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UNIVERSITY OF SWAZILAND
DEPARTMENT OF ACCOUNTING
AC 204 MAIN EXAM PAPER

Programme of Study	:	Diploma in Commerce II (IDE), B.Ed. (IDE).
Title of Paper	:	Commercial Law II
Course Code	:	AC 204
Time Allowed	:	3 Hours

INSTRUCTIONS:

1. The total number of Questions on this paper is six (6).
2. Answer any Four (4) Questions.
3. Each question carries 25 Marks.
4. In answering any question, note that the quality of the content, use of authority, clarity of expression and legibility of handwriting are absolutely essential.
5. Begin each question on a new page.

**THIS PAPER MAY NOT BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY INVIGILATOR(S).**

QUESTION 1

On the 4th of January 2010 M takes up an insurance policy with the Swaziland Royal Insurance Corporation (SRIC), insuring his house against the risk of damage by fire. He pays the premiums upfront for the whole year. Six months later M sells the house for cash against transfer to B. Three months later, the house was razed to the ground by fire. At this time, M has been paid the purchase price and ownership of the house has been transferred to the buyer, he has no further pecuniary interest to the house.

With reference to applicable law, advise the parties as to their rights and liabilities.

[25 Marks]

QUESTION 2

a) With specific reference to these two cases: *Great Western Co. Ltd v London and County Banking Co. Ltd* [1901] AC 444, and *Commissioner of Taxation v English, Scottish and Australian Bank* [1920] AC 683, describe **who is a customer of a bank**.

[15 Marks]

b) With the aid of the case of *Energy Measurement (Pty) Ltd. V First National Bank of South Africa Ltd* (2002) 3 SA 396, identify five compelling reasons for the imposition of a duty of care on a collecting banker when opening an account for a prospective client.

[10 Marks]

[TOTAL: 25 MARKS]

QUESTION 3

With reference to case law, discuss the concept of “legal personality” of a company.

[25 MARKS]

QUESTION 4

- a. Name and define the three essential parties to a negotiable instrument. [9 Marks]
- b. What is a signature by procurator in the law of negotiable instruments? [6 Marks]
- c. Discuss the legal effect of:
 - i. Crossing a cheque **especially**, [3 Marks]
 - ii. Crossing a cheque **generally** and adding the words "**not negotiable**", [4 Marks]
 - iii. Crossing a cheque **generally** and adding the words "**account payee only**" [3 Marks]

[TOTAL: 25 MARKS]

QUESTION 5

- a. List and briefly define any 5 qualities of money. [5 Marks]
- b. What are the functions of money? [5 Marks]
- c. To protect the insurer, the law imposes an especially onerous duty of disclosure upon the insured. Discuss. [15 Marks]

[TOTAL: 25 MARKS]

QUESTION 6

- (a) Define a contract of Insurance [4 Marks]
- (b) Define "general" and "special" crossing of cheques. [4 Marks]
- (c) Define the term "acceptance" as used in the law of negotiable instruments. [4 Marks]
- (d) Define "money" [3 Marks]
- (e) Define "a cheque" [2 Marks]
- (f) Differentiate between common shares and debentures. [4 Marks]
- (g) Define "a prospectus." [2 Marks]
- (h) Define "*Jus ad rem*" [2 Marks]

[TOTAL: 25 MARKS]

END OF EXAM