



ATD LEVEL I

INTRODUCTION TO LAW AND ETHICS

WEDNESDAY: 24 April 2024. Afternoon Paper.

Time Allowed: 2 hours.

This paper is made up of fifty (50) Multiple Choice Questions. Answer ALL questions by indicating the letter (A, B, C or D) that represents the correct answer. Each question is allocated two (2) marks. Do NOT write anything on this paper.

1. Which of the following are features of criminal law?
 - (i) The burden of proof is on the prosecution
 - (ii) The parties are called 'the claimant' and 'the defendant'
 - (iii) The cases are heard in the Magistrates' Court and the Court of appeal only
 - (iv) The standard of proof is beyond reasonable doubt

A. (i) and (iv)
B. (i), (iii) and (iv)
C. (iii) and (iv)
D. (i), (ii) and (iii) (2 marks)
2. Perris Harrison has been convicted of grievous bodily harm in the Principal Magistrate's Court. She believes that her prison sentence is too long. Which court would be appropriate to hear her appeal?

A. The Supreme Court
B. The High Court
C. Court of Appeal (Criminal Division)
D. The Resident Magistrates' Court (2 marks)
3. Which of the following correctly describes the persuasive element of a judgment?

A. Ratio decidendi
B. Consensus adidem
C. Stare decisis
D. Obiter dicta (2 marks)
4. "Delay defeats equity" refers to which maxim among the following?

A. A common law principle
B. The equitable doctrine of ultra vires
C. An equitable maxim
D. An equitable remedy (2 marks)
5. Which of the following methods of Alternative Dispute Resolution (ADR) involves a neutral third party who acts as a go-between for the disputing parties but does not offer an opinion?

A. Mediation
B. Negotiation
C. Conciliation
D. Arbitration (2 marks)
6. Which of the following circumstances would NOT make a consideration under the law of contract unlawful?

A. If it is ultra vires
B. If it is immoral
C. If it is forbidden by law
D. If its injurious to a person or property (2 marks)

7. Which of the following is **NOT** a characteristic of an ethical person?
A. Honest
B. Performs plagiarism
C. Accepts mistakes
D. Accountable (2 marks)
8. Which of the following **BEST** defines a company's logo?
A. Patent
B. Copyright
C. Trademark
D. Service mark (2 marks)
9. Which of the following is **NOT** a source of law?
A. Public opinion polls about current events
B. Treaties between different countries
C. Decisions made by judges in individual cases
D. Legal maxims passed down through generations (2 marks)
10. Which principle regulates the delegation of legislative power to administrative agencies?
A. Separation of powers
B. Non-delegation doctrine
C. Rule of law
D. Delegata potestas non potest delegari (2 marks)
11. Which type of endorsement makes a negotiable instrument payable to the order of a specific person?
A. Blank endorsement
B. Restrictive endorsement
C. Special endorsement
D. Qualified endorsement (2 marks)
12. What is the primary focus of normative ethics?
A. Describing ethical behaviour
B. Analysing ethical language
C. Prescribing how one ought to act
D. Observing cultural practices (2 marks)
13. What is the term that refers to the person or entity that purchases insurance?
A. Insurer
B. Policyholder
C. Beneficiary
D. Underwriter (2 marks)
14. Which of the following **BEST** explains the term "premium"?
A. The total amount of coverage provided by the policy
B. The deductible paid by the insured
C. The cost of the insurance policy
D. The maximum amount the insurer will pay (2 marks)
15. In reference to business ethics, what is the meaning of the term "whistleblowing"?
A. Promoting cultural norms
B. Reporting unethical practices within an organisation
C. Maximising happiness for shareholders
D. Upholding individual preferences (2 marks)
16. Which of the following is an advantage of online business registration services?
A. Convenience
B. Limited personal Interaction
C. Security concerns
D. Lack of customisation (2 marks)

17. What is the primary distinction between “real property” and “personal property”?
- A. Real property is movable; personal property is immovable
 - B. Real property includes land and immovable structures; personal property includes movable items
 - C. Real property is tangible; personal property is intangible
 - D. Real property is owned by individuals; personal property is owned by businesses
- (2 marks)
18. Which term refers to the legal right to use and enjoy the possession of another's real property for a specific purpose?
- A. Eminent domain
 - B. Easement
 - C. Leasehold
 - D. Adverse possession
- (2 marks)
19. Which of the following is **NOT** a requirement in the legal principle found in the rule in Rylands v. Fletcher?
- A. Causing mischief
 - B. Escape
 - C. Damage
 - D. Malice
- (2 marks)
20. Which statement distinguishes “tribunals” from “regular courts”?
- A. Tribunals handle only criminal cases
 - B. Tribunals are part of the executive branch
 - C. Tribunals have specialised jurisdiction and procedures
 - D. Tribunals are exclusively presided over by judges
- (2 marks)
21. What happens to the assets of an unincorporated association if it is dissolved?
- A. Distributed among members
 - B. Transferred to a government fund
 - C. Sold and the proceeds donated to charity
 - D. Distributed as provided in the by-laws
- (2 marks)
22. What is the primary basis for acquiring Kenyan citizenship?
- A. Birth within the territory of Kenya
 - B. Residence for a specified period
 - C. Investment in the Kenyan economy
 - D. Marrying a Kenyan citizen
- (2 marks)
23. In a partnership, how is the liability of the partners treated?
- A. Limited liability
 - B. Joint liability
 - C. No liability
 - D. Separate liability
- (2 marks)
24. Which of the following is an intentional tort?
- A. Negligence
 - B. Defamation
 - C. Strict liability
 - D. Breach of duty
- (2 marks)
25. Which of the following statements **BEST** describes “strict liability”?
- A. Liability without fault or negligence
 - B. Liability based on intentional harm
 - C. Liability only when a duty is breached
 - D. Liability with a lower standard of care
- (2 marks)
26. What does the law of tort primarily govern?
- A. Criminal offenses committed by individuals or organisations
 - B. Contracts between parties involved in business transactions
 - C. Civil wrongs that result in harm or injury to individuals or property
 - D. Intellectual property rights and disputes between creators and users
- (2 marks)

27. What is the purpose of the doctrine of frustration in contract law?
A. To punish the breaching party
B. To discharge a contract when unforeseen events make performance impossible
C. To enforce specific performance
D. To award punitive damages (2 marks)
28. What type of damages aim to compensate the non-breaching party for the actual loss suffered as a result of the breach?
A. Liquidated damages
B. Punitive damages
C. Nominal damages
D. Compensatory damages (2 marks)
29. In a contract for the sale of goods, what term refers to an assurance or guarantee made by the seller about the quality or condition of the goods?
A. Warranty
B. Condition
C. Representation
D. Exclusion clause (2 marks)
30. In a hire purchase agreement, who is the legal owner of the goods during the hire period?
A. Hirer
B. Seller
C. Both hirer and seller jointly
D. No legal ownership during the hire period (2 marks)
31. What is the legal relationship between an agent and a principal in the context of agency law?
A. Employer and employee
B. Independent contractors
C. Fiduciary and principal
D. Joint venture partners (2 marks)
32. Which of the following statements is an example of apparent authority in agency law?
A. An agent acting beyond their express authority
B. A principal ratifying the agent's unauthorised actions
C. A third party reasonably believing the agent has authority
D. An agent disclosing confidential information (2 marks)
33. Which of the following statements represents the primary purpose of a contract of indemnity?
A. To transfer property
B. To share profits
C. To compensate for losses
D. To create a lease agreement (2 marks)
34. Which of the following matters is **NOT** referred to arbitration proceedings?
A. Contract matters
B. Civil matters
C. Matrimonial matters
D. Property matters (2 marks)
35. Which one of the following statements gives the correct meaning of a "partnership"?
A. A business structure where ownership is divided between shareholders
B. A legal form of business where two or more individuals share ownership, responsibilities and profits
C. A business organisation where a single individual bears all risks and enjoys all profits
D. A business entity that is separate from the owners and provides limited liability to its shareholders (2 marks)
36. Which is the lowest court in the court system of your country?
A. Magistrate courts
B. Court of appeal
C. Tribunals
D. Kadhis court (2 marks)

37. Which of the following is the **MOST** accurate description of civil law?
A. Civil law is an aspect of public law
B. Civil law relates to controlling conduct or wrong-doing of which it disapproves
C. Civil law relates to the enforcement of particular forms of behaviour
D. Civil law is a form of private law and involves the relationships between individuals (2 marks)
38. The act of buying an asset by making periodic payments is known as_____
A. Sale of uncertain goods
B. Hire purchase
C. Finance lease
D. Goods lease (2 marks)
39. Which of the following roles is **NOT** a role of the office of the Attorney General?
A. To supervise judges and magistrates
B. To delegate his functions to other officers in his department
C. To institute and undertake criminal proceedings against any person in any court other than courts-martial for any alleged offence
D. To take over and continue criminal proceedings undertaken by any other person or authority (2 marks)
40. Which of the following statements defines "cause of action"?
A. Wrongful indirectly causing injury
B. Formal written act of legislative body
C. Legal right of injured party to bring a lawsuit against the wrongdoer
D. Right that originates in a constitution and protects (2 marks)
41. Under an unconditional contract for sale of specific goods in a deliverable state, the property passes to the buyer when the _____.
A. Contract is made
B. Payment is made
C. Goods are delivered
D. Buyer accepts the delivery of goods (2 marks)
42. Which of the following is the principle of justice and ethics concerned with?
A. Fairness and equal treatment
B. Maximal happiness
C. Personal character
D. Cultural norms (2 marks)
43. Where an endorser signs his name on the back of a negotiable instrument only, the endorsement is said to be _____.
A. Full endorsement
B. Conditional endorsement
C. Special endorsement
D. Blank endorsement (2 marks)
44. Which of the following protects the intellectual property created by inventors?
A. Copyright
B. Geographical indications
C. Trademarks
D. Patents (2 marks)
45. Which one of the following is regarded as private law?
A. Contract law
B. Criminal law
C. The law relating to human rights
D. Administrative law (2 marks)
46. Where the hirer fails to make payment of any installment, which of the following rights does the owner have?
A. Stoppage in transit
B. Repossession
C. Sale
D. Default (2 marks)

47. Which of the following is **NOT** a subject matter of an insurance policy?
A. Future inheritance
B. Loss of profits
C. Intangible property
D. The life of another person (2 marks)
48. What is a common feature of common law legal systems?
A. Written and codified laws
B. Strict adherence to precedent
C. Emphasis on statutory law
D. Centralised and bureaucratic legal authority (2 marks)
49. What is the principle in international law that states that treaties must be performed in good faith?
A. Pacta sunt servanda
B. Jus cogens
C. Res judicata
D. Ex aequo et bono (2 marks)
50. Which of the following is a characteristic of a limited partnership?
A. Only one partner is responsible for managing the business
B. All partners have unlimited liability
C. Limited partners have limited liability and are not involved in the management of the business
D. All partners share profits and losses equally (2 marks)
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ATD LEVEL I

INTRODUCTION TO LAW AND ETHICS

WEDNESDAY: 6 December 2023. Afternoon Paper.

Time Allowed: 2 hours.

This paper is made up of fifty (50) Multiple Choice Questions. Answer ALL questions by indicating the letter (A, B, C or D) that represents the correct answer. Each question is allocated two (2) marks. Do NOT write anything on this paper.

