Brandt v Spies* 1960 (4) SA 14 (E) en ander relevante regspraak.

(10)

[TURN OVER]
[BLAAI OM]

[10]

QUESTION 3 / VRAAG 3

Tony opens a general dealer business. He is unaware that he requires a trading license for selling perishables (milk, fruit, etc). Tony supplies Samuel with perishable goods. Samuel refuses to pay for the goods because Tony was trading illegally when he supplied Samuel with the goods. Advise Tony if he can recover the monetary value of the goods, from Samuel. Briefly also discuss whether your answer would be different if Tony supplied Samuel with prohibited drugs from his business premises, which Tony knew was illegal. Discuss with reference to *Jajbhay v Cassim* 1939 AD 537 and other relevant case law.

(10)

Tony maak 'n algemene handelaar besigheid oop. Hy is daarvan onbewus dat hy 'n handelslisensie benodig om bederfbare produkte (melk, vrugte, ens) te verkoop. Tony verskaf bederfbare produkte aan Samuel. Samuel weier egter om daarvoor te betaal aangesien Tony onwettig handel gedryf het toe hy die goedere aan Samuel verskaf het. Adviseer vir Tony of hy die waarde van die goedere van Samuel kan eis. Bespreek ook kortliks of jou antwoord sou verskil indien Tony verbode dwelms vanaf sy besigheidsperseel aan Samuel verskaf het, en Tony geweet het dat sodige optrede onwettig is. Bespreek met verwysing na *Jajbhay v Cassim* 1939 AD 537 en ander relevante regspraak.

(10)

QUESTION 4 / VRAAG 4

Discuss the concepts *mora ex re* and *mora ex persona* (10)

Bespreek die begrippe *mora ex re* en *mora ex persona*. (10)

[10]

QUESTION 5 / VRAAG 5

Andy and Craig conclude a contract wherein Andy agrees to paint Craig's office block by 31 August, and Craig agrees to pay Andy R10 000 upon completion of the work. When 80% of the work is completed Andy suddenly falls ill and he is unable to complete the job by 31 August. Craig refuses to pay Andy any money for his (Andy's) services rendered, as Craig believes that Andy has breached the contract by not completing the work. Craig hires another contractor at an amount of R3 000 to complete the job. Craig does not incur any other costs to complete the job, neither does his business make any losses. Advise Andy as to what amount (if any) he may recover from Craig for the services that he rendered and on what basis. Discuss with reference to *BK Tooling (Edms) Bpk v Scope Precision Engineering (Edms) Bpk* 1979 (1) SA 391 (A) and other relevant case law (10)

Andy en Craig sluit 'n kontrak ingevolge waarvan Andy onderneem om Craig se kantoorblok te verf teen 31 Augustus, en Craig onderneem om vir Andy R10 000 by afhandeling van die werk te betaal. Wanneer 80% van die werk voltooi is, word Andy siek en hy is nie daartoe in staat om die werk teen 31 Augustus te voltooi nie. Craig weier om vir Andy enigiets vir sy gelewerde dienste te betaal aangesien Craig van mening is dat Andy kontrakbreuk gepleeg het deur nie die werk te voltooi nie. Craig stel 'n ander kontrakteur teen R3 000 aan om die werk te voltooi. Craig gaan geen verdere koste aan om die werk te voltooi nie en sy besigheid ly geen verliese nie. Adviseer Andy wat hy van Craig kan eis (indien enigiets) vir die dienste wat hy gelewer het en op welke basis. Bespreek met verwysing na *BK Tooling (Edms) Bpk v Scope Precision Engineering (Edms) Bpk* 1979 (1) SA 391 (A) en ander relevante regspraak (10)

[TURN OVER]
[BLAAI OM]

[10]

TOTAL / TOTAAL [100]