



ZIMBABWE EZEKIEL GUTI UNIVERSITY

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FACULTY OF BUSINESS, ECONOMICS AND ACCOUNTING

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DEPARTMENT OF ECONOMICS AND BUSINESS SCIENCES

EXAMINATION PAPER

COURSE CODE : CAC110  
COURSE TITLE : COMMERCIAL LAW  
DURATION : 3 Hours  
DATE : 27 May 2019

**INSTRUCTIONS TO CANDIDATES:**

1. No cell phones are allowed in the examination venue.
2. Answer one question from Section A and any other three questions from Section B
3. Begin each question on a new page.
4. Each question has a total of 25 marks.
5. The number of marks for each question or part question is shown in brackets [ ]

## SECTION A

### QUESTION 1

Madhiri built his house. During the construction of the house, the builders found remains of a human body in one of the trenches dug. They duly informed Madhiri of the mishap. Despite this knowledge, Madhiri ordered the builders to continue with the construction of the house. As they proceeded with the construction, several other human bodies were exhumed but Madhiri remained adamant the construction must continue. It became clear to Madhiri that the house was built on an old cemetery and he decided that he cannot live on a cemetery with his family. He thought of an idea of how he can dispose of the house profitably. One day he met Aoba at an end of year party. Madhiri offered to sell the house to Aoba and he immediately accepted that he would buy the house at a reasonable price to be fixed by Madhiri once the value of Bond notes stabilizes. Madhiri allowed Aoba to take immediate occupation of the house after parties entered into an agreement in which the property would be sold *Voetstoots*. Parties duly signed the contract and Aoba made a part payment of US\$15000. Aoba hired Kuvirima Landscapers so that they would beautify the surroundings. In the course of their duties, Kuvirima Landscapers realized that the whole place was an old graveyard and they immediately informed Aoba of this. Aoba approached Madhiri for recourse but he refused any wrong doing given that the property was sold *Voetstoots*. Madhiri went on to demand payment of US\$30 000 which he said was the balance due.

Identify legal issues that arise and advise Aoba of rights and remedies available to him. (25 Marks)

## SECTION B

### QUESTION 2

- a) Explain why contracts of agency are important to business. (10 Marks)
- b) Describe three ways through which a contract of agency can be terminated. (10 Marks)
- c) What is the difference between an agent and an independent contractor? (5 Marks)

### QUESTION 3

- a) Identify and describe the duties of a lessor. (20 Marks)
- b) What is the meaning of the maxim *huur gaat voor koop*. (5 Marks)

### QUESTION 4

Giving examples define the following terms

- a) Offer and acceptance. (8 Marks)
- b) Initial impossibility to perform. (6 Marks)
- c) Supervening impossibility. (5 Marks)
- d) Invitation to treat. (3 Marks)
- e) Caveat Subscriptor rule (3marks)
- (25 Marks)

### QUESTION 5

- a) What is the effect of crossings on cheques? (10 Marks)
- b) Where the drawer's signature has been forged and the drawee bank cannot credit the payee's account, what remedies are available to the payee? (5 Marks)
- c) What is meant by the term 'a holder in due course'? (5 Marks)
- d) Define the terms 'transferability' and 'negotiability'. (5 Marks)

**END OF PAPER**