

**UNIVERSITY OF SWAZILAND**

**FACULTY OF SOCIAL SCIENCE**

250

**DEPARTMENT OF LAW**

**MAIN EXAMINATION PAPER, MAY 2012**

**TITLE OF PAPER : MERCANTILE LAW**

**COURSE CODE : L 405**

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

**INSTRUCTIONS :**

- 1. ALL CANDIDATES MUST ANSWER A TOTAL OF FOUR (4) QUESTIONS.**
- 2. IN ANSWERING A QUESTION NOTE THAT THE QUALITY OF THE CONTENT, CLARITY OF EXPRESSION AND LEGIBILITY OF HANDWRITING ARE ABSOLUTELY ESSENTIAL.**

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

### **QUESTION 1**

In certain circumstances, the issue of a Bill, cheque or note, generates an obligation (The cambial obligation) which is quite distinct from the obligation pursuant to which the issue took place.

- (i) List and briefly discuss the requirements for the cambial obligation to arise. [15]
- (ii) What is the connection, if any, between the cambial obligation and the instrument (Bill, cheque, or note) itself? [5]
- (iii) What conditions, if any, should be fulfilled for the cambial obligation to be enforceable? [5]

[TOTAL MARKS: 25]

### **QUESTION 2**

Discuss the liability, if any, of a collecting bank to the true owner of a cheque with regard to payment to a non-holder. [TOTAL MARKS: 25]

### **QUESTION 3**

Discuss the powers of a trustee, with respect to voidable dispositions, setting out the differences, if any, under Section 29 (voidable preferences) and Section 30 (undue preferences) of the Insolvency Act, 1955. [TOTAL MARKS: 25]

### **QUESTION 4**

- (i) Distinguish between indemnity and capital insurance. [10]
  - (ii) What are the requirements for the formation of a valid contract of insurance? [15]
- [TOTAL MARKS: 25]

### **QUESTION 5**

Briefly explain the following:

- (i) Accommodation party [5]
  - (ii) Subrogation [10]
  - (iii) Rehabilitation [10]
- [TOTAL MARKS: 25]