UNIVERSITY OF ESWATINI

FIRST SEMESTER MAIN EXAMINATION PAPER, NOVEMBER 2019

FACULTY OF SOCIAL SCIENCES

DEPARTMENT OF LAW

COURSE CODE: LAW407

TITLE OF PAPER: NEGOTIABLE INSTRUMENTS AND BANKING LAW

TIME ALLOWED: 3 HOURS

Instructions
1. Answer all questions.
2. Write legibly and refer to legal authority consistently.

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 cards 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

It is trite law that signature of a negotiable instrument is a pre-requisite for liability of any party to it. Discuss fully, referring to authority.

[25 Marks]

QUESTION 2

Explain the statutory and common law requirements for an indorsement to operate as a negotiation (in order that the transferee may become the indorsee and holder of the instrument). Supplement your explanation with relevant case law.

[25 Marks]

QUESTION 3

The case of *Energy Measurement (Pty) v FNB of SA* 2002 (3) SA 396 identified compelling considerations for the imposition of a duty of care on a collecting banker when opening a new account for a prospective client. Give a brief account of the material facts of the case, the legal issues as well as the reasoning behind the court's decision, and then discuss those considerations, also making reference relevant provisions of Money Laundering and Financing of Terrorism (Prevention) Act, 2011.

[25 MARKS]

QUESTION 4

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]

END OF EXAM