

**CLA2602**

( 477047)

May/June 2013  
Mei/June 2013**COMMERCIAL LAW IIB  
KOMMERSIELE REG IIB**Duration 2 Hours  
Tydsduur 2 Uur100 Marks  
100 Punte**EXAMINERS / EKSAMINATORE**FIRST / EERSTE MS/ME MM KOEKEMOER  
SECOND / TWEEDE MRS/MEV AN WAGENERClosed book examination  
Toeboekeksamen.

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This paper consists of 25 pages plus instructions for the completion of a mark reading sheet  
**Hierdie vraestel bestaan uit 25 bladsye plus instruksies vir die voltooiing van 'n merkleesblad.**

**INSTRUCTIONS**

- 1 This paper consists of 25 pages and you have to answer ALL the questions
- 2 The paper is divided into 4 **SECTIONS**
  - **SECTION A** consists of 10 **multiple choice questions** (2 marks each) The answers to the multiple choice questions have to be filled in on the mark reading sheet provided to you.
  - **SECTION B** consists of 10 **true/false questions** (1 mark each) Your answers have to be completed in the space provided on the examination paper itself
  - **SECTION C** consists of 10 **mix and match questions** (2 marks each). Your answers have to be completed in the space provided on the examination paper itself
  - **SECTION D** consists of 3 **questions** worth 50 marks in total, and have to be completed in the space provided on the examination paper itself
- 3 At the end of the examination you have to hand in both the mark reading sheet containing your answers to the multiple choice questions as well as this examination paper.
- 4 The use of a calculator is not permissible

**INSTRUKSIES**

1. Die vraestel bestaan uit 25 bladsye en al die vrae moet beantwoord word.
2. Die vraestel is ingedeel in die volgende 4 afdelings:
  - **AFDELING A** bestaan uit 10 meervuldigekeuse vrae (2 punte elk). Die antwoorde hierop moet aangebring word op die merkleesblad wat vir hierdie doel voorsien is.
  - **AFDELING B** bestaan uit 10 waar/vals vrae (1 punt elk). Beantwoord die afdeling se vrae op die spasie soos voorsien in die vraestel self.
  - **AFDELING C** bestaan uit 10 kies die korrekte stelling vrae (2 punte elk) Beantwoord die afdeling se vrae op die spasie voorsien in hierdie vraestel self.
  - **AFDELING D** bestaan uit 3 vrae wat tesame 50 punte werd is. Beantwoord die afdeling se vrae op die spasie voorsien in hierdie vraestel self.
3. Nadat die toegekende tyd verstreke is vir die eksamenvraestel, moet u beide die merkleesblad, waarop die meervuldigekeuse antwoorde aangebring is, sowel as die eksamenvraestel inhandig.
4. Die gebruik van 'n sakrekenaar is ontoelaatbaar.

**SECTION A  
AFDELING A**

Answer all the following multiple choice questions using the **MARK READING SHEET** provided to you.

Beantwoord die volgende meervuldigekeuse vrae deur gebruik te maak van die **MERKLEESBLAD** wat aan u voorsien is.

**QUESTION 1**

Alvereen Leonard draws a cheque on Trust Bank in favour of 'Philile Zwane or order of Philile Zwane'. Philile writes on the back of the cheque, 'Pay Michelle Koekemoer' and then signs the cheque. Michelle, who is a client of Big Bank deposits this cheque into her account held at Big Bank.

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

- 1 Alvereen Leonard is the payee; Big Bank is the collecting bank and Michelle Koekemoer is the drawee
- 2 Alvereen Leonard is the drawer, Trust Bank is the drawee and Michelle Koekemoer is the endorsee
- 3 Alvereen Leonard is the drawer, Big Bank is the drawee and Michelle Koekemoer is the endorsee.
- 4 Alvereen Leonard is the payee, Big Bank is the drawer and Michelle Koekemoer is the drawee

**VRAAG 1**

Alvereen Leonard trek 'n tjek op Trust Bank ten gunste van 'Philile Zwane of order van Philile Zwane'. Philile skryf op die rugkant van die tjek 'Betaal Michelle Koekemoer' en teken die tjek. Michelle, 'n kliënt van Big Bank, deponeer die tjek in haar rekening by Big Bank.

Welke EEN van die volgende stellings is KORREK?

1. Alvereen Leonard is die nemer; Big Bank is die invorderingsbank en Michelle Koekemoer is die betrokke.
2. Alvereen Leonard is die trekker; Trust Bank is die betrokke en Michelle Koekemoer is die geëndosseerde.
3. Alvereen Leonard is die trekker; Big Bank is die betrokke en Michelle Koekemoer is die geëndosseerde.
4. Alvereen Leonard is die nemer; Big Bank is die trekker en Michelle Koekemoer is die betrokke.

