



**CERTIFIED PUBLIC ACCOUNTANT
FOUNDATION LEVEL 1 EXAMINATIONS**

F1.2: INTRODUCTION TO LAW

DATE: WEDNESDAY, 01 DECEMBER 2021

MARKING GUIDE AND MODEL ANSWERS

QUESTION ONE

Marking guide

a)	Marks
Compliance with one's employment contract:	
- Does not constitute a criminal act	1
- Is a civil wrong, which may be a breach of contract or a like.	1
Board recommendation to file the claim at RIB:	
- Is not effective/legal because RIB entertains violation of criminal laws	1
- RIB does not deal with non-compliance with labour laws	1
Mr Gasoni breached	
- The employment agreement and non-competition clause in the agreement between him and MAZEX.	1
- The action of Mr Gasoni is prohibited under competition law but it is not necessarily prohibited under the employment law.	1
RIB would be competent if the acts of Mr Gasoni were:	
- Constitutive of criminal acts	1
- In violation of criminal laws	1
Maximum marks	8
b)	
Non-competition clauses are agreements between private individuals or business entities.	1
The violation of non-competition clauses can be pursued:	
- Under a procedure provided by civil law in case the violation is done by and between non-merchants	1
- Under commercial procedure in case of dispute between merchants	1
The right procedure for the case would be to:	
- Lodge a claim for damage in a civil court, and/or	1
- Seek injunction to Mr Gasoni to cease the action at commercial court	2
Maximum marks	6
c)	
Unlike the law, religious rules:	
- Do not have force of law (they are not obligatory, general, authoritative, and oriented towards the common good)	2
- Carry moral obligation and are not source of law	1
- Are source of moral obligations	1
Pursuing Mr Gasoni for violation of moral obligation:	
- Before courts of law cannot directly help MAZEX Ltd since the claim will not Sustain	1
- Before informal means of obligations, it may help MAZEX Ltd	1
Maximum	6
Total marks	20

Model answers

a) This question concerns differentiating civil law from criminal law in the classification of law chapter. The candidate is expected to highlight the following:

- **Compliance with one's employment contract does not constitute a criminal act, but rather a civil wrong, which may be a breach of a contract or the like.** Mr Gasoni only breached the Employment contract clauses. This is in principle an issue of labour law and as such does not constitute a criminal act.
- **Board recommendation to file this claim at RIB is not effective/legal because RIB entertains violation of criminal laws, not commercial or other civil actions.** The complaint filed to RIB shall necessarily concern the violation of criminal laws and in no way the non-compliance with Labour law (employment contract terms) is going to warrant a criminal investigation by the RIB.
- **Mr Gasoni breached the employment agreement and non-competition clause in the agreement between him and MAZEX Ltd.** He did not respect the clauses of his employment contract and as such he became non-compliant with the laws on competition. His act is prohibited under the competition law, and it is not necessarily prohibited under the Employment law.
- **RIB would be competent if such violation would at the same time constitute a violation of a criminal law.** An analysis of different legal texts on criminal matters would be carried out to see whether Mr Gasoni's acts constitutes a violation of criminal laws and hence constitutive of a criminal act.

b) Being familiar with both criminal and civil procedure, discuss the right procedure to render Mr Gasoni/FRESH Maize Ltd liable for their breaches?

Non-competition clauses are agreements between private individuals or business entities. Their violation can be pursued under a procedure provided by civil law, such as civil procedure for non-merchants or commercial procedure if the dispute is between merchants.

The right procedure would be therefore, to lodge a claim for damages or seek injunction at the competent court, which is commercial court.

c) This question concerns general understanding of law and differentiating it with morality, culture, and other ethics. The candidate should highlight the following:

- Religious rules do not have force of law. They do not have all the elements of law, namely, the law is obligatory, general, authoritative, and oriented to the common good.
- Religion plays a rather weak and indirect role in setting social order. They are not the sources of law. However, they carry a moral obligation, that their adherent may act on and perform obligations which were otherwise not enforceable by the law.
- Religion is one of the sources of moral obligations. However, the law does not enforce moral obligations, but rather legal ones, which are from the law or binding agreements.
- In pursuing Mr Gasoni, that his religious obligations cannot directly help MAZEX Ltd. They may only help in other informal means of obligations, not before courts of law.

