



PAMIBIA UNIVERSITY
OF SCIENCE AND TECHNOLOGY

FACULTY OF COMMERCE, HUMAN SCIENCES AND EDUCATION

DEPARTMENT OF SOCIAL SCIENCES

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FIRST OPPORTUNITY QUESTION PAPER	
EXAMINER(S)	Mariette Hanekom, Emmy Wabomba, Wilhelmina Shakela, Eddy Maiba
MODERATOR:	Dr M Awarab

INSTRUCTIONS	
1.	This paper consists of 7 (seven) questions.
2.	All questions are compulsory.
3.	<u>All questions must be answered in your Examination Book</u>
4.	Read all questions carefully before answering.
5.	Incorrect spelling and illegible handwriting may prevent mark allocation.

PERMISSIBLE MATERIALS

None

THIS QUESTION PAPER CONSISTS OF 9 PAGES (Including this front page)

QUESTION 1

Choose a correct answer from the options given in each of the following statements. Only write down the letter with a correct answer for each statement. Use BLOCK CAPITAL LETTERS.

- 1.1 With reference to the provisions of the Credit Agreements Act 75 of 1980, the following statement is true.
- A. A person may enter into an agreement in terms of which s/he is bound to enter into a credit agreement at a future date.
 - B. The agreement must be concluded for at least 6 months or longer.
 - C. A credit grantor may lend money to the credit receiver to pay the deposit.
 - D. The credit grantor may not be exempted from liability for *ex lege* guarantees.
 - E. The credit grantor may be exempted from liability for patent defects.
- 1.2 A contract in which the *merx* is sold as a hope or expectation, expected to come into existence in future where the purchaser must pay the price regardless of whether the expectation materializes or the extent to which it materialises, is known as:
- A. *Emptio rei speratae*
 - B. Sale by description
 - C. Sale by sample
 - D. *Emptio spei*
 - E. *Res sua*
- 1.3 Cathy borrows Jenny's CD Player. She likes it so much that she decides to buy it. The parties conclude a contract of purchase and sale. Cathy gives the money to Jenny and retains the CD Player. This form of delivery is known as:
- A. *Constitutum possessorium*
 - B. Actual delivery
 - C. *Longa manu*
 - D. Symbolical delivery
 - E. Neither one of the above options
- 1.4 Nangula buys and pays for a second-hand motor vehicle from ABC Garage, but leaves it with the garage for repairs. Delivery took place in the form of:
- A. Actual delivery
 - B. *Constitutum possessorium*
 - C. Registration in the name of the purchaser at the Ministry of Transport
 - D. Delivery with the long hand
 - E. Symbolical delivery

- 1.5 The following statement is true:
- A. A contract of purchase and sale is not *perfecta* if it is subject to a resolutive condition.
 - B. A contract of purchase and sale is *perfecta* if it is subject to a suspensive condition.
 - C. A contract of purchase and sale is *perfecta* if the price is fixed or determinable, the thing is specified and the parties have the intention to conclude a contract of purchase and sale.
 - D. After conclusion of a contract of purchase and sale, the purchaser bears the risk for any accidental damage to the thing from the moment the contract is *perfecta* until the time of delivery.
 - E. The risk doctrine is applicable to all contracts.
- 1.6 When a seller delivers the *merx* sold to the purchaser, the purchaser is protected against disturbance in his possession by virtue of the:
- A. Guarantee against latent defects
 - B. Passing of the risk rule
 - C. *Actio empti*
 - D. Guarantee against eviction
 - E. None of the above
- 1.7 A latent defect is:
- A. Present at the time of conclusion of the contract, still renders the *merx* effective for the purpose for which it was bought, is not known to the purchaser at the time of the conclusion of the contract, is not visible or perceivable by the precise person, is so serious that a reasonable person would not have bought the *merx*.
 - B. Visible to the precise person during an inspection of the *merx*, known to the purchaser at the time of the conclusion of the contract, renders the *merx* less useful or effective, present at the time of the conclusion of the contract, is so serious that a reasonable man would not have bought the *merx*.
 - C. Is so serious that a reasonable person would not have bought the *merx*, is visible or perceivable to the precise person, not known to the purchaser at the time of the conclusion of the contract, renders the *merx* less useful or effective, partially or completely and existed at the time of the conclusion of the contract.
 - D. Is a defect of the *merx*, which renders the thing less useful or effective (partially or completely), not known to the purchaser at the time of the conclusion of the contract, is so serious that a reasonable person would not have bought the *merx*, is not visible or perceivable to the precise person and existed at the time of the conclusion of the contract.
 - E. None of the above.

