00322

THE OPEN UNIVERSITY OF SRI LANKA

FACULTY OF HUMANITIES AND SOCIAL SCIENCES

DEPARTMENT OF LEGAL STUDIES

LLB DEGREE PROGRAMME – LEVEL VI

FINAL EXAMINATION - 2023/2024

LLU6716- COMMERCIAL LAW

DURATION – 03 HOURS

Date: 18.05.2025 **Time: 01.30 p.m.-04.30 p.m.**

Total Number of Questions – 08

Answer **<u>FIVE (05)</u>** Questions Only.

Illegible handwriting will be penalized.

1. "The general rule in the law relating to sale of goods is that the risk passes along with the property in goods."
   Discuss the above statement with reference to the relevant statutory provisions and decided cases.

   (20 Marks)

2. Nimal owns a guesthouse. He purchased a microwave oven from Nova Electronics (Pvt) Ltd, a reputable dealer in new and reconditioned electronic appliances. He paid Rs. 35,000 from his credit card. At the time of purchase, Nimal enquired about the use and safety of the oven from Nova Electronics, and the invoice clearly states that the oven is brand new and is **"fit for domestic and commercial use."** Upon the delivery, Nimal started to use it.

   A few weeks later, he felt a slight burning smell from the oven when in use, however he continued to use it. Three months after the purchase, his teenage daughter Ruwani placed a ready-to-eat meal in the oven and left the kitchen. When she returned twenty minutes later, she noticed that the oven was on fire and flames spreading in the kitchen. She attempted to turn off the oven at the wall socket but received several electric shocks.

   The experts who examine the cause of fire state that it is due to the faulty wiring resulting from poor reconditioning. Also, they confirmed that it is not a brand-new oven.

Nimal wishes to know whether Nova Electronics has breached any terms of the sales agreement.
Advise Nimal.
Support your answer with the relevant statutory provisions and case law.

(20 Marks)

3. "Sri Lankan law on the repossession of goods under hire purchase agreements provides effective protection for the rights of both the hirer and the owner."

   In light of the above statement, discuss the rights and obligations of each party with reference to the relevant provisions of the Consumer Credit Act No. 29 of 1982.

(20 Marks)

4. Nadira, the owner of a home decor store, entered in to a fire insurance policy covering the store and its goods with Safe Haven Insurance Co. Ltd. When completing the proposal form, she answered the question, **'Have you ever had an insurance policy cancelled or refused?'** with **'No'**, although the renewal of her health insurance policy has been refused due to non-payment of premiums. In response to the question, **"Is there any significant threat that your store may be damaged by fire?'** she answered **'No'**.

   However, Arjun, her business rival, had previously warned Nadira that he would burn down her store if she competed with him. Nadira did not consider it as a serious threat and ignored it. After several months, the insurance policy was delivered to her. Nadira modified her store by converting a portion of it into a small café to sell hot food and beverages. She failed to inform Safe Haven Insurance Co. Ltd. about this alteration.

   One evening, during a scheduled electricity outage, Nadira used portable gas lamps to light the store. However, when she left store she forgot to switch off one of the lamps, and eventually the lamp fell down, causing a fire in the store. The fire had caused severe damage to the store. Nadeera submitted her claim for damages.

   Safe Haven Insurance Co. Ltd. is now refusing to pay her insurance claim, stating that she has breached certain fundamental principles of insurance.

   Nadeera wishes to know what principles of insurance she is alleged to have breached.
   Advise Nadira.

(20 Marks)

5. Ayesha owns a small food processing business in Colombo and regularly supplies pre-packaged snacks to local stores. Recently, the Food Authority conducted an inspection of

her factory. During the inspection, an Authorized Officer from the Food Authority seized several batches of snacks, claiming that those snacks were not in conformity with Food Act Regulations. The officer also collected samples of the snacks for laboratory analysis without Ayesha's consent.
Ayesha is concerned about the actions of the Authorized Officer and believes that her rights have been violated by the authorized officer. She is unsure whether the officer had the legal authority to seize her goods or take samples without her permission.

Advise Ayesha on the powers of the Food Authority under the Food Act No. 26 of 1980. Support your answer with the relevant statutory provisions and case law.

(20 Marks)

6. "An unpaid seller may exercise his rights in relation to the goods if possession of the goods has not passed to the buyer."

   Does this statement accurately reflect the legal position regarding the rights of an unpaid seller?
   Discuss your answer with reference to the relevant statutory provisions and case law.

(20 Marks)

7. "A negotiable instrument is a *chose in action* (as opposed to a *chose in possession)*. When a person has possession or actual enjoyment of something, he is said to have a *chose in possession*. If however, he merely has a right to claim or demand something by action, as for example, a debt that is owed to him, then he has a *chose in action*."

   Borrie, Gordon J, Commercial Law (5th Ed 1980) p 213

   Discuss the historical evolution of negotiable instruments with reference to the above statement.

(20 Marks)

8. Explain **<u>Any Two (02)</u>** of the following topics:

   a) *Nemo dat quod non habet*
   b) Types of indorsements
   c) The fundamental elements of a Bill of exchange
   d) Crossing Cheques

(10x2=20 Marks)