

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**  
**SUPPLEMENTARY EXAMINATION, JULY 2013**

**TITLE OF PAPER : THE LAW OF CONTRACT**

**COURSE CODE : L 206**

**TIME ALLOWED : THREE (3) HOURS**

**INSTRUCTIONS :**

- 1. ANSWER ANY FOUR (4) QUESTIONS.**
- 2. MARKS ARE INDICATED AT THE END OF EACH QUESTION.**
- 3. CANDIDATES ARE THEREFORE ADVISED TO ALLOCATE THEIR TIME ACCORDINGLY.**

**DO NOT OPEN THIS PAPER UNTIL PERMISSION HAS BEEN GIVEN BY THE INVIGILATOR.**

### **QUESTION 1**

Noncedo bought a second hand motor car from Nomthandazo on hire-purchase for E10,000, clause 4 of the contract stating that she had inspected the car, which was in good running order. Finding about two weeks later that the engine bearings had burnt out through a defect in the oil pump and oil-ump, Noncedo wants to rescind from the contract.

Advise her.

(25 MARKS)

### **QUESTION 2**

Out of the blue Sibulelo receives a record from Disco Sounds (Pty) Ltd, a business selling records by mail order. An accompanying letter states that Sibulelo is one of a special group chosen to listen to the record in the comfort of his own home. The letter goes on to say that if the record is not returned to Disco Sounds within 10 days they will assume that Sibulelo wishes to buy it and an account will be sent to him. Sibulelo listens to the record but soon loses interest in it and it is left lying next to his hi-fi set.

Can Disco Sounds claim the purchase price from Sibulelo? Discuss. (25 MARKS)

### **QUESTION 3**

Machawe was employed by Maputo Ship builders Ltd. as a designer of fast patrol boats. He built up a great knowledge of this type of work and boats designed by him were bought by the United States, French and British navies. When he was chief designer in 2008 he signed a contract providing that in the event of his terminating his employment with Maputo he would not for the next seven years take up employment with another ship builder anywhere in the world. In 2010 Machawe had a dispute with Maputo and was summarily dismissed. In 2011 he set up a business specialising in the building of speedboats.

Advise Maputo Shipbuilders of their legal position.

(25 MARKS)

### **QUESTION 4**

Gugu goes to Kwaluseni Supermarket, a self-service shop, to make purchases for her household. She selects several items of groceries from the display counter but on taking them to the cash register, the attendant refuses to sell them to her.

Does Gugu have any legal rights against the Supermarket?

(25 MARKS)

### **QUESTION 5**

Motsa a farmer for over 30 years whose farm had been injuriously affected by a disastrous drought was approached by Magagula who claimed that his young son Siphon being a person with X-ray eyes could see water under the ground. It was agreed between the parties that Siphon would point out to Motsa a place where he could bore for and get water. Siphon was to be paid E1 000 for his services. The son pointed out a place where he said that he could see water about 60 metres under the ground and that Motsa would get at least 15 000 liters per hour out of it. Motsa had paid the E1000 and had bored there but obtained practically no water.

Advise Motsa on the likelihood of success in an action for damages on grounds of misrepresentation. (25 MARKS)