



# MACHAKOS UNIVERSITY

University Examinations for 2016/2017 Academic Year

SCHOOL OF BUSINESS AND ECONOMICS (MLOLONGO CAMPUS)

DEPARTMENT OF BUSINESS ENTREPRENEURSHIP AND MANAGEMENT  
SCIENCES

FOURTH YEAR FIRST SEMESTER EXAMINATION FOR DEGREE IN  
BACHELOR OF COMMERCE (PROCUREMENT AND SUPPLY CHAIN OPTION)

BMS 422: CONTRACTS AND LEGAL ASPECTS IN PURCHASING

DATE: 2/6/2017

TIME: 11:00 – 1:00 PM

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## INSTRUCTIONS.

*Answer Question One and Any Other Two Questions*

### QUESTION ONE (COMPULSORY) (30 MARKS)

- (a) Ponya Pharmaceuticals Co are dealers of Influenza drugs in the city of Kisumu. Their customer base has diminished drastically for the first few months which has been worrying the management. The top management of the company is devising on a strategic way to reverse this situation. They have come up with an idea to do any extensive advertisement in the media and all newspapers to improve on their sales. In one of the newspapers they have promised a reward of Ksh 50,000 to any person who buys their drugs and contracts flu after using them. Achieng a customer read the advert and bought the drugs and after using them she contracted the disease. Achieng comes to seek some legal redress from you. What advice can you offer to her? (6 marks)
- (b) Outline the various ways under which a contract may be formed through Agency. (5 marks)
- (c) Explain why it is necessary to protect intellectual properties. (5 marks)
- (d) Distinguish between the following terms as used in the law of contract
- i) A An offer and acceptance (2 marks)
  - ii) Executed contract and executory contract (2 marks)

- iii) Conditional offer and a counter offer. (2 marks)
- iv) A social agreement and a legal agreement. (2 marks)
- v) Unilateral contracts and bilateral contracts (2 marks)
- e) Enumerate the elements of a valid contract (4 marks)

**QUESTION TWO (20 MARKS)**

- a) Explain briefly the term 'NEMO DAT QUOD NON HABET Rule' and give the exceptions of this rule as Provided in the Sale of Goods Act. (10 marks)
- b) Outline the significant provisions of the competition law that may affect supply chain operations. (10 marks)

**QUESTION THREE (20 MARKS)**

- a) What are the legal duties of an agent in the law of Agency. (10 marks)
- b) Under privity of a contract, only those parties who are party to the contract and can create a legal relationship may sue or can be sued. There are certain exceptions where a stranger to a contract may sue. List and explain the exceptions of this rule. (10 marks)

**QUESTION FOUR (20 MARKS)**

- a) What are the implied conditions in a contract of sale (8 marks)
- b) Outline the warranties that a consumer is entitled to under the sale of goods Act. (4 marks)
- c) In What ways can a legal contract be invalidated? (8 marks)

**QUESTION FIVE (20 MARKS)**

- a) Other than the preferred open tendering method, name the other alternative procurement methods that are allowed under the Public Procurement and Disposal Act 2005. (10 marks)
- b) Explain the general principles of insurance. (10 marks)