**QUESTION 2**

Which **ONE** of the following documents would be discharged by payment by B Bank to D? Choose the **CORRECT** answer

- 1 A draws a cheque on B Bank in favour of "C or order" C places her signature on the back of the cheque with the intention of cashing it at B Bank However, before C can enter the bank, D snatches her handbag and obtains possession of the cheque
- 2 A draws a cheque on B Bank in favour of "C" C, a sixteen year old minor, endorses the cheque in blank without the consent of his guardian, and delivers it to D.
- 3 A draws a cheque on B Bank in favour of "C". A thief steals the cheque from C, forges C's signature on the back of it and delivers it to D
- 4 1 and 2 above.
- 5 2 and 3 above

**VRAAG 2**

Welke EEN van die volgende dokumente sal deur B-bank se betaling aan D afgelos word?

Kies die KORREKTE antwoord.

1. A trek 'n tjek op B-bank ten gunste van "C of order". C endosseer die tjek met die bedoeling om dit by B-bank te wissel. Voordat C egter die bank binnegaan, gryp D haar handsak en verkry besit van die tjek.
2. A trek 'n tjek op B-bank ten gunste van "C". C, 'n minderjarige wat sestien jaar oud is, plaas sonder die toestemming van sy voog 'n blanko endossement op die tjek en lewer dit aan D.
3. A trek 'n tjek op B-bank ten gunste van "C". 'n Dief steel die tjek by C, vervals C se handtekening op die agterkant van die tjek en lewer dit aan D.
4. 1 en 2 hierbo.
5. 2 en 3 hierbo.

**QUESTION 3**

Alvereen Leonard draws a cheque on Trust Bank in favour of "Phil Makakaba only" and delivers it to Phil. Before delivering the cheque to Phil, Alvereen Leonard also draws two parallel transverse lines on the face of the cheque and adds the words in bold 'not transferable' and 'not negotiable'

Which **ONE** of the options listed below **CORRECTLY** completes the following statement?  
This cheque is a/an ...

- 1 order cheque.
- 2 non transferable cheque in terms of section 6(5) of the Bills of Exchange Act 34 of 1964
- 3 non transferable cheque in terms of 75A of the Bills of Exchange Act 34 of 1964
- 4 not negotiable cheque

**VRAAG 3**

Alvereen Leonard trek 'n tjek op Trust Bank ten gunste van "Phil Makakaba alleen" en lewer dit aan Phil. Voor lewering aan Phil, bring Alvereen twee parallelle dwarslyne daarop aan asook die vetgedrukte woorde 'nie-oordraagbaar' en 'nie-verhandelbaar' op die gesigkant van die tjek.

Welke **EEN** van die opsies gelys onder voltooi die volgende stelling **KORREK**?

Die tjek is 'n...

1. ordertjek.
2. nie-oordraagbare tjek ingevolge artikel 6(5) van die Wisselwet 34 van 1964.
3. nie-oordraagbare tjek ingevolge artikel 75A van die Wisselwet 34 van 1964.
4. nie-verhandelbare tjek.

**QUESTION 4**

In which of the following instances does the bank make a **payment in due course**?

- (a) Allie draws a cheque on B Bank in favour of 'Naledi or order'. Naledi presents the cheque for payment to B Bank and the bank pays Naledi in good faith
- (b) Allie draws a cheque on B Bank in favour of 'Naledi or order'. Naledi endorses the cheque in favour of Lesego or order and Lesego is paid by B Bank
- (c) Allie draws a cheque on B Bank in favour of 'Naledi or order'. Naledi endorses the cheque in blank and delivers it to Lesego, who in turn delivers it to Anthea and Anthea receives payment from B Bank
- (d) Allie draws a cheque on B Bank in favour of 'Naledi or order'. Michelle steals the cheque and forges Naledi's signature and delivers it to Lesego who is paid by B Bank
- (e) Allie draws a cheque on B Bank in favour of 'Naledi or order'. Naledi, a minor, endorses the cheque in favour of Lesego or order and Lesego is paid by B Bank

Choose the **CORRECT** answer from one of the following

1. (a) and (b)
2. (a), (b) and (c)
3. (a), (b), (c) and (d)
4. (c) and (e)
5. (a), (b), (c) and (e)

#### VRAAG 4

In welke van die volgende gevalle sal betaling deur die bank 'n reëlmatige betaling wees?

- (a) Allie trek 'n tjek op B-bank ten gunste van 'Naledi of order'. Naledi bied die tjek vir betaling by B-bank aan en B-bank betaal Naledi te goeder trou.
- (b) Allie trek 'n tjek op B-bank ten gunste van 'Naledi of order'. Naledi endosseer die tjek ten gunste van Lesego of order en B-bank betaal Lesego.
- (c) Allie trek 'n tjek op B-bank ten gunste van 'Naledi of order'. Naledi endosseer die tjek in blanko en lewer dit aan Lesego wat dit weer aan Anthea lewer en Anthea ontvang betaling van B-bank.
- (d) Allie trek 'n tjek op B-bank ten gunste van 'Naledi of order'. Michelle steel die tjek, vervals Naledi se handtekening daarop en lewer dit aan Lesego wat betaling ontvang by B-bank.
- (e) Allie trek 'n tjek op B-bank ten gunste van 'Naledi of order'. Naledi, 'n minderjarige endosseer die tjek ten gunste van Lesego of order en Lesego ontvang betaling by B-bank.