1. Which of the following is NOT an intentional tort?
 - A. Assault
 - B. Defamation
 - C. Fraud
 - D. Strict liability(2 marks)
2. Which of the following is the primary source of Islamic Law?
 - A. The Quran
 - B. The Bible
 - C. The Talmud
 - D. The Vedas(2 marks)
3. Which of the following branch of law is concerned with regulating the behavior of individuals within a society and includes offenses against the state or society?
 - A. Criminal law
 - B. Contract law
 - C. Family law
 - D. Tort law(2 marks)
4. Which one of the following is considered a primary source of law?
 - A. Judicial decisions
 - B. Legal textbooks
 - C. Statutes enacted by the legislature
 - D. Legal commentaries(2 marks)
5. Which one of the following is the MAIN purpose of the doctrine of separation of powers in a democratic system?
 - A. To concentrate power in the hands of a single authority
 - B. To prevent any one branch of government from becoming too powerful
 - C. To abolish the judiciary
 - D. To prioritise the executive branch over the legislative branch(2 marks)
6. Which one of the following is a legal defense to contributory negligence?
 - A. Both parties are equally at fault
 - B. The defendant has a valid excuse for their actions
 - C. The plaintiff's injuries were not caused by the defendant's actions
 - D. The plaintiff's own negligence contributed to their injury(2 marks)
7. In which one of the following circumstances is mediation a form of alternative dispute resolution (ADR)?
 - A. A neutral third party makes a binding decision on the dispute
 - B. The parties involved present their case to a judge in an informal setting
 - C. A neutral third party helps facilitate communication and negotiation between the parties
 - D. The dispute is resolved through a competitive negotiation process(2 marks)

8. According to virtue ethics, what is the primary focus when determining the morality of an action?
A. The individual's intentions and character traits
B. The consequences of the action
C. The adherence to universal moral rules
D. The social contract (2 marks)
9. Which of the following is the primary purpose of a code of ethics in a profession or organisation?
A. To establish legal regulations and requirements
B. To promote competition among professionals
C. To provide guidance and standards for ethical behavior
D. To limit professional responsibilities (2 marks)
10. In relation to online commercial transactions, which of the following is an example of a digital good?
A. A smartphone
B. An e-book
C. A digital television set
D. A physical music CD (2 marks)
11. Which body is responsible for the establishment and administration of courts in Kenya?
A. Ministry of Interior and National Administration
B. Parliament of Kenya
C. Judicial Service Commission
D. Law Society of Kenya (2 marks)
12. What role do tribunals play in the Kenyan legal system?
A. They adjudicate on specialised matters within their jurisdiction
B. They assist in the drafting of legislation
C. They provide mediation as an alternative dispute resolution mechanism
D. They exclusively handle criminal cases (2 marks)
13. Which of the following is the primary basis of acquiring nationality?
A. Birthplace
B. Residence
C. Ancestry
D. Marital status (2 marks)
14. Which one of the following is **TRUE** about the legal status of a person who holds dual citizenship?
A. They are considered stateless
B. They have the rights and obligations of both citizenships
C. They can only exercise the rights of one citizenship
D. They are subject to deportation (2 marks)
15. Which one of the following best describes an unincorporated association?
A. A type of business entity with limited liability protection
B. A group of individuals or entities that come together for a common purpose without forming a separate legal entity
C. A nonprofit organisation registered with the government
D. A partnership with unlimited liability for all members (2 marks)
16. Which one of the following **BEST** describes the legal principle of "res ipsa loquitur" in tort law?
A. The burden of proof shifts to the defendant
B. The thing speaks for itself; the plaintiff need not prove negligence, as it is obvious
C. The plaintiff must prove causation beyond a reasonable doubt
D. The defendant is strictly liable regardless of fault (2 marks)
17. Which one of the following statements describes the main purpose of damages in the law tort?
A. To punish the defendant
B. To compensate the plaintiff for losses suffered
C. To deter others from similar behavior
D. To transfer property from the defendant to the plaintiff (2 marks)

18. Which one of the following vitiating elements of a contract occurs when one party is coerced into entering the contract?
A. Misrepresentation
B. Illegality
C. Mistake
D. Undue Influence (2 marks)
19. Which one of the following is the primary consideration in a contract for the sale of goods?
A. The specific performance of services
B. The transfer of ownership and the payment of a price
C. The fulfillment of a promise or obligation
D. The exchange of goods for services (2 marks)
20. When does ownership of an item typically transfer to the buyer in a hire purchase contract?
A. After the first payment is made
B. After the buyer returns the item
C. After the final payment is made
D. Ownership remains with the seller (2 marks)
21. Which one of the following is the term for an agency relationship that is created through actions and conduct of parties involved, rather than through explicit agreement?
A. Implied agency
B. Ostensible agency
C. Sub-agency
D. Formal agency (2 marks)
22. In a contract of indemnity, who bears the primary responsibility for the loss?
A. Indemnifier
B. Indemnified party
C. Third party
D. Government authority (2 marks)
23. What is the term used to refer to the act of transferring a negotiable instrument to another party?
A. Negotiation
B. Endorsement
C. Assignment
D. Conveyance (2 marks)
24. Which one of the following is a key characteristic of a limited partnership?
A. All partners have unlimited liability
B. There must be at least three partners
C. There must be a managing partner and passive partner
D. All partners have equal management authority (2 marks)
25. In a case where the subject matter of insurance is a ship, what is the name of the type of insurance?
A. Travel insurance
B. Voyage insurance
C. Marine insurance
D. Liability insurance (2 marks)
26. Which one of the following is **NOT** a form of ownership of land?
A. Sole ownership
B. Mutual ownership
C. Common ownership
D. Joint ownership (2 marks)
27. Which one of the following is a way of creation of an easement?
A. Express grant
B. Ratification
C. By estoppel
D. By choice (2 marks)

28. Caroline falsely accuses Jeff of stealing from their employer. The statement is defamatory only if?
- A. A third party hears it
 - B. Nick suffers severe emotional distress as a result
 - C. The statement is the actual and proximate cause of his distress
 - D. The statement is not widely circulated in the local media and on Twitter
- (2 marks)
29. Which one of the following is a reason as to why independence of the judiciary is critical?
- A. It promotes immunity from court action for actions taking place in the course of judicial proceedings
 - B. It promotes economic independence
 - C. It provides security of tenure for judicial officers
 - D. It promotes the rule of law
- (2 marks)
30. A situation in which a professional's loyalty and obligations may be compromised because of personal interests is called _____.
- A. Conceptual interest
 - B. Conflict of interest
 - C. Professional interest
 - D. Concern of interest
- (2 marks)
31. Stella and Martin are partners in a partnership firm. They made an agreement in writing to refer a dispute between them in business to an arbitrator. In spite of this agreement, Stella files a suit against Martin relating to the dispute in a court.
- With regard to the above, which one of the following statements is correct.
- A. The jurisdiction of court is ousted as a valid arbitration agreement exists
 - B. Court has jurisdiction over the matter and it overpowers arbitration agreement and such dispute cannot be referred to any other jurisdiction
 - C. Stella can file an appeal in court only against arbitral award
 - D. The court does not have jurisdiction to hear and determine the matter
- (2 marks)
32. Identify the correct sequence for the formation of a valid contract.
- A. Agreement, offer, consideration, acceptance
 - B. Offer consideration, acceptance, agreement
 - C. Offer, acceptance, consideration, agreement
 - D. Offer, acceptance, agreement, consideration
- (2 marks)
33. Which one of the following is an implied condition as to title in sale of goods?
- A. That the goods should be in merchantable condition
 - B. That the goods should match the sample
 - C. That the seller has the right to sell the goods
 - D. The goods should match the sample as well as the description
- (2 marks)
34. Where an agent takes secret profits or accepts bribes, the principal can exercise the following remedies, **EXCEPT** _____.
- A. He can recover the amount of secret profits or bribes
 - B. He can have the right to lien
 - C. He can sue both the third party and the agent
 - D. He can terminate the agency and refuse to pay any remuneration for work done by the agent
- (2 marks)
35. The Court of Appeal is bound by the decisions of which court(s)?
- A. Decisions of the Supreme Court only
 - B. Decisions of the Supreme Court and generally its own decisions
 - C. Decisions of the Supreme Court and the Judicial tribunals only
 - D. The Court of Appeal is not bound by the decisions of any other courts
- (2 marks)
36. Which one of the following is **NOT** an ethical problem?
- A. Privacy and confidentiality
 - B. Whistle blowing
 - C. Fraud and abuse
 - D. Compliance
- (2 marks)

37. Which one of the following defines nepotism?
A. Undermining the morale of workers
B. Hiring friends of relatives and showing favoritism at work
C. Hiring non-competent people
D. Receiving bribes at the work place (2 marks)
38. Which one of the following is a consequence of none registration of a hire purchase agreement?
A. The contract becomes illegal on the face of it
B. The contract will become unenforceable against the hirer or his guarantor
C. The contract becomes valid
D. The contract can be presented in court (2 marks)
39. What happens in a case where the articles of association of a company conflict with the memorandum of association?
A. The articles prevail
B. The memorandum prevails
C. The court solves the dispute
D. The company is wound up (2 marks)
40. Which one of the following is **NOT** required in order to create an agency?
A. The agent
B. The consideration
C. The third party
D. The principal (2 marks)
41. In relation to negotiable instruments, a bearer cheque is also known as _____.
A. Crossed cheque
B. General cheque
C. Special cheque
D. Open cheque (2 marks)
42. What does the term "metaethics" refer to in the study of ethics?
A. The analysis of specific ethical dilemmas and situations
B. The study of the nature and foundations of ethical concepts and theories
C. The application of ethical principles to practical situations
D. The study of cultural variations in ethical norms (2 marks)
43. What is the purpose of an insurance policy?
A. To transfer risk from the insured to the insurer
B. To guarantee profits for the insured
C. To eliminate the need for financial planning
D. To provide investment opportunities for the insured (2 marks)
44. Which one of the following is considered a type of personal property?
A. Real estate
B. Chattel
C. Freehold estate
D. Easement (2 marks)
45. Which one of the following is a type of intellectual property that protects inventions, processes and certain discoveries?
A. Trademark
B. Copyright
C. Patent
D. Trade secret (2 marks)
46. What is the primary purpose of a copyright?
A. To protect the expression of ideas in tangible form
B. To protect new and useful processes, machines and manufactures
C. To protect confidential information used in business
D. To protect names, symbols or slogans used in business (2 marks)

47. Human life is subject to which kind of insurance?
A. Non-life insurance
B. Life assurance
C. Health insurance
D. Motor vehicle insurance (2 marks)
48. Which one of the following is **NOT** a characteristic of law?
A. It is a set of rules
B. It is enforceable by the state
C. It is always fair and just
D. It regulates society (2 marks)
49. Which one of the following dispute is most likely to be solved through Commercial Arbitration as an alternative to litigation?
A. Probate disputes
B. Contract negotiation
C. Child custody
D. Divorce (2 marks)
50. A promise made without the intention of performing it amounts to _____.
A. Fraud
B. Misrepresentation
C. Negligence
D. Wrongful misrepresentation (2 marks)
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ATD LEVEL I

INTRODUCTION TO LAW AND ETHICS

WEDNESDAY: 23 August 2023. Afternoon Paper.

Time Allowed: 2 hours.

This paper is made up of fifty (50) Multiple Choice Questions. Answer ALL questions by indicating the letter (A, B, C or D) that represents the correct answer. Each question is allocated two (2) marks. Do NOT write anything on this paper.

1. Which among the following are the correct methods of alternative dispute resolution?
 - A. Legislation, negotiation and conciliation
 - B. Conciliation, negotiation, arbitration and mediation
 - C. Arbitration, legislation and mediation
 - D. Mediation, tribunal and legislation(2 marks)

2. Which among the following entails the correct set of advantages of negotiation as a way of dispute resolution?
 - A. It is quick, cheap and has privacy
 - B. Cheap process and not flexible
 - C. Might not come to a decision and it is a fast process
 - D. Has privacy and lacks certainty(2 marks)

3. Which of the following is a good defense available to a doctor in all claims of a civil nature if it is proved that the patient himself was negligent?
 - A. Corporate negligence
 - B. Contributory negligence
 - C. Co-operative negligence
 - D. Wrongful negligence(2 marks)

4. What does the term “private law” mean?
 - A. The body of laws that derive from the deciding of cases
 - B. The legal principle which states that a person has the right to privacy
 - C. The body of laws that seeks to regulate the relationship between individuals
 - D. The body of laws that seeks to regulate the relationship between the State and its citizens(2 marks)

5. Which of the following is NOT a negotiable instrument?
 - A. Bill of exchange and cheque
 - B. Promissory note and cheque
 - C. Promissory note and Bill of exchange
 - D. Postal Order and Currency note(2 marks)

6. Which of the following is the right action to take when a seller breaches a warranty?
 - A. Refuse to pay the price
 - B. Claim damages
 - C. Return the goods
 - D. Refuse to take delivery(2 marks)

7. Which of the following courts is the highest in the hierarchy of courts in your country?
 - A. Supreme Court
 - B. Senior Chief Magistrate Court
 - C. Court of Appeal
 - D. High Court(2 marks)

8. What does the phrase “Nemo dat quod non habet” in sale of goods mean?
 A. The seller can pass better title that he has
 B. The seller may refuse to sell
 C. The seller cannot pass title he does not have
 D. The buyer may reject the goods (2 marks)
9. What is the name of the party who gets his life or property insured against a risk?
 A. Insured
 B. Insurer
 C. Holder
 D. Assurer (2 marks)
10. How many contracts are there in a contract of guarantee?
 A. One contract
 B. Two contracts
 C. Three contracts
 D. Four contracts (2 marks)
11. Which of the following document contain regulations for management of a company?
 A. Prospectus
 B. Memorandum of association
 C. Debentures
 D. Articles of association (2 marks)
12. A party who does not suffer any loss in case of breach of contract is entitled to which type of damages?
 A. Nominal damages
 B. Statutory damages
 C. Exemplary damages
 D. Liquidated damages (2 marks)
13. Which of the following intellectual property(IP) right is **NOT** correctly matched?

