

# Tutorial Letter 101/3/2018

## Commercial Law 1A CLA1501

Semesters 1 & 2

Department of Mercantile Law

**IMPORTANT INFORMATION:**

Please register on *myUnisa*, activate your *myLife* e-mail addresses and make sure that you have regular access to the *myUnisa* module website, CLA1501-2018-S1/S2, as well as your group website.

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# 1 INTRODUCTION

Dear Student

We are pleased to welcome you as a student of Commercial Law 1A (**CLA1501**) 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 (**CLA1501/101/2018**) 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 semesters 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 examination 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 study material as soon as possible. Apart from this tutorial letter, you will also receive other tutorial letters during the semester. Your study material for **CLA1501** 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 the study guide and tutorial letters 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>. Go to the website and log in using your student number and password. You will see [CLA1501-18-S1/S2] in the row of modules displayed in the orange blocks at the top of the webpage. Select the **More** tab if you cannot find the module you require in the orange blocks. Then click on the module you want to open.

For further information on **myUnisa** and other administrative information please consult the publication **Study @ 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 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 in South Africa.

### 2.2 Outcomes

The following are the outcomes for this module:

- 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; and
- you should also 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 personal rights are transferred or terminated.

At the end of this module you should be equipped with knowledge, skills and competencies to analyse and solve basic legal problems relating to general principles of contracts in South Africa. You should also be able to analyse information regarding the functioning of the South African legal system and the application thereof.

## 3 LECTURER(S) AND CONTACT DETAILS

### 3.1 Lecturer(s)

The lecturers responsible for this module are as follows:

NAME	TELEPHONE NUMBER	EMAIL ADDRESS
Mr M Phosa (Module Leader)	012 429-3842	<a href="mailto:phosam@unisa.ac.za">phosam@unisa.ac.za</a>
Adv N Hlongwane	012 429-8832	<a href="mailto:hlongn@unisa.ac.za">hlongn@unisa.ac.za</a>
Adv M Maleka	012 429-8378	<a href="mailto:malekem@unisa.ac.za">malekem@unisa.ac.za</a>

Letters should be sent to:

#### **The Module Leader (CLA1501)**

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 **Study @ 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).

Always have your student number at hand when you contact the University.

## 4 MODULE-RELATED RESOURCES

### 4.1 A study guide and other tutorial letters

You will receive this study material from the Department of Despatch. You can also access the study material on **myUnisa**.

### 4.2 Prescribed books

The **prescribed textbook** for **CLA1501** is **General Principles of Commercial Law 8<sup>th</sup> ed (2015) Juta** co-authored by Kelbrick R, Schulze H (General Editor), Hurter E, Manamela E, Manamela T, Masuku B, Stoop C and Stoop P. **You must purchase this prescribed textbook.** The prescribed textbook can be obtained from the University's official booksellers. If you have difficulty finding the book at these booksellers, please contact the Prescribed Books Section at 012 429-4152 or e-mail [vospresc@unisa.ac.za](mailto: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 9: Interpretation of the Contract
- Chapter 10: Breach of Contract
- Chapter 11: Remedies for Breach of Contract
- Chapter 12: Transfer and Termination of Personal Rights

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](mailto:vospresc@unisa.ac.za).

### 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 **Study @ 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.

If you have access to a computer that is linked to the internet, you can quickly access resources and information at the University. The **myUnisa** learning management system is the University's online campus that will help you communicate with your lecturers, with other students and with the administrative departments at Unisa – all through the computer and the internet.

You can start at the main Unisa website at <http://www.unisa.ac.za> and then click on the **myUnisa** orange block. This will take you to the **myUnisa** website. To go to the **myUnisa** website directly, go to <https://my.unisa.ac.za>. Click on the **Claim UNISA Login** on the right-hand side of the screen on the **myUnisa** website. You will then be prompted to give your student number in order to claim your initial **myUnisa** details as well as your **myLife** e-mail login details. For more information on **myUnisa**, consult the brochure **Study @ Unisa**, which you received with your study material.

It is very important that you log in to **myUnisa** regularly to check if there are no new announcements and to participate in the Discussion Forum. You can set your **myLife** e-mail account to receive the announcement e-mails on your cellphone.