Kies die **KORREKTE** antwoord uit een van die volgende:

1. (a) en (b)
2. (a), (b) en (c)
3. (a), (b), (c) en (d)
4. (c) en (e)
5. (a), (b), (c) en (e)

#### QUESTION 5

Mr X and Mrs X are married out of community of property. The estate of Mr X is sequestrated. The property of Mrs X vests in the trustee for Mr X's insolvent estate. Mrs X intends to apply for the release of her property from the insolvent estate of Mr X.

Which **ONE** of the properties listed below will **NOT** be released by the trustee?

1. A house Mrs X owned before she got married to Mr X.
2. In terms of the antenuptial contract between Mr X and Mrs X, Mrs X received a holiday flat in Durban.
3. Mr X bought a house for Mrs X just before his sequestration. Mr X has a mutual understanding with Mrs X that the house will still belong to Mr X.
4. A house bought with the proceeds of the sale of a house Mrs X owned before her marriage to Mr X.

**VRAAG 5**

**Mnr X en Mev X is getroud buite-gemeenskap van goedere. Die boedel van Mnr X is gesekwestreer. Die eiendom van Mev X vestig in die kurator vir Mnr X se insolvente boedel. Mev X is van voorneme om aansoek te doen vir die vrystelling van haar eiendom van die insolvente boedel van Mnr X.**

**Welke EEN van die eiendomme hieronder gelys sal NIE vrygestel word deur die kurator nie?**

1. 'n Huis wat Mev X besit het voordat sy getroud is met Mnr X.
2. Ingevolge die huweliksvoorwaardekontrak tussen Mnr X en Mev X, ontvang Mev X 'n vakansiewoonstel in Durban.
3. Mnr X koop 'n huis vir Mev X voor sy sekwestrasie. Mnr X het 'n wedersydse verstandhouding met Mev X dat die huis steeds aan Mnr X sal behoort.
4. 'n Huis gekoop met die opbrengs vanuit die verkoop van die huis wat Mev X besit het voor haar huwelik met Mnr X.

**QUESTION 6**

Jamie, a trader for the purposes of the Insolvency Act 24 of 1936, transfers his organic farming business situated in Nelspruit to Gordon in terms of a sale contract concluded between Jamie and Gordon.

Which **ONE** of the requirements listed below is required to prevent the transfer of business from being void in the event that Jamie is sequestrated within 6 months after the transfer?

- 1 A notice of the intended transfer must be published in the Government Gazette and only an English newspaper circulating in Nelspruit
- 2 A notice of the intended transfer must be published in the Government Gazette and two issues of an English newspaper circulating in the district where Jamie is resident
- 3 A notice of the intended transfer must be published in the Government Gazette and two issues of both Afrikaans and English newspapers circulating in the district where the business is carried out even if the transfer is made to secure the payment of debt
- 4 A notice of the intended transfer must be published in the Government Gazette and two issues of both Afrikaans and English newspapers circulating in Nelspruit

**VRAAG 6**

Jamie, 'n handelaar vir die doeleindes van die Insolvensiewet 24 van 1936, dra sy organiese boerderybesigheid geleë te Nelspruit oor aan Gordon ingevolge 'n koopkontrak gesluit tussen Jamie en Gordon.

Welke EEN van die volgende vereistes gelys hieronder word benodig om te vermy dat die besigheidsoordrag nietig verklaar word indien Jamie binne ses maande na oordrag gesekwestreer word?

1. 'n Kennisgewing van die voorgenome oordrag moet geplaas word in die Staatskoerant en slegs 'n Engelse koerant wat in Nelspruit sirkuleer.
2. 'n Kennisgewing van die voorgenome oordrag moet geplaas word in die Staatskoerant en slegs 'n Engelse koerant wat sirkuleer in die distrik waar Jamie woonagtig is.
3. 'n Kennisgewing van die voorgenome oordrag moet geplaas word in die Staatskoerant en in twee uitgawes van 'n Afrikaanse koerant en twee uitgawes van 'n Engelse koerant wat sirkuleer in Nelspruit, selfs al dien die oordrag as sekuriteit vir betaling van 'n skuld.
4. 'n Kennisgewing van die voorgenome oordrag moet geplaas word in die Staatskoerant en in twee uitgawes van 'n Afrikaanse koerant en twee uitgawes van 'n Engelse koerant wat sirkuleer in Nelspruit.

**QUESTION 7**

Allie wishes to create a trust *inter vivos*

Which **ONE** of the following statements is **NOT** an essential requirement that Allie must comply with in order to create this type of trust?