<u>Type of IP</u>	<u>IP Rights</u>
A. Inventions	Patents
B. Proprietary information	Copyright
C. Source identification/Brand names	Trademarks
D. Aesthetics/Ornamental features	Designs

(2 marks)
14. Which of the following is **NOT** a general defense in tort?
 A. Statutory authority
 B. Mistake
 C. Occupier liability
 D. Volenti non fit injuria (2 marks)
15. Which of the following is **NOT** a requirement for one to dispose property?
 A. Professional qualification
 B. Sound mind
 C. Above 18 years of age
 D. Ownership of property (2 marks)
16. Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties. What is the principle that public officers must uphold?
 A. Ethics
 B. Honesty
 C. Transparency
 D. Integrity (2 marks)
17. Agency may be terminated by operation of law through the following ways, **EXCEPT** _____.
 A. Lapse of time
 B. Mutual agreement
 C. Death of the principal
 D. Insanity (2 marks)

18. In a promissory note, which of the following is true about the amount of money payable?
A. It must be certain
B. It may be certain or uncertain
C. It is usually uncertain
D. It may be flexible (2 marks)
19. The ratio decidendi of a case refers to?
A. A statement said by the way
B. The reason for deciding a case
C. The principle whereby lower courts are bound by the decisions of higher courts
D. The process whereby a court avoids a binding precedent on the ground that the current case differs materially from the precedent (2 marks)
20. Which of the following can freely transfer its shares?
A. Public company
B. Private company
C. Registered company
D. Government company (2 marks)
21. Which of the following is **NOT** a system of law?
A. Political law
B. Common law
C. Civil law
D. Sharia law (2 marks)
22. In a negligence claim, the plaintiff must prove one of the following:
A. Intent to harm
B. A breach of duty
C. Strict liability
D. No-fault liability (2 marks)
23. Which of the following is a remedy available in tort law?
A. Imprisonment
B. Monetary damages
C. Community service
D. Fines (2 marks)
24. What is the meaning of delegated legislation?
A. It is the transfer of law-making power from one branch of government to another
B. It is the transfer of law-making power from the judiciary to the legislature
C. It is the transfer of law-making power from the legislature to another person or body
D. It is the transfer of law-making power from the executive to the judiciary (2 marks)
25. Which of the following is **NOT** a duty of a seller under the Sale of Goods Act?
A. Duty to deliver the goods
B. Duty to pass a good title
C. Duty to put the goods into a deliverable state
D. Duty to pay instalments (2 marks)
26. Which of the following is **NOT** a function of administrative law?
A. Rulemaking
B. Adjudication
C. Enforcement
D. Legislative drafting (2 marks)
27. Which of the following statements about the incorporation process for an association in Kenya is true?
A. It can only be done at the county level
B. It must be approved by the courts
C. It involves filing of articles of association with the relevant government body
D. It does not require any documentation or registration (2 marks)

28. Which of the following determines the nationality of an incorporated association?
A. The nationality of its members
B. The country where it was incorporated
C. The country where it conducts most of its business
D. The citizenship of its directors (2 marks)
29. Which of the following is **NOT** an essential element of a valid contract?
A. Offer
B. Acceptance
C. Consideration
D. Negotiation (2 marks)
30. Under the Sale of Goods Act, when does the risk of loss pass from the seller to the buyer?
A. When the goods are delivered to the buyer
B. When the seller hands delivery of the goods to the buyer
C. When the buyer pays for the goods
D. When the goods are loaded onto the carrier's truck (2 marks)
31. Which of the following is **NOT** a type of authority conferred upon an agent?
A. Actual Authority
B. Apparent Authority
C. Implied Authority
D. Constructive Authority (2 marks)
32. Which of the following partners is a type of partner who has no authority to bind the partnership of contracts or agreements?
A. Silent partner
B. Active partner
C. Limited partner
D. Secret partner (2 marks)
33. Which of the following is **NOT** a requirement for adverse possession?
A. The possession must be continuous for a certain period of time
B. The possession must be without the owner's consent
C. The possessor must have an intention to possess the land as their own
D. The possessor must pay rent to the owner during the possession period (2 marks)
34. A company can be created in three ways. Which of the following is **NOT** a valid way of creating a company?
A. A company can be created by the Court
B. A company can be created by registration
C. A company can be created by an Act of Parliament
D. A company can be created by charter (2 marks)
35. Which of the following is **NOT** a source of law in Kenya?
A. Statutes
B. Case law
C. Administrative regulations
D. Circulars (2 marks)
36. What is the purpose of tort law?
A. Punishment of criminal behaviour
B. Enforcement of terms of contracts
C. Compensation and prevention of harm
D. Regulation of the economy (2 marks)
37. Which of the following statements is true regarding the ethical principles of confidentiality?
A. It can be breached when a client poses a danger to themselves or others
B. It is optional guideline for professionals
C. It only applies to clients who have agreed to pay for services and not probono clients
D. It can be breached when a client refuses to pay for services rendered (2 marks)

38. Which of the following refers to a person's legal residence?
A. Nationality
B. Domicile
C. Citizenship
D. Immigration (2 marks)
39. Which of the following **BEST** describes a “hire purchase agreement”?
A. A contract where the buyer pays the full price of the goods at the time of purchase
B. A contract where the seller agrees to deliver the goods at a later date
C. A contract where the buyer pays for the goods in instalments and takes possession of the goods immediately
D. A contract where a bank agrees to pay for the goods on behalf of the buyer and the buyer repays the bank in instalment (2 marks)
40. Which of the following types of contracts must be in writing to be enforceable?
A. Employment contracts
B. Service contracts
C. Contract for the sale of land
D. Oral contracts between friends (2 marks)
41. Which of the following is an example of an e-commerce transaction?
A. A customer buying shoes from a store
B. A business buying office supplies from an online supplier
C. A person booking a hotel room through a travel agency
D. A student purchasing textbooks from a bookshop (2 marks)
42. Which the following is **NOT** a right of the buyer?
A. He can sell the property later if he so wishes
B. When ownership passes to him, he can perform any lawful action to increase the value of the property
C. He can transfer the property back to the seller at a later date
D. After paying for the property, he can register the property in his name (2 marks)
43. A whistle blower is an employee who?
A. Exposes organisational wrongdoing.
B. Complains a lot to company management.
C. Engages in unethical behavior.
D. Refers disputes to other employees (2 marks)
44. Which of the following is **NOT** a characteristic of a partnership?
A. Mutual consent
B. Easy formation
C. Equal profits
D. Limited liability (2 marks)
45. Which of the following statements describes a “general partnership”?
A. A partnership was formed for a single transaction
B. Form of business partnership where there is no fixed term agreed for the duration of the partnership
C. Form of partnership under common law
D. Partnership in which some or all partners can exhibit elements of partnerships and corporations (2 marks)
46. Which of the following **BEST** defines the word “ethics”?
A. The act of deciding definitely and firmly
B. The practising of an activity
C. A set of moral principles
D. Protecting personal information (2 marks)
47. Which of the following statements is true in regards to codes of conduct and codes of ethics?
A. They become necessary only after a company has been in legal trouble
B. They are formal statements that describe what an organisation expects of its employees
C. They are designed for top executives and managers, not regular employees
D. They rarely become an effective component of the ethics and compliance program (2 marks)

48. Which of the following is **NOT** an objective of code of ethics?
- A. To promote and maintain confidence in the integrity of the corporation
 - B. To harmonise the concepts of social responsibility, public accountability and profitability
 - C. To promote the development of undesirable practices
 - D. To lay down standards for personal and corporate behavior
- (2 marks)
49. Which of the following **BEST** defines a “limited liability”?
- A. Limited liability refers to how much the directors have to contribute in the event of the company becoming insolvent
 - B. Limited liability refers to the ability of a member to limit his liability
 - C. Limited liability refers to the directors' ability to limit their liability for acts of negligence, fraud etc
 - D. Limited liability refers to the ability of a company to limit its liability
- (2 marks)
50. Which of the following statements is correct concerning the "reasonable person" standard in tort law?
- A. A person with a physical disability must act as would a reasonable person with the same disability
 - B. The reasonable person standard varies from person to person
 - C. The reasonable person standard focuses on the defendant’s subjective mental state rather than on the defendant’s behavior
 - D. A reasonable person standard is subjective
- (2 marks)

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ATD LEVEL I

INTRODUCTION TO LAW AND ETHICS

MONDAY: 24 April 2023. Afternoon Paper.

Time Allowed: 3 hours.

Answer any FIVE questions. ALL questions carry equal marks. Do NOT write anything on this paper.

QUESTION ONE

- (a) Describe FIVE duties of a hirer in a hire purchase transaction. (5 marks)
- (b) Outline SIX examples of negotiable instruments. (6 marks)
- (c) Analyse SIX characteristics of a private company. (6 marks)
- (d) State THREE characteristics of an agency. (3 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Explain THREE functions of law. (6 marks)
- (b) Describe the following types of courts:
 - (i) Courts martial. (2 marks)
 - (ii) Kadhis' courts. (2 marks)
- (c) Identify SEVEN state officers bound by Constitution's provision on Leadership and Integrity. (7 marks)
- (d) It is the general duty of the principal to remunerate an agent. However, there are circumstances when the principal is not bound to remunerate the agent.

In light of the above statement, highlight THREE reasons that will make the principal not bound to remunerate the agent. (3 marks)

(Total: 20 marks)

QUESTION THREE

- (a) With the exception of the tort of false imprisonment, explain FOUR other types of torts that exist under the law of torts. (8 marks)
- (b) State FOUR Theories of Morality. (4 marks)
- (c) Distinguish between a "contract of indemnity" and a "contract of guarantee". (4 marks)
- (d) Enumerate TWO disadvantages of delegated legislations. (4 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) List FIVE types of insurance business. (5 marks)
- (b) Outline FOUR fundamental principles of code of ethics in accounting. (4 marks)
- (c) Describe FIVE circumstances under which an arbitral proceeding may be terminated. (5 marks)
- (d) Explain in SIX ways what constitutes community land in Kenya. (6 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) Enumerate **SIX** forms of societies that can be registered with the registrar of societies. (6 marks)
- (b) Summarise **FIVE** characteristics of judicial precedent. (5 marks)
- (c) In relation to intellectual property, outline **THREE** criteria that a patent has to satisfy to qualify for protection. (3 marks)
- (d) Describe the following:
 - (i) Doctrine of separation of power. (2 marks)
 - (ii) Judicial Review. (2 marks)
 - (iii) Principles of natural justice. (2 marks)

(Total: 20 marks)

QUESTION SIX

- (a) Explain **FIVE** terms implied in a consumer agreement for the sale of goods contract. (10 marks)
- (b) (i) Distinguish between “enforceability of law” and “enforceability of morality”. (4 marks)
- (ii) Identify **FOUR** challenges of common law that equity sought to mitigate. (4 marks)
- (c) Outline **TWO** sources of rules of international law. (2 marks)

(Total: 20 marks)

QUESTION SEVEN

- (a) In relation to negotiable instruments, explain **THREE** rules of an endorsement of a Bill. (6 marks)
- (b) Discuss **FOUR** rules that govern dual citizenship. (8 marks)
- (c) Summarise **SIX** rules of the tort of false imprisonment. (6 marks)

(Total: 20 marks)

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ATD LEVEL I

PILOT PAPER

INTRODUCTION TO LAW AND ETHICS

AUGUST 2023.

Time Allowed: 2 hours.

This paper is made up of fifty (50) Multiple Choice Questions. Answer ALL questions by indicating the letter (A, B, C or D) that represents the correct answer. Each question is allocated two (2) marks. Do NOT write anything on this paper.