Unisa offers e-tutor services for students registered for **CLA1501**. 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.

### **Free computer and internet access:**

Unisa has entered into partnerships with establishments (referred to as Telecentres) in various locations across South Africa to enable you (as a Unisa student) free access to computers and the Internet. This access enables you to conduct the following academic related activities: registration; online submission of assignments; engaging in e-tutoring activities and signature courses; etc. Please note that any other activity outside of these are for your own costing e.g. printing, photocopying, etc. For more information on the Telecentre nearest to you, please visit [www.unisa.ac.za/telecentres](http://www.unisa.ac.za/telecentres).

## 6 MODULE-SPECIFIC STUDY PLAN

Refer to the publication **Study @ 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 ASSESSMENT

### 7.1 Outcomes and assessment criteria

#### Outcome 1:

**Students can apply general principles of the law of contract within a legal framework to real life situations.**

#### Assessment criteria:

- show a basic understanding of the South African legal system and identify legal issues regarding the general principles of the law of contract in real or simulated fact scenarios;
- interpret and analyse real life occurrences within the framework of the law of contract;
- choose correct procedures to solve specific business problems relating to the general principles of the law of contract; and
- efficient information-gathering, analysis and synthesis, and evaluation skills are demonstrated
- identify, analyse and serve the commercial needs of individuals and society creatively and innovatively.

#### Outcome 2:

**Students can manage information relating to the functioning of the South African legal system and the general principles of the law of contract appropriately.**

#### Assessment criteria:

- find the relevant sources to solve basic legal problems regarding the functioning of the South African legal system and the general principles of the law of contract;
- integrate information from different sources to address basic problems relating to the functioning of the South African legal system and the general principles of the law of contract in a business environment;
- apply knowledge of the functioning of the South African legal system and legal principles relating to the general principles of the law of contract to authentic and simulated scenarios
- use the information to explore relationships between business and principles of the law of contract;
- identify, analyse and serve the commercial needs of individuals and society creatively and innovatively;
- Efficient information-gathering, analysis and synthesis, and evaluation skills are demonstrated.

There are two assignments per semester. The total of each assignment is 25 marks.

#### (a) FIRST SEMESTER

- Assignment 1 is a written/typed assignment and consists of **five** questions.
- Assignment 2 consists of 10 multiple-choice questions for which a **mark-reading sheet** must be completed.

#### (b) SECOND SEMESTER

Assignment 1 is a written/typed assignment and consists of **six** questions.

- Assignment 2 consists of 10 multiple-choice questions for which a **mark-reading sheet** must be completed.

## 7.2 Assessment plan

The tuition method for this module consists of both formative assessment and summative assessment. The year mark counts 20% and the examination mark counts 80%. In other words: **the mark obtained for the two compulsory assignments (year mark) will count 20% towards your final mark, provided that you obtain an examination mark of at least 40%.**

You therefore need to obtain a subminimum 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.

## 7.3 General assignment numbers

The module consists of two assignments for semester 1 or 2, namely, assignment 01 and 02.

### 7.3.1 Unique assignment numbers

#### FIRST SEMESTER

The first semester assignments can be found under the Addendum (Appendix A).

Assignment number	Unique number
Assignment 01:	760669
Assignment 02:	785978

#### SECOND SEMESTER

The second semester assignments can be found under the Addendum (Appendix B).

Assignment number	Unique number
Assignment 01	680983
Assignment 02	871383

### 7.3.2 Due dates for assignments

#### FIRST SEMESTER

The first semester assignments can be found under the Addendum (Appendix A)

Assignment number	Submission date
Assignment 01:	23 MARCH 2018
Assignment 02:	23 APRIL 2018

#### SECOND SEMESTER

The second semester assignments can be found under the Addendum (Appendix B).

Assignment number	Submission date
Assignment 01	31 AUGUST 2018
Assignment 02	01 OCTOBER 2018

## 7.4 Submission of assignments

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 **Study @ Unisa**.



**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 therefore assignments submitted late cannot be marked.***

## **7.5 Assignments**

Assignments are 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 e-tutors, you will be actively engaged in learning.

