



**FACULTY OF ARTS AND LAW  
SCHOOL OF LAW**

<b>COURSE NAME:</b>	<b>CONTRACTS I</b>
<b>COURSE NO:</b>	<b>LA201</b>
<b>TIME ALLOWED:</b>	<b>3 hours</b>
<b>READING TIME:</b>	<b>10 minutes</b>
<b>NUMBER OF PAGES:</b>	<b>4 including this page</b>
<b>NUMBER OF QUESTIONS ON PAPER:</b>	<b>6 (Six)</b>
<b>NUMBER OF QUESTIONS TO BE ANSWERED:</b>	<b>5 (Five) Only</b>
<b>MARK ALLOCATED FOR EACH QUESTION:</b>	<b>10 (Ten)</b>
<b>TOTAL MARKS:</b>	<b>50 (Fifty)</b>

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**MATERIALS PERMITTED IN EXAM ROOM:**

None (This is a closed book exam!)

**SPECIAL INSTRUCTIONS**

- All Candidates in this exam must complete the **Compulsory Question**;
- Attempt **5 questions only** in the exam;
- Some questions may have a number of parts in which case all parts are to be attempted;
- Cite cases and legislation in support of your answers to the questions.

**LA201 – CONTRACTS I – SEMESTER 1, 2008 - EXAMINATION**

**QUESTION 1 – COMPLUSORY (10 marks)**

It is election year for the City Council. The Fenua City Council in the Country of Pasifika is seeking to gain votes from three community groups. Each of the three community groups has asked the City Council to let it have use of a large vacant warehouse to be partitioned into 3 equal parts, Room A, Room B and Room C and to allocate each of the rooms to each of the community groups.

The Council, being election year, has entered into written agreements with each of the community groups. For the Arana Community, the Council allocated Room A in return for Arana Community cleaning up the Fenua harbour area from waste and garbage caused by users of the harbour. For the Buaka Community, the Council allocated Room B. In return the Buaka Community is to teach children in Grade 3 of the local school weaving lessons which they had earlier promised to the principal that they will offer. For the Cheke Community, the Council allocated Room C in return for their generosity for hosting the annual “Mountain to Surf” marathon last year. The allocation to each community is for two years.

Given the current boom in real estate in Pasifika, Fenua City Council has now received a lucrative offer from a wealthy real estate agent for the warehouse.

**You are acting as solicitor for the Council and the Chief Executive Officer of the Council has asked for your legal opinion as to whether it has any contractual liabilities to the three communities.**

**YOU ARE REQUIRED TO ANSWER ONLY FOUR (4) QUESTIONS FROM QUESTIONS 2 to 6**

**QUESTION 2 (10 marks)**  
**ANSWER ALL QUESTIONS**

- (a) Briefly explain the general rule regarding exclusion clauses in signed contracts.**
- (b) Identify and explain ONE exception to the general rule on exclusion clauses;**
- (c) In order to succeed, any party in a contract which relies on an exclusion clause has to show that three (3) particular grounds exist. Identify those three (3) grounds?**
- (d) What useful legal principle emanates from the case of *Gallie v Lee and Another* [1971] AC 1004?**

**QUESTION 3 (10 marks)**

“I prefer to apply the principle that a promise intended to be binding, intended to be acted upon, and in fact acted on, is binding so far as its terms properly apply.”

Lord Denning in *Central London Property Trust v. High Trees House* [1947] KB 130

**In light of the above statement, discuss the benefits and consequences of applying maxims of equity into contract law.**

**QUESTION 4 (10 marks)**

Write short essays on the following questions:

- (a) Distinguish between an offer and an invitation to treat. (Make references to relevant cases.)**
- (b) Explain why Tenders and Auctions are exceptions to rule on Offer?**

**QUESTION 5 (10 marks)**

Max is a business person who is conscious about the environment and believes that renewable energy is the key to the earth's future. Max meets up with Keni who is also a business person who imports and sells electrical generators.

Max and Keni meet on Monday and Max is interested in buying a 300 KW (kilowatt) *Mazuna* generator. He asks Keni if he can convert a part of the *Mazuna* 300KW generator so that it can take a mixture of pure coconut oil and diesel fuel. Max also asks Keni if he can give him a 'grace period' of 3 months to pay of the total price. Keni shakes Max's hand and thanks him for coming to his shop.

On Wednesday, Keni sends an invoice to Max quoting the price of the *Mazuna* 300KW generator, there was a note attached to the invoice which stated as follows:

"Thank you for visiting our shop on Monday. As per our conversation on Monday and your requirements, please find attached our invoice for 1 x *Mazuna* 300KW generator. We are pleased that you have chosen to do business with our company."

On Thursday, Max pays for the *Mazuna* 300KW generator and it is delivered to his place with a receipt and delivery note. On Friday, Max connects all the parts, adds 20 litres mixture of coconut oil and diesel fuel, and switches on the generator. After 30 minutes of operation, the generator blows and stops working, with smoke coming out from the engine. A mechanic was brought in and confirmed that the cause of the problem was the coconut oil because the generator was not equipped to burn coconut oil fuel.

Max decides to sue Keni and claims that the agreement between him and Keni was for Keni to supply him with a generator that was capable of taking a mixture of coconut oil and diesel fuel.

**You are a judge in the District Court of Pasifika. The following parties have appeared before you and have completed arguing their case before you. You now have to give a judgment based on the facts and applying the relevant legal authorities. (You may refer to any case law from any jurisdiction of the Pacific.)**

#### **QUESTION 6 (10 marks)**

"A binding contract is grounded in the notion of consent. Doctrines such as *non est factum* and *consensus ad idem* testify to this rudimentary requirement. It is through this requirement that the precept of non-exploitation principally makes itself felt in contract. For, just as liberal individualism requires that people be permitted to enter into binding agreements, it also demands that binding agreements reflect their free and voluntary choices."

*Justice EW Thomas "The Conscience of the Law" (2008) 8 Waikato Law Review 1*

**Discuss with reference to cases.**