



MURANG'A UNIVERSITY COLLEGE

**(A Constituent College of Jomo Kenyatta University of Agriculture and Technology)
University Examinations 2014/2015**

MAIN EXAM

COURSE CODE: HBT 2203

COURSE TITLE: Commercial Law

ACADEMIC PROGRAMME: Bachelor of Business Information Technology

YEAR OF STUDY: 2nd Year

ACADEMIC YEAR: 2014/2015

SEMESTER: 2nd Semester

CAMPUSES TO BE ADMINISTERED: Main

DATE: 23RD APRIL 2015

DURATION: 2 hrs

Instructions to Candidates

- 1. Answer question ONE (compulsory) and any other TWO questions**
- 3. Time allowed is TWO (2) Hours**
- 4. Statutory provisions and cases must be adequately referred to where appropriate.**

QUESTION ONE

(a) Makanika operates a small business manufacturing specialist engine filters. In January he placed an advertisement in a car trade magazine stating that he would supply filters at Ksh. 600 per filter, but would consider a reduction in the price for substantial orders. He received a letter from Probox Cars Ltd requesting his terms of supply for 1,000 filters. Makanika replied, offering to supply the filters at a cost of Ksh. 500 each. Probox Cars Ltd responded to Makanika's letter stating that they accepted his offer but that they would only pay Ksh. 450 per filter. Makanika wrote back to Probox Cars Ltd stating that he would supply the filters but only at the original price of Ksh. 500. When Makanika's letter arrived, the purchasing director

of Probox Cars Ltd did not notice the alteration of the price and ordered the 1,000 filters from Mekanika, which he supplied.

With reference to case law;

Analyse the situation from the perspective of contract law explaining the legal position of each form of communication between the two and in particular advise Mekanika what price he is entitled to claim from Probox Cars Ltd. **(8 Marks)**

(b) Mr. Karanja signed blank cheques and left them with his wife to draw cash while he was away attending to business affairs. Mrs Karanja instructed Hatari, a clerk in the firm of Karanja and Karanja Associates to fill in the cheques. Hatari filled in the amount leaving a gap after the words "Sh." and wrote the amount in words from the middle of the line without using a capital letter. Hatari showed the cheques to Mrs Karanja written "Sh. 50,000" and fifty thousand only." He was authorized to encash the cheque. However before presenting the cheque for payment Hatari added figure "3" to the amount in figures and "three hundred and" in the words. He then cashed the cheque for Sh. 350,000. He then gave Mrs. Karanja Sh. 50,000 only. These facts have come to light after Hatari's resignation and Mr. Karanja intends to sue his bankers.

Advise the bank.

(6 Marks)

(c) Atieno and Nafula are neighbours in Kijiji Bandi village. Last year, Atieno quarreled with Nafula's employee, Nafula's employee collected stinking rubbish from a compost heap in Nafula's compound and threw it into Atieno's compound. Atieno is aggrieved by this action and in retaliation, she forcefully gains entrance to Nafula's land, waving a panga at Nafula. They engage in a heated argument which soon degenerates into a fist fight with Atieno slapping and raining a few blows on Nafula by the time they are separated. Analyse the above scenario, pointing out the various torts committed and who is liable for each tort. **(6 Marks)**

(d) Describe the process which a bill concerning county governments undergoes before becoming law in parliament. **(10 Marks)**

QUESTION TWO

(a) With the aid of a well labeled diagram, explain the court system in Kenya **(10 marks)**

(b) Explain the various rules on acceptance in contracts. **(10 Marks)**

QUESTION THREE

- (a) Analyze instances in which an agent may incur personal liability in a contract. **(10 Marks)**
- (b) Explain the various tests that courts have developed in order to establish whether one owed another a duty of care. **(10 Marks)**

QUESTION FOUR

- (a) Describe five administrative tribunals in Kenya briefly describing who sits in these tribunals, kind of cases they hear, and where those dissatisfied with their rulings appeal to. **(10 Marks)**
- (b) Explain the essential requirements for a valid bill of exchange. **(10 Marks)**

QUESTION FIVE

With reference to case law and statutory provisions where relevant, write brief explanatory notes on the following:

- (a) Golden Rule **(5 Marks)**
- (b) *Novus actus interveniens* **(5 Marks)**
- (c) Differences between Torts and Contracts **(5 Marks)**
- (d) Performance of existing contractual duty is not good consideration **(5 Marks)**