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**SCHOOL OF ACCOUNTING AND BUSINESS**  
**BSc. (APPLIED ACCOUNTING) GENERAL / SPECIAL DEGREE**  
**PROGRAMME**

**END SEMESTER EXAMINATION – JANUARY 2016**

**LAW 10125 Commercial Law**

Date : 17th January 2016  
Time : 9.00 a.m. – 11.30 a.m.  
Duration : Two and a half (02 ½) hours

**Instructions to Candidates:**

- This paper consists of three part. (A, B and C)
- Part A – Answer **ALL** questions in the separate sheet provided.  
Part B – Answer **ALL** questions.  
Part C – Answer **ALL** questions
- The total marks for the paper is 100.
- The marks for each question are shown in brackets.
- Answers should be written neatly and legibly.

## PART A

### **Question No. 01**

Select the most appropriate answer for each of the following questions.

1. Which one of the following is **NOT** a feature of a negotiable instrument?
  - a. It is written order or unconditional promise
  - b. It can be transferred from one person to another
  - c. Once it transferred the holder obtain full legal title for the instrument.
  - d. It does not pay a fixed sum of money on demand or at a certain time.
2. Damith texts Anne to sell his car to her for Rs.2M. Anne replies to buy the car for Rs.1.5M. Damith texts back 'no way'. Anne replies by text stating she will accept the car for Rs.2M.

Which of the following statements is **CORRECT**?

- a. An offer has been made by Damith and acceptance by Anne.
  - b. An offer has been made by Anne and acceptance by Damith.
  - c. Damith first statement is an invitation to treat.
  - d. Anne's second statement is an offer to buy the car for Rs 2 M.
3. An agency relationship which is made retrospectively is known as an agency by:
  - a. Estoppel
  - b. Ratification
  - c. Necessity
  - d. Commerce

4. X Ltd has two directors, Joe and Harry. Neither of the directors have authority to individually enter contracts on behalf of the company. In practice, Joe (with Harry's acquiescence) enters into all the contracts on behalf of the company. What type of agency has been created when a third party acting in good faith enters into a contract with Joe who states he is acting on behalf of X Ltd?
- An express agency.
  - An agency by estoppel.
  - An agency by ratification.
  - An agency of necessity.
5. Section 1(1) of the Partnership Act defines a partnership as “relationship which subsists between persons carrying on business in common with a view of profit”. In the light of this definition select the **INCORRECT** answer regarding the Partnership Law in Sri Lanka.
- Partnership is essentially a result of an agreement
  - Partnership agreement may be oral or implied.
  - Maximum partners are limited to 20 in every types of partnership.
  - Real partners share profits and loss both.
6. Which of the following statements is **CORRECT**, in relation to the withdrawal of an offer?
- An offer may only be withdrawn by the offeror.
  - An offer may be withdrawn by the offeror or a reliable third party.
  - Once an offer has been made it can never be withdrawn.
  - An offeror has one week to withdraw his offer.
7. Sale of Goods Ordinance implies various terms into the sale of goods contracts. What type of goods are **NOT** included under the Ordinance?
- Cars
  - Harvest which are to be severed from land before sale.
  - Building.
  - Clothing advertised in catalogues.

8. Which one of the following statements is **INCORRECT**?
- a. Unascertained goods are products that have not yet been manufactured or acquired by the seller, or are unidentified.
  - b. Specific goods are those that are identified at the time the contract of sale is made.
  - c. Ownership of goods always passes when physical possession passes to the buyer.
  - d. Sale of Goods Ordinance provides that the property in specific or ascertained goods passes when the parties intend it to be transferred.
9. Which of the following is **NOT** an institute of alternative dispute resolution in Sri Lanka?
- a. Labour Tribunal
  - b. Commercial High Court
  - c. Debt Conciliation Board
  - d. Mediation Board
10. Janith e-mails Salina offering to sell his computer to her for Rs.50,000. Salina replies asking if he will accept a cheque or does he want cash? Salina's statement will be treated as which of the following.
- a. A counter offer terminating the offer made by Jake.
  - b. A refusal of the contract.
  - c. Acceptance of Jake's offer.
  - d. A request for information.

**(Total 20 Marks)**

## **PART B**

### **Question No. 02**

- i. Explain "conditions and warranties".

