

Total (25 Marks)

UNIVERSITY OF SWAZILAND
FACULTY OF SOCIAL SCIENCE
DEPARTMENT OF LAW

SUPPLEMENTARY EXAMINATION PAPER 2010

TITLE OF PAPER : **MERCANTILE LAW**

COURSE CODE : **L405**

TIME ALLOWED : **3 HOURS**

MARKS ALLOCATED : **100 MARKS**

INSTRUCTIONS : **ANSWER ANY FOUR
QUESTIONS OF
YOUR CHOICE.**

**THIS PAPER IS NOT TO BE OPENED UNTIL PERMISSION HAS BEEN
GRANTED BY THE PROCTOR.**

[TURN OVER]

Question 1

“The development of the *Lex Mercatoria*, as a universal system facilitating international trade, is attributable to the fact that the medieval civil law was not responsive enough to the needs merchant traders.” Discuss.

25 Marks

Question 2

- (a) Referring to authority, discuss how an agent and an employee may be liable on a bill. (10)
- (b) With the aid of the case of *Standard Bank of South Africa v Sham Magazine Center*, discuss the various ways in which a drawer may render a bill completely and absolutely non-transferable. (15)

Total (25 Marks)

Question 3

“The goal of the Law of Insolvency should be to protect and reconcile the interests of creditors and at the same time give a fresh start to the insolvent.”

(25 Marks)

Question 4

Referring specifically to the case of *Leyland Shipping Company Limited V Norwich Union Fire Insurance Society*, as well as other relevant authorities, discuss causation in the context of limitation on risk. What, in your opinion, should be the new direction that insurance assumes in present day society? (25 Marks)

Question 5

Write short notes on the following:

- (a) Subrogation (5)
- (b) Insurable Interest (5)
- (c) acts of insolvency" (5)
- (d) The duty to show good faith (5)
- (e) Fictitious Payee (5)

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