



BACHELOR OF SUPPLY CHAIN OPERATIONS AND MANAGEMENT
END OF SEMESTER EXAMINATION
SCM 1105: COMMERCIAL LAW

Date: Friday, 10th December 2021

Time: 2 Hours

Instructions:

Answer QUESTION 1 (Compulsory) and ANY OTHER TWO questions

QUESTION 1 COMPULSORY (30 marks)

- A. In each of the following statements, indicate whether the statement is true or false:
- i. General principles of International law forms part of the laws of Kenya
 - ii. A contract can be discharged by mistake
 - iii. A bill of exchange is easily transferable
 - iv. In strict liability torts, the plaintiff must prove that it is the defendant was negligent
 - v. A person can create agency relationship by estoppel
 - vi. Companies in Kenya lack perpetual existence
 - vii. A counter offer is a valid acceptance
 - viii. One advantage of statutory law is that it is democratic
 - ix. Agency by necessity arises in emergency situations
 - x. A contract can be vitiated by performance (10 marks)
- B. Douglas is a male adult of sane mind. He is in the business of importing and selling unique furniture in Kenya. On 4th of May 2021, Douglas made a phone call to Regina. In the phone call, Douglas told Regina as follows, *'I have imported nice furniture from Turkey. I bought a brown set, which I know you will like. I am selling that one for Kshs. 250,000.00. Will you be interested?'* In her response, Regina said, *'send me pictures of the brown set I have a look at them.'* Douglass sent the pictures to WhatsApp and Regina received them. However, Regina never responded to Douglas. On 6th August 2021, Jane (a female adult of sane mind) was passing by Douglas' furniture shop and she saw the same brown set. She was attracted to it. Jane inspected the set and when she was satisfied, she bought the set by paying the required Kshs. 250,000. On 9th September 2021, Regina sent an email to Douglas saying that she likes the brown set and has accepted to buy it at Kshs. 250,000.00. Douglas responded to this email and told Regina that the brown set is no longer available. Regina was annoyed and she threatened to sue Douglas for breach of contract. Douglas has been advised that you are an expert in the law of contract. He has come to you for legal advice. Using the law of contract, analyze these facts and advise Douglas if he breached any contract (10 marks)

C. Distinguish between a sole proprietor and a company (10 marks)

QUESTION 2 (20 marks)

- A. State and explain three types of misrepresentation (6 marks)
- B. Connie hired Eliud to transport Connie's milk from Isiolo to Nairobi. When Eliud reached Nanyuki the van he was using to transport the milk broke down. Eliud did not have any alternative method to transport the milk to Nairobi. He tried to use Matatus but he found out that all taxis and the matatus from Nanyuki to Nairobi were on strike. Eliud tried to contact Connie to ask for directions on what to do under the circumstances. However, he was not able to get Connie. Afraid that the milk would go bad, Eliud decided to sell the milk to people in Nanyuki town. He fetched Kshs. 70,000.00 from the sale. Later that evening, Eliud's van was repaired and he travelled to Nairobi. When he reached Nairobi, he explained what had happened and handed Connie the Kshs. 70,000.00. Connie refused to accept the amount and demanded 100,000.00 from Eliud. Connie argued that her milk would have fetched Kshs. 100,000.00 in Nairobi. She is now demanding Eliud to pay the remaining Kshs. 30,000.00. Eliud does not know what his legal position is under these circumstances. Using the law of agency, analyze these facts and advise Eliud (14 marks)

QUESTION 3 (20 marks)

- A. In relation to the law of torts, briefly discuss three types of trespass to person (6 marks)
- B. State four advantages of case law as a source of law (4 marks)
- C. In relation to the law of contracts, state and explain ways an offer can be terminated (10 marks)

QUESTION 4 (20 marks)

- A. Briefly describe five types of damages that may be awarded for breach of contract (10 marks)
- B. Briefly describe five types of bills of exchange (10 marks)

QUESTION 5 (20 marks)

- A. State five superior courts in Kenya (5 marks)
- B. Briefly discuss four factors that undermine the rule of law in Kenya (8 marks)
- C. State seven steps to be followed in a criminal case if the accused pleads not guilty until judgement is delivered (7 marks)