In your assignments, we expect you to use your knowledge of the general principles of contracts in South Africa to analyse and evaluate problem situations, to identify the relevant legal issues, to apply the relevant legal principles to those issues and to suggest solutions and provide responsible advice.

When answering problem type questions, it is important to clarify for yourself the area of the work which contains the answer. Once you have clarified the area, set out the relevant legal principles. Deal only with those principles that relate to the given facts. Next, apply these principles to the facts. It is important to illustrate how the law applies to the factual situation you have been asked to solve. Finally, state your conclusion or provide advice.

### **7.5.1 Format of assignments and number of assignments**

- (a) There is ONE multiple-choice assignment and ONE written assignment.
- (b) Assignments consisting of multiple-choice questions **must be answered on a mark-reading sheet** that will be marked by the computer. Check that **Unisa** has supplied you with mark-reading sheets.
- (c) Written/typed assignments must be submitted as typed/written documents for assessment. Because it is a written assignment, **NO marking sheets** are used.
- (d) **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.**
- (e) **Students may submit written/typed assignments by post or electronically via myUnisa.** Assignments may **not** be submitted by fax or e-mail. When submitting your written/typed assignment electronically via *myUnisa*, please make sure that your assignment is submitted in **PDF format**.
- (f) For detailed information and requirements as far as assignments are concerned, see the publication ***Study @ Unisa*** which you have received with your study material. You will find instructions on the use of mark-reading sheets for answering multiple-choice questions in the publication ***Study @ Unisa***. Read these instructions carefully and follow them strictly to avoid unnecessary mistakes.
- (g) Assignments submitted by mail should be addressed to:

The Registrar  
PO Box 392  
UNISA  
0003

- (h) 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.
- (i) When submitting a written/typed assignment by mail, you must **INCLUDE** a **cover sheet** with your assignment.
- (j) 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.

- (k) Please remember to allocate the same unique number to the assignment as the one given in this tutorial letter. **Remember that your first assignment must be numbered 01 and your second assignment must be numbered 02.**
- (l) Please ensure that your name, address, student number, module code, assignment number and unique number for both your assignments appear correctly when submitting them. **This information must be absolutely correct.**
- (m) It is wise to **make copies of assignments** before submitting them, in case they get lost in the post.
- (n) Do not submit the same assignment a second time. The computer will simply reject it as a duplicate assignment.
- (o) Soon after the closing date of the multiple choice assignment, you will receive a computer printout giving your answers, the correct answers, and your marks for the assignment. For the written assignment, markers will comment constructively on your work. You will also receive Tutorial Letters, **CLA1501/201/2018** and **CLA1501/202/2018**, 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.

- (p) Do not plagiarise. **Plagiarism** is the act of taking words, ideas and thoughts of others and passing them off as your own. It is a form of theft which involves a number of dishonest academic activities.

**PLEASE NOTE: Each student must submit his or her own work. It is unacceptable for students to submit identical assignments on the basis that they worked together. This will amount to plagiarism and none of these assignments will be marked. Furthermore, these students may be penalized or subjected to disciplinary proceedings of the University.**

**PLEASE FOLLOW THE ABOVE INSTRUCTIONS CAREFULLY.****7.5.2 Commentaries and feedback on the assignments**

The commentaries on the two compulsory assignments **will be sent to all students registered for this module** in Tutorial Letters, **CLA1501/201/2018** and **CLA1501/202/2018**, 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.

**8 EXAMINATION**

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

**8.1 Examination admission**

**All students who submit the compulsory assignment 01 on time (before or on the date of submission) will be admitted to the examination. Students who do not submit this assignment before or on the due date will, irrespective of the mark obtained for the assignment, not receive admission to write the examination. The marks obtained for the two 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.

**8.2 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 2018** and the supplementary examination will be written in **October/November 2018**. If you are registered for the second semester you will write the examination in **October/November 2018** and the supplementary examination will be written in **May/June 2018**.

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

**8.3 Examination paper**

At the end of the semester you will write **one two-hour paper** on this module. The examination paper consists of **multiple-choice questions** as well as **written questions**. The total allocation for the paper is **80 marks**. In Tutorial Letter **CLA1501/102/2018** we shall send you more information on the format of the examination paper.

