### THE KENYA NATIONAL EXAMINATIONS COUNCIL

## CRAFT CERTIFICATE IN SALES AND MARKETING
## MODULE II

INTRODUCTION TO LAW

**3 hours**

### INSTRUCTIONS TO CANDIDATES

*This paper consists of TWO sections; A and B.*
*Answer ALL the questions in section A and any FOUR questions in section B in the answer booklet provided.*
**Candidates should answer the questions in English.**

**This paper consists of 3 printed pages.**

**Candidates should check the question paper to ascertain that**
**all the pages are printed as indicated and that no questions are missing.**

**Turn over**

**SECTION A:** (32 marks)

*Answer ALL questions in this section.*

1. List **three** categories of Public Law. (3 marks)

2. Every person has the right to freedom of expression. State **three** exceptions to this right.
(3 marks)

3. Outline **three** situations when an unpaid seller may exercise the right of resale. (3 marks)

4. State **three** types of subordinate courts in Kenya. (3 marks)

5. Explain the following types of agents:

   (i) Factor; (1 mark)

   (ii) Special; (1 mark)

   (iii) Del credere. (1 mark)

6. State **two** types of persons in law. (2 marks)

7. In relation to negotiable instruments, state **four** duties of a bank to a customer. (4 marks)

8. Outline **three** issues that a plaintiff must prove in order to succeed in an action for negligence.
(3 marks)

9. In relation to the law of contract, outline **four** circumstances under which the court may not grant specific performance. (4 marks)

10. Distinguish between a tort and a crime, as used in law. (4 marks)

**SECTION B:** (68 marks)

*Answer any FOUR questions from this section.*

11. (a) Outline **four** conditions that must be fulfilled for an endorsement of a bill to be valid.
(8 marks)

    (b) The constitution of Kenya is the primary source of law in Kenya. Explain **six** reasons to justify this statement. (9 marks)

12. (a) Outline **four** legal disabilities of a person who is not of sound mind. (8 marks)

(b) Abby bought a washing machine at Ruatech Electronics and paid Ksh. 40,000, for which a cash receipt was issued. Abby requested that she be allowed to pick the washing machine the following day, unfortunately fire broke out at Ruatech Electronics that night and the machine was destroyed. Abby is aggrieved and intends to sue Ruatech for the loss because she claims that the machine was still in possession of Ruatech. Explain the legal position applicable to this case. (9 marks)

13. (a) The Kenya legal system recognises some unwritten sources of law. Explain **four** of such sources. (8 marks)

(b) Markman appointed Rickson to sell his motor car. The car was to be sold at Ksh. 1.25 million but not less than Ksh. 1.2 million. Rickson was to receive a commission of Ksh. 30,000. Rickson got a client who paid Ksh. 1.2 million. Unknown to Markman, the client paid Ksh. 20,000 to Rickson on the basis that he assisted in bargaining the price from Ksh. 1.25 million to Ksh. 1.2 million. Rickson was paid his commission of Ksh. 30,000. Markman later learnt of the happenings and is contemplating to take legal action against Rickson. Explain the legal position in this case. (9 marks)

14. (a) Outline **four** circumstances under which frustration may terminate a contract. (8 marks)

(b) Outline **six** types of jurisdiction of the High Court of Kenya, as stipulated in the constitution of Kenya. (9 marks)

15. (a) Melissa entered into an agreement with Shantel for delivery of fresh flowers after every two days, for a period of six months. The agreement contained a clause that "the agreement is not entered into as a formal level agreement and is not legally enforceable." Melissa stopped the delivery after two months. Shantel is aggrieved and intends to sue for breach of contract.

(i) Explain the legal principles applicable in the case. (6 marks)

(ii) Advise Shantel. (2 marks)

(b) Explain **six** general defences that are available to a defendant in an action for tort. (9 marks)

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