



**NAMIBIA UNIVERSITY  
OF SCIENCE AND TECHNOLOGY**

**FACULTY OF COMMERCE, HUMAN SCIENCES AND EDUCATION  
DEPARTMENT OF SOCIAL SCIENCES**

<b>QUALIFICATION:</b> BACHELOR OF ENTREPRENEURSHIP	
<b>QUALIFICATION CODE:</b> 07BENT	<b>LEVEL:</b> 5
<b>COURSE CODE:</b> BLW512S	<b>COURSE NAME:</b> BUSINESS LAW
<b>SESSION:</b> NOVEMBER 2024	<b>PAPER:</b> THEORY AND CASE STUDIES
<b>DURATION:</b> 3 HOURS	<b>MARKS:</b> 100

<b>FIRST OPPORTUNITY EXAMINATION</b>	
<b>EXAMINER(S)</b>	Mariette Hanekom
<b>MODERATOR:</b>	Kirby Claasen

<b>INSTRUCTIONS</b>
<ol style="list-style-type: none"><li>1. The paper has SIX questions.</li><li>2. ALL the questions are compulsory.</li><li>3. Read carefully before answering.</li><li>4. Write clearly and neatly.</li><li>5. Number the answers clearly and according the structure in the examination question paper.</li><li>6. Candidates will be penalised for incorrect spelling and illegible handwriting.</li></ol>

**PERMISSABLE MATERIAL**  
**None**

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

## **QUESTION 1**

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

- 1.1 When a seller delivers the *merx* sold to the purchaser, the purchaser is protected against disturbance in his possession by virtue of the passing of the risk rule.
- 1.2 Hamata and Utoni enter into a partnership agreement. Hamata agrees to contribute a property valued at N\$200 000. Although the partners use the property as their business premises, it remains registered in Hamata's name. Standard bank, a creditor of the partnership, cannot attach this property, as it is not part of the partnership fund.
- 1.3 The Credit Agreements Act will not apply when the agreement is concluded for less than 6 months.
- 1.4 Patrimonial gain for each partner implies that the partners must receive equal shares of the profit.
- 1.5 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 30 days in which he can pay the monies in arrears and regain possession of the article.
- 1.6 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 and because of the initiation of the credit grantor.
- 1.7 The Children's Trust concludes an agreement with the Windhoek Toast Masters Club in terms of which the club agrees to donate N\$ 150 000.00 which it raised during a recent fundraising function, for the benefit of a children's home administered by The Children's Trust. This legal concept is known as agency.
- 1.8 The seller is exempted from liability for latent defects in a lay-by agreement.
- 1.9 A lease agreement must always be in writing to be valid.
- 1.10 Joni's lease agreement with Pandula expired at the end of December 2023. She remained in the premises and continued to pay rent, which was accepted by Pandula. This is known as a tacit relocation.
- 1.11 Assets contributed to the partnership are co-owned by the partnership and the partners.

- 1.12 The duty of partners to avoid negligence in the conduct of partnership business is known as the fiduciary duty of care and skill.
- 1.13 If a partnership has suffered a loss because of the negligence of a partner, the aggrieved partners can institute action to recover the loss from that partner.
- 1.14 Louise, Maria and Doreen want to form a partnership. They must each agree to contribute a sum of money to the partnership.
- 1.15 A court will order an unwilling partner to act conscientiously as a partner by way of specific performance.

*(Two marks each)* **[30]**

## **QUESTION 2**

**Briefly answer the following questions:**

- 2.1 With specific reference to credit agreements, what is the difference between a suspensive condition and a resolutive condition? (4)
- 2.2 Name the type of delivery that took place in the following instances: (3)
  - 2.2.1 Jack purchased John's car. John gives Jack the keys to the car upon payment of the purchase price of N\$ 10 000.00.
  - 2.2.2 Joe buys a second-hand motor vehicle from Best Buys Cars but leaves the car with them for new tyres to be fitted.
  - 2.2.3 Ben leases his car to Andy for N\$5 000.00 per month. Andy then purchases the car at a purchase price of N\$50 000.00.
- 2.3 What are the legal requirements for the transfer of ownership of a thing in a contract of purchase and sale? (2)
- 2.4 What are the legal rules regarding the sharing of profits in a partnership? (5)
- 2.5 In terms of the law of purchase and sale, what is the meaning of the term "delivery"? (2)
- 2.6 Compare the two types of extra-ordinary partnerships. (4)

**[20]**

### **QUESTION 3**

**In each of the following instances indicate whether a valid lease agreement has come into existence. Motivate your answers.**

*Note: no marks will be awarded for yes/no without a correct motivation.*

- 3.1 An agreement whereby Jojo pays Andy N\$500 per month to park his car in Andy's yard. Jojo can park his car wherever he wants.
- 3.2 A verbal agreement whereby Petrus leases his farm to Paulus for 20 years. The agreement is not put in writing.
- 3.3 An agreement whereby the parties agree that the rent will be "between N\$3000 and N\$5000 a month".
- 3.4 An agreement whereby Tusi, who is 16 years old, leases her cellphone to Kaire, who is also 16 years old, for N\$100 per month.
- 3.5 An agreement whereby Suzi allows Mary to use her cellphone forever, provided that she (Mary) pays Suzi N\$100 per month.

*Two marks each [10]*

### **QUESTION 4**

To alleviate his boredom when his friends decide to stop partying and start studying, Jono decides to buy a big screen TV from The Television Shop. He enters into an Instalment Sale Agreement in terms of the Credit Agreement Act 75 of 1980, as amended.

**Discuss the legal position in the following instances:**

- 4.1 The agreement states that The Television Shop will lend the money to pay the deposit to Jono. (3)
- 4.2 The agreement is not signed on behalf of The Television Shop. (3)
- 4.3 Jono fails to pay the deposit. (2)
- 4.4 Two days after his purchase Jono realises that he cannot afford the TV and decides to return it to the shop in terms of Section 13 of the Credit Agreements Act 75 of 1980. Can he do this? (3)
- 4.5 Two weeks later the television set stops working because of faulty components. Jono returns it to the shop but the salesman tells him that he does not have a claim, because it was sold "voetstoots". (4)

**[15]**

### **QUESTION 5**

Tom sells his farm to Zinziwe at a market-related price. There are 80 old, unmarked human graves on the farm, located on a hillside away from land that will be used for cultivation. Tom was unaware of the existence of the graves at the time of the conclusion of the contract. Zinziwe finds out about the existence of the graves after conclusion of the contract. Zinziwe is unwilling to reside on or take occupation of the farm, because she finds the presence of the graves scary.

- 5.1 Does Zinziwe have a claim against Tom? (9)
- 5.2 Would your answer to question 5.1 be different if the sale had been 'voetstoots'? (3)
- 5.3 Would your answer to question 5.2 be any different if Tom knew about the presence of the graves, but did not tell Zinziwe? (3)
- [15]**

### **QUESTION 6**

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\$1 million. For contracts more than this amount the consent of Dick and Harry are required.

Without consulting with his partners, Harry buys a race-horse from Scaly Horse Breeders for N\$750 000.

**Answer the following questions:**

- 6.1 Can Scaly Horse Breeders hold the partnership liable? Discuss in full. (6)
- 6.2 Tom and Harry think that owning a racehorse is a cool idea. What can they do? (1)
- 6.3 The partnership decides to hold a Christmas party and instructs Dick to order refreshments. He places an order with Gourmet Caterers. When the refreshments are delivered Tom refuses to pay, because he would have preferred the NUST Hotel School. Can the partnership deny liability? (3)
- [10]**

**TOTAL: 100 MARKS**