



# THE CATHOLIC UNIVERSITY OF EASTERN AFRICA

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**MAIN EXAMINATION**

**JANUARY – APRIL 2014 TRIMESTER**

**FACULTY OF LAW**

**EVENING PROGRAMME**

**CLS 104: CONTRACTS I**

**Date: APRIL 2014**

**Duration: 2 Hours**

**INSTRUCTIONS: Answer Question ONE and ANY OTHER TWO Questions**

- Q1. a) On Monday, John placed the following advertisement in his local newspaper, for sale men's designer suit, never worn Ksh. 30,000 or nearest offer. Replies must be received by letter by Friday"

He then gave a telephone number to call for further information. Later that day, Michael telephoned John and said "I will buy your suit for Ksh. 20,000". John replied, 'I cannot accept but the suit is yours for Ksh. 25,000, you must respond to me in writing by Friday. I will not sell to anyone else before then'.

On Wednesday afternoon John sold the suit to Fred for Ksh. 30,000. On Thursday, Michael met Fred's brother who told him that Fred had just bought a designer suit from John. Michael rushed home and sent a letter to John in which he confirmed that he accepted his offer for Ksh. 25,000 for the suit. On the same day John wrote to Michael stating, "The offer is no longer open". On Friday morning John received Michael's letter and at lunchtime on Friday Michael received John's letter.

Advice the parties as to their respective legal positions. **(20 marks)**

b) Discuss the rules governing consideration. **(10 marks)**

Q2. "The decision of the court of Appeal in Williams vs Roffey Bros and Nicholls (contractors) Ltd has significantly eroded in Stilk vs Myrick. Further the reasoning employed by the court has devalued the requirement of consideration".

Discuss this statement. Do you agree with the decision of the court in Williams? Provide reasons for your answer. **(20 marks)**

Q3. Write short notes on:

- a) Privity of contract
- b) Completeness of a contract
- c) Honour clauses
- d) Comfort letters

**(20 marks)**

Q4. Section 4 of the sale of Goods Act (Cap 31 Laws of Kenya) provide as follows:

- 1) Capacity to buy and sell is regulated by the general law concerning capacity to contract and to transfer and acquire property. Provided that, where necessaries are sold and delivered to an infant or minor, or to a person who by a reason of mental incapacity or drunkenness is incomplete to contract, he must pay a reasonable price therefore.
- 2) Necessaries in this section means goods suitable to the condition in life of the infant or minor or other person, and his actual requirements at time of the sale and delivery.

Citing relevant case law and other legal authority discuss how this law impacts on contracts to which minor persons with mental incapacity and drunkards are parties. **(20 marks)**

- Q5. a) Critically examine the law relating to acceptance of an offer. To what extent does the law in this area need clarifying? **(10 marks)**
- b) Discuss the criteria the courts will use to determine whether an exclusion clause is binding to contract or not. **(10 marks)**

**\*END\***