QUESTION TWO

Marking guide	Marks
a) Discussion of the validity of the agreement between Murara John and Fils Gato	
Fils Gato is a minor as the age of majority is 18	1
The sale agreement between Murara and Gato is not valid since Gato lacks capacity	2
The contract is void and it can only be valid once ratified by Gato upon his majority age before anyone challenges it	2
Maximum marks	5
b) Explanation on whether the Power of Attorney given to Gato by Gakuru and Diana empower Gato to enter into the transaction	
The Power of Attorney is an agency contract	1
The Power of Attorney requires essential elements of the contract such consent, object, capacity, legal cause, consideration.	1
This Power of Attorney is not valid because one of the principals (Fils Gakuru) and the agent (Fils Gato) is minor, therefore lack capacity.	2
This Power of Attorney does not give Gato any power to represent his siblings	1
Maximum marks	5
c) Discussion on the validity of Koroneri Noheli's Power of Attorney after the death of Koroneri Fils	
Legal personality gives the rights and obligations	1
Power of attorney is an agency contract, the power-in fact representing the principal in the rights and the duties	1
The death of the person means his/her loss of legal personality	1
Koroneri Noheli's Power of Attorney became obsolete by the death of Koroneri Fils	2
Maximum marks	5
d) Discussion of any three essential conditions of a sale contract	
Capacity	1
- Points of discussion: age, mental soundness, etc.	1
Consent	1
- Points of discussion: Free, offer and acceptance)	1
Object (upon which the contract is constituted)	
- Points of discussion: (legality, examples of prohibited objects)	1
Cause	1
- Points of discussion: (licit, examples of the licit cause as opposed to illicit cause)	1
Consideration	1
Points of discussion: (counterpart to the contract)	1
Maximum marks	5
Total marks	20

Model answers

a)

This question concerns contract law and sale of immovable properties, especially on the matter of capacity to contract, the legal personality of a person and its consequences. The candidate is expected to demonstrate the following:

- Fils Gato is a twin to brother Gakuru who is 17 years old, i.e., a minor in accordance with civil majority age in Rwanda.
- Therefore, Gato is also a minor as the age of majority in Rwanda is 18.
- As a requirement to form a valid contract, the sale agreement is not valid, since one party lacks capacity.
- This contract is void and can only be ratified once the minor reaches majority age before anyone challenges it and decides to ratify it.

b)

- By nature, the power of attorney is an agency contract and requires usual elements of a valid contract, including capacity.
- The fact that both the principal (one of them-Fils Gakuru) and the agent (Fils Gato) are minors, is a vice to the validity of the agreement to represent them.
- For those reasons, the Power of Attorney does not give to Gato the right to enter into that transaction, because it is invalid.

c)

- According to the law, the legal personality of a person is the one that gives rights and obligations.
- Without a legal personality, there is no right and no obligations.
- Power of Attorney is an agency contract, where the power-in-fact represents the principal in the rights and the duties he/she has. When a person dies, he/she loses his legal personality, he has no right nor obligations and therefore cannot be represented.
- Consequently, the Power of Attorney of Koroneri Noheli is no longer valid.

d)

Essential conditions of a sale agreement are:

- **Capacity (age, mental sound).** The parties to contract must have capacity. This means they have to be at least aged 18 years and above. They must also be of sound mind.
- **Consent (Offer and Acceptance).** The parties to contract must have freely consented to the Agreement. The offer or acceptance given under duress or ruse for example is not considered offer under the Law of contract. Sometimes when a party offers consent under duress or ruse, we refer to this type of consent as vitiated consent and therefore cannot constitute an element of a valid contract.

