SECTION A  (45 MARKS)

STUDENTS ARE REQUIRED TO ANSWER ALL QUESTIONS

QUESTION 1

Jon Ngema is the owner of various commercial, agricultural and residential properties. You have been responsible for drafting the respective lease agreements for him. Jon now consults you for advice regarding certain issues arising from the leases.

1.1 In a lease agreement with Foodies CC clause 5.1 states as follows: “provided the lessee shall have faithfully carried out the terms and conditions of this lease and provided the lessee is in no way in default hereunder at the expiration of this lease, the lessee shall have the right of renewing this lease for a further period of 3 years.”

Jon advises you that during the duration of the lease, which was for a period of 2 years, Foodies CC had paid the monthly rentals after the due date on 7 occasions. This severely prejudiced Jon as he relied on the rentals to service the mortgage bond on the property.

Advise Jon whether he is bound by the renewal clause in terms of the lease agreement as he wishes to terminate the lease agreement.

1.2 Jon lets a piece of agricultural land to Vusi for the purposes of grazing. Vusi refused to pay the rental after the first month stating that he was unable to use the property for its purpose because the adjacent portion of land was a rubbish dump which became a health hazard to his cattle. In fact, one of his cows died after ingesting a plastic packet.

Advise Jon whether he has any recourse against Vusi.
1.3 Saras is leasing a residential property from Jon. Saras has complained to Jon that the roof is leaking over 3 rooms.

Advise Jon whether he is allowed to enter the premises to repair the roof and tile the kitchen and bathroom at the same time. Saras has also advised Jon that she is only willing to pay a proportion of the rental due as she has been deprived of the use of the entire property.

Advise Jon on these issues.

1.4 Jon has decided to sell one of his commercial properties. Upon hearing of the sale, Novel Books, the lessee of the property decides to resile from the contract of lease. Advise Jon’s successor of his rights.

(20 marks)

QUESTION 2

Zama Zulu requests you to draft a lease agreement for her. Discuss with Zama what the clause “the lessee may not sublet or assign the premises” entails.

(5 marks)

QUESTION 3

Angie Brown purchased a motor vehicle in terms of an instalment agreement with Car Finance. After paying 5 instalments towards the car Angie realises that she can no longer afford to pay further instalments. Set out fully what Angie’s rights are in terms of the National Credit Act 34 of 2005.

(10 marks)

QUESTION 4

Your client Bond Bank advises you that Grace Jones has been in arrears with repayments on her mortgage agreement. Advise Bond Bank regarding what procedure needs to be followed before an order to enforce the credit agreement is sought.

(5 marks)

QUESTION 5

Discuss how the Consumer Protection Act 68 of 2008 aims to promote and advance the social and economic welfare of consumers.

(5 marks)
QUESTION 1

Mandy bought an antique oak coffee table from Suzie. Soon thereafter she hired a carpenter to clean and varnish it for her. Five months later a guest, who was visiting her, recognised the coffee table as her own. She stated that it had disappeared from her home when her house was robbed in June 2008. Mandy is prepared to hand the coffee table over to the guest, but her sister insists on obtaining legal advice. Mandy then approaches you for advice.

Advise Mandy. (10 marks)

QUESTION 2

Ntombi buys a puppy from Lisa on 20 November 2007. They agree on a price of R1000. Ntombi pays a deposit of R400 immediately and they agree that the balance will be payable in three monthly instalments of R200 each. Lisa hands the puppy over to Ntombi. On the 21 November 2007, Ntombi realizes that the puppy is ill. She rushes it to the veterinary surgeon, but it is certified dead on arrival. Ntombi then contacts Lisa and demands her deposit back. Lisa, however, refuses to return the deposit. She also insists that Ntombi pay her the balance of the purchase price. Ntombi wants to know if she is obliged to pay the outstanding instalments to Lisa. She also wants to know if she can recover her deposit from Lisa.

Advise her. In your answer you must also explain whether a valid contract of sale came into existence. You must also discuss any remedies that might be applicable. (10 marks)

QUESTION 3

Write an essay in which you set out the legal principles governing the “thing” as part of the essentialia of a contract of sale. (10 marks)