## 8.4 Previous examination papers

Previous examination papers are available to students on *myUnisa*. However, please note that the format of the examination paper changed from 2017. The paper will consist of multiple choice questions (40 marks in total) and written questions (40 marks in total). Some of the previous examination papers that are available on *myUnisa* might therefore only contain multiple choice questions. These papers will give you an idea of the kind of questions you may expect in the examination. **Lecturers will not mark these papers, nor supply the correct answers to the questions.**

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.

## 9 FREQUENTLY ASKED QUESTIONS

See ***Study @ Unisa*** brochure which contains an A-Z guide of the most relevant study information.

## 10 CONCLUSION

We encourage you to immediately start studying and not wait for the last minute to do your assignments or prepare for the examination. Your success is our priority, because through you we will achieve our goal.

We hope that you will enjoy this module and wish you all the best with your studies at Unisa – A University in service of humanity.

## 11 ADDENDUM

### APPENDIX A: FIRST SEMESTER COMPULSORY ASSIGNMENTS

**ASSIGNMENT 01**  
**FIRST SEMESTER UNIQUE NUMBER: 760669 (SUBMISSION DATE: 23 MARCH 2018)**

#### QUESTION 1

Name three (3) authoritative sources of South African law. (3)

#### QUESTION 2

List the four (4) categories of subjective rights that legal subjects may enjoy. (4)

#### QUESTION 3

Match each Roman letter in Column B with the correct alphabet in Column A. (5)

<b>COLUMN A</b>	<b>COLUMN B</b>
(a) <i>Ratio decidendi</i>	(i) The capacity or competence to acquire and to bear rights and duties.
(b) Tacit emancipation	(ii) A public sale where the price is neither set nor arrived at by negotiation, but is discovered through the process of competition and open bidding.
(c) Legal capacity	(iii) The underlying reason for a court's ruling.
(d) Auction	(iv) Roman law compiled/codified during the reign of Emperor Justinian.
(e) <i>Corpus Iuris Civilis</i>	(v) This occurs where the guardian allows the minor to lead an economically separate and independent life. The guardian's consent may be given expressly or tacitly.

#### QUESTION 4

Aaron and John, nine-year-old pupils, travel about two kilometres to school on bicycle. Aaron's bicycle has broken down and he has consequently missed several classes. John has two bicycles and he is willing to sell one to Aaron. John and Mr Smith, Aaron's father, agree that John will sell one of his bicycles to Aaron and that Aaron will give R500 to him in full exchange.

Discuss whether the above scenario complies with all the requirements for the formation of a valid contract. (10)

#### QUESTION 5

Indicate whether the following statement is **TRUE** or **FALSE**. Give reasons for your answer. A minor may only obtain full capacity to act when he or she reaches the age of 21. (3)

**Total: [25]**

**ASSIGNMENT 02****FIRST SEMESTER UNIQUE NUMBER: 785978 (SUBMISSION DATE: 23 APRIL 2018)****QUESTION 1**

Which **ONE** of the following is the supreme law of South Africa?

- 1 English law
- 2 Roman Dutch law
- 3 Statutory law
- 4 Constitution of the Republic of South Africa, 1996 (2)

**QUESTION 2**

Which **ONE** of the following subdivisions of the law forms part of private law?

- 1 Law of contract
- 2 Criminal law
- 3 International law
- 4 Company law (2)

**QUESTION 3**

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 in Sandton at the same time and on the same day.
- 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. The shoes will be delivered at his flat in Pretoria.
- 3 Peter purchases a new pair of running shoes for R600 on the official website of Nike.
- 4 Reeze undertakes to sell the moon and one star to Shana for R500. (2)

**QUESTION 4**

Mary and Sinah arrange telephonically to meet at a coffee shop at 10h00 the next day.

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

- 1 A contract arises as consensus exists.
- 2 No contract arises as Mary and Sinah have no intention to be legally bound.
- 3 A contract has come about as a common intention exists and it has been made known to the other party.
- 4 No contract arises as nothing was put in writing. (2)

**QUESTION 5**

Musa and Lihle married out of community of property on 1 November 1999.

