

# KASNEB

ATD LEVEL I

DCM LEVEL I

## COMMERCIAL LAW

MONDAY: 21 November 2016.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

### QUESTION ONE

- (a) Highlight four inadequacies of common law which triggered the development of the principles of equity. (8 marks)
- (b) With specific reference to classification of law:
- (i) Distinguish between “municipal law” and “international law”. (4 marks)
- (ii) State two examples of both “municipal law” and “international law”. (4 marks)
- (c) Outline four ways in which a contract of guarantee might be terminated. (4 marks)
- (Total: 20 marks)**

### QUESTION TWO

- (a) In relation to the law governing negotiable instruments, identify five persons who might be parties to a negotiable instrument. (10 marks)
- (b) With specific reference to the law of contract:
- (i) Explain the remedy of “specific performance”. (2 marks)
- (ii) Summarise four circumstances under which a court of law could decline to grant the remedy in (b) (i) above. (8 marks)
- (Total: 20 marks)**

### QUESTION THREE

- (a) In the context of the law of agency:
- (i) Explain the meaning of the term “agent”. (2 marks)
- (ii) Explain four ways through which the authority of an agent might be revoked by operation of the law. (8 marks)
- (b) With reference to the court structure explain the following:
- (i) Establishment of the Supreme Court. (2 marks)
- (ii) Composition of the Supreme Court. (3 marks)
- (iii) Jurisdiction of the Supreme Court. (5 marks)
- (Total: 20 marks)**

### QUESTION FOUR

- (a) With regard to the law of the sale of goods:
- (i) Outline four ways through which a contract of sale of goods is made. (8 marks)
- (ii) Explain the meaning of the term “unascertained goods”. (4 marks)
- (b) Highlight four situations which of themselves do not constitute a partnership. (4 marks)
- (c) Explain four ways through which a partner can exercise their implied authority. (4 marks)
- (Total: 20 marks)**

**QUESTION FIVE**

- (a) Outline four ways through which co-ownership of property might be terminated. (4 marks)
  - (b) Herbert Mapesa, a rich but illiterate freehold property owner, has leased his property for a number of years to Kamau Wekesa. Herbert Mapesa wishes to repossess the property for his own use and seeks to know the various legal ways through which a lease might be terminated.  
  
Advise Herbert Mapesa. (8 marks)
  - (c) Discuss the essential requirements of a hire purchase agreement. (8 marks)
- (Total: 20 marks)**

**QUESTION SIX**

- (a) Highlight four features that distinguish a “partnership” from a “limited liability company”. (8 marks)
  - (b) Identify four rights of a member of a co-operative society. (4 marks)
  - (c) Explain two ways of acquiring citizenship. (2 marks)
  - (d) Summarise three types of domicile. (6 marks)
- (Total: 20 marks)**

**QUESTION SEVEN**

- (a) Describe four defences available to a person who commits the tort of nuisance. (8 marks)
  - (b) (i) Discuss four objectives of reinsurance. (8 marks)
  - (ii) A contract of insurance is a contract of “uberimae fidei”.  
  
Explain the above statement. (4 marks)
- (Total: 20 marks)**

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