



DEPARTMENT OF MERCANTILE LAW

COMMERCIAL LAW 1A (CLA1501)

FIRST AND SECOND SEMESTER

TUTORIAL LETTER 102/3/2011

Dear Student

THE CONTENT OF THIS TUTORIAL LETTER IS IMPORTANT: YOU MUST STUDY IT IMMEDIATELY.

In this tutorial letter we introduce your lecturers, confirm the prescribed study material, set out the rules of the examination, and describe the kinds of questions which you may expect in the examination.

We also draw your attention to several changes that you will need to affect in your Study Guide for CLA101S (CLA1501) (Commercial law 1A) to bring it in line with Havenga M et al *General Principles of Commercial Law* 7 ed (2010) Juta , which is the prescribed textbook for this module. Please also note that the course code, as indicated in the Study Guide, CLA101S has been changed to CLA1501.

1 CONTACT WITH LECTURERS

If you have any queries, you can contact the lecturers telephonically, by post or via the Internet. Electronic mail will, however, be read and answered only once a week.

The lecturers on this course are

Prof E Manamela
Prof T Manamela
Ms H de Ru
Mrs M Geldenhuys
Mr E Hurter
Mr M Maleka
Ms N Hlongwane
Mr B Masuku
Mr P Stoop
Mr S Tshakafa

Please note that the following lecturers will be on duty on weekdays between 08:00 and 15:00 as indicated in the table below:

NAME	TELEPHONE NUMBER	EMAIL ADDRESS	WEEKDAY
Mr P Stoop	(012) 429 8787	stooppn@unisa.ac.za	Monday
Mr B Masuku	(012) 429 8836	mankgmb@unisa.ac.za	Tuesday
Ms N Hlongwane	(012) 429 8832	hlongn@unisa.ac.za	Wednesday
Ms H de Ru	(012) 429 8371	deruh@unisa.ac.za	Thursday
Mr S Tshakafa	(012) 429 8076	tshakss@unisa.ac.za	Friday

The following lecturers may also be contacted, however, please take note that some of them will be on research leave during the course of the year:

Mrs M Geldenhuys	(012) 429 8494	geldemm@unisa.ac.za
Mr M Maleka	(012) 429 8378	melekem@unisa.ac.za
Mr E Hurter	(012) 429 8487	hurtee1@unisa.ac.za
Prof T Manamela	(012) 429 8383	manamte@unisa.ac.za
Prof E Manamela	(012) 429 8490	manamme@unisa.ac.za

Departmental Secretaries' names and telephone numbers:

Ms MS Mothibedi: (012) 429 8579

Ms CJE Koeleman: (012) 429 8465

Address: The Lecturer (CLA1501)
Department of Mercantile Law
UNISA
PO Box 392
Pretoria
0003

Internet: <http://my.unisa.ac.za>

2 STUDY MATERIAL

The prescribed textbook for this module is: Havenga M et al *General Principles of Commercial Law* 7 ed (2010), Juta. Please note that the sixth edition of the textbook should **not** be used for the module, as it is outdated in certain important aspects.

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

You should have received Tutorial Letter 101/3/2011 containing the assignment. Tutorial Letter 201/3/2011 containing the memorandum and commentary on the two assignments will be sent to every student after the assignments closing date. We recommend that while preparing for the examination, you answer the assignments questions again, this time without the aid of your study material. After trying to answer all the questions within an hour, check your answers against those in Tutorial Letter 201/3/2011. This exercise should help you to establish which areas of the work you find difficult.

3 AMENDMENTS TO THE STUDY GUIDE

PLEASE NOTE: all references to **CLA101S** in the Study Guide should be read as **CLA1501**.

STUDY UNIT 1: The South African Legal System

Paragraph 1.3.3 of the **textbook**: High Courts

Take note that the high courts are not the only courts which have jurisdiction in divorce proceedings (see the paragraph below).

Paragraph 1.3.6 of the **textbook**: Magistrate' Court

Take note that in terms of the Jurisdiction of Regional Courts Amendment Act 31 of 2008 certain regional courts may now hear divorce proceedings.

STUDY UNIT 6: The Agreement must be Possible

Paragraph 2.3 in the **study guide**: Consequences of illegality (p 59 in the study guide)

Delete the following example in the second paragraph (eg a credit agreement that is not committed to writing – see chapter 16 par 16.2.1.1).

Paragraph 3.2 in the **study guide**: Determined and ascertainable performance (p 62 in the study guide)

Change reference in brackets from “par 6.3.2” in the textbook to par 6.3.3.

STUDY UNIT 7: Formalities

Paragraph 3.1 in the **study guide**: Formalities required by law (p 64 in the study guide)

Please note that consumer contracts are added to the list. The Consumer Protection Act 68 of 2008 requires that a written record of each transaction which falls within the ambit of the Act must be given to a consumer. The record must set out certain prescribed information.