- 1 Allie intends to create a trust with her son as the sole beneficiary
- 2 The trust property consists of a house that is identified in the trust deed as 'Erf 123, Mooikloof Extension, Pretoria'.
- 3 The trust object will be to generate income from an illegal gambling operation to be used by Allie's son to fund his university education
- 4 Allie's intention to create this trust is expressed in a trust deed that will create a binding legal obligation

**VRAAG 7**

Allie wil graag 'n trust *inter vivos* oprig.

Welke EEN van die volgende stellings voldoen NIE aan die essensiële vereistes waaraan Allie moet voldoen om die tipe trust op te rig nie?

1. Allie se bedoeling is om 'n trust te stig met haar seun as die alleenbegunstigde.
2. Die trustgoed bestaan uit 'n huis wat omskryf word in die trustakte as 'Erf 123 Mooikloofuitbreiding, Pretoria'.
3. Die trustdoel sal wees om inkomste te genereer uit onwettige dobbelaktiwiteite, wat gebruik sal word om Allie se seun se universiteitsopleiding te befonds.
4. Allie se bedoeling om die trust te skep is uitgedruk in 'n trustakte wat 'n bindende verpligting skep.

**QUESTION 8**

Which ONE of the following statements relating to a beneficiary of a trust is NOT correct?

- 1 Unborn children may be a trust beneficiary
- 2 The founder may be the sole beneficiary and sole trustee of a trust
- 3 The beneficiary of a trust *mortis causa* need not accept the benefits in order for his/her rights to vest with him/her.
4. If an income beneficiary repudiates his/her benefit, the remaining capital beneficiaries will be entitled to claim the trust property

**VRAAG 8**

Welke EEN van die volgende stellings ten aansien van bevoordeeldes van 'n trust is FOUTIEF?

1. Ongebore kinders kan 'n trustbevoordeeldes wees.
2. Die stigter mag die alleenbegunstigde en enigste trustee van die trust wees.
3. Die bevoordeelde van 'n trust *mortis causa* hoef nie die voordeel te aanvaar voordat die regte vestig in hom/haar nie.
4. Indien die inkomstebevoordeelde sy/haar voordeel repudieer, sal die oorblywende kapitaalbevoordeeldes geregtig wees om die trusteeendom te eis.

**QUESTION 9**

Which ONE of the following persons, appointed as an executor of a deceased estate, may not be required by the Master of the High Court to furnish security for the proper completion of his/her duties?

- 1 A deceased's daughter resident in Australia
- 2 A deceased's surviving spouse resident in Johannesburg
- 3 A deceased's son that gave written notice to a creditor that he is not able to meet his debts
- 4 A deceased's insolvent daughter.



**VRAAG 9**

**Welke EEN van die volgende persone aangestel as 'n eksekuteur van 'n bestorwe boedel, sal daar nie van verwag word deur die Meester van die Hoë Hof om sekuriteit te verskaf vir die behoorlike voltooiing van sy/haar verpligting nie?**

1. 'n Oorledene se'n dogter woonagtig in Australië.
2. 'n Oorledene se langsewende eggenoot, woonagtig in Johannesburg.
3. 'n Seun van 'n oorledene wat geskrewe kennisgewing gee aan 'n skuldeiser dat hy nie in staat is om sy skuld te betaal nie.
4. 'n Oorledene se insolvente dogter.

**QUESTION 10**

Which **ONE** of the following is an instance when a court may remove an executor of a deceased estate from office?

- 1 If the executor has been appointed as an executor dative and it later appears that a testamentary executor has been nominated
- 2 If the executor is party to an agreement whereby he/she undertakes, in his/her capacity as executor, to grant an heir a benefit to which he/she is not entitled to
- 3 If the executor fails to draw up and lodge a liquidation and distribution account
- 4 If the executor is a minor at the time of his/her appointment

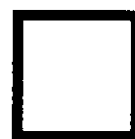
**VRAAG 10**

**Welke EEN van die volgende is 'n geval waaronder die hof 'n eksekuteur van 'n bestorwe boedel mag verwyder?**

1. Indien die eksekuteur aangestel was as 'n eksekuteurdatief en dit later aan die lig kom dat 'n testamentêre eksekuteur genomineer was.
2. Indien die eksekuteur 'n party tot 'n ooreenkoms is waarby hy/sy onderneem om in sy/haar kapasiteit as eksekuteur aan 'n erfgenaam 'n voordeel toe te ken waarop hy/sy nie geregtig was nie.
3. Indien die eksekuteur nalaat om 'n likwidasië- en distribusierekening op te stel en in te dien.
4. Indien die eksekuteur 'n minderjarige is ten tyde van sy/haar aanstelling.

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TOTAL FOR SECTION A 20 MARKS  
TOTAAL VIR AFDELING A: 20 PUNTE



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SECTION B AFDELING B
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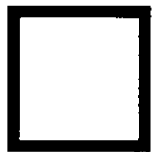
Indicate which of the following statements is either TRUE or FALSE by placing a cross in the correct boxes below

Dui aan welke van die onderstaande stellings WAAR of VALS is deur 'n kruis in die korrekte blok aan te bring.

