



SCHOOL OF LAW

NLLB203 COMMERCIAL LAW

END OF FIRST SEMESTER EXAMINATIONS

NOV/DEC 2024

LECTURER: DR SIPHETHILE PHIRI

DURATION: 3HRS

GENERAL INSTRUCTIONS TO CANDIDATES

1. Write legibly.
2. Answer **ALL** questions.
3. Cite **RELEVANT** authorities to support your arguments.
4. You may start with any question.
5. **This paper carries a total of 100 marks.**

QUESTION 1

Discuss the following concepts in relation to a contract of sale:

- (a) *Pacta sunt servanda* principle. [10 marks]
- (b) Privity of contracts. [5 marks]
- (c) *Consensus ad idem*. [10 marks]
- (d) *Restitutio in integrum*. [5 marks]
- (e) *Stipulatio alteri*. [5 marks]

QUESTION 2

Discuss the impact of the Constitution on the *huur gaat voor koop* principle. [20 marks]

QUESTION 3

John is an antique collector. He visits Sarah's antique shop and shows interest in a vintage clock. They discuss the clock, but there is a misunderstanding about which clock John wants to buy. Sarah believes that John is interested in a, more modern mantel clock that is also vintage but less valuable.

John points towards the vintage clock, but due to its position behind several items, Sarah thinks he is pointing at the mantel clock. They agree on a price of \$500. John believes he is buying a vintage clock (worth \$2000). Sarah believes she is selling the mantel clock (worth \$500). John pays \$500 and arranges for delivery. When the delivery arrives, John finds the mantel clock instead of the vintage clock. John contacts Sarah, claiming there has been a mistake and he was expecting a vintage clock. Sarah insists the agreement was for the mantel clock, as reflected in their discussion and the price agreed upon.

- a) With reference to the hypothetical case and legal authorities, discuss the validity of this contract of sale. [25 marks]
- (b) Advise John on one of the remedies available to him. [5 marks]

QUESTION 4

Technology has found integration in several commercial transactions. Discuss any developments, if any, that have been implemented in the Zimbabwean laws to protect consumers involved in business transactions. **[15 marks]**

❖ END OF EXAMINATION