INSTRUCTIONS

1. This paper consists of **FOUR (4)** pages. Please make sure you have them all.

2. The paper consists of **FIVE (5) questions**. You are required to answer all of them and all sub-parts of question one.

3. Students are requested, in their own interests, to write legibly

4. Please ensure that you write your student number and seat number on the front of your answer book.
Question One

Sipho (who lives in Cape Town) and James (who lives in Pietermaritzburg) enter into a sale agreement in terms of which:

- Sipho sells his car to James who is to pay him a purchase price of R150,000.00 in five, monthly, instalments of R30,000.00 each.
- No interest is payable and this is not a credit agreement.
- In terms of the sale agreement James would only own the car once he has paid the full purchase price.
- The sale agreement is concluded in Durban and payment is to be made in Cape Town. The car is kept in Howick.

Using the information provided above answer the following questions.

EACH QUESTION IS COMPLETELY SEPARATE AND DOES NOT FOLLOW ON FROM A PRECEDING QUESTION.

1. Does the High Court have jurisdiction to decide a case based on the sale agreement? Explain your answer. (2 marks)

2. Does the Regional Magistrates Court have jurisdiction to decide a case based on the sale agreement? Explain your answer. (2 marks)

3. Does the District Magistrates Court have jurisdiction to decide a case based on the sale agreement? Explain your answer. (2 marks)
4. Assuming that James paid the first two instalments and then stopped paying, list all the courts which would have jurisdiction and very briefly set out the jurisdictional principle giving each its jurisdiction. (Marks will only be awarded for correct answers with the correct principle – you can refer to the courts by the town names given but you must specify which court you are referring to in a particular town / city).

(18 marks)

5. The agreement was signed in March 2012 with the first payment due in April 2012 with the balance of payments due in May 2012, June 2012, July 2012 and August 2012 respectively. Sipho comes to consult with you in October 2015; he advises you that James only paid the first two instalments. However Sipho was overseas studying at the time and has only returned in October 2015. Now he wishes to take action.

5.1 Can Sipho sue James for the balance of the purchase price? Explain fully and deal with Sipho’s prospects of success. If Sipho instructs you to proceed despite the risks; which court would you issue summons out of and why?

(5 marks)

5.2 Can Sipho sue for return of the car? Explain fully and deal with Sipho’s prospects of success. If Sipho instructs you to proceed despite the risks; which court would you issue summons out of and why?

(9 marks)
Question Two

Court-annexed mediation has been proposed as an alternative dispute resolution mechanism. Set out what is meant by court-annexed mediation and alternative dispute resolution, its merits and shortcomings, and describe how court-annexed mediation is provided for in law. In your answer you must deal with the nature of court-annexed mediation, its purposes and the role and functions of the mediator. You must also set out how the outcome of the mediation is recorded.

(30 marks)

Question Three

Explain, in your own words, what a rule nisi is and how it operates.

(7 marks)

Question Four

Summary judgment may only be used for certain types of claims. List four such claims and briefly explain the nature of each claim.

(4 marks)

Question Five

Set out seven differences between actions and applications and explain each difference in your own words.

(21 marks)

(TOTAL FOR PAPER: 100 MARKS)