

KIBABII UNIVERSITY



UNIVERSITY EXAMINATIONS

MAIN EXAMS

2020/2021 ACADEMIC YEAR

THIRD YEAR FIRST SEMESTER

FOR THE DEGREE OF BACHELOR OF COMMERCE

COURSE CODE: BCP 345E

**COURSE TITLE: CONTRACT DEVELOPMENT IN PURCHASING
& SUPPLIES**

DATE: 13/07/2021

TIME: 9.00AM-11.00AM

INSTRUCTIONS TO CANDIDATES

- 1) Answer Question **ONE**(Compulsory) and **ANY OTHER TWO** Questions
 - 2) Candidates must hand in their answer booklets to the invigilator while in the examination room
 - 3) Credit is given for legibility, clarity and use of relevant examples
 - 4) Question **ONE** is **30 marks** while Questions **2-5** carry **20 marks** each
 - 5) Clearly write your **Registration Number** on each answer sheet used
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TIME: 2 Hours

KIBU observes ZERO tolerance to examination cheating

QUESTIONS : SECTION A

QUESTION ONE

CASE STUDY: BEST CHOICE WINES

Best Choice Wines Ltd (BCW) is a privately owned company. It was established in 1955 by Brian Best who wanted to buy and sell quality wines from specialist vineyards located in different countries.

Growth and Ownership

Originally there was little competition in this sector and Brian quickly gained a good reputation with discerning consumers for his choice of products. Such was Brian's reputation that the business rapidly grew and in 1965 Brian made the decision to move from a sole trader to a private limited company with the core activity of buying and selling wines. The company is currently owned and managed by Brian's two children. They share their father's passion for the company and are determined for it to survive and grow. As part of its strategy for growth, BCW is actively considering the acquisition of other similar companies in other parts of its home country. BCW understands there is a significant risk in trying to grow the business through acquisition but considers that its expertise and reputation for buying and selling quality products to a niche market should reduce that risk.

Changing Market Place

The market place has changed considerably since Brian started the business. Many of the smaller independent companies unable to differentiate their products on quality and price have not been able to compete with the supermarkets and consequently have ceased trading. This has contributed to the demise of many high street shops, often to the benefit of supermarkets. Supermarkets typically enjoy volume sales and along with their considerable buying power are able to influence consumer demand through a combination of low, but profitable on volume, sales prices and in-store advertising and promotions. However, this has also been to the advantage of niche providers such as BCW as it has increased the public's awareness of wines and wine is seen less as a luxury item. As a consequence, wine consumption is increasing nationally.

Buying Wines from Europe

BCW enjoys a good reputation within the trade and over the years has developed excellent supplier relationships with a number of vineyards. These suppliers are prepared to undertake all business on open account. However, a small number of suppliers are now insisting on payment by Letter of Credit. This is a departure from normal practices and procedures and the finance department at BCW is asking for further information before agreeing. All European wine is delivered to BCW's warehouse by road transport either owned by the supplier or arranged by the supplier with a local freight forwarder. Currently all supply contracts specify Incoterms Delivery Duty Paid (DDP). However, a number of smaller suppliers are only prepared to supply wines Ex Works. This is being resisted as it is felt such a change would present BCW with a number of extra costs and responsibilities.

REQUIRED

- a) Explain what is meant by limited liability and describe its benefits to the owners of BCW (3mks)
- b) BCW has entered into several contracts with its suppliers. Give five different definitions of a contract (10mks)
- c) In the context of BCW business environment, describe the six essential elements that must be present in an agreement to make it a legally binding agreement (contract) (12mks)
- d) Explain the difference between conditions and warranties in a contract (5mks)

QUESTIONS : SECTION B

QUESTION TWO

BIDCO Industries has been struggling to maintain appropriate contractual relationships with its chain of suppliers. He seeks your advice on this.

- a) Explain what you understand by the term Standard Terms (5mks)
- b) Describe Five major elements BIDCO should consider on Drafting a Contract with its chain of suppliers (15mks)

QUESTION THREE

The General Manager of Radisson Hotel has asked you to constitute a risk free supply chain department in the context of reducing battle of the forms as well as litigation awards

- a) Give Five ways in which a procurement manager can prevent the battle of the forms (10mks)
- b) Discuss Four monetary awards that can be imposed on a contractor having breached the contract (10mks)

QUESTION FOUR

Following the recent air crash of the Boeing 737 flight from Ethiopia to Kenya, Chinese and Ethiopian Governments have grounded all their Boeing 737 flights. Ethiopia and China considers preferring contractual breaches on the manufacturer's warranty but worried on the possible remedies which were not articulated expressly in the contract.

- (a) Describe Four remedies in that can be imposed on the aircraft manufacturer should the contractual breach be confirmed (08mks)
- (b) Explain Four circumstances under which a contract would be invalidated (12mks)

QUESTION FIVE

Mambo, the CEO of Geo-Tech Limited has been battling with suppliers over the last five years in contractual disagreements. He considers hiring a new Contract Manager with proper legal background given the prevailing costs in contractual litigations. He believes his Procurement team have not been having sufficient working knowledge of commercial law.

- a) Give reasons why contract manager must have a good knowledge of commercial law (10mks)
- b) Describe five areas Buyer-Supplier may have conflicting interests in a contract (10mks)