



MANICALAND STATE UNIVERSITY OF APPLIED SCIENCES

FACULTY OF AGRI BUSINESS AND COMMERCE

BUSINESS MANAGEMENT DEPARTMENT

MODULE: COMMERCIAL LAW/BUSINESS LAW 1/AGRI BUSINESS LAW

CODE: BMAN 121/HBM 121/HACE 211

SESSIONAL EXAMINATIONS

DECEMBER 2022

DURATION: 3 HOURS

EXAMINER: MR S. SIZIBA

INSTRUCTIONS

1. Answer *All questions* in Section A
2. Answer *any three* questions in Section B.
3. Start each on new question on a fresh page
4. Total marks 100

Additional material(s): None

SECTION A:

(Answer all questions in this section. Section A carries 40 marks)

Read the following case study and answer the question that follow.

Question 1

Farai is a real estate agent. He is trying to sell a large mansion on behalf of its owners. A potential buyer, Garikai, asks Farai whether the lawn at the back of the mansion is big enough to accommodate the construction of a full-sized tennis in the future. Farai does not answer, but instead hands over Garikai a pamphlet on the property. The pamphlet includes a surveyor's diagram of the property, which gives dimensions of the backyard and makes it clear that it can accommodate a tennis court. In the pamphlet, there are also 4 pages of writing that describe the property in detail. At the bottom of these pages is the following statement, in very small font: *Farai real estate does not guarantee the accuracy of the information contained in the pamphlet and advises potential purchasers to make their own enquiries.* Garikai does not read the pamphlet, but buys the mansion anyway. He then discovers that the surveyor's diagram was inaccurate and that the backyard is not big enough to accommodate a tennis court.

Required :

- a) Explain the features of a valid offer in a contract. (8 marks)
- b) Describe the various types of agencies. (10 marks)
- c) Evaluate the importance of exemption clauses in commercial transactions. (10 marks)
- d) Advise Garikai on the options available. (12 marks)

[Total marks :40]

Section B: (60 marks)

Attempt any three questions

Question 2

a) Jane recently bought a new hockey stick from Multi Sports. The sticks were imported from United Kingdom . The stick cracked after only one game and when Jane returned the stick to Multi Sports, the manager, Joe informed her that as the hockey sticks were subjected to such violent play, they were sold ‘without guarantee’. Jane accepted this and had the stick repaired at a cost of \$10 000·00. A few days later, Susan , Jane’s teammate broke her brand-new hockey stick during an indoor hockey practice. After the incident the team were discussing the new sticks and it became obvious that most hockey sticks were breaking. The manager of Multi Sports, Mr Joe despite the high number of returns still maintains that all he can do is repair the sticks.

Required:

Advise Sue and Jane of any legal remedies they may have against Multi Sports.

(10 marks)

b) Golly employs Nhamo as a driver of his delivery vehicle. His duties are strictly limited to deliver small orders within a radius of 50 kilometers of Golly’s business premises and warehouse. He is specifically prohibited from giving lifts to any passengers including other employees of Golly. One day, whilst driving alone on a delivery, Tizvione , an employee of Golly encounters Nhamo at premises where he is making a delivery and requests him to assist him to travel to a clinic, well beyond the limits of the area in which he does his deliveries, to visit his sick uncle. Nhamo does so after completing his deliveries. Whilst on the way, but beyond the 50 kilometer radius from his employer’s place of business, at a regulated

intersection, Nhamo is involved in a collision with another vehicle. In consequence Tizvione is instantly killed and both vehicles are severely damaged.

Required :

Advise both Golly and Nhamo of their legal liabilities, if any. (10 marks)

[Total marks:20]

Question 3

a) Banolila applies for life cover on his own life. He is unaware of the fact that he suffers from a terminal disease. Consequently, he does not disclose this fact in the proposal form for insurance.

i. Explain whether the insurer will be able to avoid the contract on the grounds of a breach of contract by Banolila of his duty to disclose? (5 marks)

ii. Will it make any difference if Banolila was aware of the disease? Justify your answer. (5 marks)

b) The process of delivery is a legal concept, so that besides actual delivery, the law also recognizes constructive delivery. Explain with the aid of case authority and/or examples the 3 types of constructive delivery. (10 marks)

[Total marks : 20]

Question 4

a) Charles walks into a restaurant, orders a steak, waits for five minutes, then walks out without having received his food. Discuss whether any of the parties involved commits breach of contract. (10 marks)

b) Tom and Jerry enter into an illicit emerald contract in terms of which Tom will sell 10 uncut emeralds to Jerry at a price of \$10 000-00 per emerald. Jerry pays \$100 000 to Tom for the 10 emeralds, but Tom refuses to hand over the emeralds to Jerry. Discuss the legal position. (10 marks)

[Total marks:20]

Question 5

On Monday, Rita offered to sell Edith her car at a price of \$5,000. Rita promised to keep the offer open until Friday. On Wednesday, Melanie offered to buy Rita's car for \$5,200, and Rita accepted Melanie's offer. On Thursday, Rita phoned Edith and said she was revoking the offer she made to Edith on Monday. Edith replied that she would not agree to revocation of the offer, and was accepting the offer Rita made to her.

Required :

a). Assess any legal obligations Rita has to Edith and Melanie in this situation.

(10 marks)

b) On January 1, Nigel mailed a letter in Harare, offering to sell 1,000 shoes at \$5 per pair to Sarah, located in Beitbridge. On January 5 of the same year, prior to Sarah's receipt of the letter, Nigel mailed another letter revoking the offer. Sarah received Nigel's letter with the offer on January 8, and the next day sent a letter of acceptance. On January 10, Sarah received Nigel's letter revoking the offer.

Required :

Advice Sarah on the way forward ? Cite relevant case law.

(10 marks) .

[Total marks :20]

Question 6

Not all agreements are contracts but all contracts are agreements. Analyse this assertion citing relevant case law. **[20 marks].**

END OF EXAMINATION!