



UNIVERSITY OF ESWATINI

SEMESTER II **MAIN** EXAMINATION PAPER, MAY/JUNE 2019

FACULTY OF COMMERCE

DEPARTMENT OF ACCOUNTING

Course Code: **LAW214**

COMMERCIAL LAW II (B.COM)

Time allowed: 3 Hours

Instructions:

1. Answer **4 (four)** questions.
2. Each Question Carries 25 Marks.
3. Begin each question on a new page.
4. Make sure that you write legibly, that your expression is clear and that you refer to authority.

Special Requirements: NONE

Additional Material(s): NONE

Candidates may complete the front cover of their answer book when instructed by the Chief Invigilator and sign their examination attendance card but must NOT write anything else until the start of the examination period is announced.

No electronic devices capable of storing and retrieving text, including electronic dictionaries and any form of foreign material may be used while in the examination room.

DO NOT turn examination paper over until instructed to do so.

QUESTION 1

With specific reference to the case of *Transitional Local Council of Randfontein v ABSA Bank Ltd* [2000] 2 All SA 134 (W), describe what constitutes a *depositum* in the law of banking.

[25 Marks]

QUESTION 2

With specific reference to the following cases:

- *Department of Trade & Industry v St Christopher Motorist Association Ltd* [1974] ALL ER 395;
- *Littlejohn v Norwich Union Fire Insurance Society* 1905 TH 374;
- *Philips v General Accident Insurance Co (SA) Ltd.* 1983 (4) SA 652 (W); and
- *Lynco Plant Hire & Sales CC v Univem Insurance Brokers CC* 2002 (5) SA 25 T,

write an essay in which you comprehensively analyse the essential elements of a contract of insurance.

[25 Marks]

QUESTION 3

Daniel, who has never had any dealings with Phil, signed a cheque in blank and handed it to Eric so that Eric might make certain payments on Daniel's behalf. Eric fraudulently completed and delivered the cheque to Phil, who accepted it in payment for certain goods sold and delivered. The cheque was made payable to Phil or bearer. The cheque got dishonoured. Phil then sued Daniel, alleging that he (Phil) was a holder in due course. Daniel alleged that Phil was not a holder in due course because the cheque had been signed in blank and was not completed in accordance with the authority which Daniel had given Eric. Was Phil a holder in due course? Could Phil enforce the payment of the cheque against Daniel? Discuss fully referring to case law.

[25 Marks]

QUESTION 4

In the case of *Woods v Martin's Bank Ltd.* [1958] 3 ALLER 66, Salmond J observed that the question "what is a bank?" may be answered differently from time to time and place to place. Do you agree with this sentiment? Critically discuss your position referring to statutory law and relevant case law.

[25 Marks]

QUESTION 5

With reference to the case of *Standard Bank v Sham Magazine Centre* 1979 (1) SA 484, discuss the various ways in which a drawer may render a bill completely and absolutely non-transferrable.

[25 MARKS]

END OF EXAM