

**UNIVERSITY OF SWAZILAND**  
**FACULTY OF SOCIAL SCIENCE**  
**DEPARTMENT OF LAW**

**SUPPLEMENTARY EXAMINATION PAPER, JULY 2013**

- TITLE OF PAPER** : **MERCANTILE LAW**
- COURSE CODE** : **L 405**
- TIME ALLOWED** : **THREE (3) HOURS**
- INSTRUCTIONS** :
1. **QUESTION ONE (1) IS COMPULSORY.**
  2. **ANSWER ANY OTHER THREE (3) QUESTIONS.**
  3. **ANSWER A TOTAL OF FOUR (4) QUESTIONS.**
  4. **IN ANSWERING ANY 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 (Compulsory)**

Vusi Dlamini, a customer of Nedbank (Swaziland) Limited issued a cheque for E8,000.00 in favour of his creditor, "V. Simalne". The cheque was crossed and delivered to his creditor. However, the cheque was subsequently lost. A week after the delivery of the cheque to his creditor Vusi Dlamini's account was debited with amount of E80,000.00.

Vusi Dlamini intends to sue his bank. Advise him on his rights, if any.

[TOTAL MARKS: 25]

### **QUESTION 2**

The existence of risk and its transfer from the person who is exposed to it constitutes the basis of every contract of insurance.

Discuss the above statement with reference to decided cases.

[TOTAL MARKS: 25]

### **QUESTION 3**

Briefly discuss, in relation to the law of negotiable instruments,

- (i) The liability of an unauthorized agent. [10]
- (ii) The liability of an authorized agent. [10]
- (iii) The defence of rectification. [5]

[TOTAL MARKS: 25]

### **QUESTION 4**

- (i) Inventing your own facts draft a petition for the sequestration of a debtor's estate in terms of Section 8(b) of the Insolvency Act, 1955. [15]
- (ii) Outline the procedure you would follow up to the point where the court grants a final order for sequestration. [10]

[TOTAL MARKS: 25]

### **QUESTION 5**

Briefly discuss the following:

- (i) Offer of arrangement [5]
- (ii) Acceptance and liability of acceptor [5]
- (iii) Revocation of bankers' authority to pay [5]
- (iv) The insurers' right to salvage [10]

[TOTAL MARKS: 25]