



MASENO UNIVERSITY
UNIVERSITY EXAMINATIONS 2016/2017

**SECOND YEAR SECOND SEMESTER EXAMINATIONS FOR THE
DEGREE OF BACHELOR OF BUSINESS ADMINISTRATION WITH
INFORMATION TECHNOLOGY**

HOMA-BAY CAMPUS

ABA 208: BUSINESS LAW II

Date: 18th June, 2017

Time: 9.00 - 12.00 noon

INSTRUCTIONS:

- Answer question ONE and any other THREE questions.
- Question ONE carries 25 marks and the rest 15 marks each.



1(a) "Kamau sells a patent to Onyango in consideration of Onyango's paying royalties to Kamau. At the same time Onyango advances to Kamau a sum of Kshs. 925,000/= as a loan. It is agreed that Onyango should retain one-half of the royalties as they become payable to Kamau, from time to time, towards the Satisfaction of the debt provided that if Kamau should become bankrupt Onyango shall have the right to retain the whole of the royalties in satisfaction of the debt. Kamau becomes bankrupt before the debt is fully paid". Can Onyango retain the royalties as stipulated? Give reasons to your answer. (5 marks)

1(b) "On a debtor's application for discharge the court ordered, "The court does not grant absolute order of discharge but grants a conditional one. The condition being that creditors may recover their dues, if within time, until they become irrecoverable". Examine the validity of the order. (5 marks)

1(c) Explain cases where the court may annul an order of adjudication. (15 marks)

2(a) Explain the privileges of a holder in due course of an instrument. (10 marks)

2(b) A bill is addressed to Harbert Morris who is a partner in the firm "Perkin and partner". Harbert Morris accepts the bill in the firm's name. Explain whether he will be personally liable on the bill or not. (5 marks)

3(a) Discuss the fundamental principles of a contract of insurance. (10 marks)

3(b) "Nyar Suba made a proposal to Occidental Insurance Company for an Insurance policy on her life for Kshs. 2,000,000/=. She truthfully answered all questions on the proposal and disclosed all relevant facts. A few days after but before the proposal was accepted, Nyar Suba was taken ill with pneumonia. The proposal was accepted by Occidental Insurance Company the next day. Two days after Nyar Suba died of pneumonia and Occidental Insurance company then learnt for the first time of her death". Explain if Occidental Insurance Company is liable to pay the claim. (5 marks)

4(a) Discuss implied conditions in a contract of sale of goods. (12 marks)

4(b) R bought a motor car from D and used it for four months. D had no title to the car. R was forced to return the car to the true owner. Explain the rights of R. (3 marks)

5(a) In the absence of any contract to the contrary; which property are considered to be partnership property? (10 marks)

5(b) A, B and C are partners in a business. According to the partnership contract, A is entitled to half of the partnership property and profits. A becomes bankrupt but B and C continue the business under the same name without paying out A's share of assets of the firm. Is A's official receiver entitled to any of the profits made in the business by the firm after the date of A's bankruptcy? (5 marks)

6(a) Explain the rule of nemo dat quod non habet and its exceptions. (10 marks)

6(b) In the absence of any usage or custom of trade to the contrary; explain the acts outside the scope of the implied authority of a partner. (5 marks)