		TRUE WAAR	FALSE VALS
1	An uncrossed cheque with the words "not negotiable" is transferable <b>'n Ongekruiste tjek wat die woorde "nie-verhandelbaar" bevat, is oordraagbaar.</b>		
2	A draws a cheque on B Bank in favour of 'C or order'. A places the cheque on a shelf. C finds the cheque on the shelf and takes it. A is liable to C on the cheque <b>A trek 'n tjek op B-bank ten gunste van 'C of order'. A plaas die tjek op 'n boekrak. C vind die tjek op die boekrak en vat dit. A is aanspreeklik teenoor C op die tjek.</b>		
3	The only function the endorser's signature on a cheque fulfils is to guarantee that if the cheque is properly presented for payment, it will be paid. <b>Die enigste funksie van die endossant se handtekening op 'n tjek is om betaling te waarborg indien die tjek behoorlik aangebied word vir betaling.</b>		
4	If the cheque is crossed specially, the drawee bank must pay the cheque to the specified bank <b>Indien 'n tjek 'n spesiale kruising bevat, moet die betrokkenebank dit oorbetaal aan die gespesifiseerde bank</b>		
5	Section 58 of the Bills of Exchange Act 34 of 1964 can be used to protect the drawer if the cheque incorrectly came into the hands of the payee <b>Artikel 58 van die Wisselwet 34 van 1964 beskerm die trekker indien die tjek foutiewelik in die hande van die nemer beland het.</b>		
6	It is possible for a trust, with only natural persons as beneficiaries, to be a beneficiary of another trust <b>Dit is moontlik vir 'n trust met slegs natuurlike persone as begunstigdes, om 'n begunstigde van 'n ander trust te wees.</b>		

7	A trustee may be removed as a trustee in the event that he/she has been convicted of a crime and ordered to pay a fine <b>Die trustee mag verwyder word as 'n trustee indien hy/sy skuldig bevind is aan 'n misdad en beveel word om 'n boete te betaal.</b>		
8	Only a Magistrate's Court has jurisdiction to grant a sequestration order <b>Slegs 'n Landdroshof het jurisdiksie om 'n sekwestrasiebevel toe staan.</b>		
9	A company busy with business rescue proceedings may use section 155 of the Companies Act 71 of 2008 to reach a compromise with the creditors of that company <b>'n Maatskappy wat besig is met ondernemingsreddingverrigtinge, mag gebruik maak van artikel 155 van die Maatskappywet 71 van 2008 om 'n akkoord te bereik met die krediteure van hierdie maatskappy.</b>		
10	An executor for a deceased estate nominated in a will, is automatically appointed as the executor of this estate <b>'n Eksekuteur vir 'n bestorwe boedel wat genomineer is in 'n testament, word outomaties aangestel as eksekuteur van daardie boedel.</b>		

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TOTAL FOR SECTION B: 10 MARKS  
TOTAAL VIR AFDELING B: 10 PUNTE

SECTION C AFDELING C
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Match **EACH** of the statements below with **ONE** of the concepts/terms listed below. The reference to sections refers to the Bills of Exchange Act 34 of 1964, unless specifically mentioned otherwise.

Verbind **ELKE** stelling hieronder aan **EEN** van die begrippe/terme wat hieronder genoem word. Die artikels vermeld, is vervat in die Wisselwet 34 van 1964, tensy anders vermeld.

Power of subrogation/Mag van subrogasie	Section 53(2)(b)/Artikel 53(2)(b)
Preferential creditor/Preferente skuldeiser	Section 81/Artikel 81
Section 79/Artikel 79	Undue preference/Onbehoorlike voorkeure
Collusive disposition/Vervreemding waarby samespanning 'n rol speel	Letter of Credit/Kredietbrief
Power of assumption/Mag van assumpsie	Section 21/Artikel 21
Section 22/Artikel 22	Promissory note/Promesse
Death Certificate/Doodsertifikaat	Section 83/Artikel 83
Three-party credit card/Driepartykredietkaart	Two-party credit card/Tweepartykredietkaart
Assets and liabilities distribution account/Bates-en lasteverdelingsrekening	Concurrent creditor/Konkurrente skuldeiser
Liquidation and distribution account/Likwidasië- en distribusierekening	Death Notice/Sterfkennis

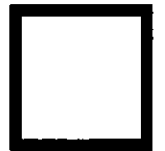
	STATEMENT STELLING	CONCEPT/TERM KONSEP/TERM
1	The section in the Bills of Exchange Act 34 of 1964 which determines that a fraudulent imitation of a signature of a person with the object of deceiving another person or persons, is wholly inoperative. <b>Die artikel in die Wisselwet 34 van 1964 wat bepaal dat 'n bedrieglike nabootsing van 'n handtekening van 'n persoon, bedoel om 'n persoon/persone te mislei, geheel en al kragteloos is.</b>	

