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PILOT PAPER

INTRODUCTION TO LAW AND GOVERNANCE

December 2021.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Customary law is a source of law in many countries. However, it must fulfill the criteria set before it is accepted as a source of law.

With reference to the above statement, outline the criteria to be fulfilled. (10 marks)

- (b) Discuss the circumstances under which the writ of mandamus could be issued by courts. (5 marks)

- (c) Article 159 of the Constitution provides alternative disputes resolution (ADR) as a way of solving disputes.

Discuss the advantages of ADR. (5 marks)
(Total: 20 marks)

QUESTION TWO

- (a) Yako took his clothes to laundry for dry cleaning services. He was given a receipt which he did not read. When he reached home, he read it more carefully and saw the writing below:

“In case a garment is damaged, the company will be liable to pay up to Sh.1000”.

Upon inspection of the clothes, he realised that they were damaged as a result of negligence of the laundry company.

Advice Yako. (10 marks)

- (b) Explain five circumstances when an agent can be held personally liable. (5 marks)

- (c) Distinguish between a “limited liability partnership” and “common law partnership”. (5 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Discuss five provisions of the Constitution that anchor compliance obligations in publicly listed companies. (10 marks)

- (b) Explain five functions of the management company in Sectional Properties Act. (5 marks)

- (c) Outline briefly the obligations of a surety under the contract of guarantee. (5 marks)

(Total: 20 marks)

QUESTION FOUR

- (a) Explain four theories of ethics. (8 marks)

- (b) Discuss four methods used to control delegated legislation. (8 marks)

- (c) Describe four functions of Insurance Regulatory Authority. (4 marks)

(Total: 20 marks)

QUESTION FIVE

- (a) Discuss five offences against a person as a result of tampering with electronic documents relating to contracts. (10 marks)
 - (b) Tindi issued a bill of exchange to ALD Company Limited. The bill was subsequently altered by the ALD Company Limited by crossing the name of ALD Company Limited and substituting it with the name ALD CO. LTD.

Explain the liability of the acceptor to the holder after such alteration. (8 marks)
 - (c) Citing relevant cases, expound the obligation of the credit broker (dealer) in sale of goods act. (2 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) With reference to the Constitution, list five ways of identifying public land. (5 marks)
- (b) Yusit invented an automatic machine which dispenses drugs automatically when you insert a prescription into the machine. Aumatech modified the machine and passed it to the market as Aumatech. Yusit has lost significant revenue as a result.

Required:
Advise Yusit on the cause of action against Aumatech. (5 marks)
- (c) Komba promised to supply Nyule with 100 bags of yellow beans on Wednesday, 27 October 2021. Nyule accepted to pay the price after receipt of goods. On the agreed day, Komba did not supply the goods.

Required:

- (i) Explain the liability of Nyule. (2 marks)
 - (ii) Expound on when the court may refuse to grant recession order. (8 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) Outline the structure of courts in your country. (10 marks)
 - (b) Distinguish between sale agreement and agreement to sale. (2 marks)
 - (c) Explain limitations of applying traditional methods in solving disputes. (8 marks)
- (Total: 20 marks)**
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