1. Which of the following statements is **NOT TRUE** about an Agency Relationship?
 - A. Agency relationship is consensual in nature
 - B. It is based on the concept that parties mutually agree
 - C. The agent will not be subject to principal's direction and control
 - D. An agreement can be expressed or implied(2 marks)

2. Which of the following comprises the **CORRECT** number of parties in a promissory note and a bill of exchange?
 - A. Four parties to a "promissory note" three parties to a "bill of exchange"
 - B. Two parties to a "promissory note" three parties to a "bill of exchange"
 - C. Three parties to a "promissory note" four parties to a "bill of exchange"
 - D. One party to a "promissory note" two parties to a "bill of exchange"(2 marks)

3. Identify which among the following is a classification of law.
 - A. Family law
 - B. Bankruptcy law
 - C. Tort law
 - D. Private law(2 marks)

4. In relation to the law of agency, the usual rule is that an agent is not allowed to delegate his authority to another person especially when he/she **DOES NOT** have the permission from his principal. Under what conditions can an agent **NOT** hire or appoint a sub-agent and delegate the work?
 - A. The principal has expressly allowed delegation of such authority
 - B. The ordinary custom of trade a sub-agent may be employed
 - C. Where ratification is to take place
 - D. The nature of work is such that a sub-agent is essential(2 marks)

5. Criminal law falls under what classification of law?
 - A. Substantive law
 - B. Public law
 - C. Procedural law
 - D. Local law(2 marks)

6. Who among the following **DOES NOT** fall under the category of an agent?
 - A. A member of a company
 - B. A partner in a partnership business
 - C. Commercial agent
 - D. A company director and manager(2 marks)

7. The law that determines the relationship between a businessman and a middleman is called _____.
- A. Surety
 - B. Guarantee
 - C. Agency
 - D. Business
- (2 marks)
8. Peace Ltd., a newspaper company, published a defamatory article whose source was Patrick. Who should be sued in a defamation suit?
- A. The publisher of the article
 - B. The editors of the newspaper
 - C. Patrick only
 - D. Patrick and the editor
- (2 marks)
9. In relation to sale of goods, contingent goods are part of which classification of goods?
- A. Existing goods
 - B. Unascertained goods
 - C. Curtained goods
 - D. Future goods
- (2 marks)
10. The act of an agent on behalf of the principal is to show the principle's _____.
- A. Authority
 - B. Intention
 - C. Consideration
 - D. Rule
- (2 marks)
11. When goods are said to be fit for its purpose, it is a condition that falls under which of the following terms?
- A. Implied condition
 - B. Implied warranty
 - C. Express condition
 - D. Express warranty
- (2 marks)
12. When a party to a contract breaches the terms of the contract, that contract can be _____.
- A. Illegal
 - B. Void
 - C. Discharged
 - D. Avoided
- (2 marks)
13. In regards to partnership law, which of the following comprises the general liability of a partnership?
- A. Sole liability
 - B. Unlimited liability
 - C. Limited liability
 - D. No liability
- (2 marks)
14. Which of the following agreements under contract law is **NOT** enforceable by law?
- A. Ordinary agreement
 - B. Voidable agreement
 - C. Valid agreement
 - D. Void agreement
- (2 marks)
15. The power of a court to hear and decide a case or make a certain order is called _____.
- A. Venue
 - B. Jurisdiction
 - C. Stare decisis
 - D. Subject matter
- (2 marks)
16. The act of unlawfully entering someone else's compound without their permission is called _____.
- A. Infringement
 - B. Breach of property
 - C. Entry by false pretense
 - D. Trespass
- (2 marks)

17. Which of the following is a consequence of inadequacy of consideration in a contract?
A. Will make it void
B. Will not make it void
C. Will make it illegal
D. Will make it wager (2 marks)
18. An agency where the agent is specifically appointed to carry out a particular task is an agency created by _____.
A. Express authority
B. Implied authority
C. Ratification
D. Estoppel (2 marks)
19. The principle that the buyer alone is responsible for checking the quality and suitability of goods before a purchase is made is called _____.
A. Buyer duty
B. *Nemo dat quod non habet*
C. *Caviet emptor*
D. proxima causa (2 marks)
20. The tort where a master is found liable for acts of his servant is known as _____.
A. Joint tort liability
B. Vicarious liability
C. Limited liability
D. Concurrent liability (2 marks)
21. Martin was one of the spectators at a World Rally Championship, a car race held in Kenya and organised by One Pac Industries Company. During the race, there was a collision between two racing cars; one of which was thrown into the spectators' platform thereby causing an injury to Martin. Knowing the tort principle that says when a person voluntarily agrees to suffer some harm, he is not allowed to complain.
Which of the following would be the **BEST** advice to Martin in regards to the above principle?
A. One Pac Industries Company will be liable for damages because the injury was caused during the race organised by it
B. One Pac Industries Company will not be liable for damages because Martin had come to see the race on his own will
C. One Pac Industries Company will not be liable for damages because the collision between the cars was beyond its control
D. One Pac Industries Company will be liable because it has earned huge revenue by way of sale of tickets for the event (2 marks)
22. Which of the following is **NOT** a domestic source of law?
A. Customs
B. Statutes
C. Case law
D. International treaties (2 marks)
23. Which of the following cases can be heard in the Supreme Court?
A. Presidential election cases.
B. Cases involving custody of a child.
C. Original case on bankruptcy of an individual
D. Cases in regards to rental disputes (2 marks)
24. Which among the following is the **BEST** answer to the reason why it is important to study ethics?
A. To become a law enforcement agent
B. To act as an expert witness in court in ethical cases
C. To gain knowledge on how best to decide ethical issues
D. To deal with dilemmas in the accountancy profession (2 marks)
25. Which of the following can help determine whether an action is ethical?
A. Profitability
B. Ethical philosophies
C. Court's decision
D. Decision by police (2 marks)

26. It is required that a professional should not disclose any confidential information of a client to a third party **EXCEPT**?
- A. When it is financially beneficial to the third party
 - B. When required by law
 - C. When it is not that serious
 - D. When it is financially beneficial to the professional
- (2 marks)
27. Which of the following is a judicial writ issued as a command to an inferior court or ordering a person to perform his statutory duty?
- A. Certiorari
 - B. Prohibition
 - C. Habeas corpus
 - D. Mandamus
- (2 marks)
28. The term “private law “refers to _____.
- A. The legal principle that states that a person has a right to privacy
 - B. The body of law that regulates the relationship between the state and its citizens
 - C. The body of law that regulates the relationship between individuals
 - D. The body of law that derives from the deciding of cases
- (2 marks)
29. Which of the following **CORRECTLY** describes an intellectual property?
- A. Non valuable property
 - B. Intangible property
 - C. Tangible property
 - D. Chattels
- (2 marks)
30. Which of the following is the **CORRECT** effect of a counter offer?
- A. It creates a new offer, but the original offer is still capable of being accepted
 - B. It creates a binding contract on the terms of the original offer
 - C. It creates a binding contract based on the terms of the counter - offer
 - D. It destroys the original offer and replaces it with a new offer
- (2 marks)
31. In regards to sole proprietorship, which of the following statements is **FALSE**?
- A. Sole proprietorships are subject to the same limitations as companies
 - B. Sole proprietorships have limited liability
 - C. Sole proprietorships have unlimited liability
 - D. Sole proprietorships are owned by the owner
- (2 marks)
32. Which of the following is a right of the owner against a third party who bought goods on Hire Purchase without a good title from the hirer?
- A. Right to recover possession of the goods
 - B. Right to fight the third party
 - C. Right to refund instalments paid
 - D. Right to appeal to the third party
- (2 marks)
33. A partnership can be terminated by Operation of Law through the following ways **EXCEPT** _____.
- A. Frustration
 - B. Death of a party
 - C. Mutual agreement
 - D. Subsequent incapacity of a party
- (2 marks)
34. Under the sale of goods, if the price of goods is not determined by the parties in a contract of sale, what will the buyer be bound to pay?
- A. The price he feels like paying
 - B. The price demanded by the seller
 - C. A reasonable price
 - D. The price to be determined by a third person
- (2 marks)
35. Which of the following **BEST** describes the importance of insurance?
- A. It helps reduce the financial consequences of adverse situations
 - B. It makes assets productive
 - C. It helps increase the value of assets
 - D. It helps negotiate all consequences of adverse situations
- (2 marks)

36. Which of the following is the insurance principle that ensures that an insured **DOES NOT** profit from insuring with multiple insurers?
- A. Co-insurance
 - B. Indemnity
 - C. Subrogation
 - D. Contribution
- (2 marks)
37. The insurance principle of utmost good faith is also known as _____.
- A. Causa proxima
 - B. Subrogation
 - C. Uberrimae fidei
 - D. Insurable interest
- (2 marks)
38. A fire destroyed Ethan's store. Investigators determined that the fire originated from the garbage dumpster behind the store and his insurance company indemnified him for his loss. What insurance term describes the fire that caused the destruction of Ethan's store?
- A. Peril
 - B. Hazard
 - C. Severity of loss
 - D. Captive
- (2 marks)
39. The following are the requisites of easements of right of way under the law of property **EXCEPT** _____.
- A. There must be indemnity
 - B. There must be no adequate outlet to a public highway
 - C. The property is surrounded by other estates
 - D. That a messenger has a right to cross another's land to deliver goods if it is a shorter route
- (2 marks)
40. Which of the following torts **DOES NOT** require the claimant/plaintiff to prove that he has suffered loss or damage?
- A. Slander
 - B. Nuisance
 - C. Trespass to land
 - D. Negligence
- (2 marks)
41. Widely acknowledged fundamental ethical principles include all the following **EXCEPT** _____.
- A. Good negotiation skills
 - B. Honesty and fairness
 - C. Diligence
 - D. Care and respect for others
- (2 marks)
42. The following are examples of ethical violations **EXCEPT** _____.
- A. Plagiarism
 - B. Conflict of interest
 - C. Withholding important information
 - D. Confidentiality
- (2 marks)
43. Which one of the following is **NOT** protected under the Copyright Act in your country?
- A. A dramatic work
 - B. A layout designs for a house
 - C. A cinematographic film
 - D. A sound recording
- (2 marks)
44. Intellectual property rights protect the use of information and ideas that are of _____.
- A. Sentimental value
 - B. Social value
 - C. Ethical value
 - D. Commercial value
- (2 marks)

45. When a case has been heard in the Rent Tribunal, an appeal may be made to which court_____.
- A. The Supreme Court
 - B. The Court of Appeal
 - C. The High Court
 - D. The Principle Magistrates Court
- (2 marks)
46. In regards to alternative dispute resolutions, which of the following is **NOT** a duty of a Conciliator?
- A. Drafting the settlement agreement
 - B. Making the award
 - C. Disclosing information to the relevant parties
 - D. Give administrative assistance during the conciliation process
- (2 marks)
47. The act of a manager or a colleague at a work place making sexual advances towards someone is called _____.
- A. Harassment
 - B. Coercion
 - C. Discrimination
 - D. Exploitation
- (2 marks)
48. Which of the following is **NOT** a characteristic of an ethical person?
- A. Honest
 - B. Accountable
 - C. Plagiarist
 - D. One who admits his mistakes
- (2 marks)
49. What does integrity mean?
- A. Truthful and honest
 - B. Educated and of high standing
 - C. Competent and respectful
 - D. Honest and Reliable
- (2 marks)
50. What is the function of an Ombudsman?
- A. Agency and principal
 - B. Managing and counselling
 - C. Receiving complaints on public officers and public institutions
 - D. Representing the government
- (2 marks)
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ATD LEVEL I

INTRODUCTION TO LAW AND ETHICS

MONDAY: 5 December 2022. Afternoon Paper.

Time Allowed: 3 hours.

Answer any FIVE questions. ALL questions carry equal marks. Do NOT write anything on this paper.

