

**KABARAK**



**UNIVERSITY**

**UNIVERSITY EXAMINATIONS**

**2009/2010 ACADEMIC YEAR**

**FOR THE DEGREE OF BACHELOR OF BUSINESS  
MANAGEMENT AND INFORMATION TECHNOLOGY**

**COURSE CODE: BMGT 212**

**COURSE TITLE: BUSINESS LAW**

**STREAM: Y2S1**

**DAY: FRIDAY**

**TIME: 2:00 – 5:00 P.M.**

**DATE: 04/12/2009**

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**INSTRUCTIONS:**

**Answer Question One and any other Three Questions**

1. (a). (i). Highlight the main requirements of a contract in order for it to be legally binding. **(6 Marks)**
- (ii). Explain the presumptions relating to intention to create legal relations with respect to the following bringing out clearly the doctrine of freedom (sanctity) of a contract.
- (a). Domestic/Social Agreements **(4 Marks)**
- (b). Commercial Agreements **(4 Marks)**

- (b). On Monday 20<sup>th</sup> June, 2009 the following notice is placed on the window of Kabarak electronics Limited “2 very nice printers – 15,000/= each”. John and Dianah are very keen to acquire the Printers but think that the price is too high. They each offer Kabarak Electronics Limited, Kshs. 12,000/= Kabarak Electronics refuses to sell at that price but says it can accept Kshs. 13,000/=. Further it says it will keep the offer to them open until 12 O’clock of the following Friday 25<sup>th</sup> June 2009, if they each pay it Kshs. 1,000/=. John and Dianah agree and each pays Kshs. 1,000/=. On Thursday before the deadline they have to leave the country for other business but before they leave, each posts a letter stating they agree to buy the printers at the agreed price of 13,000/= each. John’s letter arrives at 9:30 a.m. on the Friday morning but Dianah’s letter is delayed and arrives on the morning of Saturday 26<sup>th</sup> June 2009. In any event Kabarak Electronics Limited, had already sold both printers to Kefa on Thursday 24<sup>th</sup> June 2009 for a total of Kshs. 30,000/=.

**Required:-**

Analyze the above situation from the point of Contract Law emphasizing particularly on the offer and acceptance. In particular advise the parties as to their rights liabilities and the potential remedies available to them under Contract Law **(15 Marks)**

- (c). (i). Explain briefly the sources of law in Kenya with emphasis on the major Sources. **(5 Marks)**
- (ii). Explain the doctrine of binding precedent in Kenya Legal system, paying particular regards to:-
- (a). The hierarchy of the courts. **(3 Marks)**
- (b). The relative advantages and disadvantages of the doctrine. **(3 Marks)**

**(TOTAL MARKS 40)**

2. (a). Distinguish between a sale and an agreement to sell under the Law of Sale of Goods Act cap 31 laws of Kenya. **(8 Marks)**
- (b). P sold barley to B by sample. B resold the barley to X. when the barley was delivered to B, he inspected the sample of it and sent it to X. X rejected it as not being according to the sample. B also claimed to be entitled to reject the barley. Can he succeed? **(6 Marks)**

- (c). Explain why it is important to know who has “property in goods between the seller and the buyer at any given time. **(6 Marks)**  
**(TOTAL MARKS 20)**

- 3.(a). A, agreed to sing in an Opera for the opening day and the subsequent days of the show. She failed to sing on the opening night. B, the organizer hired an alternative singer. A sued B for breach of contract. Taking into account classification of terms of a contract generally can A succeed?  
**(6 Marks)**

- (b). A, hired a room in a Hotel. He paid at the reception. When he went into the room, there was a note excluding the owners to the hotel from liability for loss of baggage in the hotel. His luggage was stolen. He sued the hotel.  
  
In regard to requirements of a valid exemption (exclusion) clause, briefly explain whether A can succeed. **(6 Marks)**

- (c). Nameless agree to perform at Kenya National Theatre on 12<sup>th</sup> June 2009 but with requirement that he was to go for rehearsal 6 days before the D-day. He failed to attend rehearsal for 3 days as he was ill. When he went for rehearsal for 3 days, the organizers had repudiated the contract and refused him to participate. He comes to you as Judge to decide – DECIDE.  
**(8 Marks)**  
**(TOTAL MARKS 20)**

4. Harry, Pamela, Peter and Yego who are commerce students at Kabarak University intends to form a private company known as Happy Company Limited.

They seek your advice on the following issues:- Advice them.

- (i). the meaning of a Private Limited Company according to the companies Act. **(3 Marks)**
- (ii). A summary of the main steps they will need to take to effect on the formation of the company. **(5 Marks)**
- (iii). Main advantages of trading as a Private Limited Company. **(3 Marks)**
- (iv). Assuming they wish to convert the Private Company into a Public Company, what would be the conversion procedure?(**5 Marks)**
- (v). The differences between Memorandum of Association and Articles of Association and Contents in each. **(4 Marks)**  
**TOTAL MARKS 20)**

5. (a). In relation to the dismissal of an employee explain

- (i). The grounds upon which dismissal may be fair. **(5 Marks)**
  - (ii). The grounds upon which dismissal will be automatically unfair. **(5 Marks)**
  - (iii). Explain in the context of employment Law, the common duties imposed on an employer. **(5 Marks)**
  - (iv). Explain the doctrine of Redundancy in employment and it's requirements. **(5 Marks)**
- (TOTAL MARKS 20)**

6. Write brief notice on the following supporting your answer with Cases/Examples:-

- (a). Ways of creating agency **(6 Marks)**
  - (b). General defences available to a defendant in an action arising out of a tort. **(6 Marks)**
  - (c). General Characteristics of Negotiable Instruments **(8 Marks)**
- (TOTAL MARKS 20)**