



JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY
SCHOOL OF BUSINESS AND ECONOMICS

PROCUREMENT AND LEGAL FRAMEWORK
(ABA 338)

KISUMU CAMPUS

DURATION: 2HOURS

QUESTION ONE

Tuarez is a Purchasing Manager of Mar International Limited. His company participated in a Procuring conducted by Grand Tiger Motors Limited, a Procuring entity as defined in the Public Procurement and Disposal Act. He is a bit puzzled by a few matters and approaches you for advice.

a) Tuarez says upon the opening of their Bid, he was told that the next step is an evaluation process. Explain evaluation to Tuarez.

(12 Marks)

b) Tuarez tells you that his Company was not successful, but he knows that the successful bidder lacks capacity to fulfill the tender. Advise him on how he can challenge the decision of the Procuring Entity.

(8 Marks)

c) Write explanatory notes on the following:-

- The General Principles of Public Procurement

(6 Marks)

QUESTION TWO

‘I myself would prefer to put it this way: a doctor is not guilty of negligence if he has acted in accordance with a practice accepted as proper by a responsible body of medical men skilled in that particular art .’

Per McNair J in *Bolam v Friern Hospital Management Committee*

- i) What are the guiding principles with regard to delivery of services found to be unsatisfactory to a consumer? (6 Marks)
- ii) State the effect of the rescission of a contract entered into due to an unfair practice in the contract formation? (6 Marks)
- a) Write notes on the following:-
- Consumer (4 Marks)
 - Loan Brokering (4 Marks)

QUESTION THREE

‘A person who has been unjustly enriched at the expense of another is required to make restitution to the other.’

- a) Analyse the above statement and state in what instances it shall become necessary to make restitution. (12 Marks)
- b) Write explanatory notes on the proposition that one is entitled to be paid ‘as much as is merited’ and when this may arise (8 Marks)

QUESTION FOUR

- a) Explain the manner in which a sub- agency can be terminated. (4 Marks)
- b) What are the general rules that govern an agency where the Principal is not disclosed? (5 Marks)
- c) Distinguish between Power and Authority with regard to the Agency. Explain the characteristics of Authority in the Agency relationship. (6 Marks)
- d) Write explanatory notes on
- *Del credere* agent (3 Marks)
 - Duties of a Principal

(2 Marks)

QUESTION FIVE

Write explanatory notes on the following:-

a) Defining characteristics of a License

(4 Marks)

b) English Mortgage

(4 Marks)

c) Reverse Auctions

(6 Marks)

d) Types of Letters of Credit

(6 Marks)