QUESTION ONE

- (a) In relation to the law of persons, define the following terms:
- (i) Domicile of origin. (2 marks)
 - (ii) Domicile of dependence. (2 marks)
 - (iii) Domicile of choice. (2 marks)
- (b) Summarise **FOUR** duties of a lessee. (8 marks)
- (c) Discuss **THREE** ethical practices in a business. (6 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) Identify **FIVE** grounds of removing a high court Judge from office. (5 marks)
- (b) List **FIVE** branches of civil law. (5 marks)
- (c) Explain **FIVE** factors to consider when filing a case in court. (10 marks)
- (Total: 20 marks)**

QUESTION THREE

- (a) In relation to alternative dispute resolution:
- (i) Define the term “mediation”. (2 marks)
 - (ii) Highlight **THREE** principles of mediation. (3 marks)
 - (iii) Identify **FIVE** drawbacks of negotiation. (5 marks)
- (b) Distinguish between a “general agent” and a “special agent”. (4 marks)
- (c) In relation to intellectual property, explain **THREE** criteria that a patent has to satisfy in order to qualify for protection. (6 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) Outline **THREE** laws that govern ethics in Kenya. (3 marks)
- (b) In the context of agency relationship:
- (i) Define the term agency. (2 marks)
 - (ii) Highlight **THREE** duties of an agent. (3 marks)
 - (iii) Identify **TWO** duties of a principal. (2 marks)
- (c) In relation to sale of goods, explain **FIVE** differences between a “sale” and an “agreement to sell”. (10 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) Enumerate **SIX** general characteristics of law. (6 marks)
 - (b) Identify **FOUR** challenges of common law that equity sought to address. (4 marks)
 - (c) Discuss **FIVE** principles of insurance. (10 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) Distinguish between a “contract of indemnity” and a “contract of guarantee”. (4 marks)
 - (b) With reference to negotiable instruments:
 - (i) Identify **FOUR** types of bills of exchange. (4 marks)
 - (ii) Highlight **SIX** features of a bill of exchange. (6 marks)
 - (c) Explain **THREE** rules governing the rights of a hirer to terminate a hire purchase agreement. (6 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) Distinguish between a “tort” and a “crime”. (4 marks)
 - (b) In relation to the tort of defamation, define the following terms:
 - (i) Fair comment. (2 marks)
 - (ii) Justification or truth. (2 marks)
 - (iii) Libel. (2 marks)
 - (iv) Slander. (2 marks)
 - (v) Unintentional Defamation. (2 marks)
 - (c) In the event that a public officer contravenes the code of conduct for public officers, explain **THREE** ways investigations could be carried out on the public officer. (6 marks)
- (Total: 20 marks)**
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ATD LEVEL I

INTRODUCTION TO LAW AND ETHICS

MONDAY: 1 August 2022. Afternoon paper.

Time Allowed: 3 hours.

Answer any FIVE questions. ALL questions carry equal marks. Do NOT write anything on this paper.

QUESTION ONE

- (a) Explain four different forms which an arbitration agreement might take. (8 marks)
- (b) Explain the legal liability of the following:
- (i) Unincorporated associations. (2 marks)
- (ii) Artificial persons. (2 marks)
- (c) Describe four acts that might constitute detinue. (4 marks)
- (d) Differentiate between “ownership” and “possession”. (4 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Explain five rules that govern a sale by auction. (10 marks)
- (b) Discuss four ways of creating an easement. (8 marks)
- (c) Define virtue theory of morality. (2 marks)

(Total: 20 marks)

QUESTION THREE

- (a) In relation to the law of contract, describe the four rules which could apply in determining the validity of exemption clauses. (8 marks)
- (b) Discuss three consequences of unethical conduct by a public or state officer. (6 marks)
- (c) Explain three judicial review remedies. (6 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) In relation to ethics and with the aid of an example, describe the following:
- (i) Ethical norms. (3 marks)
- (ii) Ethical dilemma. (3 marks)
- (b) Outline five types of regulations that govern ethical conduct in Kenya. (10 marks)
- (c) Describe two requirements to be satisfied for the defense of “Act of God” to apply in relation to the law of torts. (4 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) The rule against bias is a cornerstone of “Natural Justice”, explain four types of bias. (8 marks)
 - (b) (i) Define conflict of interest in ethics. (2 marks)
(i) State five ways in which a conflict of interest might arise. (5 marks)
 - (c) State five powers of the court of Appeal. (5 marks)
- (Total: 20 marks)**

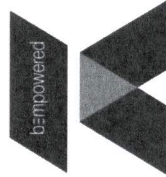
QUESTION SIX

- (a) In relation to sources of law, explain the following:
 - (i) Supranational law. (3 marks)
 - (ii) Sources of international law. (3 marks)
 - (iii) “Stare Decisis”. (3 marks)
 - (b) Explain six elements of necessity in tort. (6 marks)
 - (c) In relation to intellectual property, outline five rights under copyright. (5 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) Identify four common law writs. (4 marks)
 - (b) Distinguish between a “Commercial Agency of Necessity” and “Domestic Agency of Necessity”. (4 marks)
 - (c) Explain four ways in which a contract might be discharged. (8 marks)
 - (d) Identify four types of perils which a person can insure against. (4 marks)
- (Total: 20 marks)**
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ATD LEVEL I

INTRODUCTION TO LAW AND ETHICS

MONDAY: 4 April 2022. Afternoon paper.

Time Allowed: 3 hours.

Answer any FIVE questions. ALL questions carry equal marks. Do NOT write anything on this paper.

QUESTION ONE

- (a) In relation to law of tort, explain two ingredients in the tort of negligence. (4 marks)
- (b) Discuss five remedies that are available for an unpaid seller under the sale of goods. (10 marks)
- (c) In relation to insurance law, the insurer and the insured have to uphold certain insurance principles for good function of an insurance:

Required:

List any six of these insurance principles.

(6 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Explain four functions of law in a civilised society. (8 marks)
- (b) Define the following terms:
- (i) Court's exclusive jurisdiction. (2 marks)
- (ii) Rule of law. (2 marks)
- (iii) Statutory law. (2 marks)
- (iv) Jurisprudence. (2 marks)
- (c) Distinguish between "law" and "morality". (4 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Analyse five guiding principles of leadership and integrity under your country's Constitution. (10 marks)
- (b) In addition to the duties implied by law, the agency relationship imposes certain fiduciary duties on the agent.

Required:

Describe five fiduciary duties of an agent.

(10 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) Explain five factors that might affect a person's ethical behavior at work. (5 marks)
- (b) (i) State four benefits of registering a trademark. (4 marks)
- (ii) Identify three works that are eligible for copyright. (6 marks)
- (c) Describe five features of a hire purchase. (5 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) Discuss any five of the parties to a negotiable instrument. (10 marks)
 - (b) Define the following terms:
 - (i) Unilateral mistake. (2 marks)
 - (ii) Misrepresentation. (2 marks)
 - (iii) “Quantum meruit”. (2 marks)
 - (iv) Breach of contract. (2 marks)
 - (v) Frustration of contract. (2 marks)
- (Total: 20 marks)**

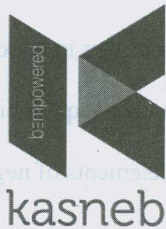
QUESTION SIX

- (a) Explain three types of intellectual property. (6 marks)
 - (b) Differentiate between “incorporated” and “unincorporated” associations. (4 marks)
 - (c) Discuss five rules governing transfer of the property in goods from the seller to the buyer. (10 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) Outline eight advantages of Arbitration over Court process. (8 marks)
 - (b) Explain the concept of credited liability. (2 marks)
 - (c) Explain five classes of agents. (10 marks)
- (Total: 20 marks)**
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ATD LEVEL I

INTRODUCTION TO LAW AND ETHICS

WEDNESDAY: 15 December 2021.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) (i) Define the term "law". (2 marks)
- (ii) List four sources of Law in Kenya. (4 marks)
- (b) Summarise three duties of a hirer in a hire purchase agreement. (6 marks)
- (c) Totoo in search of greener pastures recently got a new job with Watu Wazuri Accountants firm. His good friend, Potoo, on hearing this wrote a letter to the Chief Executive Officer of Watu Wazuri Accountants firm accusing Totoo of being lazy, untrustworthy and also a thief.

Totoo is aggrieved and wants to file a suit for being defamed.

Required:

- (i) Define the term "defamation". (2 marks)
- (ii) For a successful claim in defamation, Totoo must be able to prove three things.
Explain to him what he has to prove in order to succeed in his claim in defamation. (6 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Mr. Oloo was recently asked by his legal mentor to prepare a partnership deed.
Giving examples, list six contents of a partnership deed. (6 marks)
- (b) (i) Outline four duties that a principal owes to his agent. (4 marks)
- (ii) Examine five ways in which an agency relationship may be terminated. (10 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Explain the parties in:
 - (i) A civil suit. (4 marks)
 - (ii) A criminal case. (4 marks)
- (b) Identify the four main categories of bills that may be presented to parliament for enactment. (8 marks)
- (c) Explain the following methods of Alternative Dispute Resolution:
 - (i) Arbitration. (2 marks)
 - (ii) Mediation. (2 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) With reference to citizenship, examine three ways in which domicile may be acquired in your country. (6 marks)
 - (b) Discuss four ways through which a person may acquire citizenship by registration in your country. (8 marks)
 - (c) In relation to the law of tort, analyse three elements of negligence. (6 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) In sale of goods, the general rule is that where goods are sold by a person who is not the owner, the buyer acquires no better title than the seller had.

Required:

- In relation to the above statement, summarise six exceptions to the rule above. (12 marks)
 - (b) In relation to the law of contract, explain four remedies for breach of contract. (8 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) Florence Wema drew a cheque in favour of June Bahati for Sh.8,000. She however left spaces on the cheque which allowed June Bahati to fraudulently change the amount to Sh.80,000. June Bahati presented the cheque to the bank and was paid Sh.80,000 from Florence Wema's account. Florence Wema learnt about the withdrawal of the funds and intends to sue the bank.

Analyse four the legal principles applicable in the above case and advise the bank and Florence Wema. (8 marks)

- (b) In relation to the law of property:
 - (i) Define "a lease agreement". (2 marks)
 - (ii) Explain five duties of a tenant in a lease agreement. (10 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) (i) Explain the term "code of ethics". (2 marks)
 - (ii) Explain five fundamental principles of a code of ethics. (10 marks)
 - (b) In relation to the court of appeal in your country, describe the following:
 - (i) Composition. (4 marks)
 - (ii) Jurisdiction. (4 marks)
- (Total: 20 marks)**
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ATD LEVEL I

INTRODUCTION TO LAW AND ETHICS

MONDAY: 1 August 2022. Afternoon paper.

Time Allowed: 3 hours.

Answer any FIVE questions. ALL questions carry equal marks. Do NOT write anything on this paper.

QUESTION ONE

- (a) Explain four different forms which an arbitration agreement might take. (8 marks)
- (b) Explain the legal liability of the following:
- (i) Unincorporated associations. (2 marks)
- (ii) Artificial persons. (2 marks)
- (c) Describe four acts that might constitute detinue. (4 marks)
- (d) Differentiate between “ownership” and “possession”. (4 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Explain five rules that govern a sale by auction. (10 marks)
- (b) Discuss four ways of creating an easement. (8 marks)
- (c) Define virtue theory of morality. (2 marks)

(Total: 20 marks)

QUESTION THREE

- (a) In relation to the law of contract, describe the four rules which could apply in determining the validity of exemption clauses. (8 marks)
- (b) Discuss three consequences of unethical conduct by a public or state officer. (6 marks)
- (c) Explain three judicial review remedies. (6 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) In relation to ethics and with the aid of an example, describe the following:
- (i) Ethical norms. (3 marks)
- (ii) Ethical dilemma. (3 marks)
- (b) Outline five types of regulations that govern ethical conduct in Kenya. (10 marks)
- (c) Describe two requirements to be satisfied for the defense of “Act of God” to apply in relation to the law of torts. (4 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) The rule against bias is a cornerstone of “Natural Justice”, explain four types of bias. (8 marks)
 - (b) (i) Define conflict of interest in ethics. (2 marks)
(i) State five ways in which a conflict of interest might arise. (5 marks)
 - (c) State five powers of the court of Appeal. (5 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) In relation to sources of law, explain the following:
 - (i) Supranational law. (3 marks)
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 - (iii) “Stare Decisis”. (3 marks)
 - (b) Explain six elements of necessity in tort. (6 marks)
 - (c) In relation to intellectual property, outline five rights under copyright. (5 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) Identify four common law writs. (4 marks)
 - (b) Distinguish between a “Commercial Agency of Necessity” and “Domestic Agency of Necessity”. (4 marks)
 - (c) Explain four ways in which a contract might be discharged. (8 marks)
 - (d) Identify four types of perils which a person can insure against. (4 marks)
- (Total: 20 marks)**
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ATD LEVEL I

INTRODUCTION TO LAW AND ETHICS

MONDAY: 4 April 2022. Afternoon paper.

