

# KASNEB

CPA PART I SECTION 1

CS PART I SECTION 1

CCP PART I SECTION 1

COMMERCIAL LAW

MONDAY: 23 May 2016.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

## QUESTION ONE

- (a) In relation to the sources of law:
- (i) Explain the meaning of the term "common law". (4 marks)
  - (ii) State four characteristics that a custom under African customary law should satisfy to be enforceable. (4 marks)
  - (iii) Describe two types of judicial precedents. (4 marks)
- (b) Discuss four grounds of an application for judicial review. (8 marks)
- (Total: 20 marks)**

## QUESTION TWO

- (a) Damages are a common law remedy awarded in tort and are intended as compensation for a plaintiff's loss.
- In relation to the above statement, describe five categories of damages available to a plaintiff. (10 marks)
- (b) In relation to the court system in your country:
- (i) State five superior courts. (5 marks)
  - (ii) Explain the composition and jurisdiction of the Kadhi's court. (5 marks)
- (Total: 20 marks)**

## QUESTION THREE

- (a) Moses Mugo and Joshua Wafula are interested in venturing into business.
- Required:**  
Advise them on three advantages of an artificial person over an unincorporated person. (6 marks)
- (b) Explain four essential elements of an enforceable contract. (8 marks)
- (c) Identify three types of rights that a surety could enforce against a creditor in a contract of guarantee. (6 marks)
- (Total: 20 marks)**

## QUESTION FOUR

- (a) With reference to settlement of disputes through commercial arbitration, summarise the form and content of an arbitral award. (8 marks)
- (b) With reference to negotiable instruments, highlight the conditions that a person must satisfy in order to qualify as a holder in due course. (6 marks)
- (c) Explain three duties of a bank to its customers. (6 marks)
- (Total: 20 marks)**

**QUESTION FIVE**

- (a) Discuss four remedies available to a buyer in case a seller breaches a contract of sale of goods. (8 marks)
  - (b) Distinguish in three ways between a “hire purchase agreement” and a “conditional sale agreement”. (6 marks)
  - (c) Describe three conditions necessary for a valid ratification in the law of agency. (6 marks)
- (Total: 20 marks)**

**QUESTION SIX**

- (a) Explain five rules that govern distribution of losses and assets upon dissolution of a partnership. (10 marks)
  - (b) With reference to the law of insurance:
    - (i) Distinguish between “perils” and “hazards”. (2 marks)
    - (ii) Discuss four elements that an insurable risk ought to possess. (8 marks)
- (Total: 20 marks)**

**QUESTION SEVEN**

- (a) With reference to the law of property, explain two characteristics of a plant breeder’s patent. (4 marks)
  - (b) Explain the differences between “criminal law” and “civil law”. (6 marks)
  - (c) Describe five remedies of a principal for an agent’s breach of duty. (10 marks)
- (Total: 20 marks)**
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