



**KISII UNIVERSITY**  
**UNIVERSITY EXAMINATIONS**

**SECOND YEAR EXAMINATION FOR THE AWARD OF**  
**THE DEGREE OF BACHELOR OF LAWS**  
**FIRST SEMESTER, 2023/2024**  
**(AUGUST-DECEMBER, 2023)**

**LLBK 217: COMMERCIAL LAW (SALE OF GOODS, HIRE PURCHASE & AGENCY)**

**STREAM: Y2 S1**

**TIME: 2 HOURS**

**DAY: TUESDAY, 9:00 – 11:00 PM**

**DATE: 28/11/2023**

**INSTRUCTIONS**

- 1. Do not write anything on this question paper.***
- 2. Answer Question ONE (COMPULSORY) and any other TWO questions.***
- 3. Illustrate your answer with relevant cases and statutory provisions where applicable.***

**QUESTION ONE**

Naomi is a businesswoman who has various cereal outlets in the country. Naomi has always sourced her goods from farmers directly but this year due to the lack of rain, she has been forced to get her stock from Juma who imports various cereals into the country. Juma operates his business by letting customers choose what they want from a sample and then he delivers the goods. In June this year, Naomi ordered 500 kgs of Rosecoco beans from Juma. The beans were to be packed in 2kg bags that were to be branded by Juma before packaging. Naomi chose the kind of beans from samples that Juma showed her, and proceeded to pay a deposit, on the condition that the remaining balance would be paid as soon as Juma dispatched the beans to her. Juma then ordered 5 tons of Rosecoco beans from his supplier and the same was sent via rail. Upon receipt, Juma sent Naomi her consignment and demanded for payment on which Naomi paid before she received the goods but after Juma had sent her a proof of courier. On receipt of the consignment, Naomi realizes that the grains are packed in one kg bags. The green beans were only 300kgs and they were completely rotten. There was also 100kgs of maize in a fair condition. The remaining 100kgs got lost in Transit and Naomi never

received them. The packaging bags were also branded in a logo of a totally different company from Naomi's company despite Naomi having cleared the branding costs. Juma and Naomi did not execute any contract relating to these transactions. Naomi has tried calling Juma but Juma does not pick her calls.

Naomi has come to you as a Commercial Law expert, to understand the issues raised in her transaction with Juma, and on whether she has any remedies due to her. Advice her. **(30 Marks)**

### **QUESTION TWO**

- a) Discuss the Conditions to be fulfilled by a Merchantile agent. **(10 Marks)**
- b) Discuss the Rules on passing of property in a Sale of Goods transaction **(10 Marks)**

### **QUESTION THREE**

- a) Discuss the remedies of an unpaid seller **(7 Marks)**
- b) Analyze the concept of delivery of goods in a sale of goods transaction **(5 Marks)**
- c) Describe the different types of goods under the Sale of Goods Act. **(8 Marks)**

### **QUESTION FOUR**

Critically discuss the following

- a) Formal requirements on Hire-Purchase Agreements **(10 Marks)**
- b) Hirer's rights on Hire Purchase Agreements **(10 Marks)**

### **QUESTION FIVE**

Write short notes on the following

- a) Agency by Estoppel **(5 Marks)**
- b) Agency by Cohabitation **(5 Marks)**
- c) Termination of an Agency **(5 Marks)**
- d) Duties of an agent to his Principal **(5 Marks)**