

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER, JULY 2013**

- TITLE OF PAPER : CONVEYANCING AND NOTARIAL PRACTICE**
- COURSE CODE : L 501**
- TIME ALLOWED : THREE (3) HOURS**
- INSTRUCTIONS :**
- (i) QUESTION ONE (1) IS COMPULSORY.**
  - (ii) ANSWER ANY OTHER THREE (3) QUESTIONS.**
  - (iii) ANSWER A TOTAL OF FOUR (4) QUESTIONS.**
  - (iv) EACH QUESTION CARRIES A TOTAL MARK OF [25]; THE TOTAL MARK IS [100]**
  - (v) IN ANSWERING QUESTIONS NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OF EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.**
  - (vi) CANDIDATES SHOULD COMPLY WITH ALL DEEDS REGISTRY ACT REGULATIONS WHERE NECESSARY.**

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

### **QUESTION 1 (Compulsory)**

Vusi Boy Dlamini is the registered owner of Portion 47 of Farm No. 11 situate in the district of Manzini, Swaziland. He holds the property under Deed of Transfer No. 10/2000, to which is annexed a diagram dated 30 December, 1999. The property is 60,0000 (six zero comma zero zero zero zero) hectares in extent.

- (i) If Vusi Boy Dlamini wanted to subdivide the property how would he go about doing that? [5]
- (ii) If he wanted to retain ownership of the subdivision under a separate title how would he achieve this? [5]
- (iii) Draft the “*causa*” of a donation of the subdivision to his daughter, subject to the condition that it shall be free of community of property. [5]
- (iv) Assuming that the Survey Diagram annexed hereto relates to the subdivision, draft the relevant property and extending clauses of the transfer to his daughter. [5]
- (v) Draft the property and extending clauses of a subsequent transfer by his daughter. [5]

### **QUESTION 2**

- (i) What is the procedure to be followed where a co-mortgagor seeks release from the operation of a Mortgage Bond? [2]
- (ii) Invent your own facts and draft a consent to release by a co-mortgagor. [5]
- (iii) Invent your own facts and draft the “*causa*” of an Indemnity Bond. [5]
- (iv) Distinguish between the legal effects of a consent to cancellation and a consent to release. [3]
- (v) What is a consent to Reduction in Cover? When is it appropriate? [5]
- (vi) Briefly discuss the requirements of a consent to substitution of a debtor in terms of Section 56 of the Deeds Registry Act, 1968. [5]

[TOTAL MARKS: 25]

### **QUESTION 3**

- (i) Discuss the requirements, and outline the procedure for the registration of personal servitudes. [15]
- (ii) Invent your own facts and draft a Notarial Deed of waiver of a Personal Servitude in favour of a registered mortgage bond. [10]

#### **QUESTION 4**

- (i) What is the role of a Notary Public where a woman married in community of property wishes to enter into a suretyship? Draft the document you would have to sign to signify compliance with your duties. [10]
- (ii) Discuss the statutory duties of a Notary Public in relation to all deeds executed before him. [5]
- (iii) Invent your own facts and draft the appearance clause and recital of an ante nuptial contract. [10]

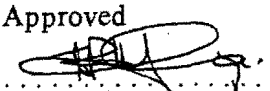
[TOTAL MARKS: 25]

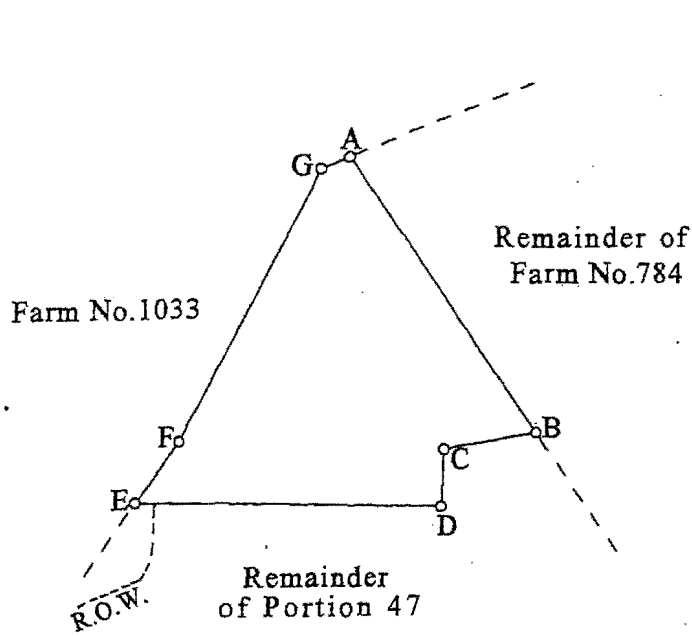
#### **QUESTION 5**

- (i) Name five rules which must be complied with a drafting a Power of Attorney to transfer. [5]
- (ii) Discuss any three exceptions to the rule that deeds shall follow the sequence of their relative causes. [5]
- (iii) Outline the information which a Power of Attorney or Agreement of Partition should contain. [5]
- (iv) Outline the requirements for the issue of a Certificate of Consolidated Title. [4]
- (v) List any FIVE transactions which are exempt from the payment of transfer duty under the Transfer Duty Act, 1902. [5]

[TOTAL MARKS: 25]

**SUBDIVISIONAL DIAGRAM**

SIDES (metres)		ANGLE OF DIRECTIONS	CO-ORDINATES (metres) Y SYSTEM Lo.31° X		S.G.No.S130/2009
		CONSTANTS	+ 0,00	+2900 000,00	
AB	658,83	325.56.00	A	- 44 695,60 + 23 903,60	Approved  Surveyor General Date: 1.07.2009
BC	186,08	79.34.50	B	- 45 064,64 + 24 449,37	
CD	112,35	2.49.20	C	- 44 881,63 + 24 483,02	
DE	605,24	91.16.30	D	- 44 876,10 + 24 595,23	
EF	147,21	215.33.20	E	- 44 271,01 + 24 581,77	
FG	605,38	207.45.00	F	- 44 356,61 + 24 462,01	
GA	61,46	248.22.20	G	- 44 638,47 + 23 926,25	



SCALE 1 : 15 000

Description of Beacons

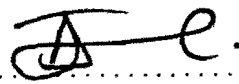
Iron standard in cairn...A,F,G  
 12mm iron peg...B,C,D,E

The figure A B C D E F G

represents 28,4734 Hectares of land, being  
Portion 142 (a portion of Portion 47) of Farm No.11

Situate in the District of MANZINI Swaziland

Surveyed in March 2009

by me.   
 D.M. Thwala  
 Land Surveyor

This diagram relates to	The original diagram is	File No.	F11/2
No.	S.G. No. S 24/84	S.R. No.	61/2009
Dated.....	Transfer/Grant/Cession	Comp.	515
Registrar of Deeds.	Consent filed page 85	Drg No.	Sheet 12