

UNIVERSITY OF SWAZILAND

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FACULTY OF SOCIAL SCIENCE

DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION, JULY 2014

**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**

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Letsile who wished to sell a farm said to Gama, the prospective buyer, referring to a particular borehole,

“I have pumped that water for three years, day and night if it was necessary and it never failed and you can do the same”.

On being asked the depth of the borehole he said it was 125 feet. In fact the water was not inexhaustible, the pumping had taken place 14 years before; and obstructions had since fallen into the borehole which was, at the time the statement was made, only 104 feet deep.

On discovering the above facts after entering into the contract Gama is considering cancellation of the same.

Advise him.

[25 MARKS]

### **QUESTION 2**

Mbali bought a second hand motor car from Sihle on hire purchase for E20 000.00, 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-sump Mbali is considering rescission of the sale and repayment of the money paid under the contract.

Advise her.

(25 MARKS)

### **QUESTION 3**

Twala phoned Shabangu a plumber to come to his home to fix a broken tap. The first call by Twala to Shabangu was at 8.30 a.m. to which Shabangu had promised to come immediately. When Shabangu had not come by 9.00 a.m. Twala again phoned, with Shabangu promising that he was on his way. The distance between Twala's home and Shabangu's workshop is only ten (10) minutes. When Shabangu got to Twala's house at 2.00 p.m., Twala had contracted another plumber who had fixed the tap which was flooding the house.

Shabangu demanded payment from Twala who refused to pay.

Discuss, giving all possible arguments that both parties might bring forward.

(25 MARKS)

**QUESTION 4**

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Mazibuko is selling her house through an estate agent, who shows the house to Zubuko. Zubuko puts in a written offer by signing a standard-term offer-to-purchase document drawn up by the agent. The document contains a clause stating that the offer is irrevocable for a period of 30 days.

Two days after this Hlophe approaches the estate agent with a better offer for the purchase of the house. The estate agent sells the house to Hlophe. A week after this Zubuko contacts the estate agent to conclude the purchase of the house only to be told by the agent that the house has been sold to someone else.

Zubuko seeks your advice.

(25 MARKS)

**QUESTION 5**

Maziya who is illiterate signed an agreement as surety for the debt of her son while under the impression that the document had to do with the transfer of property to her. When the true nature of the agreement was explained to her a month later, she wishes to cancel the agreement.

Will she succeed? Discuss fully.

(25 MARKS)