Time Allowed: 3 hours.

Answer any FIVE questions. ALL questions carry equal marks. Do NOT write anything on this paper.

QUESTION ONE

- (a) In relation to law of tort, explain two ingredients in the tort of negligence. (4 marks)
- (b) Discuss five remedies that are available for an unpaid seller under the sale of goods. (10 marks)
- (c) In relation to insurance law, the insurer and the insured have to uphold certain insurance principles for good function of an insurance:

Required:

List any six of these insurance principles.

(6 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Explain four functions of law in a civilized society. (8 marks)
- (b) Define the following terms:
- (i) Court's exclusive jurisdiction. (2 marks)
- (ii) Rule of law. (2 marks)
- (iii) Statutory law. (2 marks)
- (iv) Jurisprudence. (2 marks)
- (c) Distinguish between "law" and "morality". (4 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Analyse five guiding principles of leadership and integrity under your country's Constitution. (10 marks)
- (b) In addition to the duties implied by law, the agency relationship imposes certain fiduciary duties on the agent.

Required:

Describe five fiduciary duties of an agent.

(10 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) Explain five factors that might affect a person's ethical behavior at work. (5 marks)
- (b) (i) State four benefits of registering a trademark. (4 marks)
- (ii) Identify three works that are eligible for copyright. (6 marks)
- (c) Describe five features of a hire purchase. (5 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) Discuss any five of the parties to a negotiable instrument. (10 marks)
- (b) Define the following terms:
- (i) Unilateral mistake. (2 marks)
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QUESTION SIX

- (a) Explain three types of intellectual property. (6 marks)
- (b) Differentiate between "incorporated" and "unincorporated" associations. (4 marks)
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- (a) Outline eight advantages of Arbitration over Court process. (8 marks)
- (b) Explain the concept of credited liability. (2 marks)
- (c) Explain five classes of agents. (10 marks)
- (Total: 20 marks)**
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ATD LEVEL I

INTRODUCTION TO LAW AND ETHICS

WEDNESDAY: 15 December 2021.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) (i) Define the term "law". (2 marks)
- (ii) List four sources of Law in Kenya. (4 marks)
- (b) Summarise three duties of a hirer in a hire purchase agreement. (6 marks)
- (c) Totoo in search of greener pastures recently got a new job with Watu Wazuri Accountants firm. His good friend, Potoo, on hearing this wrote a letter to the Chief Executive Officer of Watu Wazuri Accountants firm accusing Totoo of being lazy, untrustworthy and also a thief.

Totoo is aggrieved and wants to file a suit for being defamed.

Required:

- (i) Define the term "defamation". (2 marks)
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Explain to him what he has to prove in order to succeed in his claim in defamation. (6 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Mr. Oloo was recently asked by his legal mentor to prepare a partnership deed.
Giving examples, list six contents of a partnership deed. (6 marks)
- (b) (i) Outline four duties that a principal owes to his agent. (4 marks)
- (ii) Examine five ways in which an agency relationship may be terminated. (10 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Explain the parties in:
- (i) A civil suit. (4 marks)
- (ii) A criminal case. (4 marks)
- (b) Identify the four main categories of bills that may be presented to parliament for enactment. (8 marks)
- (c) Explain the following methods of Alternative Dispute Resolution:
- (i) Arbitration. (2 marks)
- (ii) Mediation. (2 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) With reference to citizenship, examine three ways in which domicile may be acquired in your country. (6 marks)
 - (b) Discuss four ways through which a person may acquire citizenship by registration in your country. (8 marks)
 - (c) In relation to the law of tort, analyse three elements of negligence. (6 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) In sale of goods, the general rule is that where goods are sold by a person who is not the owner, the buyer acquires no better title than the seller had.

Required:

- In relation to the above statement, summarise six exceptions to the rule above. (12 marks)
 - (b) In relation to the law of contract, explain four remedies for breach of contract. (8 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) Florence Wema drew a cheque in favour of June Bahati for Sh.8,000. She however left spaces on the cheque which allowed June Bahati to fraudulently change the amount to Sh.80,000. June Bahati presented the cheque to the bank and was paid Sh.80,000 from Florence Wema's account. Florence Wema learnt about the withdrawal of the funds and intends to sue the bank.

Analyse four the legal principles applicable in the above case and advise the bank and Florence Wema. (8 marks)

- (b) In relation to the law of property:
 - (i) Define "a lease agreement". (2 marks)
 - (ii) Explain five duties of a tenant in a lease agreement. (10 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) (i) Explain the term "code of ethics". (2 marks)
 - (ii) Explain five fundamental principles of a code of ethics. (10 marks)
 - (b) In relation to the court of appeal in your country, describe the following:
 - (i) Composition. (4 marks)
 - (ii) Jurisdiction. (4 marks)
- (Total: 20 marks)**
-

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ATD LEVEL I

DCM LEVEL I

PRINCIPLES OF BUSINESS LAW

MONDAY: 30 August 2021.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) With reference to the law of agency:
- (i) Define the term “agency by estoppel”. (2 marks)
 - (ii) State four requirements for agency by estoppel to arise. (4 marks)
 - (iii) Outline four duties owed by an agent to the principal. (4 marks)
- (b) Discuss five circumstances under which a buyer of goods might acquire a good title despite the seller not being the owner of the goods nor having the authority of the owner to sell. (10 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) Distinguish between “codification” and “consolidation” of law with an example of each. (4 marks)
- (b) Describe six roles played by law in a business. (6 marks)
- (c) With respect to the law of torts:
- (i) Explain the rule in **Rylands v. Fletcher**. (4 marks)
 - (ii) Outline three defences available to a person sued in an action under this rule. (6 marks)
- (Total: 20 marks)**

QUESTION THREE

- (a) With reference to alternative dispute resolution:
- (i) Explain five qualities of an effective mediation process. (5 marks)
 - (ii) Describe five powers of an arbitrator. (5 marks)
- (b) Define the term “contractual capacity”. (4 marks)
- (c) Past consideration is generally not good consideration to support a contractual claim. There are however, certain circumstances when past consideration is sufficient to support a contractual claim.
- Describe three of these circumstances. (6 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) Describe five advantages of carrying on a business as a partnership as opposed to a limited liability company. (10 marks)
 - (b) List four characteristics of a contract of guarantee. (4 marks)
 - (c) Explain in three ways the meaning of the phrase “rule of law” as used in administrative law. (6 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) Describe five essential elements of a contract of insurance. (10 marks)
 - (b) Highlight five criteria necessary for a custom to be applicable as law. (10 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) With reference to the supervisory jurisdiction of the High Court:
 - (i) Define the term “certiorari”. (2 marks)
 - (ii) Describe three reasons why the High Court might issue an order of certiorari. (6 marks)
 - (b)
 - (i) Identify four categories of incompetent persons under the law of contract. (4 marks)
 - (ii) Discuss four requirements for a hire purchase agreement to be valid. (8 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) In the context of negotiable instruments:
 - (i) Highlight three obligations of a banker. (6 marks)
 - (ii) Describe two essential characteristics of a valid endorsement of a bill of exchange. (4 marks)
 - (b) Servitudes are rights over the property of another and might be either “easements” or “profits a prendre”.
In light of the above statement:
 - (i) Highlight three ways through which servitudes could be acquired. (6 marks)
 - (ii) Explain the meaning of the phrase “profits a prendre”. (4 marks)
- (Total: 20 marks)**
-



ATD LEVEL I

DCM LEVEL I

PRINCIPLES OF BUSINESS LAW

MONDAY: 17 May 2021.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Explain two differences between the “civil burden of proof” and “criminal burden of proof”. (4 marks)
- (b) Describe four types of jurisdiction of the High Court in your country. (8 marks)
- (c) Outline eight functions of administrative law. (8 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) With reference to sources of law:
- (i) State five fundamental freedoms protected under the Constitution. (5 marks)
- (ii) Highlight three disadvantages of common law. (3 marks)
- (b) Summarise four principles of alternative dispute resolution (ADR). (8 marks)
- (c) Explain four ways through which a contract of guarantee might be discharged. (4 marks)
- (Total: 20 marks)**

QUESTION THREE

- (a) In the context of the law of persons:
- (i) Describe six features of co-operative societies. (6 marks)
- (ii) Highlight four limitations of unincorporated associations. (4 marks)
- (b) With reference to the law of tort, explain the following terms:
- (i) Absolute liability. (2 marks)
- (ii) Vicarious liability. (2 marks)
- (c) Discuss three essential elements of the tort of vicarious liability. (6 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) In relation to the law of contract:
- (i) Explain three circumstances under which an offer might be terminated. (6 marks)
- (ii) Distinguish between “conditions” and “warranties”. (4 marks)

- (b) (i) Outline five obligations of the hirer under a hire purchase agreement. (5 marks)
- (ii) Highlight five ways through which a hire purchase agreement might be terminated. (5 marks)
- (Total: 20 marks)

QUESTION FIVE

- (a) (i) Outline six features of a contract of sale of goods. (6 marks)
- (ii) State four rules governing delivery in a sale of goods contract. (4 marks)
- (b) In relation to the law of agency:
- (i) Explain three conditions for commercial agency by necessity to arise. (6 marks)
- (ii) Highlight four conditions for a valid agency by ratification to arise. (4 marks)
- (Total: 20 marks)

QUESTION SIX

- (a) (i) Summarise five characteristics of a bill of exchange. (5 marks)
- (ii) Identify three parties to a promissory note. (3 marks)
- (b) With reference to the law of insurance:
- (i) Explain six advantages of insurance. (6 marks)
- (ii) Evaluate three types of policies available under the contract of marine insurance. (6 marks)
- (Total: 20 marks)

QUESTION SEVEN

- (a) In relation to the law of property:
- (i) Highlight six interests which might be created in land. (6 marks)
- (ii) List four categories of trademarks. (4 marks)
- (b) (i) Outline two ways through which a partner might retire from a partnership. (4 marks)
- (ii) State six rights of partners in a partnership. (6 marks)
- (Total: 20 marks)
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ATD LEVEL I

DCM LEVEL I

PRINCIPLES OF BUSINESS LAW

MONDAY: 23 November 2020.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) (i) Explain the meaning of the doctrine of "stare decisis". (2 marks)
- (ii) Summarise four circumstances when a court might refrain from applying a binding precedent. (8 marks)
- (b) With specific reference to classification of law, list four categories of civil law. (4 marks)
- (c) Explain the following maxims of equity:
- (i) Equity abhors a forfeiture. (2 marks)
- (ii) Equity acts in personam. (2 marks)
- (iii) Equity does not require an idle gesture. (2 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) With reference to the law of torts:
- (i) Define the term "res ipsa loquitur". (1 mark)
- (ii) List three requirements for "res ipsa loquitur" to apply. (3 marks)
- (iii) Highlight three cases of slander that are actionable per se. (6 marks)
- (b) Outline four duties of a seller under a sale of goods contract. (4 marks)
- (c) Describe three conditions implied in a contract of sale of goods. (6 marks)
- (Total: 20 marks)**

QUESTION THREE

- (a) With a specific reference to the court system in your country:
- (i) Outline four essential elements of an effective legal system. (4 marks)
- (ii) Define the term "court martial". (2 marks)
- (iii) Describe two conditions to be satisfied for appointment as a Judge of a court martial. (4 marks)
- (b) Summarise three types of breach of a contract. (6 marks)
- (c) Highlight four factors that might vitiate an enforceable contract. (4 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) Outline five types of administrative tribunals in your country. (5 marks)
 - (b) Identify seven items contained in a partnership deed. (7 marks)
 - (c) Describe four benefits of using alternative dispute resolution (ADR) methods. (8 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) Explain five ways of discharging a negotiable instrument. (10 marks)
 - (b) Describe three differences between “hire purchase” and “sale of goods”. (6 marks)
 - (c) Highlight four essential requirements of a valid hire purchase agreement. (4 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) (i) Define the term “plant patent” within the context of plant breeding. (2 marks)
 - (ii) Outline the prescribed duration that plant breeders’ rights might last once granted. (4 marks)
 - (iii) Describe two requirements that govern the registration of an industrial design. (4 marks)
 - (b) (i) Describe the nature of the contract of indemnity. (2 marks)
 - (ii) Explain four remedies for breach of a contract of indemnity. (8 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) (i) Distinguish between “re-insurance” and “double insurance”. (2 marks)
 - (ii) Highlight six grounds for termination of a contract of insurance. (6 marks)
 - (b) Summarise three salient features of an agency relationship. (6 marks)
 - (c) Describe three provisions governing retention and acquisition of citizenship. (6 marks)
- (Total: 20 marks)**
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ATD LEVEL I

