

CHUKA



UNIVERSITY

**UNIVERSITY EXAMINATIONS
EMBU/THARAKA**

EXAMINATION FOR THE AWARD OF DEGREE OF BACHELOR OF COMMERCE

BCOM 301: BUSINESS LAW II

STREAMS:BCOM Y3S1

TIME: 2 HOURS

DAY/DATE: TUESDAY 10/04/2018

8.30 A.M – 10.30 A.M

INSTRUCTION:

- **Answer question one and any other three**
- **Do not write anything on the question paper**

1. (a) A to meet the claims of his creditors, borrowed ksh 10,000 from B to protect his interest, B, takes out an insurance policy on the life of A. A pays the entire amount to B and then dies. Can B recover on the policy? Give reasons for your answer. [5marks]
- (b) With reference to contract of sale of goods, explain the implied conditions on the part of the seller under Cap 31 laws of Kenya. [10marks]
- (c) A wanted to purchase paint from B. He went to B's hardware and was shown the samples of paint in 20kg containers. He examined them but did not open even one of them although they were openable. He made an order for 50 containers. On delivery the paint proved to be of wrong quality. He refused to accept. They have come before you as a judge. Decide their rights under Cap 31. [5marks]
- (d) B buys from A, a furniture maker a cabinet for ksh 5,000 and pays the whole price and informs A that he will take the cabinet away in a fortnight. A thereafter sells the cabinet to C and receives payment on cash. What is the nature of C's title to the cabinet? [5marks]
- (e) "The law of partnership is an extension of the law of agency" Discuss. [5marks]

2. (a) Peter asked Jane for a hot water bottle and inquired whether it would stand boiling water. Jane sold to Peter an American rubber bottle, saying it would stand hot, but not boiling water. The bottle which was purchased by Peter for his wife burst and injured her when it was filled with hot water. Does Peter have any remedy? [5marks]
- (b) State and explain the rules governing the passing of property under contracts for sale of goods in cases where the parties have not indicated an intention that it should pass at any particular time. [10marks]
- (c) Explain the fiduciary duties of a partner in a firm. [5marks]
3. (a) Peter and Kenneth are business law II students at Chuka University. After their class, they had an argument as to whether a seller can ever sell what he does not own. Peter said it is possible at all. Kenneth said that at some instances it is allowed to sell what does not belong to you and yet pass a good title to the buyer. Briefly explain who was right and instances which support your explanation. [11marks]
- (b) X a creditor of a firm consisting of A and B, sued A and obtained a decree against him. Having failed to recover anything on his decree against A, X files a suit against B. Advise B. [5marks]
- (c) Explain protesting as used in negotiable instruments Act. [4marks]
4. (a) Under a contract for sale of goods, it is very important to know who has the “property in goods” at any given time. Briefly explain why this is important. [5marks]
- (b) Explain the principles of insurance. [10marks]
- (c) Explain the rights of common carriers. [5marks]
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