2	<p>The section in the Bills of Exchange Act 34 of 1964 which provides for an exception to the general rule that a forged signature is wholly inoperative</p> <p><b>Die artikel in die Wisselwet 34 van 1964 wat 'n uitsonderings bevat tot die reël dat 'n vervalste handtekening geheel en al kragteloos is.</b></p>	
3	<p>The section in the Bills of Exchange Act 34 of 1964 which provides the true owner of a crossed cheque marked 'not negotiable' with recourse against subsequent possessors of a lost or stolen cheque</p> <p><b>Die artikel in the Wisselwet 34 van 1964 wat aan die ware eienaar van 'n gekruiste tjek gemerk 'nie verhandelbaar nie' 'n remedie verskaf teenoor daaropvolgende besitters van 'n verlore of gesteelde tjek.</b></p>	
4	<p>The type of credit card where the card issuer is also the supplier</p> <p><b>Die tipe kredietkaart waar die kaartuitreiker ook die leweransier is.</b></p>	
5	<p>The safest payment method used in international trade transactions</p> <p><b>Die veiligste betalingsmetode wat gebruik word in internasionale-handelstransaksies.</b></p>	
6	<p>A power that is conferred upon the trustee to appoint another trustee to fill a vacancy in office.</p> <p><b>Die mag toegeken aan 'n trustee om 'n ander trustee aan te stel indien die amp vakant word</b></p>	
7	<p>When the insolvent, in collusion with another person, disposes of property so that it prejudice a creditor or prefer one creditor above another creditor</p> <p><b>Wanneer die insolvent, in samespanning met 'n ander persoon, eiendom vervreem sodat dit 'n skuldeiser benadeel of een skuldeiser bevoordeel bo 'n ander skuldeiser.</b></p>	
8	<p>The holder of a special notarial bond registered over specifically identified movable property is deemed this type of creditor</p> <p><b>Die houer van 'n spesiale notariële verband geregistreer oor spesifieke geïdentifiseerde roerende eiendom word gereken as die tipe skuldeiser.</b></p>	
9	<p>An account that reflects the assets of a deceased estate, how the assets will be disposed of, as well as the liabilities of the deceased estate</p> <p><b>'n Rekening wat die bates van die bestorwe boedel reflekteer, hoe die bates vervreem sal word, sowel as die last van die bestorwe boedel.</b></p>	

<b>10</b>	The prescribed form that a person completes to report the death of a person that owned property in South Africa to the Master of the High Court <b>Die voorgeskrewe vorm wat 'n persoon voltooi om die dood van 'n persoon wat eiendom besit het in Suid-Afrika aan te meld by die Meester van die Hoë Hof.</b>	
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TOTAL FOR SECTION C 20 MARKS  
TOTAAL VIR AFDELING C: 20 PUNTE



<b>SECTION D</b> <b>AFDELING D</b>
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**QUESTION 1 - NEGOTIABLE INSTRUMENTS AND OTHER METHODS OF PAYMENT**  
**VRAAG 1 - VERHANDELBARE DOKUMENTE EN ANDER BETALINGSMETODES**

- (a) Study the following scenario and answer the questions below  
 Michelle draws a cheque on B Bank in favour of 'Mr Plumber or order' as payment for fixing a burst geyser. Upon receipt of the cheque, Mr Plumber endorses the cheque in favour of 6-year-old Lesego who takes it in good faith and for value. Lesego in turn endorses the cheque in favour of 18-year-old Naledi who also takes it in good faith and for value. Michelle then discovers that Mr Plumber did not fix the burst geyser properly and wants to countermand the cheque.

Discuss in detail whether there is an obligation to pay on the cheque in each of the following circumstances

- |       |                                     |            |
|-------|-------------------------------------|------------|
| (i)   | Payment from Michelle to Mr Plumber | (2)        |
| (ii)  | Payment from Mr Plumber to Lesego.  | (2)        |
| (iii) | Payment from Lesego to Naledi       | (2)        |
|       |                                     | <b>[6]</b> |

- (a) **Bestudeer die die volgende feitestel en beantwoord die onderstaande vrae.**  
**Michelle trek 'n tjek op B-bank ten gunste van 'Mnr Plumber of order' as betaling vir die herstel van 'n gebarste geyser. By ontvangs van die tjek, endosseer Mnr Plumber die tjek ten gunste van 6 jarige Lesego wat dit neem in goeie trou en vir waarde. Lesego endosseer die tjek weer ten gunste van 18 jarige Naledi wat dit neem in goeie trou en vir waarde. Michelle ontdek dat Mnr Plumber nie die geyser behoorlik herstel het nie en wil die tjek stop.**

**Bespreek volledig of daar 'n verpligting is om te betaal op die tjek in elk van die volgende omstandighede:**

- |       |                                          |            |
|-------|------------------------------------------|------------|
| (i)   | Betaling vanaf Michelle aan Mnr Plumber. | (2)        |
| (ii)  | Betaling vanaf Mnr Plumber aan Lesego.   | (2)        |
| (iii) | Betaling vanaf Lesego na Naledi.         | (2)        |
|       |                                          | <b>[6]</b> |

