



NAMIBIA UNIVERSITY  
OF SCIENCE AND TECHNOLOGY

## FACULTY OF HUMAN SCIENCES

### DEPARTMENT OF SOCIAL SCIENCES

<b>QUALIFICATION:</b> BACHELOR OF ACCOUNTING / BACHELOR OF CHARTERED ACCOUNTANCY/BACHELOR OF ENTERTRENEUSHIP	
<b>QUALIFICATION CODE:</b> 07BACC/07BOAC/07BENT	<b>LEVEL:</b> 5
<b>COURSE CODE:</b> BLW 512S	<b>COURSE NAME:</b> BUSINESS LAW
<b>SESSION:</b> JANUARY 2020	<b>PAPER:</b> THEORY AND CASE STUDY
<b>DURATION:</b> 2 HOURS	<b>MARKS:</b> 100

<b>SECOND OPPORTUNITY QUESTION PAPER</b>	
<b>EXAMINER(S)</b>	MS.WABOMBA
<b>MODERATOR:</b>	MS. NGHISHEKWA

<b>INSTRUCTIONS</b>
<ol style="list-style-type: none"><li>1. Answer ALL the questions.</li><li>2. Write clearly and neatly.</li><li>3. Number the answers clearly.</li></ol>

**THIS QUESTION PAPER CONSISTS OF 8 QUESTION AND 5 PAGES (Including this front page)**

### QUESTION 1

Identify the different types of termination of the contract of lease, as stated in the following statements below:

- 1.1 In a situation where, either the lessor or the lessee's assets are less than the liabilities. (2)
  - 1.2 An indefinite contract of lease, where either party, has to terminate the lease agreement within a reasonable time. (2)
  - 1.3 Where the lessor is no longer the owner of the leased property. (2)
  - 1.4 A contract where, either the lessor or the lessee dies during the existence of the contract. (2)
  - 1.5 A contract that comes to an end because of the fixed period of time agreed upon by the parties. (2)
- [10]**

### QUESTION 2

- 2.1 John is a farmer that has rented a farm from Tom, for a period of 15 years. Tom has now sold the farm without letting the buyer know about the lease agreement between John and Tom. The lease agreement was not registered against the title. Advise John of his rights if any. (4)
  - 2.2 Assume that Tom inherited the farm from his grandfather; will your answer be different? (3)
  - 2.3 What are the duties of a lessor? (4)
- [11]**

### QUESTION 3

- 3.1 John is an IT student at NUST. He has a part-time job with, WC IT Company. He has rented a flat. Of late, there has been a lot of work at NUST. Due to the heavy workload at NUST, he has been unable to go to work. He has therefore failed to pay his rent. Most of the properties on the rented premises are bought, in terms of the Credit Agreement Act, Act 75 of 1980. The lessor has approached you for advice. Give the appropriate advice. (6)

- 3.2 A was renting G's house. During the existence of the lease agreement, A made improvements on the property. The lease agreement is almost coming to an end. Advise A, on what the law states, on the different types of improvements. (10)  
[16]

#### QUESTION 4

ABC partnership is in a financial stress. They owe both themselves as partners and outside creditors. John, one of the partners has offered a car for the partnership use. It is still in his name and has not been transferred to the partnership. Answer the following questions.

- (a) Can the partners view the car as part of the partnership fund? (3)  
(b) Would your answer be different if creditors also want to lay a claim on the car? (3)  
(c) List different types of partnerships. (3)  
[9]

#### QUESTION 5

- 5.1 What is the difference between the risk rule and impossibility of performance? (5)  
5.2 Jane and James entered into a contract of purchase and sale in respect of African clothing material. Jane ordered 100 meters, for N\$ 10 per meter. There was no condition attached to the contract. Just before the 100 meters were cut off from the main roll, a bottle of wine spilled on the material and was badly stained. Who bears the risk? (10)  
5.3 Would your answer be different if James was supposed to deliver the material on Thursday but failed to do so and the wine spills on the material on Friday? (3)  
[18]

#### QUESTION 6

- 6.1 A has rented a house from B. The lease agreement has a clause that states that the lessor has a right to inspect the rented property from time to time. The lessee is not happy with the clause and wants it removed. Advise the lessee. (4)  
6.2 in addition to the general requirements for a valid contract of lease agreement, parties; must also agree on 3 essential characteristics (essentialia), name them. (3)  
[7]

### QUESTION 7

Tom, Dick and Harry are partners in a fishing business. According to their partnership agreement Tom is the managing partner, with authority to bind the partnership in any agreements to a value of N\$100 000. For contracts in excess of this amount the consent of Dick and Harry are required.

Without consulting with his partners, Harry buys freezing equipment for fish from ABC Suppliers to the tune of N\$500 000. Tom and Dick are of the opinion that this is an unnecessary expense, and deny liability.

Answer the following questions:

- 7.1 Can ABC Suppliers hold the partnership liable? Discuss in full. (7)
- 7.2 When ABC Suppliers institute legal action against the partnership they learn that the partnership has dissolved. Does this mean they cannot recover their money? Discuss in full. (4)
- 7.3 Would your answer to question 7.2 above be different if Harry was an extra-ordinary partner? (4)
- [15]**

### QUESTION 8

On 15 August 2017 The Namibian newspaper reported that “Bank Windhoek has repossessed a front-end loader of the Katima Mulilo Town Council because the person who sold it to the council owed the bank money.” According to the newspaper article a local businessman (B) sold the front-end loader to the town council late last year, after he had purchased it in terms of an instalment sale agreement with a Bank Windhoek.

Answer the following questions with regard to the above facts. Motivate your answers as required.

- 8.1 In the above scenario, identify the credit grantor and the credit receiver respectively. (2)
- 8.2 Instalment Sale Agreements are typically made subject to a suspensive condition. What is the effect of this condition? (5)

8.3 Would your advice be any different if the Town Council had bought the front-end loader at a sale in execution? (4)

8.4 Name 3 (three) circumstances in which a purchaser will not be protected against eviction? (3)

[14]