



TECHNICAL UNIVERSITY OF MOMBASA

SCHOOL OF BUSINESS

DEPARTMENT OF BUSINESS ADMINISTRATION

UNIVERSITY EXAMINATION FOR:

BACHELOR OF BUSINESS ADMINISTRATION, BACHELOR OF COMMERCE

BMG 4301: BUSINESS LAW II

END OF SEMESTER EXAMINATION

SERIES: DECEMBER 2016

TIME: 3HOURS

DATE: 7th Dec 2016

Instructions to Candidates

You should have the following for this examination

-Answer Booklet, examination pass and student ID

This paper consists of **FIVE** questions. Attempt **question ONE (Compulsory)** and **any other TWO** questions.

Do not write on the question paper.

Question ONE

Kabogo, Kitsao, Maimuna and Kwame are partners trading under the firm name of Millennium Enterprises. Millennium Enterprises deals with importation and exportation of motor vehicles from Japan. On the 12th of May, 2016 Kabogo entered into an agreement with Mzalendo for the purchase of his parcel of land at Kiembeni for a sum of Ksh. 480,000 using the firm's name. Subsequently, the other partners refused to authorize the payment of the purchase price to Mzalendo.

- a) Critically advise Mzalendo on the legal steps he can take against Kabogo or the firm (if any) **(12 Marks)**.
- b) Aided by relevant provisions of the Sales of Goods Act, Chapter 31 Laws of Kenya, explain the subject matter of a contract of sale **(8 Marks)**.
- c) Discuss the formalities of a contract of hire purchase **(10 Marks)**.

Question TWO

- a) In absence of an agreement between parties to a contract of sale, how is ownership passed from the seller to the buyer **(14 Marks)**

b) The presence of two or more persons carrying on business in common with a view of making profit is not a conclusive evidence of partnership. Explain the above statement in line of your study of the partnerships Act, of 2012 **(6 Marks)**

Question THREE

a) Define the term property and further explain the types of properties recognized both in common law and the laws of Kenya **(14 Marks).**

b) Distinguish between a condition and a warranty **(6 Marks).**

Question FOUR

a) Discuss the procedure to be followed upon termination of a hire purchase agreement **(10 Marks)**

b) Aided by relevant provisions of the law and case law advice on the rights of a principal debtor in a contract of guarantee **(10 Marks)**

Question FIVE

a) In the law of indemnity, distinguish between a counter claim and a set off **(8 Marks).**

b) Discuss the capacity to buy and sell **(12 Marks).**