



KISII UNIVERSITY
UNIVERSITY EXAMINATIONS

FIRST YEAR EXAMINATION FOR THE AWARD OF
THE DIPLOMA IN LAWS
FIRST SEMESTER, 2023/2024
(AUGUST-DECEMBER, 2023)

DLAW 0113: ELEMENTS OF CONTRACT

STREAM: Y1 S1

TIME: 2 HOURS

DAY: WEDNESDAY, 9:00 – 11:00 AM

DATE: 06/12/2023

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

On 25th day of May 2022, Ian wrote to Irene offering to buy her land known as Central Kitutu/Mwamosioma/933 that she had advertised on the Standard newspaper on 24th day of May 2022 “offer valid for 7 days”. Irene indicated on the Advertisement that all prospective buyers to communicate via the postal address 1892-40200 KISII.

Irene had indicated her asking price for the sale of that land at ksh. 1.5Million. Ian in his letter expressed his desire to buy Irene’s Property at ksh 1Million and he expressly stated in his letter that if I hear no more from you, I shall consider the property mine.

On 26th day May 2022, Wycliff another prospective buyer expressed his desire to buy Irene’s property at Ksh. 1.5Million. Nevertheless, wycliff’s letter was received by Irene on 5th of November 2022 when Irene had Charged his property to KCB Bank and had obtained a Loan of 1million Kenyan shillings.

Both Wycliff and Ian have approached you as their contract Lawyer to file a suit for breach of Contract against Irene.

a) Advise Ian **(10marks)**

b) Advise Wycliff **(10marks)**

c) State and explain the various types of contracts. **[10marks]**

QUESTION TWO

(a) Define the following terms as used in the law of contract [10mks]

- i. Invitation to treat
- ii. Counter offer
- iii. Voidable contract
- iv. offeree
- v. consideration

(b) Define what is an offer and explain the different types of offer. Illustrate your answer with relevant cases. **(10mks)**

QUESTION THREE

State and explain how an offer can be terminated. **(20 marks)**

QUESTION FOUR

a) Describe the concept of privity of Contracts. **(10marks)**

b) Define consideration and explain the different types of consideration. **(10marks)**

QUESTION FIVE

What is meant by contractual Capacity? State the contractual capacity of minors and persons of unsound mind. *Support your answers with case law.* **(20marks)**