- **Object (Upon which the contract is constituted).** The object must be legal. Illegal object cannot be subject to a valid contract. For example, parties cannot enter into contract on an illegal object such as marijuana or trafficking human being.
- **Licit cause.** The cause of the contract must be legal. Any hidden cause to enter a contract is prohibited and a contract based on an illicit cause is null and without effect.
- **Consideration.** This is in normal circumstances a price for the contract. Consideration, in contract law, is an inducement given to enter into a contract that is sufficient to render the promise enforceable in the courts. The technical requirement is either a detriment incurred by the person making the promise or a benefit received by the other person.

The candidate is expected to mention at least 3 elements and give explanation and/or example.

QUESTION THREE

Marking guide

a) Performance of the contract that has been frustrated by Covid-19 conditions	Marks
Flexit did not comply with the delivery time of the contract due to Covid-19	1
Mention of the Case of Covid-19 as a case of force majeure renders the claim of breach by Hinganeza Ltd not legally valid	2
Flexit needs to prove that Covid-19 came as unpredictable and beyond their control in that situation (inability to solicit the same supply from another source, etc)	2
Maximum marks	5
b) Remedies for Hinganeza Ltd in case of breach by FLEXIT is established	
Flexit to award damages for the loss suffered by Hinganeza Ltd	2
Reference (Law governing contracts, Art. 81)	1
Hinganeza not to be forced to receive those products/fertilizers supplied after the agreed time	1
Payment of interest equal to what the other party was expecting to get (Law governing contracts, Art. 144)	1
Maximum marks	5
c) Legally acceptable excuse for FLEXIT's inability to deliver on time	
Case of force majeure.	1
Reference (Law governing contracts, Art. 92)	1
Maximum marks	2
d) Description of the legal nature of the relationship between MANZI and MAGEZA	
The legal nature of their business relationship is an agency	1

Requirement of authorization for the agent to act for the principal	1
Maximum marks	2

e) Validity of the representation of MANZI by MAGEZA in acquiring Mr Josh's business

Representation of Manzi by Mageza in the transaction was without consent when it happened should not be valid	1
Ratification of the acts of Manzi by Mageza equals confirmation of the existence of the agency contract between them	2
Ratification of the acts of the agent:	
- Renders them the acts of the principal	2
- Renders the principal the owner of the acts and bound by them	1
Maximum marks	6

Total marks	20
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Model answers

a) This question relates to issues of performance of contracts that have been frustrated by covid-19 conditions. The candidate is expected to mention the following:

- Flexit did not comply with the delivery time of the contract. The student should highlight what happens when performance is made impossible due to reasons beyond control of one party, which is known as 'force majeure'
- Candidate should mention that in case Covid19 wave is considered an event of force majeure, then the claim of breach by Hinganeza ltd shall not be legally valid.
- However, it should not be generalized. FLEXIT will need to prove that it came as unpredictable and beyond their control in that particular situation, such as inability to solicit the same supply from another source, etc.

b)

- In case it is established that FLEXIT's conduct was a breach of the contract, it will award damages for the loss suffered by the other party.
- Article 81 of the Law governing contracts provides that "Total breach of the contract gives right to damages based on the non-performed obligations." HINGANEZA will not be forced to receive those products/fertilizers which were supplied after the agreed time.
- Article 144 of the contracts law also provides for interest equal to what the other party was expecting in return.

c)

Article 92 of the law of contracts provides that “Where a party’s performance is made impossible for reasons beyond her/his control including the absence of the object matter of the contract or another case of force majeure, his/her obligation of performance shall be extinguished, unless the circumstances indicate otherwise.”

d)

- The legal nature of their business relationship is an agency.
- Every person who acts for another is not an agent. A person can be an agent when he is authorized to act for the principal. To be an agent “the person employed must be authorized to do any act for another or to represent in dealings with third parties.”

e)

Is the representation of MANZI by MAGEZA in acquiring Mr Josh’s business valid?

