

**NATIONAL UNIVERSITY OF LESOTHO**

**FACULTY OF LAW**

**LL.B FINAL EXAMINATIONS**

**L4306 - INSURANCE AND BANKING II**

**MAY 2023**

**100 MARKS**

**3HRS**

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**Instructions**

- (1) Answer any four questions
  - (2) All questions carry equal marks
  - (3) Write legibly
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### **QUESTION ONE**

Critically discuss the relationship between the duty of the insured to disclose material information to the insurer and the duty to answer questions in the proposal form truthfully.

**[25 MARKS]**

### **QUESTION TWO**

Neo is employed as a quality inspector at Seshoeshoe Clothing Company. His job requires him to travel regularly to different branches of the company scattered across the country. Until May 2022 when he purchased a car, Neo had been using public transport to travel for business.

An agreement was reached between Neo and the company in May 2022 that he would from then onwards use his car to travel for business. As part of the agreement, the company would insure Neo's car against theft and motor accidents. Pursuant to that agreement, the company took out a policy with Automobile Insurers Co.

Neo's car was stolen at gunpoint in Morija on his way to a business meeting in Mafeteng. Following the incident, Seshoeshoe Clothing Company lodged a claim for indemnity with Automobile Insurers Co. The claim was rejected by the insurer on the basis that Seshoeshoe Clothing Company had no insurable interest in the car.

Comment on whether the ground on which Automobile Insurers Co rejected the claim is correct.

**[25 MARKS]**

### **QUESTION THREE**

Briefly discuss the two types of warranties that are common to insurance contracts, and the reasons behind the use of each warranty by insurers.

**[25 MARKS]**

### **QUESTION FOUR**

Write short notes on the following concepts:

- (a) Salvage (5 marks)
- (b) Subrogation (5 marks)
- (c) Contribution (5 marks)
- (d) Noting of interest (5 marks)
- (e) Cover note (5 marks)

**[25 MARKS]**

### **QUESTION FIVE**

Immediately following his employment, Thabo took out a loan to purchase a car. Shortly thereafter, Thabo insured his car with Basotho Insurers Co against theft and accidents. Thabo's car was damaged in a collision with a motorbike belonging to Neo. Thabo was indemnified in full by Basotho Insurers Co for his loss. That notwithstanding, however, Thabo instituted a delictual action against Neo, claiming damages. In her defence, Neo argues that Thabo has no cause of action against her because he has already been indemnified for his loss by the insurer.

Critically discuss whether Neo's defence is correct in law.

**[25 MARKS]**

### **QUESTION SIX**

Thabo owns a double story house in Qoaling. He insured the house against fire with Basotho Insurers Co in December 2022. The agreement between Thabo and Basotho Insurers Co was that premiums would be paid through a bank stop order at a monthly rate of M5 000.00. As a result of systemic errors on the part of the bank, however, premiums were never paid over to Basotho insurers. Thabo's house was burned down by an inferno in June 2023. Thabo's claim for indemnity was rejected by Basotho Insurer's Co on account of non-payment of premiums.

Dissatisfied with the rejection of his claim, Thabo approached a famous bush lawyer in his village to find out if Basotho Insurer's Co was correct in rejecting his claim. The bush lawyer informed Thabo that mere agreement on premium is enough to constitute a valid contract of insurance; consequently that the non-payment of premiums does not relieve the insurer of the obligation to indemnify the insured.

Critically discuss whether the advice that Thabo got from the bush lawyer is correct.

**[25 MARKS]**