

**UNIVERSITY OF SWAZILAND**  
**DEPARTMENT OF ACCOUNTING**  
**RE-SIT EXAM PAPER**

<b>Programme of Study</b>	<b>:</b>	<b>B.Com II F/T</b>
<b>Title of Paper</b>	<b>:</b>	<b>Commercial Law I</b>
<b>Course Code</b>	<b>:</b>	<b>LAW 213</b>
<b>Time Allowed</b>	<b>:</b>	<b>3 Hours</b>

**INSTRUCTIONS:**

1. Answer any four (4) Questions
2. Each question carries 25 Marks.
3. In answering any question, note that the quality of the content, use of case law, clarity of expression and legibility of handwriting are absolutely essential.
4. Begin each question on a new page.

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

**QUESTION 1**

Discuss in detail the seven essential elements of a valid contract, and refer to applicable case law.

[25 MARKS]

**QUESTION 2**

With reference to case law, where applicable, differentiate between:

- (A) A sale and a pledge [4 Marks]
- (B) A contract of sale and a Lease agreement. [5 Marks]
- (C) Void, voidable and unenforceable contacts. [6 Marks]
- (D) An offer and an expression of willingness to do business. [5 Marks]
- (E) *Ratio decidendi* and *Obiter dictum*. [5 Marks]

[TOTAL: 25 Marks]

**QUESTION 3**

- (a) How does law differ from other forms of social control such as morality? [5 Marks]
- (b) Explain the status of the Constitution in the Swaziland legal system with reference to authority. [5 Marks]
- (c) Define judicial precedent and describe the circumstances that may lead to judge-made law. [15 Marks]

[TOTAL: 25 MARKS]

**QUESTION 4**

Write an essay in which you discuss the concept of risk in a contract of sale and the factors relevant to the passing of risk.

[25 MARKS]

**QUESTION 5**

On Monday, Sarah sells her motor vehicle to Benny for E5 000. They agree that Benny will pay Sarah immediately, but Sarah will only deliver the vehicle to Benny on Thursday. On Wednesday, lightning destroys the vehicle while parked outside Sarah's house. Discuss the legal position of each.

Would your answer be any different if Sarah had failed to deliver the car on Thursday, and the car had been struck by lightning outside her house on Saturday?

[25 MARKS]

**END OF PAPER**