- The representation of MANZI by MAGEZA in the transaction was without his consent when it happened. However, when he returned, he confirmed what had been done by MAGEZA by taking the shop, branding it and running it as an expansion of his business. These actions constitute what is called ‘ratification’.
- Acts performed by an agent beyond the scope of his authority are not binding upon the principal. However, the principal may in such case either adopt or reject the act of the agent. In case the principal adopts the acts of the agent done without his authority, he is said to have ratified that act. On ratification the act of the agent becomes the act of the principal, and he becomes bound by the same whether be to his loss or advantage.

QUESTION FOUR

Marking guide

a) Jurisdiction of Rwandan courts	Marks
Rwandan courts:	
- Has jurisdiction to hear disputes brought before them.	1
- Are the courts of place of residence or domicile of the parties, thus, competent?	1
The choice of court by parties is essential civil procedure:	1
- Choice of Rwandan courts by the parties gives Rwandan courts exclusive jurisdiction to hear the matter.	2
Maximum marks	5
 b) Competent court to hear cases involving immovable property	
Competent court to hear cases involving immovable property are that of where the immovable property is located	2
Rwandan courts are not competent to adjudicate the dispute involving immovable property located in Goma, DRC.	2
Rwandan Courts would transfer the case to competent court in Goma.	1
Maximum marks	5
 c) Execution of the judgment against the shareholder on his/her companies	
The principle of separate legal personality means:	
- Shareholders are liable to the company to the extent of the shares they have not paid to the company.	1
- Rights and obligations of shareholders are separate from those of their companies.	2
- Creditors cannot enforce judgments against shareholders on the property of the company.	1
The creditors can however access the company's property by:	
- Filing a complaint to commercial court for removal of separation or lifting corporate veil.	2
The complaint to lift corporate veil is only successful if there is evidence of:	
- Misuse of the obligations by the shareholders and/or	1
- There can be no separation between the properties of the shareholders and those of the company.	1
Creditors have right to Nyerere's shares in the company in executing the judgment	1
Creditors cannot execute the judgment on the company, it is not party to the case	1
Maximum marks	10

Model answers

- a) **This case concerns the competence and jurisdictions of courts. The candidate is expected to highlight the following:**

Rwandan courts have jurisdiction to hear disputes brought before them. The competent court is the one where the defendant has his/her resident/domicile. The Rwanda Trade Association is located in Rwanda. This means the association has both the domicile or/and residence and as such the Rwandan courts have jurisdiction to hear the case.

The party's choice of jurisdiction is enough to give Rwandan courts exclusive competence to hear the matter, as a principle. In this case the parties chose Rwandan courts as forum for settling their disputes. The choice of court clause in the contract is sufficient for the Rwandan courts to have jurisdiction over the case.

- b) **As a principle, courts which are competent to try a matter which involves an immovable property are those of where the property is located.** As in the case the subject matter is an immovable property located in Goma, DRC, Rwandan courts do not have jurisdiction to hear the complaint.

Consequently, if in the disputed issues include the buildings, Rwandan courts would not be competent to determine on them since they are not located in Rwanda. The location of the immovable property is essential under Rwandan procedural law as it is the one that determines the competent court in case of disputes over such property.

Courts would transfer the case to competent court in Goma in case the dispute concerns an immovable property located in Goma. Rwandan courts, in this case are left with no other option than referring the matter to the courts in Goma, DRC.

- c) **Limited liability companies have their own legal personalities different from those of their shareholders.** It follows that, shareholders liability is limited to the payment of the shares they subscribed for in the company. **Therefore, their rights and obligations are separate from those of its shareholders.** And as a matter of principle, creditors of the shareholders cannot execute the judgment against shareholders on the property of their companies.

