# HEBERT CHITEPO SCHOOL OF LAW AND BUSINESS SCIENCE

## DEPARTMENT OF ECONOMICS AND FINANCE

## MAIN EXAMINATION

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| BACHELOR OF COMMERCE | PART 1 SEMESTER 2 |
| COURSE | INSURANCE LAW |
| CODE | HRMI 123 |
| DATE | 2024 |
| DURATION | 3 HOURS |



### INSTRUCTIONS TO CANDIDATES

1. THE PAPER COMPRISES 5 QUESTIONS.
2. YOU ARE REQUIRED TO ANSWER ANY FOUR QUESTIONS.
3. BEGIN THE ANSWER TO EACH QUESTION ON A FRESH PAGE OF THE ANSWER BOOKLET.
4. USE OF EXAMPLES AND REFERENCE TO CASE LAW AND LEGISLATION WILL EARN YOU MORE MARKS

**Question 1**

(a) Briefly distinguish between indemnity and non-indemnity insurance and explain why it is necessary to distinguish between the two. (5 Marks)

(b) Thabo is a sprint athlete. As part of an advertising campaign, Pulse Insurance Company provides Thabo and his fellow team members with free life insurance cover, including accident insurance cover, in the amount of R500 000 for the duration of their Olympics tour in Tokyo, Japan. Thabo is hit by a bus in Tokyo and dies as a result of his injuries. Advise Thabo's heir, Thembi on the following two issues. Firstly, whether a true contract of insurance existed between Thabo and Pulse Insurance Company. Secondly, whether there is any legal obligation on Pulse Insurance Company to pay the R500 000 to Thabo's deceased estate. (6 Marks)

**Question 2.**

(a) Describe the essential features of an insurance contract. [10 Marks]

(b) Identify and explain the requirements for the validity of an insurance contract. [15 Marks]

**[Total Marks 25]**

**Question 3**

Discuss the insurable interest doctrine with the aid of case law and practical examples. **[Total 25 Marks]**

**Question 4**

(a) Explain the concept of subrogation in insurance law.

[10 Marks]

(b) How does an insurance contract differ from a contract of suretyship, a contract of donation and a wagering agreement?

[10 Marks]

(c) Distinguish between indemnity and capital insurance. [5 Marks]

**[Total 25 Marks]**

**Question 5**

(a) Provide examples by which you illustrate the differences between underinsurance and over-insurance, and then also explain the effect of both underinsurance and over-insurance on an insured's claim (5 Marks)

(b) Phineas insures his motor vehicle comprehensively. In the application form, which is incorporated into the policy, Phineas undertakes and warrants to keep the vehicle locked at all times, as well as to keep the keys locked in a locked safe overnight. One night the locked vehicle is damaged by flash floods. It appears, though, that the vehicle's keys were not locked away in a safe at the time, and the insurer refuses Phineas' claim on the basis of his breach of warranty. Comment on the validity of Phineas' claim and the insurer's potential defence based on the facts.
(5 Marks)

(c) Briefly explain the differences between a representation and a warranty; between an affirmative warranty and a promissory (continuing warranty); between a warranty of fact and a warranty of knowledge and between a warranty of fact and a warranty of opinion. (8 Marks)

(d) Hamilton insures his own life for $10 million and appoints his secretary, Charlene,as the sole beneficiary in terms of the life policy. On his death, his son Dave is rather upset when he hears of the appointment as his father's estate is (without the policy ) worth almost nothing. Explain the legal position to Charlene and Dave. (7 Marks)

**(Total: 25 Marks)**