

**UNIVERSITY OF SWAZILAND**

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**FACULTY OF SOCIAL SCIENCE**

**DEPARTMENT OF LAW**

**MAIN EXAMINATION, DECEMBER 2010**

**COURSE NAME : LAW OF CONTRACT**

**COURSE CODE : L206**

**TIME ALLOWED : THREE (3) HOURS**

**INSTRUCTIONS :**

- 1. ANSWER ANY FOUR (4) QUESTIONS.**
- 2. MARKS ARE INDICATED AT THE END OF EACH QUESTION.**

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**QUESTION 1**

Mabandla who is charged with theft and has been released on bail pending trial, goes to Magistrate Simelane and offers him E5,000.00 if he will acquit him. Simelane agrees to do so and Mabandla gives him E5,000.00 in cash.

When Mabandla's case comes up for trial Simelane is ill and another Magistrate, Gama hears the case. Mabandla is acquitted by Gama.

Can Mabandla successfully sue Simelane for the recovery of the E5,000.00 (25 marks)

**QUESTION 2**

Matsebula enters into a contract with Vilane in terms of which Vilane is to deliver a herd of ten (10) cows to Matsebula the purchase price to be paid on the day of delivery. While Vilane is driving the cows to Matsebula's homestead the whole herd is struck by lightning and is destroyed.

Matsebula is desirous of suing Vilane for breach of contract. Advise him citing relevant authorities. (25 marks)

**QUESTION 3**

Mabuza left his suit case at the Manzini bus rank's cloakroom, which is owned by the Manzini City Council. On paying the attendant Mabuza was given a cloakroom ticket with conditions in fine print on the back limiting the Council's liability. The suitcase was lost and in answer to Mabuza's claim for its value, the Council pleaded the term limiting their liability.

Mabuza wishes to sue Manzini City Council for the value of the suitcase.

Advise Mabuza. (25 marks)

**QUESTION 4**

Discuss and illustrate by the case law the rules that an offer to contract must be communicated to the offeror, and the acceptance must be communicated to the offeror.

What forms can such communication take? Are there any exceptions to the rule? (25 marks)

**QUESTION 5**

Khumalo, a cotton farmer from the Lubombo region approached John Deere in order to buy a tractor for his farming activities. He explains to the salesman that he needs a tractor that will withstand the rough and strong ground of the Lubombo. The salesman Dlamini, promptly points out one tractor and assured Khumalo that:

“this one is made specifically for rough and strong terrain, it will serve you for many<sup>145</sup>  
a year without giving you any trouble.”

On the strength of this assurance, Khumalo buys the tractor. However, he is only able to use the tractor for two weeks before it completely breaks down and he is told that repairs would cost him about a third of the price for the tractor.

Advise Khumalo.

(25 marks)