The only way to access the company's property is to first file for removal of the separation or corporate veil, if there is evidence that he/she misused his obligations. However, they would only have right to his shares in the company in executing the judgment. Therefore, they cannot execute the judgment on the company because it's not party to the case. They have also failed to lift the corporate veil. Nevertheless, they can execute the judgment against Nyerere's shares in the company as part of the execution against Nyerere's general property.

QUESTION FIVE

Marking guide

a) Sale of movable properties, validity and transfer of title in sale agreement	Marks
- Sale of res aliena (transaction between Karemera and Pro Cars) is invalid.	1
- Transaction between Karemera and Pro Cars was carried out after the title of the property was transferred to Ms Jacky	1
- Under civil law, the transfer of title is effective on the agreement of the parties on the price and the object to be purchased	1
- Under civil law (case of Rwanda) the sale agreement is consensual	1
- Remedy to be exercised by Pro Cars is to sue for damages due to delay in payment	1
- In common law, title is transferred on the payment of the whole price	1
- Under common law, the sale is non-consensual, it is consideration-based.	1
Maximum marks	7
b) Existence of the breach of the contract	
- Under the Law of contracts (Art 80(2), in case the performance of the obligations is due, non-performance is a breach.	2
- Under law, performance of contract shall be carried out in good faith.	1
- Both parties breached their obligations under the contract:	1
- Ms Jacky did not pay the remaining balance in a reasonable period of time.	1
- Pro Cars undertook a second sale, unilaterally annulling the agreement held between Pro Cars and Ms Jacky	2
Maximum marks	7
c) Sale of immovable property	
❖ The sale would be entirely different if the sale was of an immovable property	1
❖ Sale of immovable is a solemn legal act that must be done and registered before the land notary	2
❖ Consent of the parties is not enough to transfer the title in immovable property	1
❖ Pro Cars would not have been in breach	1
❖ Timely reimbursement of the previously paid price would be enough for Ms Jack	1
Maximum marks	6
Total marks	20

Model answers

a) **This question concerns sale of movable properties, validity and transfer of title in the sale agreement. The candidate is expected to show the following:**

- ❖ **The transaction between Karemera and Pro Cars was a sale of ‘res aliena’, i.e the sale of someone else’s good/property. It is therefore invalid.**
- ❖ **At the time Ms Jacky and Pro Cars agreed on the price and the object to be purchased, the title of the property was legally transferred from the seller to the buyer since under Rwandan law, the contract of sale is consensual in nature.**
- ❖ **The remedy which would be exercised by Pro Cars was to sue for damages due to delay in payment, but that would not invalidate the transfer of title.** This is due to the fact that under civil law system, the title is transferred at the time of consent.
- ❖ **This is different from common law system countries where the title is not transferred at the time of consent. In that situation, the title would have still stayed with the seller until she paid the whole amount and got the possession of the car. However, this is not the position of Rwandan laws, which are inspired mainly by the civil law system.**

b) **Basing on article 80 (2) of the contracts law, “when the performance of obligations under the contract is due, the non-performance shall be a breach.”**

Both parties breached their obligations in the contract. First Ms Jacky did not pay the remaining balance in a reasonable period of time. This gives power to the seller to terminate the contract in accordance with relevant laws and courts. However, it does not automatically allow Pro Cars to undertake a second sale.

Pro Cars also breached the contract by undertaking a second sale, unilaterally annulling the agreement held between Pro Cars and Ms. Jacky.

c) **If the sale was of an immovable property, it would be different.**

- **This is because sale of an immovable property is a solemn legal act which is considered effective when it’s done and registered before the Land notary.**
- **Consent is not enough to transfer the title in immovable property.**
- **Pro Cars would not have been in breach. Timely reimbursement of the previously paid price would be enough for Ms Jacky.**