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

- 1 Musa and Lihle have a joint estate.
- 2 Musa and Lihle both lose their full capacity to act on marriage.
- 3 Musa and Lihle are jointly and severally liable to third parties for debts incurred for necessities for the common household.
- 4 Lihle has to give her consent for the sale of a farm which belongs to Musa. (2)

**QUESTION 6**

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

- 1 If Samuel, who is deeply in love with Sammy, promises Margate's beach to her in a contract of donation, a valid contract does not come into existence because the object of the donation is not capable of being privately owned.
- 2 Jeffrey and Joel decide to run a brothel and draw up an agreement on how they will divide the profits. A valid contract comes into existence.
- 3 If Joel bets Sandile R2000 that Zambia will win the next Africa Nation's Soccer Cup, the contract between them is void, because it is a wagering contract.
- 4 If Rocher, the famous chef and owner of Greenfields, agrees with Joel, the buyer of the restaurant, that Rocher will never again open or work in a restaurant in South Africa, the contract will be enforceable, because it is a principle of South African law that parties have freedom to contract. (2)

**QUESTION 7**

Petrus leases his holiday flat in Ceres to Adrian for R2 000 a month. Neither of them knows that the flat was destroyed by an earthquake the previous day.

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

- 1 The contract is void because of initial impossibility of performance.
- 2 A valid contract was concluded and Adrian can claim alternative housing from Petrus.
- 3 A valid contract was concluded, but it was terminated because of supervening impossibility of performance.
- 4 The contract is void because of mistake. (2)

**QUESTION 8**

Which **ONE** of the following contracts must be in writing and signed in order to be valid?

- 1 A contract where a wager is made.
- 2 A contract where a car is sold.
- 3 A contract where land is sold.
- 4 A contract where a house is leased. (2)

### QUESTION 9

Which **ONE** of the following donations has to be in writing and signed by the donor?

- 1 Anton gives his 18-year-old nephew, Marius, a Jeep for his birthday.
- 2 Joshua gives his wife, Barbara, to whom he is married out of community of property, a new motor car.
- 3 Kagiso undertakes to give his friend, Thabo, a new Jeep in six months' time.
- 4 Cindy gives her mother a gift voucher to the value of R 2 000. (2)

### QUESTION 10

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

- 1 A court can infer trade usage as a tacit term of a contract, if the trade usage is known to both parties to the contract.
- 2 A court cannot infer trade usage as an implied term of a contract if one party cannot prove that the other party knew of the trade usage, unless the trade usage is so universal and notorious that the latter party can be presumed to have had knowledge of it.
- 3 A court will read a tacit term into a contract if the parties failed to include a term as an express term because it seemed too self-evident to necessitate express inclusion.
- 4 A court will not impute a tacit term into the contract where parties to the contract failed to include an express term into their contract because they failed to anticipate that a certain situation could arise. (2)

**Total: [20]**



**APPENDIX B: SECOND SEMESTER COMPULSORY ASSIGNMENTS****ASSIGNMENT 01****SECOND SEMESTER UNIQUE NUMBER: 680983 (SUBMISSION DATE: 31 AUGUST 2018)****QUESTION 1**Briefly **differentiate** between the *ratio decidendi* and the *obiter dictum* of a judgement. (4)**QUESTION 2**(b) **Name** and briefly **discuss** the **two** methods by which an original right of ownership may be established. (5)**QUESTION 3****List** and briefly **describe** the **two** categories of legal subjects that are recognised by South African law. (4)**QUESTION 4**

Match each Roman letter in Column B with the correct alphabet in Column A. (5)

<b>COLUMN A</b>	<b>COLUMN B</b>
(a) Dispatch (expedition) theory	(i) A responsibility imposed by law that obliges or binds a person to render performance.
(b) Duty	(ii) A contract comes into being at the time when the acceptance is communicated and at the place where the parties happen to be at that moment.
(c) Information (ascertainment) theory	(iii) Any right that a legal subject has regarding a specific legal object and which is protected by law.
(d) Right	(iv) Any entity that can be the object of a legal subject's claim to a right.
(e) Legal object	(v) A contract comes into being at the place where and at the time when the letter of acceptance is posted, unless the parties agree otherwise.

