

THE KENYA SCHOOL OF LAW



DIPLOMA IN LAW (PARA-LEGAL STUDIES)

1<sup>ST</sup> YEAR TERM I EXAMINATION

ELEMENTS OF CONTRACT LAW – PTP - 101

23<sup>RD</sup> FEBRUARY, 2021

DURATION: 2 HOURS

**Instructions to Candidates**

- (a) Answer Question ONE and ANY OTHER THREE Questions
- (b) Question ONE carries 25 Marks
- (c) All other questions carry 15 Marks each

PLEASE TURN OVER

### Question One

- a) Belinda is an American citizen based in America did on the 12<sup>th</sup> December, 2019 book to travel to Kenya to visit The Masai Mara with her family and stay in the Serene Hotel. She was scheduled to travel to Kenya and stay in the hotel from the 20<sup>th</sup> April, 2020. On the 13<sup>th</sup> March, 2020, there was an International outbreak of Covid-19 Pandemic as a result of which all forms of international travel were banned. Belinda has informed Serene Hotel that she is not in a position to travel to Kenya until after the said Covid-19 is contained. Serene Hotel is however feeling aggrieved and are contemplating taking legal action against Belinda for breach of contract.

Using **reported cases** where applicable advise Serene Hotel on chances of success of such a claim.

(5 marks)

- b) "The law of contract is clearly the cornerstone of the entire commercial law." Anonymous. In light of this statement, highlight any **SIX** arguments that one would advance to justify the existence of the law of contract.

(12 marks)

- c) Using **one case law** in every instance, discuss the following rules of acceptance:

- i) Acceptance must be communicated.
- ii) Acceptance once made cannot be revoked.

(8 marks)

### Question Two

Using **one case law** in every instance, discuss the distinction between offer and: -

- a) Invitation to treat. (4 marks)
- b) Auction Sales without reserve price. (4 marks)
- c) A declaration of intention (3 marks)
- d) Advertisements (4 marks)

### Question Three

- a) Highlight any **FOUR** distinctions between a contract and a tort. (8 marks)
- b) Njoroge entered into an agreement with Kamau for the purchase of a piece of land next to his. The same was to be used by Njoroge to expand his business enterprise which was in need of extra space for car park and access to the beach which was crucial to his business. Unfortunately, at the very last minute, Kamau changed his mind and refused to transfer the land to Njoroge even though is ready to complete the sale.

Advise Njoroge on the remedy available to him in law giving the relevant definitions and the rules applicable. (7 marks)