

THE KENYA SCHOOL OF LAW



EXAMINATION FOR ADMISSION TO
THE ROLL OF ADVOCATES

COMMERCIAL TRANSACTIONS – ATP 108

5TH DECEMBER, 2014

DURATION: 3 HOURS

Instructions to Candidates

- (a) Answer **ONE** Question from **EACH** section and **ONE** from any Section.
- (b) All questions carry fifteen (15) marks each.
- (c) Marks may be lost for illegibility.

PLEASE TURN OVER

SECTION ONE

1. The Governor of Moto County has recently reshuffled his County Executive Committee (Cashnet) after realizing that his County is not making good progress in attracting new investments. This follows the receipt of a report whose finding, among others, concluded that the people of Moto desire to take greater control of the market opportunities rather than have their Country Government try its hands in business.

The report also identified the need for a better policy and regulatory environment for business and commercial transactions. In response, the Governor and his cabinet have decided to establish a business registration centre.

As the one LLM holder from the County in matters of finance law and tender of Commercial Law in Hong Kong University, you have been approached to offer your advice.

Proceed to advise the Governor on at least five forms of business organization that can be registered to undertake business to the County.

For each of those you mention give their advantages and disadvantages and the kind of documents they would use to seek registration.

(15 Marks)

2. Your cousin Rachael has heard that there are good deals on the OLX Website. She wants to upgrade her phone to a sleeker smartphone model. She has visited the site constantly in the past week and has identified three potential phones posted on the site. She has contacted their owners over the phone. She now seeks your advice before she concludes the deal.

- a) Advise on at least four legal issues that arise out of the transactions concluded from the OLX site. Attend to legal liabilities and rights of the parties.

(9Marks)

- b) Racheal bought an LG smartphone from a man who described himself as Martin. They met at Galleria Mall to conclude the deal. Racheal inspected the phone, tested it with her SIM Card and was satisfied. She paid through her MPESA account Kshs. Kshs. 15,000 to a number that Martin had given her.

Four hours later, the phones died and when she tried to charge it, it could not charge or be revived. She tried to reach Martin but his phone was switched off. Advise her on any cause of action and remedies available to her.

(6 Marks)