(i) \_\_\_\_\_

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- (b) Briefly explain the difference between the two categories of non-transferable cheques (4)
- (b) **Bespreek kortliks die verskille tussen die twee kategorieë van nie-oordraagbare tjeks. (4)**


( )

- (c) Study the following scenario and answer the questions below  
 Allie draws a crossed cheque with the words 'not negotiable' on B Bank payable to 'Anthea or order' A thief (Michelle) steals the cheque from Anthea and forges Anthea's endorsement on the back of the cheque and delivers it to Maphuti Maphuti then places his signature on the cheque and delivers it to Fanie who takes it in good faith and for value Fanie sends his driver James to deposit the cheque into Fanie's bank account at I Bank. B Bank makes payment to I Bank in good faith and without negligence
  - (i) Will Allie be liable towards Anthea? Motivate your answer (2)
  - (ii) Will B Bank be liable towards Anthea Motivate your answer. (2)
  - (iii) Will Michelle be liable towards Anthea? Motivate your answer (2)
  - (iv) Will Maphuti be liable towards Anthea? Motivate your answer (2)
  - (v) Will Fanie be liable towards Anthea? Motivate your answer. (2)
  - (vi) Will I Bank be liable towards Anthea? Motivate your answer. (2)
- [12]

- (c) **Bestudeer die volgende feitstel en beantwoord die vrae wat daarop volg.**  
**Allie trek 'n gekruiste tjek wat die woorde bevat 'nie-verhandelbaar' op B-bank betaalbaar aan 'Anthea of order'. 'n Dief (Michelle) steel die tjek van Anthea en vervals Anthea se endossement op die agterkant van die tjek en lewer dit aan Maphuti. Maphuti plaas sy handtekening op die tjek en lewer dit aan Fanie wat dit neem in goeie trou en vir waarde. Fanie stuur sy drywer James om die tjek te deponer in Fanie se bankrekening by I-bank. B-bank maak betaling aan I-bank in goeie trou en sonder nalatigheid.**

- (i) Is Allie aanspreeklik teenoor Anthea? Motiveer u antwoord. (2)
  - (ii) Is B-bank aanspreeklik teenoor Anthea? Motiveer u antwoord. (2)
  - (iii) Is Michelle aanspreeklik teenoor Anthea? Motiveer u antwoord. (2)
  - (iv) Is Maphuti aanspreeklik teenoor Anthea? Motiveer u antwoord. (2)
  - (v) Is Fanie aanspreeklik teenoor Anthea? Motiveer u antwoord. (2)
  - (vi) Is I-bank aanspreeklik teenoor Anthea? Motiveer u antwoord. (2)
- [12]

(i)

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(ii)

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(iii)

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(iv)

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(v)

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[TURN OVER]  
[BLAAI OM]

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(vi)

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- (d) Thomas Cook Ltd is a company that issues travellers' cheques and requires the traveller to countersign the travellers' cheque before they will effect payment on the travellers' cheque.

Discuss whether a travellers' cheque issued by Thomas Cook Ltd amounts to a bill of exchange in terms of the Bills of Exchange Act 34 of 1964 (3)

- (d) **Thomas Cook Bpk is 'n maatskappy wat reisigerstjeks uitreik en vereis dat die reisiger 'n teenhandtekening op die tjek moet aanbring voordat hulle uitbetaal op die reisigerstjek.**

**Bespreek of 'n reisigerstjek uitgerek deur Thomas Cook Bpk kwalifiseer as 'n wissel ingevolge die Wisselwet 34 van 1964 of nie.** (3)

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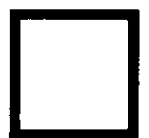
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TOTAL FOR QUESTION 1 25 MARKS  
TOTAAL VIR VRAAG 1: 25 PUNTE



[TURN OVER]  
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**QUESTION 2 - THE LAW OF TRUSTS/ ADMINISTRATION OF ESTATES**  
**VRAAG 2 - DIE REG INSAKE TRUSTS/ BOEDELBEREDDERING**

- (a) A court makes an order that damages be paid out to a minor involved in a car accident. However, the court is concerned that the parents will waste the money. What could a court order to prevent the parent's possible wasteful expenditure? (1)
  
- (a) 'n Hof maak 'n bevel dat skadevergoeding uitbetaal moet word aan 'n minderjarige wat betrokke was in 'n motorvoertuigongeluk. Die hof is egter bekommerd dat die minderjarige se ouers sodanige geld sal vermors. Wat kan die hof beveel om moontlike verkwisting van sodanige fondse deur die ouers te verhoed? (1)

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- (b) Allie wants to establish a trust *inter vivos* for the benefit of a third party. Allie wants to know whether she may unilaterally revoke the trust at any time. Advise Allie in this regard. (3)
  