STUDY UNIT 8: Terms of the Contract

Paragraph 1 in the **study guide**: Introduction: the Term (p 67 in the study guide)

(a) Express terms

Please note that the Consumer Protection Act 68 of 2008 contains provisions that state that a consumer contract may not contain unfair, unjust or unreasonable terms and provisions. The Act also requires that if a consumer contract contains a term or provision which may affect the consumer's rights or which could not reasonably be expected in that type of contract, the supplier must draw the consumer's attention to such a term or provision.

Paragraph 2 in the **study guide**: Essentialia, naturalia and incidentalialia (p 68 in the study guide)

Naturalia

Please note, with regard to paragraph 8.2.2 of the textbook, that a warranty on repaired goods is implied in all contracts which are regulated by the Consumer Protection Act. In terms of the Act, parties may only exclude the warranty against latent defects, by using a voetstoots clause, if certain requirements have been complied with.

STUDY UNIT 12: Transfer and Termination of Personal Rights.

Paragraph 5.2.1 in the **study guide**: Delegation (p 110 in the study guide)

Change reference from par "5.2 above" to par 2 above.

4 THE EXAMINATION RULES

Each examination paper remains the property of the University of South Africa and may not be removed from the examination room. Contravention of this rule will result in disciplinary proceedings and your mark-reading sheet will not be marked. Please complete the attendance register at the back of the examination paper, tear it off, and hand it to the invigilator. The question paper consists of 40 questions. Each correct answer to a question is worth two marks. The total mark allocation for the paper is 80 marks. Make sure that the paper you receive contains all 40 questions and all the pages. Please answer all the questions on the mark-reading sheet supplied.

Please write your student number on the examination paper as well as on the mark-reading sheet. You may use the examination paper for your rough work, but you must return the examination paper as well as the mark-reading sheet at the end of the examination. If you fail to return the English and the Afrikaans versions of the examination paper as well as the mark-reading sheet, your mark-reading sheet will not be marked.

Make good use of the time. You have more than enough time in which to complete this paper. You have 120 minutes at your disposal to answer 40 questions; thus you have 3 minutes per question.

Please make use of the HB pencil when completing your mark-reading sheet (assignments and examination) as the computer may not read other types of pencil.

5 THE KINDS OF QUESTIONS WHICH YOU MAY EXPECT IN THE EXAMINATION

The examination consists solely of multiple-choice questions. The questions are drawn from all 12 prescribed chapters of the textbook. You should therefore study all 12 chapters when preparing for the examination. You have to study the whole of each chapter for the examination; please do not contact the lecturers to ask for tips and advice on what to leave out and what to concentrate on — learn everything equally well. It is unlikely that any of the questions in the assignment (see Tutorial Letter 101/3/2011) will appear in the examination; but they do provide a fair idea of the **kinds** of questions that you may expect in the examination. In other words, you will be expected to answer a mixture of questions: some will be direct questions testing your knowledge of the theory of the law (for example, question 1 of the assignment); while others will be problem questions setting out a short set of facts and then requiring you to choose the appropriate legal comment on the problem (for example, question 5 of the assignment).

6 OLD QUESTION PAPER

You will be provided with a previous question paper on myUnisa. This paper together with assignment/s questions should enable you to prepare for the examination and anticipate the type of questions you will have to answer. Assignment/s questions have a full commentary that explains why a specific question is more correct than any of the other options. Please note that it is important for you to understand why one answer is correct, rather than another, because if you do not understand that, you will also not be able to identify the correct answer if the sequence of options is changed, or if the question is phrased differently.

You should, however, take note that no such commentary will be provided for the paper that you will find on myUnisa and that you may also not call the lecturers about the answers to the questions on that examination paper. This paper is there merely to show you how the examination paper will look like. Even though questions might look the same, or similar, from year to year, this does not mean that they are identical, or that option X is always the correct answer. If your time is spent memorising specific answers or questions, you will not be using it effectively and you will remain unable to answer the examination questions correctly, even if you have already seen them before.

We are aware that examination papers are offered for sale on myUnisa and on other websites. These papers are the property of Unisa and their sale by others is an infringement of Unisa's copyright. Students and members of the community who sell them will face disciplinary or criminal proceedings. You must be careful not to buy such examination papers because changes made to the syllabus in the past years render some of the questions from past examination papers irrelevant. As the law changes, the answers that were correct some few years ago might no longer be correct – the change to the age of majority is but one example.

If you have any further queries about the examination arrangements, please contact the UNISA Contact Centre (0860 670 411). You will find further details in Tutorial Letter 101 par 3.

Best wishes for your studies and for the examination.

**THE LECTURERS
UNISA**