



**JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY**  
**SCHOOL OF BUSINESS AND ECONOMICS**  
**UNIVERSITY EXAMINATION FOR THE DEGREE OF BACHELOR OF BUSINESS**  
**ADMINISTRATION WITH IT**  
**2<sup>ND</sup> YEAR 2<sup>ND</sup> SEMESTER 2019/2020 ACADEMIC YEAR**  
**MAIN-EVENING**

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**COURSE CODE: ABA 208**

**COURSE TITLE: BUSINESSLAW 11**

**EXAM VENUE:**

**STREAM: (BBA)**

**DATE:**

**EXAM SESSION:**

**TIME: 2 HOURS**

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**Instructions:**

- 1. Answer ALL questions in section A and ANY other 2 questions in section B**
- 2. Candidates are advised not to write on the question paper.**
- 3. Candidates must hand in their answer booklets to the invigilator while in the examination room**

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(a). Abdi, Muriuki, Muthama, Wanjiku and Kwamboka are former JOOUST University School of Business students. They have traded in the name and style of Bright Ideas Ltd since 2008. They have set up their business in the heart of Nairobi. They import and sell assorted computers and computer software to a wide spectrum of clientele including banks, medium and small scale business proprietors and professionals both in and out of Nairobi. The business has improved from year to year. In January, 2009, they employed Mitambo, CPA, as the Chief Accountant, Akili, CPS, as the Corporation Secretary and Mumbi, CPA, as the Internal Auditor. This was in addition to other staff necessary for the running of the expanding IT business.

In 2010, the four directors took out life assurance policy for all directors and other employees with Maisha Sawa Insurance Co Ltd. They also secured an outpatient and inpatient facility with the same insurance company. However, when the Internal Auditor died in 2011, Sawa Insurance Co Ltd refused to pay. In the same year, the Human Resource Manager was admitted in hospital suffering from cancer. In the proposal form she had indicated she had never suffered from any illness though she had been in and out of hospital for cancer treatment on a number of occasions. The insurance refused to foot the bill.

The company sold 200 computers to Apex Ltd of Kisumu. Apex has not paid for the goods, although, the computers have been taken to a common carrier, RVR, to take to Apex Ltd in Kisumu. Bright Ideas Ltd is consulting its legal department on the way forward.

The company is faced by other challenges. A cheque leaf stolen from the office was recently used to fraudulently withdraw Kshs 500,000 from the main company bank account at BCA Bank. They intend to sue the bank for breach of its duties. The directors are aware that these challenges are apparent in any growing business. They must, however, be solved for the smooth running of the company.

Assuming that you are the Legal Manager of Bright Ideas Ltd, give detailed legal advice to the company in light of the various legal issues arising from the case scenario. **(20 Marks)**

(b). State five basic principles of the Law of Bankruptcy. **(5 Marks)**

(c). Endorsement is the signing of a bill by a party for purposes of negotiating it. Outline five characteristics of an endorsement. **(5 Marks)**

## **QUESTION TWO**

(a) *“Generally while the fact that a person has been adjudicated bankrupt does not in itself give rise to any criminal liability, the bankrupt may be guilty of one or more of the offences specified in the Bankruptcy Act if he has misconducted himself with regard to his affairs either before or during the currency of the Bankruptcy.”* – Anonymous

Discuss

**(10 Marks)**

(b) *“The contract of sale of goods imposes upon the parties certain obligations”*- Discuss.

**( 10 Marks)**

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### **QUESTION THREE**

(a) Under what circumstances would a partner be held personally liable for acts done on behalf of the other partners and the firm? (10 Marks)

(b) Mutua bought a Mercedes Sports car from Smart Cars Auto Ltd in 2013. Last month Mutua discovered that the car had been stolen by the person from whom the company bought the car. The owner of the car now demands his car from Mutua. Advise Mutua on the legal position. (10 Marks)

### **QUESTION FOUR**

(a) Discuss why it is necessary to know when property in goods passes from the seller to the buyer under the Sale of Goods Act. (10 Marks)

(b) Examine the rules for determining the existence of a partnership under the Partnership Act. (10 Marks)

### **QUESTION FIVE**

Write concise explanatory notes on any four of the following :- (20 Marks)

(a) Liability of a partner for crimes committed by other partners (5 Marks)

(b) Distinction between bankruptcy and insolvency (5 Marks)

(c) The functions of insurance (5 Marks)

(d) Duties of a collecting banker (5 Marks)

(e) Distinction between a condition and a warranty under the Sale of Goods Act (5 Marks)