**QUESTION 5**Indicate whether the following statement is **TRUE** or **FALSE**. Give reasons for your answer.

John, a 13 year old boy can undergo an HIV test without his guardian's consent. (4)

**QUESTION 6**Moloko wants to sell her 2012 BMW 320i to anyone who is interested in buying the car. She then decides to advertise the car for sale in the local newspaper so that she can attract as many potential buyers as possible. Advise her whether such an advertisement placed in the newspaper is a **VALID** offer. (3)**Total: [25]**

**ASSIGNMENT 02****SECOND SEMESTER UNIQUE NUMBER: 871383 (SUBMISSION DATE: 1 OCTOBER 2018)****QUESTION 1**

Which **ONE** of the following sources will a South African lawyer consult on Roman law?

- 1 Constitution of the Republic of South Africa, 1996
  - 2 Customary law
  - 3 *Corpus Iuris Civilis*
  - 4 South African statutory law
- (2)

**QUESTION 2**

Mandla picks up a guitar which someone else has thrown away, and keeps it for himself as it no longer belongs to any other person. He becomes the owner of the guitar.

Through which **ONE** of the following original methods did Mandla acquire ownership?

- 1 Occupation
- 2 Prescription
- 3 Delivery
- 4 Registration

**QUESTION 3**

Contracts differ from other types of agreements.

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

- 1 A contract cannot be entered into by more than two parties.
  - 2 An agreement is a particular type of contract.
  - 3 An agreement is a source of legal obligations.
  - 4 A contract creates legally enforceable obligations.
- (2)

**QUESTION 4**

Which **ONE** of the following is **NOT** a requirement for the conclusion of a valid contract?

- 1 The contract must be permitted by law.
  - 2 Each party to the contract must have capacity to act.
  - 3 There must be consensus between the parties.
  - 4 The contract must be in writing, signed and dated.
- (2)

**QUESTION 5**

Belinda helped Alet to move her furniture. Belinda was injured during the move due to Alet's negligence. Belinda's left leg was injured and she suffered both physical injuries and patrimonial damage. She claimed damages from Alet. Alet offered to pay R2 500 in full and final settlement of Belinda's claim. Belinda refused and expressly stated that she would only accept an offer of R3 000. Alet refused to increase the offer.

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

- 1 Belinda can accept the original offer after her request for an increased offer was rejected.
- 2 The request made by Belinda is a counter-offer.

- 3 Belinda's offer remains open for a specific period of time.  
 4 Belinda cannot accept the original offer, because it was revoked. (2)

### QUESTION 6

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, seventeen years old, 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, sixteen years old, whose parents left him behind when they emigrated to America because he had his own job and flat. (2)

### QUESTION 7

Joel owes Jack an amount of R70 000. Joel and Jack enter into an agreement in terms of which Jack will cancel 30% of the debt if Joel agrees to sponsor Jack's visit to the "Blue House" brothel.

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

- 1 Joel and Jack's contract is lawful because they have reached consensus.  
 2 Joel and Jack's contract is lawful because they both have capacity to enter into juristic acts.  
 3 Joel and Jack's contract is unlawful because their agreement is contrary to public policy.  
 4 Joel and Jack's contract is unlawful because their agreement is contrary to good morals. (2)

### QUESTION 8

Rose enters into an agreement with her friend Sandra in terms of which Rose will use Sandra's house until she buys her own house.

This is an example of a ...

- 1 resolutive condition.  
 2 suspensive condition.  
 3 resolutive time clause.  
 4 suspensive time clause. (2)

### QUESTION 9

When will a court apply the guideline of interpreting a contractual term against the interest of the party who formulated that clause?

- 1 Whenever the clause appears to the court to be unfair.  
 2 Only when the clause appears in a standard-form contract.

- 3 Only when the clause is ambiguous or vague.  
4 The court will never apply such a guideline. (2)

**QUESTION 10**

Barry buys a car from Michael for the amount of R30 000. However, Barry only pays Michael R22 000 as Michael owes Barry R8 000 arising from a debt that existed prior to the sale of the car.

Which **ONE** of the following forms of termination of personal rights took place?

- 1 prescription  
2 set-off  
3 merger  
4 discharge (2)

**Total: [20]**

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