QUESTION SIX

Marking guide

a) Discussion on the general principles of administrative law	Marks
- Principle of equality of users of public service or equality of user's rights	1
- Equal treatment by all citizens before the administrative authority.	2
- Strict prohibition of discrimination or inequality of any kind.	2
- Principle of continuity and regularity in service's provision.	1
- The public service runs continuously and cannot be halted or stopped merely because the servant is not available.	2
- The state responsibility is not limited to current government, it extends also to the future one (e.g. the current Government of Rwanda is servicing loans which were contracted by the then deposed Government in 1994).	2
- Principle of adaptation	1
- The administration must adapt to change, and change is effective without modification of the rules of procedures on organization and functioning of the administration.	2
- it allows the authority to modify or annul their decisions illegally or unjustly conceived.	2
- Principle of legality	1
- Administrative decisions must be legal, they must take source from an act of the Parliament (Law).	2
- Administrative decisions must be justified: decision-makers must justify their decisions by showing either how these decisions conform to fundamental values or that they are justifiable departures from those values.	2
Maximum marks	12
b) Elaboration on rationale of existing privileges to the public administration	
- Justification of existing privileged to the public administration: nature of the service provided for by the administration for the protection of public interest.	1
Examples:	
- Privilege of execution explained	2
- Expropriation for public interest of the private property of individual citizens explained	2
Maximum marks	5
c) Transaction that would not be admitted in dispute by a commercial court	
- Stating the subject matter for the jurisdiction of commercial courts	1
- The answer is therefore: (iv) <i>none of the above</i>	2
Maximum marks	3
Total marks	20

Model answers

a) **This question concerns the principles that govern administrative law. The candidate is expected to mention at least 3 of them and give an example for each:**

- ❖ **Principle of equality of the users of public service or equality of users' rights which means citizens have equal right to access the public service.** Before, an administrative authority, citizens must be treated equally. Discrimination or inequality of any kind is strictly prohibited under this principle.
- ❖ **Principle of continuity and regularity in service's provision which means the public service runs continuously and cannot be halted or stopped merely because the servant is not available. The consequence of this principle is that the service, duties and obligations of the State are intrinsically interlinked, and the obligations of the past Government are repaid by the Government in place.**
- ❖ **Principle of fairness of public service which means any public service must be fair.**
- ❖ **Principle of adaptation which means the administration, in providing services to the people must adapt to changes.** This principle allows the authority to change the rules of procedure for the organization and functioning of the administration in order to render the manner in which the public service is rendered effective and attractive. It also allows the authority to change a decision illegally or unjustly conceived without resorting to courts of law or change of law.
- ❖ **Principle of legality which means the decisions of the administration must be legal.** All administrative decisions must have legal foundations in legal texts. Otherwise, the decisions of the administration would be arbitrary. The principle of legality entails a duty on administrative decision-makers to give reasons for their decisions and requires judges to defer to the extent that they find that they proffered justification meets the applicable standards.

b) **Due to the nature of the service provided for by the administration, it has privileges for the protection of the public interest. These privileges include but are not limited to the privilege of execution which means the decisions of the administration remain with the enforcement authority until a final decision of the court annulling it is handed. Another privilege of the administration is expropriation for public interest of the private property of individual citizens or moral persons.**

c) This concerns competence of courts, especially in commercial matters. According to article 81 of the law N°30/2018 of 02/06/2018 determining the jurisdiction of courts:

The Commercial Court hears in the first instance, all commercial, financial, and fiscal cases and other related matters in connection with:

1° Disputes arising from commercial contracts or commercial activities between individuals or business entities; 2° disputes arising from the use of negotiable instruments.

3° Disputes arising from contracts between individuals and financial institutions.

4° Disputes related to liquidation, dissolution and recovery of business firms facing bankruptcy;

5° disputes related to insurance with the exception of those related to accident compensation claimed from insurance companies by those who have no contract with such companies.

6° Disputes related to taxes and duties.

7° Disputes related to the transportation of persons and goods; 8° any dispute that may arise between persons who own or manage registered entities and other business companies namely:

a) Members of the Board of Directors.

b) Directors.

c) Auditors.

d) Liquidators of a dissolved company.

e) Administrators of the property of a bankrupt firm.

