

UNIVERSITY OF SWAZILAND
INSTITUTE OF DISTANCE EDUCATION
DIPLOMA IN COMMERCE
SUPPLEMENTARY EXAMINATION PAPER JULY 2013

TITLE OF PAPER : COMMERCIAL LAW

COURSE CODE : AC 201

TIME ALLOCATED : THREE (3) HOURS

INSTRUCTIONS : ANSWER ANY FOUR (4) QUESTIONS

THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN GRANTED BY THE INVIGILATOR.

QUESTION 1

An offer is defined as a serious proposal made by one party to another, inviting such other party to enter into a contract on the terms suggested. What requirements must such an offer satisfy in order for it to be considered a valid offer? (25 marks)

QUESTION 2

A)

State the facts, legal arguments and the court's ruling in the case of *Crawley v Rex* 1909 TS 1105. (15 marks)

B)

Differentiate between suspensive condition and resolutive conditions. (10 marks)

QUESTION 3

A)

State and explain the circumstances that may qualify mistake to render a contract voidable. (20 marks)

B)

What is an *error in negotio*? (5 marks)

(Total 25 marks)

QUESTION 4

Sipho who is a minor aged 16 is an Olympic gold medalist and he has been offered a number of contracts which he wants to sign in order to earn money to win more medals in future Olympic Games. He has been told that he has to be emancipated to be able to pursue his dream and he asks you to explain to you what the emancipation means and the specific contracts he can enter into. Explain to him. (25 marks)

QUESTION 5

Explain the following terms with respect to third parties in a contract:

- a) *Stipulatio alteri*, (5 marks)
- b) A third party's acquisition of contractual rights and parties to a contract, (5 marks)
- c) Cession, (5 marks)
- d) Delegation, (5 marks)

e) Assignment (5 marks)

(Total 25 marks)

QUESTION 6

A)

Non-performance in a contract may come in three forms. List and explain them. (15 marks)

B)

What is self-induced subsequent impossibility of performance and what remedies are open to an innocent party? (10 marks)

QUESTION 7

XYZ (Pty) LTD has just been established and wants to engage individuals to render certain services to it. The Company wants to be sure of the duration of the contracts it can enter into with the individuals and as the Operations manager of this Company you are tasked with ensuring that the contracts entered into can only be terminated legally. Discuss the five modes for the termination of the individuals' contractual obligations. (25 marks)