- (b) Allie wil 'n trust *inter vivos* oprig ten behoeve van 'n derde party. Allie wil weet of sy die trust eensydig ter enige tyd kan herroep. Adviseer Allie in die verband. (3)

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- (c) Study the following scenario and answer the questions that follow  
 The trust deed for ABC Trust requires a minimum number of two trustees to be appointed. The trust deed does not include a power of assumption clause Allie and Michelle are nominated under the trust instrument as the first trustees of the ABC Trust Allie passes away after being appointed as trustee
  - (i) After Allie passed away, Michelle continues to enter into contracts on behalf of ABC Trust Discuss fully if these contracts are valid or not (3)
  - (ii) Due to the fact that Allie passed away, Michelle now wants to appoint an additional trustee Discuss fully how this vacancy must be filled. (3)

[6]

- (c) **Bestudeer die volgende feitestel en beantwoord die vrae wat daarop volg.**  
**Die trustakte vir ABC Trust vereis dat 'n minimum aantal van twee trustees aangestel word. Die trustakte bevat nie 'n mag van assumpsie-klousule nie. Allie en Michelle word genomineer ingevolge die trustakte as die eerste trustees van ABC Trust. Allie kom tot sterwe nadat sy aangestel was as 'n trustee.**
  - (i) **Nadat Allie afgesterwe het, gaan Michelle steeds voort om kontrakte te sluit namens ABC Trust. Bespreek volledig of sodanige kontrakte geldig is al dan nie. (3)**
  - (ii) **As gevolg van die feit dat Allie afgesterwe het, will Michelle nou 'n addisionele trustee aanstel. Bespreek volledige hoe die amp gevul moet word. (3)**

[6]

(i)

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(ii)

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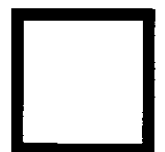
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- (d) List FOUR methods of liquidation that may be used to liquidate a deceased estate (4)  
(d) Lys VIER metodes van likwidasië wat gebruik kan word om 'n bestorwe boedel te likwideer. (4)
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TOTAL FOR QUESTION 2 14 MARKS  
TOTAAL VIR VRAAG 2: 14 PUNTE



**QUESTION 3 - THE LAW OF INSOLVENCY**  
**VRAAG 3 - INSOLVENSIEREG**

- (a) List **THREE** requirements that an applicant creditor has to prove before a court may grant a court order for compulsory sequestration. (3)
- (a) **Lys DRIE vereistes wat 'n applikant skuldeiser moet bewys voordat 'n hof 'n hofbevel vir verpligte sekwestrasie kan toeken.** (3)

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- (b) List **THREE** acts of insolvency as contained in section 8 of the Insolvency Act 24 of 1936. (3)
- (b) **Lys DRIE dade van insolvensie vervat in artikel 8 van die Insolvensiewet 24 van 1936.** (3)

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**TOTAL FOR QUESTION 3. 11 MARKS**  
**TOTAAL VIR VRAAG 3: 11 PUNTE**

**TOTAL FOR SECTION D: 50 MARKS**  
**TOTAAL AFDELING D: 50 PUNTE**

**[TOTAL 100]**  
**[TOTAAL: 100]**

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**PART 1 (GENERAL/ALGEMEEN) DEEL 1**

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INITIALS AND SURNAME  
VOORLETTERS EN VAN

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DATE OF EXAMINATION  
DATUM VAN EKSAMEN

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EXAMINATION CENTRE (E.G. PRETORIA)  
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For use by examination invigilator  
Vir gebruik deur eksamenopsiener

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**IMPORTANT**

1. USE ONLY AN HB PENCIL TO COMPLETE THIS SHEET
2. MARK LIKE THIS
3. CHECK THAT YOUR INITIALS AND SURNAME HAS BEEN FILLED IN CORRECTLY
4. ENTER YOUR STUDENT NUMBER FROM LEFT TO RIGHT
5. CHECK THAT YOUR STUDENT NUMBER HAS BEEN FILLED IN CORRECTLY
6. CHECK THAT THE UNIQUE NUMBER HAS BEEN FILLED IN CORRECTLY
7. CHECK THAT ONLY ONE ANSWER PER QUESTION HAS BEEN MARKED
8. DO NOT FOLD

**BELANGRIK**

1. GEBUIK SLEGS N HB-POTLOOD OM HIERDIE BLAD TE VOLTOOI
2. MERK AS VOLG
3. KONTROLEER DAT U VOORLETTERS EN VAN REG INGEVUL IS
4. VUL U STUDENTENOMMER VAN LINKS NA REGS IN
5. KONTROLEER DAT U DIE KORREKTE STUDENTENOMMER VERSTREK HET
6. KONTROLEER DAT DIE UNIEKE NOMMER REG INGEVUL IS
7. MAAK SEKER DAT NET EEN ALTERNATIEF PER VRAAG GEMERK IS
8. MOENIE VOU NIE

**PART 2 (ANSWERS/ANTWOORDE) DEEL 2**

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Specimen only