

COUNCIL OF LEGAL EDUCATION

**EXAMINATION FOR AWARD OF DIPLOMA
IN LAW (PARA-LEGAL STUDIES)**

APRIL, 2010

COMMERCIAL LAW 1

Instructions

- (a) Answer **QUESTION 1 and ANY OTHER THREE QUESTIONS**
- (b) QUESTION 1 is **COMPULSORY** and carries 25 marks
- (c) All other questions carry 15 marks each
- (d) Marks may be lost for illegibility
- (e) Time allowed is **Two (2) Hours**

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1. (a) Sarah purchased a fridge worth Kshs.40,000 on Wednesday from Fair Supermarkets Ltd and paid the price in full. The subject fridge was marked as "sold".

Unable to transport it on the day she purchased it, she promised to take delivery of the fridge on Friday. Unfortunately on the night of Thursday a fire broke out in the supermarket and all the property therein was destroyed. Sarah contemplates suing the supermarket.

- (i) Advise Sarah on her probability of success in such a suit. **(5 marks)**

- (ii) Elaborate to Sarah FIVE rules as envisaged under S.20 of the Sale of Goods Act, that are employed to determine when property in goods passes from seller to the buyer. **(10 marks)**

- (b) The concept of transfer of property in goods is a significant one. Highlight the significance of this concept. **(4 marks)**

- (c) The rule at common law was *nemo dat quod non habet*.

- (i) Explain the meaning of this legal maxim. **(2 marks)**

- (ii) Highlight four (4) exceptions to the rule above. **(4 marks)**

2. (a) Explain any FIVE types of agents and elaborate how an agency relationship arises in the different types of agents. (10 marks)
- (b) In the course of pursuing your career, you may find yourself acting as an agent to your principal. Outline five duties which you would be expected to observe. (5 marks)
3. (a) Define hire-purchase agreement. (2 marks)
- (b) Explain the differences between:
- (i) Hire-purchase and Sale (3 marks)
 - (ii) Hire-purchase and Credit (3 marks)
 - (iii) Hire-purchase and Conditional Sale (3 marks)
- (c) Before a hire-purchase agreement is entered into the owner must inform the prospective hirer in the prescribed form, the cash price of the goods he wants to hire.
- Highlight the legal effect of not disclosing that information. (4 marks)
4. (a) Highlight the remedies available to an unpaid seller. (5 marks)
- (b) Explain the meaning of the following contracts particularly in terms of duties of the parties in various contracts:
- (i) FOB Contract (2 marks)
 - (ii) CIF Contract (2 marks)
 - (iii) FAS Contract (2 marks)
 - (iv) Ex-Ship Contract (2 marks)
 - (v) Ex-Works Contract (2 marks)
5. (a) An agency relationship may be terminated in two broad ways, either by act of the parties or by operation of the law.
- Explain any FIVE ways in which an agency relationship may be terminated by operation of the law. (10 marks)