9° Cases related to bankruptcy.

10° Disputes related to intellectual property, including trademarks and names;

11° Disputes related to registration and deregistration of businesspeople from commercial registers; 12° disputes related to the appointment or dismissal of auditors of firms.

13° Disputes related to business competition and consumer protection.

14° Business-related issues arising in cooperative organisations; 15° any dispute arising in the preparation and execution of administrative contracts between public organs and the private sector on business and financial affairs.

16° Cases related to public tenders.

The Commercial Court also hears at the first instance tax cases referred to under the East African Community Customs Management Act.

Therefore, all the above disputes would be admitted to be tried by the commercial court, because they fall into their jurisdiction. The answer is therefore: (iv) none of the above.



QUESTION SEVEN

Marking guide

a) Description of at least three negotiable instrument (1 mark for stating and 1 mark for description)

Bill of exchange	2
Cheque	2
Promissory note	2
Negotiable warehouse receipt	2
Maximum marks	6

b) Understanding of negotiability of a cheque

-  Negotiability is a characteristic of any property 1
-  Negotiability allows the possessor of the property to transfer it to anybody for consideration 2
- The negotiator has to accept the property in good faith 1

Maximum marks 4

c) Comment on the statement “Ownership right is personal and exclusive” and exceptions thereof if any

Exclusive nature of the ownership:

- Only the owner exercises his/her right over the property 1
- Other persons are excluded from this protection 1

Exceptions:

- Usufruct, and 1
- Servitudes 1

Personal nature of ownership:

- Only the owner has right 1
- Other persons do not have right over the property 1

Exceptions:

- collective ownership 1
- successions, co-ownership, matrimonial regime under the community of property, etc) 1

Maximum marks 8

d) Difference between an offer and invitation to treat

Offer: a manifestation of a willingness to enter into a contract calling into acceptance to conclude a contract 1

Invitation to treat: an expression of willingness to negotiate on something but does not intend to conclude a contract 1

Maximum marks 2

Total marks 20

Model answers

a) **The candidate is expected to mention at least the following:**

- + **Bill of Exchange:** an instrument in writing containing an unconditional order, signed by the maker, directing a certain person to pay a certain sum of money only to, or to the order of, a certain person or, to the bearer of the instrument.
- + **Promissory Note:** an instrument in writing (not being a bank note or a currency note) containing an unconditional undertaking, signed by the maker, to pay a certain sum of money only to, or to the order of, a certain person or to the bearer of the instrument.
- + **A Cheque:** A cheque is a bill of exchange drawn on a specified banker and expressed to be payable otherwise than on demand.
- + **Negotiable Warehouse Receipt:** an instrument which attests convention according to which there are goods in the warehouse which can be sold or given as a guarantee to secure loan.

b) **Negotiability** is a characteristic of any property. It gives a right to the possessor of the property to transfer it to anybody but for consideration. Here the negotiator is not required to establish his credentials. It is the negotiator who has to accept the property in good faith.

c) The candidate should elaborate on how ownership right is personal and give an example and how it is exclusive with an example as well. **Expectedly, they should include:**

- + **It is exclusive in a sense that only the owner exercises his/her right over the property. Exception: usufruct and servitudes.**
- + **It is individual or personal in that only the owner has the right. Exceptions: collective ownership such as in successions or in co- ownerships (also matrimonial regime under common property, or community of acquired property after marriage, condominium, etc).**

d) **An offer** is a manifestation of a willingness to enter into a contract made in a manner so as to justify another person in understanding that his or her assent is invited and will conclude the contract. While,

Invitation to treat: an expression of willingness to negotiate on something but it does not mean that the person making the invitation is bound to go through with the transaction as they would be if they were making an offer.

END OF MARKING GUIDE AND MODEL ANSWERS