



## MURANGA UNIVERSITY COLLEGE

(A constituent College of Jomo Kenyatta University of Agriculture & Technology)

**COURSE CODE: HPS 2204**

**COURSE TITLE: Business Law I**

**ACADEMIC PROGRAMME: Bachelor of Purchasing and Supplies Management**

**YEAR OF STUDY: 2<sup>nd</sup> Year**

**ACADEMIC YEAR: 2014/2015**

**SEMESTER: 1<sup>st</sup> Semester**

**DATE: 4<sup>TH</sup> AUGUST 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.**

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### 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 Makanika, which he supplied.

With reference to case law;

Explain the legal position of each communication made between the two, concluding whether there was a valid contract or not. **(8 Marks)**

In particular advise Makanika what price he is entitled to claim from Probox Cars Ltd and why. **(2 Marks)**

b) Shifwoka, a former student at Musingu High School owes the school Sh. 50,000 as fees in arrears. Mr. Kiboko the principal of the school wrote a demand letter to Masikini, Shifwoka's father threatening to sue Shifwoka if the school fees in arrears was not cleared within seven days. Masikini approached Mr. Kiboko and offered to make payment by delivering 30 bags of maize valued at Sh. 30,000, on condition that it would be full and final payment of the debt owed to the school. Mr. Kiboko accepted the offer and the maize was delivered to the school. Two years later, Shifwoka was employed and Mr. Kiboko now intends to sue him for the fee balance.

Explain the legal principles and advice Shifwoka **(5 Marks)**

c) Omwami negligently hit Jillo with a vehicle along Mumias road. Jillo died on the spot from the impact of the accident. Jillo's family has come to see you with several potential claims they want to recover from Jillo. Jillo's wife Sweeti wants to be paid 5 million because she will no longer enjoy the 'fabulous' conjugal rights she was entitled to from Jillo. Jillo's son, Osama argues that the death of his father now means he cannot enroll for the B. Com degree that his father was to pay for next year and so it's a missed opportunity. He wants to be paid 12 million as the amount he would have earned as senior financial analyst. The family is also claiming 6 million as expenses they spent on the mortuary fees, casket cost and other funeral expenses.

With aid of decided case(s), advise them on the success of each of their claims. **(5 Marks)**

d) Explain the various sources of law in Kenya. **(10 Marks)**

### **QUESTION TWO**

a) A person will have breached his duty of care if his conduct falls below the standard expected of him. The courts have developed numerous rules to establish the correct standard of care expected of persons.

Discuss these rules **(10 Marks)**

b) "Not all agreements are intended to be legally binding,"- Lord Reid in *Balfour v Balfour*

With adequate reference to decided cases, discuss this statement in connection with domestic/social and also commercial agreements **(10 Marks)**

### **QUESTION THREE**

a) The tests which the courts adopt to distinguish between employees and independent contractors are poorly equipped to deal with the variety of types of employment relationship in the modern labour market. They are in dire need of review.

Critically evaluate this statement. **(10 Marks)**

b) With the aid of a well labeled diagram, describe the court structure in Kenya, capturing the Establishment, Composition, Jurisdiction, and appellate right for each court **(10 Marks)**

### **QUESTION FOUR**

(a) Elaborate on the various common law duties of the employer. **(10 Marks)**

(b) Describe the various ways in which an agency relationship is established. **(10 Marks)**

### **QUESTION FIVE**

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

(a) Promissory Estoppel and its requirements **(5 Marks)**

(b) Differences between criminal and civil law **(5 Marks)**

(c) *Novus Actus Interveniens* **(5 Marks)**

(d) Postal rule **(5 Marks)**