DCM LEVEL I

PRINCIPLES OF BUSINESS LAW

TUESDAY: 26 November 2019.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Summarise four types of jurisdiction that courts in your country possess. (8 marks)
- (b) (i) Highlight two warranties implied in a contract of sale of goods. (4 marks)
- (ii) Explain four duties of a seller under a sale of goods contract. (8 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) Describe five advantages of statute law as a source of law in your country. (10 marks)
- (b) Explain five equitable remedies for breach of contract. (10 marks)
- (Total: 20 marks)**

QUESTION THREE

- (a) Explain five grounds upon which the court might order the winding up of a partnership. (10 marks)
- (b) With reference to the law of persons:
- (i) Distinguish between "domicile of origin" and "domicile of choice". (4 marks)
- (ii) Identify three categories of persons who can apply to become citizens of Kenya by registration. (6 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) (i) State four consequences of non-registration of a hire purchase agreement. (4 marks)
- (ii) List three conditions implied in all hire purchase agreements. (3 marks)
- (b) With reference to the law of agency:
- (i) Define the term "del credere agent". (2 marks)
- (ii) Explain three remedies available to an agent for breach of contract by the principal. (6 marks)
- (iii) Highlight five circumstances under which an agent might be held personally liable to third parties. (5 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) There is no single definition of the term law. However, there are some common points that must be contained in an attempt to define law.
- With reference to the above statement, identify four components that must be present in any attempt to define law. (8 marks)
- (b) Explain two grounds for judicial review in your country. (4 marks)
- (c) Describe four grounds upon which the High Court can set aside an arbitral award. (8 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) Describe the rules that govern limitation of actions in tort. (8 marks)
 - (b) (i) Distinguish between the terms "insurance", and "assurance". (4 marks)
 - (ii) Give four examples of insurable interest in life assurance. (8 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) Highlight three rights of a guarantor against a creditor. (6 marks)
 - (b) Outline four features of a promissory note. (4 marks)
 - (c) Explain five ways through which a lease might be terminated. (10 marks)
- (Total: 20 marks)**
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ATD LEVEL I

DCM LEVEL I

PRINCIPLES OF BUSINESS LAW

MONDAY: 20 May 2019.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Paul Mbabu appointed Andrew Bata as his estate agent. Andrew has since received a notice from Paul threatening to dismiss him for allegedly breaching his fiduciary duties. Andrew is ignorant about these duties and approaches you for advice.

In light of the above facts:

- (i) Explain to Andrew Bata six fiduciary duties of an agent. (6 marks)
- (ii) Outline two contractual duties of the principal. (4 marks)

- (b) In the context of partnerships:

- (i) State five ways through which a partner might exercise his apparent authority. (5 marks)
- (ii) Summarise five circumstances when a partnership might automatically terminate without a court order. (5 marks)

(Total: 20 marks)

QUESTION TWO

- (a) (i) Explain the term "supremacy of the constitution". (6 marks)
- (ii) Distinguish between a "Republican" and "Monarchical" constitution. (4 marks)
- (b) (i) Summarise six legal ways through which a person might lose ownership of property. (6 marks)
- (ii) Outline four circumstances through which a leasehold ownership might be terminated. (4 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Describe three types of domicile. (6 marks)
- (b) Explain three criticisms levelled against the doctrine of separation of powers. (6 marks)
- (c) Distinguish between a "company" and a "partnership". (8 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) With reference to hire purchase law:
- (i) Outline six characteristics of a hire purchase agreement. (6 marks)
- (ii) Explain two effects of not registering a hire purchase agreement. (4 marks)
- (b) Describe the jurisdiction of the High Court in your country. (10 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) Explain three advantages of a contract of guarantee. (6 marks)
 - (b) List four principles that govern a contract of insurance, other than subrogation. (4 marks)
 - (c) In relation to offers under the law of contract, describe five methods of accepting an offer. (10 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) Explain the three elements of the tort of negligence. (6 marks)
 - (b) Describe four factors that might invalidate a contract under the law of contract. (8 marks)
 - (c) Highlight three conditions that must be met for the doctrine of subrogation to apply in a contract of insurance. (6 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) Explain three conditions implied in a contract of sale of goods by sample. (6 marks)
 - (b) Discuss three advantages of a bill of exchange. (6 marks)
 - (c) State four advantages of mediation over arbitration. (4 marks)
 - (d) State four types of intellectual property. (4 marks)
- (Total: 20 marks)**
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ATD LEVEL I

DCM LEVEL I

PRINCIPLES OF BUSINESS LAW

MONDAY: 26 November 2018.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) On 1 July 2018, Jacinta Wanjira advanced her sister Agnes Muthoni Sh.60,000. Agnes was to repay the money on 30 September 2018. However, on 30 August 2018, due to unavoidable circumstances Jacinta requested Agnes for an immediate repayment of the money. Agnes informed Jacinta that she could only afford to pay her Sh.50,000 because of the short notice. Jacinta accepted this amount to be full settlement of the debt owed by Agnes. Consequently, Agnes persuaded her brother Joseph Kamau to draw a cheque of Sh.50,000 in favour of Jacinta. Before the cheque was cashed, Joseph countermanded the payment.

Jacinta feels aggrieved and intends to sue both Agnes and Joseph.

Required:

Analyse the legal principles applicable in the above case and advise Jacinta. (10 marks)

- (b) Summarise five purposes of the doctrine of separation of powers in your country. (5 marks)
- (c) Explain five advantages of tribunals. (5 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Discuss eight features of co-operative societies without making reference to their body corporate status. (8 marks)
- (b) In relation to the law of tort, explain six circumstances in which the defendant might not be held liable under the strict liability rule in Rylands V. Fletcher. (6 marks)
- (c) (i) Explain the meaning of the term encumbrance within the context of the law of property. (2 marks)
- (ii) State four types of encumbrances that might be created on property. (4 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Summarise six duties of an auctioneer. (6 marks)
- (b) Explain eight essential elements of a valid contract of indemnity. (8 marks)
- (c) With reference to hire purchase transactions, highlight three characteristics of credit sales. (6 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) Describe four key principles of civil law. (8 marks)
 - (b) Explain three main rules of statutory interpretation. (6 marks)
 - (c) Citing three reasons, examine the importance of international communication terms (INCOTERMS) in relation to international contracts of sale. (6 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) Explain three types of partners in a partnership business. (6 marks)
 - (b)
 - (i) Highlight three advantages of consumer credit to a consumer. (3 marks)
 - (ii) Identify four contents of the statement of price in a hire purchase agreement. (4 marks)
 - (c) With reference to alternative dispute resolutions (ADR), distinguish between “mediation” and “arbitration”. (4 marks)
 - (d) In relation to the law of insurance, explain:
 - (i) Insurable interest. (1 mark)
 - (ii) Risk. (1 mark)
 - (iii) Uberrimae fidei. (1 mark)
- (Total: 20 marks)**

QUESTION SIX

- (a) In relation to the law governing negotiable instruments, analyse four ways in which a bill of exchange might be discharged. (8 marks)
 - (b) During the past year, Rose Mwinzi, a personal secretary to Joseph Nzao has been forging Joseph’s signature on a number of cheques on his account with ZED Bank and pocketing the proceeds.

Recently, Rose resigned her job and flew to the United Kingdom and the forgeries were then discovered. Joseph intends to sue the bank.

Advise ZED Bank. (8 marks)
 - (c) Highlight four sources of law in your country. (4 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) In relation to the law of torts, explain four circumstances under which the principal and the independent contractor might be held jointly liable for torts that might be committed by the independent contractor. (8 marks)
 - (b) A contract might contain express terms under which one or both of the parties excludes or limits liability for breach of contract.

Describe six general rules which determine the effectiveness of such terms or clauses. (12 marks)
- (Total: 20 marks)**
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ATD LEVEL I

DCM LEVEL I

COMMERCIAL LAW

MONDAY: 21 May 2018.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Explain two differences between "law" and "morality". (4 marks)
- (b) Identify four classifications of law. (4 marks)
- (c) Describe four disadvantages of case law. (8 marks)
- (d) State four factors that might undermine the rule of law in a country. (4 marks)
- (Total: 20 marks)

QUESTION TWO

- (a) Summarise four underlying purposes of administrative law. (4 marks)
- (b) Explain two principles of natural justice. (4 marks)
- (c) With reference to the law of agency:
- (i) Explain three circumstances under which an agency relationship might be implied. (6 marks)
- (ii) Describe three ways through which an agency relationship might be terminated by an act of the parties. (6 marks)
- (Total: 20 marks)

QUESTION THREE

- (a) Outline two characteristics of a joint tenancy. (2 marks)
- (b) Discuss four main types of intellectual property. (8 marks)
- (c) With specific reference to the tort of false imprisonment:
- (i) Explain four defences that could be pleaded against a claim of false imprisonment. (8 marks)
- (ii) Identify two remedies that are available to a person who has been subjected to false imprisonment. (2 marks)
- (Total: 20 marks)

QUESTION FOUR

- (a) Describe the Court Martial of your country in relation to the following aspects:
- (i) Establishment. (2 marks)
- (ii) Composition. (2 marks)
- (iii) Jurisdiction. (6 marks)

- (b) Highlight four ways through which a person might cease to be a partner in a partnership. (4 marks)
 - (c) (i) Define the term "citizenship". (2 marks)
 - (ii) Describe two ways through which the citizenship of a person who acquired it through registration could be revoked. (4 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) Abel Orina took his clothes to Anko Dry Cleaners Ltd. He was issued with a receipt which read in part that "the management shall not be liable for any damage to or loss of the customer's clothes". The clothes were collected by a different customer who cannot be traced. Abel Orina feels aggrieved and seeks your legal advice.

Analyse the legal principles applicable in the above case and advise Abel Orina. (10 marks)
 - (b) (i) Identify two parties to an indemnity contract. (4 marks)
 - (ii) Explain three disadvantages of a contract of guarantee. (6 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) In relation to negotiable instruments:
 - (i) Explain three advantages of making payments by cheque. (6 marks)
 - (ii) State six characteristics of a promissory note. (6 marks)
 - (b) In the context of the sale of goods, explain two remedies available to an unpaid seller against:
 - (i) The goods. (4 marks)
 - (ii) The buyer. (4 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) State six contents of a hire purchase agreement. (6 marks)
 - (b) Explain four advantages of using negotiation as an alternative dispute resolution mechanism. (8 marks)
 - (c) Highlight six ways through which insurable interest arises. (6 marks)
- (Total: 20 marks)**
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ATD LEVEL I

DCM LEVEL I

COMMERCIAL LAW

MONDAY: 27 November 2017.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) (i) Define the term "morality". (4 marks)
- (ii) Explain three similarities between "law" and "morality". (6 marks)
- (b) In relation to the general rules of international law:
- (i) Explain the meaning of the term "treaty". (4 marks)
- (ii) Describe three rules that govern international treaties. (6 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) In the context of the law of torts:
- (i) Describe three circumstances in which a person employing an independent contractor might still be liable for that person's torts. (6 marks)
- (ii) Distinguish between "libel" and "slander" as used in the law of defamation. (4 marks)
- (b) Outline four duties of the seller under the DDP (Delivered Duty Paid) international contract of sale of goods. (4 marks)
- (c) Explain three differences between "lien" and "stoppage in transitu" as used in the Sale of Goods Act. (6 marks)
- (Total: 20 marks)**

QUESTION THREE

- (a) With reference to the doctrine of non-disclosure in contracts of insurance:
- (i) Explain three matters which need not be disclosed to the insurer by the insured. (6 marks)
- (ii) Outline three consequences of non-disclosure of material facts by the insured. (6 marks)
- (b) The interests of partners in the partnership property and their rights and duties in relation to the partnership shall be determined by set rules.
- With reference to the above statement, discuss four rules that determine the interests of partners. (8 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) Summarise four obligations of the hirer under a hire purchase contract. (8 marks)
- (b) In the context of the law of agency:
 - (i) Identify three ways through which an agent's authority might be ascertained. (6 marks)
 - (ii) Describe four types of authority that an agent might possess. (6 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) All courts are tribunals but not all tribunals are courts.

