

THE KENYA SCHOOL OF LAW



PRE-BAR EXAMINATION

COMMERCIAL LAW – PRB 006

8TH JANUARY, 2020

DURATION: 3 HOURS

2.00 PM – 5.00 P.M

Instructions to Candidates

- (a) Answer question ONE and any other THREE questions.
- (b) Each Question carries 25 Marks
- (c) Marks shall be lost for illegible handwriting

PLEASE TURN OVER

Question One

- a) Distinguish between repudiation of a contract and rescission of a contract. (1 Mark)
- b) Name and explain FOUR (4) ways a contract can be vitiated. (4 Marks)
- c) "Freedom to contract is an important element when negotiating a contract." Discuss. (15 Marks)
- d) Using caselaw, explain the difference between implied and express terms in a contract. (5 Marks)

Question Two:

- a) What is a negotiable instrument? (2 Marks)
- b) What does the crossing "not negotiable" mean? (2 Marks)
- c) What are FIVE (5) requirements of a valid promissory note. (10 Marks)
- d) What is a Bill of Exchange? (1 Mark)
- e) "With the advent of mobile money, negotiable instruments have become redundant". Discuss. (10 Marks)

Question Three:

- a) Explain the differences between agency and bailment. (5 Marks)
- b) How is an agency by necessity formed? (5 Marks)
- c) Explain FIVE (5) ways an agent may be found personally liable for his acts in an agency relationship. (15 Marks)

Question Four:

- a) List FIVE (5) advantages of incorporating a company over a sole-proprietorship. (5 Marks)
- b) Explain the role of Directors in a Company. (5 Marks)
- c) Using Case-law, explain the term "lifting the veil of incorporation." (15 Marks)

Question Five:

- a) What is meant by the term "Coveat Emptor" (10 Marks)
- b) Using case-law, discuss the term "nemo dat quad non habet" (15 Marks)

Question Six:

- a. What are FIVE (5) characteristics of a Hire-Purchase agreement. (10 Marks)
- b. What constitutes fitness for purpose under the Sale of Goods Act. (5 Marks)
- c. Distinguish between ascertained and future goods. (5 Marks)
- d. Name 5 remedies of the unpaid seller under the Sale of Goods Act Cap 31. (5 Marks)

END