- 1.8 When a latent defect is discovered in the *merx*, purchased from a manufacturer, which defect renders the article useless, the best remedy available to the purchaser is:
- A. *Actio empti*
 - B. *Actio quanti minoris*
 - C. *Actio redhibitoria*
 - D. Specific performance
 - E. None of the above
- 1.9 The following statement is not true:
- A. A *voetstoots* sale means that the thing is sold as good or as bad as it is.
 - B. The seller can never be held liable for any latent defects if a thing is sold *voetstoots*.
 - C. A *voetstoots* sale is never implied, the parties must expressly agree on it.
 - D. Goods sold at a public auction are sold *voetstoots*.
 - E. None of the above
- 1.10 Section 12 of the Credit Agreements Act 75 of 1980 provides as follows:
- A. The Credit Agreement must contain a clause stating that the contract was signed at the premises of the credit grantor.
 - B. The initial payment must first be paid before the credit agreement will be valid.
 - C. The credit receiver may not trade in goods as a deposit.
 - D. The credit receiver shall be entitled to recovery of the goods within 30 days in the event where the credit grantor takes matters in his own hands and repossesses goods by any other means than a court order.
 - E. The credit receiver may cancel within 5 days if the agreement is entered into as a result of the initiative of the credit grantor or the credit receiver signed the agreement at a place, which is not the normal place of business of the credit grantor.
- 1.11 Section 11 of the Credit Agreements Act 75 of 1980, as amended, protects the purchaser when:
- A. The credit grantor summarily cancels the credit agreement.
 - B. The contract is signed at the home of the purchaser as a result of the initiatives of the seller.
 - C. The goods bought in terms of the credit agreement are repossessed without a court order.
 - D. The seller has called the purchaser to come in and view the articles on sale.
 - E. None of the above.

- 1.12 With reference to the provisions of the Credit Agreements Act 75 of 1980, the following statement is true:
- A. An oral credit agreement is invalid.
 - B. An agent can act on behalf of both the credit receiver and credit grantor.
 - C. The period of a credit agreement can be left undetermined.
 - D. The initial payment (deposit) must first be paid before the credit agreement will be valid.
 - E. None of the above.
- 1.13 Section 45 of the Labour Act stipulates that dismissals must take place:
- A. In accordance with Section 47 of the Labour Act 6 of 1992.
 - B. For a fair and valid reason and according to a fair procedure.
 - C. If an employee is caught in the act of stealing from the employer.
 - D. If the illness of an employee takes place for an unreasonably long period.
 - E. Neither one of the above options.
- 1.14 When an employee has been reduced in status s/he:
- A. May cancel the agreement and claim damages.
 - B. Must accept the reduction of status.
 - C. Institute a claim for vicarious liability against the employer.
 - D. May disclose information to third parties concerning the business activities of the employer.
 - E. None of the above.
- 1.15 In terms of the Labour Act 6 of 1992 an employee is entitled to the following days of annual leave:
- A. 24 consecutive days
 - B. 30 calendar days
 - C. 36 consecutive days
 - D. 40 calendar days
 - E. None of the above
- 1.16 Benjamin enters into an agreement with John that he (Benjamin) will lease John's farm for a period of 20 years. The lease is not registered. Five years into the agreement the country is hit by a devastating drought; Benjamin gives up farming and moves back into town. The following year John dies, and his son, Johnson, inherits the farm. Good rain has since fallen, and Benjamin wants to resume his farming activities. Advise Johnson:
- A. Benjamin can return to the farm and continue farming for the remainder of the 20-year period.
 - B. Benjamin can return to the farm and continue farming for another 10 years.
 - C. Benjamin can return to the farm and continue farming until the first 10 years of the lease has expired.
 - D. Johnson can evict Benjamin
 - E. The lease is invalid because it was never registered.

- 1.17 Kapofi leases his house to Nomcebo. Kapofi and Nomcebo agree that their contract of lease will come to an end when Nomcebo's son Daniel returns from Dubai. A year after the conclusion of the agreement, Daniel comes back from Dubai. Which one of the following forms of termination of lease will take place?
- A. The lease agreement will be terminated by notice because the contract is for an indefinite period
 - B. 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
 - C. The lease agreement will not be terminated by effluxion of time because it was not known when the event will take place
 - D. The lease agreement will be terminated by effluxion of time because its existence depends on the occurrence of a specified event
 - E. None of the given options
- 1.18 The Credit Agreements Act 75 of 1980 only applies to: (indicate the correct statement)
- A. Contracts for the sale or lease of movable goods.
 - B. Contracts for the sale of immovable goods.
 - C. Contracts for the sale or lease of immovable goods.
 - D. Contracts for the sale of any item that a purchaser wishes to buy on credit.
 - E. Contracts for the sale of movable goods.
- 1.19 Choose the correct statement:
- A. Estate agents have authority to enter into a contract of sale on behalf of the owner.
 - B. A single director (who is not the Managing Director) of a company has no implied authority to act in the name and on behalf of the company.
 - C. Not all members of a Close Corporation have implied authority to act as agents of the corporation for the purposes of the corporation's business.
 - D. An agent must dedicate him/herself exclusively to his/her principal's affairs and may not have more than one principal.
 - E. Insolvency of the agent will automatically terminate his/her agency power.
- 1.20 The principal is liable to third parties with whom the agent has contracted if:
- A. The principal authorised the delictual act or if the agent is an employee and the act is done in the course and scope of his/her employment.
 - B. An agent acted in his/her own name, without disclosing the existence of the principal, even if the agent acted outside the scope of his/her authority.
 - C. The agent committed fraud, even if the misrepresentation falls outside the scope of the authority and is not attached to the business that the agent is transacting.
 - D. The agent purported to act for a disclosed "principal" without any authority.
 - E. Neither one of the above options.