In light of the above statement, explain five differences between "administrative tribunals" and "courts of law". (10 marks)
- (b) (i) Outline four ways through which copyrights and related rights might be infringed. (4 marks)
- (ii) Describe three characteristics of easements. (6 marks)

(Total: 20 marks)

QUESTION SIX

- (a) With reference to the law of negotiable instruments:
 - (i) State four circumstances in which a banker has no authority to honour a cheque drawn on him. (4 marks)
 - (ii) Explain three duties of a holder of a bill of exchange. (6 marks)
- (b) Describe five circumstances under which the court has power to appoint an arbitrator in arbitration proceedings. (10 marks)

(Total: 20 marks)

QUESTION SEVEN

- (a) Highlight six salient features of the contract of indemnity. (6 marks)
- (b) Outline the liabilities of joint and several guarantors under the law of guarantee. (4 marks)
- (c) Identify two circumstances when an order of prohibition might be issued against an administrative body. (4 marks)
- (d) Explain three conditions that African customary law must fulfill in order to be recognised as a source of law. (6 marks)

(Total: 20 marks)

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ATD LEVEL I

DCM LEVEL I

COMMERCIAL LAW

MONDAY: 22 May 2017.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

(a) With reference to the contract of sale of goods:

- (i) Define the term "unpaid seller". (2 marks)
- (ii) Describe four rights of an unpaid seller. (8 marks)

(b) In the context of the law of insurance:

- (i) Identify four principles that govern a contract of insurance. (4 marks)
- (ii) Explain three essential conditions required for the application of the doctrine of contribution. (6 marks)

(Total: 20 marks)

QUESTION TWO

- (a) (i) Highlight five factors which the court might consider when applying a judicial precedent. (5 marks)
- (ii) Identify five disadvantages of using judicial precedents as a source of law. (5 marks)
- (b) (i) Summarise four disadvantages of arbitration as an alternative dispute resolution mechanism. (8 marks)
- (ii) State two grounds upon which the court might issue an order for removal of an arbitrator from office. (2 marks)

(Total: 20 marks)

QUESTION THREE

- (a) (i) Explain two types of contracts that might be deemed as contrary to public policy. (4 marks)
- (ii) Identify six circumstances which might result in a contract being frustrated. (6 marks)
- (b) Outline five essential requirements for an agency by ratification to arise. (10 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) Highlight three advantages and two disadvantages of Acts of Parliament as sources of law. (10 marks)
- (b) With reference to hire purchase contracts:
 - (i) Describe three salient features of a hire purchase contract. (6 marks)
 - (ii) Outline two ways in which the hirer in a hire purchase contract might terminate a hire purchase agreement. (4 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) Pam Agera was recruited as a football player for her college's football team. Pam Agera's team-mates, Liz Chep and Rita Ngeno, were very unhappy about having Pam Agera on their team. After her first team practice, Pam Agera went into the locker room alone but as she was getting ready to leave the locker room, Liz Chep and Rita Ngeno deliberately camped outside the locker room loudly describing to each other how they would violently make Pam Agera feel as miserable as possible until she quit the team or dropped out of college. Pam Agera was terrified and she locked herself inside the locker room until she finally felt it was safe to run home. Consequently, Pam Agera got so distressed that she quit the football team and dropped out of college altogether.

She feels aggrieved and intends to sue Liz Chep and Rita Ngeno.

Analyse four torts disclosed in the above case and advise Pam Agera accordingly. (8 marks)

(b) In the context of partnerships:

(i) Explain three liabilities of a minor partner. (6 marks)

(ii) Describe three duties of an existing partner. (6 marks)

(Total: 20 marks)

QUESTION SIX

(a) Identify four characteristics of a contract of guarantee. (4 marks)

(b) Describe four rights that a guarantor has against a creditor. (8 marks)

(c) Explain four distinctions between a "bill of exchange" and a "cheque". (8 marks)

(Total: 20 marks)

QUESTION SEVEN

(a) With reference to the law of property:

(i) Identify four descriptions of public land. (4 marks)

(ii) Explain three reliefs that are available for copyright infringement. (6 marks)

(b) Summarise five questions that might be heard by the High Court under its jurisdiction to hear matters in respect of interpretation of the Constitution of your country. (10 marks)

(Total: 20 marks)

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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 “*uberrimae fidei*”.
- Explain the above statement. (4 marks)
- (Total: 20 marks)**
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KASNEB

ATD LEVEL I

DCM LEVEL I

COMMERCIAL LAW

MONDAY: 23 May 2016.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Distinguish between "public law" and "private law". (6 marks)
- (b) In relation to negotiable instruments, highlight four essentials of a bill of exchange. (4 marks)
- (c) Describe three rules governing sales by auction. (6 marks)
- (d) Outline two duties of the seller under ex-ship contracts. (4 marks)
- (Total: 20 marks)

QUESTION TWO

- (a) Highlight six general defences in the law of tort. (6 marks)
- (b) Explain two conditions necessary for agency by necessity to arise. (4 marks)
- (c) In relation to the law of property:
- (i) Define the term "easement". (2 marks)
- (ii) Explain four conditions that a valid easement must satisfy. (8 marks)
- (Total: 20 marks)

QUESTION THREE

- (a) Distinguish between the following:
- (i) Express contract and implied contract. (2 marks)
- (ii) Executed contract and executory contract. (2 marks)
- (iii) Void contract and voidable contract. (2 marks)
- (iv) Conditions and warranties. (2 marks)
- (b) Describe the three parties to a contract of guarantee. (6 marks)
- (c) With regard to the law of persons, explain three types of corporations. (6 marks)
- (Total: 20 marks)

QUESTION FOUR

- (a) (i) Explain the rights of the owner of goods in a hire purchase contract. (6 marks)
- (ii) Summarise four implied terms in every hire purchase agreement. (4 marks)
- (b) Describe the two components of natural justice. (4 marks)
- (c) In relation to the doctrine of separation of powers, outline three functions of the judiciary in your country. (6 marks)
- (Total: 20 marks)

QUESTION FIVE

- (a) Describe the following alternative dispute resolution mechanisms as used in resolving commercial disputes:
- (i) Arbitration. (2 marks)
 - (ii) Mediation. (2 marks)
 - (iii) Negotiation. (2 marks)
- (b) Discuss four advantages of arbitration as a means of resolving commercial disputes, as opposed to courts of law. (8 marks)
- (c) Outline six contents of an insurance policy document. (6 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) Outline eight maxims of equity. (8 marks)
- (b) Juma Mrisho has found a duly signed and dated document in his pocket addressed to Mercy Miano by Consolata Wangechi in the following form: "I undertake to pay you on demand or order the sum of Sh.50,000 for value received". Juma Mrisho has approached you to assist him understand the nature of the document.
- In light of the above facts:
- (i) Identify the name of the document. (2 marks)
 - (ii) Describe five characteristics of the document in (b) (i) above. (10 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) (i) Outline six contents of a partnership deed. (6 marks)
- (ii) Discuss four circumstances under which a partnership might be dissolved without an order of the court. (8 marks)
- (b) Describe three exceptions to the rule in consideration that states that "past consideration is no consideration". (6 marks)
- (Total: 20 marks)**
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KASNEB

ATD LEVEL I

DCM LEVEL I

COMMERCIAL LAW

TUESDAY: 17 November 2015.

Time Allowed: 3 hours.

Answer any FIVE questions.

All questions carry equal marks.

QUESTION ONE

- (a) Distinguish between "procedural law" and "substantive law". (4 marks)
- (b) Explain three remedies available to a defendant in civil actions. (6 marks)
- (c) With specific reference to case law as a source of law:
- (i) Highlight three advantages of case law. (6 marks)
- (ii) Identify two disadvantages of case law. (4 marks)

(Total: 20 marks)

QUESTION TWO

- (a) Describe four ways through which a principal-agent relationship might arise. (8 marks)
- (b) Explain three duties of an agent. (6 marks)
- (c) A partner has implied authority to perform some functions on behalf of the firm.

With reference to the above statement, highlight three functions a partner could perform with implied authority.

(6 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Explain the meaning of the following terms as used in the law of contract:
- (i) Void contract. (2 marks)
- (ii) Voidable contract. (2 marks)
- (iii) Unenforceable contract. (2 marks)
- (b) Highlight three rules that govern consideration in a contract. (6 marks)
- (c) Discuss four advantages of administrative tribunals. (8 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) Describe five duties imposed upon a tenant in a lease agreement. (10 marks)
- (b) With reference to sale of goods contract:
- (i) Distinguish between "sale" and "agreement to sell". (6 marks)
- (ii) Explain four rules that apply for ascertaining the intention of the parties as to the time at which the property in the goods is to pass to the buyer. (4 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) With reference to a bill of exchange, explain the following:
- (i) A holder in due course. (4 marks)
 - (ii) Circumstances which result in material alteration. (4 marks)
- (b) Outline three acts that might constitute trespass to land. (6 marks)
- (c) Highlight three defences available in an action for trespass to land. (6 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) (i) Define the term "insurable interest". (2 marks)
- (ii) Describe various classes of persons presumed to have insurable interest. (8 marks)
- (b) (i) Explain the meaning of the term "presentment of a bill of exchange". (2 marks)
- (ii) Discuss four types of endorsements that might be made on a bill of exchange. (8 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) With respect to resolving commercial disputes:
- (i) Outline six disadvantages of negotiation. (6 marks)
 - (ii) Highlight six advantages of mediation. (6 marks)
- (b) With reference to indemnity and guarantees:
- (i) Define a "continuing guarantee". (2 marks)
 - (ii) Distinguish between a "guarantee" and an "indemnity". (6 marks)
- (Total: 20 marks)**
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KASNEB

ATD LEVEL I

DCM LEVEL I

COMMERCIAL LAW

PILOT PAPER

September 2015.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Explain three limitations of Islamic law as a source of law in Kenya. (6 marks)
- (b) Highlight four types of delegated legislation. (4 marks)
- (c) Explain three differences between arbitration and mediation as alternative dispute resolution mechanisms. (6 marks)
- (d) State four characteristics of law. (4 marks)

(Total: 20 marks)

QUESTION TWO

- (a) In relation to court systems, state any four disputes that fall under the jurisdiction of the Environment and Land Court. (4 marks)
- (b) Explain the following general defences in tort:
- (i) Volenti non fit injuria. (2 marks)
- (ii) Statutory authority. (2 marks)
- (iii) Private defence. (2 marks)
- (c) (i) State the doctrine of privity of contract. (2 marks)
- (ii) Explain four exceptions to the doctrine in c (i) above. (8 marks)

(Total: 20 marks)

QUESTION THREE

- (a) In relation to the law of persons, explain four differences between a company and cooperative society. (8 marks)
- (b) In relation to servitudes on land, explain three differences between easements and licences. (6 marks)
- (c) In a hire purchase agreement, where a hirer has paid up to two thirds of the hire purchase, the owner must not take any action to recover possession of the property without recourse to the court.

Summarise three orders the court might give after hearing the suit. (6 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) In relation to sale of goods contracts, distinguish between a sale and an agreement to sell. (6 marks)
- (b) Explain three circumstances when an agent might become personally liable to third parties. (6 marks)
- (c) Distinguish between a contract of guarantee and a contract of indemnity. (4 marks)

- (d) Explain the following terms as used in case law:
- (i) Ratio decidendi. (2 marks)
 - (ii) Obiter dicta. (2 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) Describe the concept of supremacy of the constitution. (6 marks)
- (b) Explain the remedies available under the tort of defamation. (6 marks)
- (c) Sarah went to do shopping at Bei Yetu Supermarket Ltd. However, due to the slippery floor at the supermarket, she slipped and fell injuring her limbs. Sarah is aggrieved and seeks compensation from Bei Yetu Supermarket Ltd., but the supermarket denies liability.
- Identify the applicable legal principles and advise Sarah. (8 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) Explain the doctrine of separation of powers. (8 marks)
- (b) In relation to the law of insurance, explain the following terms:
- (i) Subrogation. (2 marks)
 - (ii) Contribution. (2 marks)
 - (iii) Double insurance. (2 marks)
- (c) In relation to negotiable instruments, explain three types of crossings on cheques. (6 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) In relation to classification of law, state four differences between civil law and criminal law. (8 marks)
- (b) Explain the procedure to be followed in order to remove a judge from office. (6 marks)
- (c) State the grounds that might lead to the dissolution of a partnership by the court. (6 marks)
- (Total: 20 marks)**
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