(5 Marks)

- ii. John advertised to sell a car and indicated it was manufactured in 2000. David came to inspect the car and decided to buy it. After buying the car he found that only the back half corresponded with the description. The other part had been welded to the front half which was part of another car. Now David wants cancel the contract.

Discuss whether David can cancel the contract.

(5 Marks)

**(Total 10 Marks)**

### **Question No. 03**

- i. Cheque is defined by section 73 of the Bills of Exchange Ordinance 1927 as “a bill of exchange drawn on a banker payable on demand”. However, there are fundamental differences between a cheque and a bill of exchange.

Write five differences between a cheque and a bill of exchange.

(5 Marks)

- ii. Ann borrowed a loan from Bob and gave an order cheque written in favour of Bob as a security. After Bob has indorsed it in blank Charlie has stolen the cheque and presented it for payment over the counter. The bank overlooking the crossing paid the amount to Charlie. Ann intends to file an action against the bank.

Explain the protection available to the bank in this regard.

(5 Marks)

**(Total 10 Marks)**

**Question No. 04**

- i. There are different types of contract used in international trade. The two main types of contracts that are used more frequently in international trade are FOB and CIF contracts.

State the main differences between FOB contract and CIF contracts.

(5 Marks)

- ii. Write 4 institutions established in Sri Lanka to settle disputes outside the formal court system.

(5 Marks)

**(Total 10 Marks)**

**Question No. 05**

- i. A Tea Factory in Kalutara area uses the name *Nuwara Eliya Tea* for its latest products which are produced in Kalutara. Tea Producers in Nuwara Eliya have become aware that the tea factory in Kalutara uses the name “*Nuwara Eliya Tea*”.

Explain to the tea producers in Nuwara Eliya whether they can take legal action against the tea factory in Kalutara?

(5 Marks)

- ii. Anil, a Sri Lankan citizen who has completed his studies several years in a foreign country has returned to Sri Lanka with considerable saving of money. He now wishes to start a private education organization. He intends to register ABC as a trademark of the organization.

Explain Anil whether ABC is a registrable Mark.

(5 Marks)

**(Total 10 Marks)**

**Question No. 06**

- i. M applied for a life insurance policy with ARGO. He was asked whether he had applied to the insurance policies with other insurance companies for such a policy. He said that he had insurance policies with two other companies but he did not reveal the fact that his application for life insurance had been rejected by several other companies. Also M did not reveal his bad health condition to ARGO. ARGO issued a policy for M and after 1 year M died. Now M's wife wants to have the policy?

Explain on what ground Argo can reject the payment.

(5 Marks)

- ii. Nimal plans to obtain a life insurance for his sister Sunila as a birthday gift for her 21st birthday. Nimal's insurance agent advises him that he will not be able to get insurance for Sunila. Sunila got to know that there is no insurable interest between him and his sister. Nimal wants to know the meaning of this term and its application in insurance contracts. Discuss.

(5 Marks)

**(Total 10 Marks)**

**Question No. 07**

- i. Partnership is defined by section 1(1) of the Partnership Act as "relationship which subsists between persons carrying on business in common with a view of profit".

Discuss the characteristic of a partnership business in light of above statement.

(5 Marks)

- ii. "Mere sharing of profits does not create partnership" do you agree? Discuss.

(5 Marks)

**(Total 10 Marks)**

## **PART C**

### **Question No. 08**

- i. Large PLC own all the share capital in its subsidiary, Small Ltd. Last year Small's bank, Mudland Bank PLC, were uncertain about Small's future but, when the directors of Large PLC Provided a written statement to the effect that Large PLC would honour all of Small's debts, the bank agreed to continue to provide with extensive overdraft facilities. Now, Small has gone into insolvent liquidation with no assets to cover the debt owing to Mudland Bank PLC, and Large PLC are refusing to pay the amount owed.

What legal action is open to Mudland Bank in relation to Large PLC's statement of last year?

(15 Marks)

- ii. Rajitha carried on business of a food restaurant in Nugegoda. It was bought by Alina (Pvt) Ltd. The company placed Rajitha as its General Manager. He was given instructions not to make any credit purchases. However, Rajitha continued to buy a range of beverages from Lion Ltd, on credit terms as he used to do prior to the change in ownership of the business. Alina (Pvt) Ltd refuses to pay for the credit purchases. Lion Ltd is contemplating legal action against Alina Ltd.

Advise Lion Ltd.

(5 Marks)

**(Total 20 Marks)**