Two marks each [40 Marks]

QUESTION 2

Indicate whether the following statements are true or false. You need not motivate your answer.

- 2.1 Yvonne, the secretary at Easy Travel CC, has the authority to order a box of 12 bottles of sparkling wine from Tropical Island Liquor Store on a regular basis. At the end of September 2025, Yvonne orders two boxes of sparkling wine for her 21st birthday celebrations, without informing the liquor store that the purchase was not for the business. Upon receipt of the invoice, the accountant discovers that Yvonne had no authority to purchase sparkling wine for her birthday on the business's account. Easy Travel CC will be bound to the contract because Yvonne had apparent authority.
- 2.2 The Credit Agreements Act will not apply when the agreement is concluded for less than 6 months.
- 2.3 When the credit receiver has failed to pay his instalment and the credit grantor has regained possession of the article without a court order, the credit grantor has to grant the credit receiver a period of 60 days in which he can pay the monies in arrears and regain possession of the article.
- 2.4 Section 13 of the Credit Agreements Act of 75 of 1980 is available to the credit receiver when the contract was signed at a place other than the business premises of the credit grantor or as a result of the initiation of the credit grantor.
- 2.5 The seller is exempted from liability for latent defects in a lay-by agreement.
- 2.6 The passing of the risk rule applies to a contract of employment.
- 2.7 When a seller delivers the merx sold to the purchaser, he undertakes to give the purchaser ownership of the thing sold.
- 2.8 In a sale in execution, the purchaser is not protected by the guarantee against latent defects.
- 2.9 A 17-year-old girl is allowed to do night work.
- 2.10 An estate agent is rarely a true agent in the strict sense of the word.

(One mark each) [10]

QUESTION 3

In each of the following instances, state whether a valid contract of purchase and sale has been formed. Motivate your answer.

NOTE: No marks will be awarded for yes/no without a proper motivation.

- 3.1 After a heavy night of drinking Kristen sells her car to Ernst for N\$100.
- 3.2 Jon and Peter agree that Jon will buy Peter's car for whatever Jon is prepared to pay for it.
- 3.3 Paul and Holly agree that Paul will buy 100g of cocaine from Holly for N\$1000.
- 3.4 Mbeki's father has passed on. Mbeki does not know that, in terms of his late father's last will and testament, he has inherited his late father's Mercedes Benz. He agrees with the executor of his late father's estate that he will buy the Mercedes Benz for N\$200 000.
- 3.5 Petrus sells Mario's car to Josua for N\$200 000.

(Two marks each) [10]

QUESTION 4

Answer the following short questions.

- 4.1 In terms of the risk rule the risk passes from the seller to the purchaser as soon as the contract is *perfecta*. Briefly explain what is meant by the term *perfecta*. (3)
- 4.2 Explain how the 5 days "cooling off period" in terms of Section 13 of the Credit Agreements Act 75 of 1980 is calculated. (2)
- 4.3 What is the duty of a purchaser when faced with a threatening eviction with regards to a purchase and sale contract? (3)
- 4.4 When will a seller, despite a *voetstoots* sale, still be liable for latent defects? (2)

[10 Marks]

QUESTION 5 follows on the next page

QUESTION 5

- 5.1 Sea Breeze Properties CC is building a double-storey beach house for Hilde, an architect. When the project reached the halfway stage, Hilde came to inspect the jobsite. While she is busy on the second floor, Simon, a bricklayer in the employment of Sea Breeze Properties CC, negligently drops a cement bucket on her brand-new Mercedes Benz. Hilde wants to know whether she has any claim against Sea Breeze Properties CC? Motivate your answer. (5)
- 5.2 Zelda has worked in a dusty factory for 37 years and gets a lung disease. Does she have any claim against her employer? Motivate your answer. (5)
- [10]**

QUESTION 6

- 6.1 On Monday, Sara sells her motor vehicle to Max for N\$ 20 000. They agree that Max will pay Sara immediately, but that Sara will only deliver the vehicle to Max on Thursday. On Wednesday, lightning destroys the vehicle while parked outside Sara's house. Discuss the legal position of the parties. (8)
- 6.2 Would your answer be any different if Sara failed to deliver the car on Thursday, and the car had been struck by lightning outside her house on Saturday? (2)
- [10]**

QUESTION 7

Carel is the manager of AfriCat CC Game Farm in northern Namibia. It is part of his duties to attend game auctions on a regular basis in order to enlarge the game diversity of AfriCat. Carel is already well known amongst the auctioneers. During a recent auction Carel was expressly authorised to buy a cheetah, however, he decided to buy 50 baby springboks instead. AfriCat CC would like to know whether they could be held bound to this contract concluded by Carel on their behalf? **Discuss.**

[10]

[Total 100 Marks]