

TABLE OF CONTENTS

PREFACE	(xi)
I THE KENYA LEGAL SYSTEM.....	13
The nature, classification and sources of law 13 • Sources of Kenya law and the administration of the law 17 • Explanation of the written sources of Kenya law 29 • Fundamental principles and concepts 32 • Separation of powers 33 , Fundamental rights of the individual 37 • The unwritten sources of law 44 .	
II. ADMINISTRATION OF THE LAW	52
The Kenya courts 52 • Tribunals 62 • Settlement of disputes by arbitration 66 • Settlement of disputes through litigation 68 • <i>Stare decisis</i> and its application by the Kenya courts 71 • The judiciary 75 • The legal profession 76 •	
III. THE LAW OF PERSONS	80
Legal persons 80 • Unincorporated associations 83 •	
IV. THE LAW OF CONTRACT	86
Sources of the law of contract 86 • Tenders 89 • Provisional contracts and agreement 'subject to contract' 101 • Capacity to contract 103 • Voidable contracts 106 • Consideration 111 • Formality 125 • Legality 128 • Contracts in restraint of trade 130 • The restrictive trade practices, monopolies and price control Act 1989 (Cap 504) 133 • Monopolies and mergers 137 • Business agreements 139 • The terms of a contract 141 • Vitiating elements in a contract 146 • Misrepresentation 150 • Discharge of contract 155 • Remedies for breach of contract 170 •	
V. THE LAW OF AGENCY	177
Sources of law of agency 177 • Formation of agency 178 • Duties between the principal and agent 182 • The Authority of an agent 184 • Relations between the agent and the third party 185 • Professional agents 186 • Termination of agency 188 •	
VI. THE LAW OF PARTNERSHIP	191
Definition of partnership 191 • Rules for determining the existence of a partnership 191 • Formation 193 • Capacity 193 • Illegal partnerships 193 • The firm name 193 • Statutory provisions 194 • Partnership property 196 • Authority of partners 196 • Liability of partners 196 • Dissolution of partnership 198 • Limited partnerships 200 •	
VII. SALE OF GOODS	202
Sale of Goods 202 • Goods 203 • Contract for work and materials 205 • Subject matter of the contract 205 • Terms of a contract 206 • Conditions 206 • Warranties 212 • Stolen goods 215 • Transfer of ownership 216 • Performance of the contract 219 • Breach of contract 221 • Standard contracts 225 .	

VIII. HIRE-PURCHASE LAW	229
Definition 230 • Hire-purchase and sale 231 • Registration of hire-purchase agreements 232 • Cash price 233 • Conditions and warranties 234 • Duties or obligations of the hirer 235 • Termination 236 • Licensing of hire-purchase business 239 •	
IX. NEGOTIABLE INSTRUMENTS	240
Definition 240 • Bills of exchange 241 • Acceptance 244 • Negotiation of bills 246 • Time of payment 249 • Noting of bills 249 • Liability of parties 250 • Discharge of a bill 251 • Cheques 253 • Crossings 254 • Legal protection of bankers 258 • Non-payment of cheques 259 • Duties of the parties 261, Promissory notes 264 •	
X. INSURANCE LAW	267
Definition of insurance 267 • Formation of the contract 267 • Cover notes 268 • The policy 269 • The principle of uberrima fides 270 • Material facts 272 • Duration of the duty of disclosure 274 • Insurable interest 275 • Subrogation 277 • Indemnity 278 • Double insurance 279 • Contribution 279 • Average clause 280 • Reinsurance 280 • Assignment 281 • Types of insurance 281 • Regulation of the insurance industry 282 •	
XI. COMMERCIAL SECURITIES	283
Guarantee 283 • Bailment 287 • Lien 288 • Letter of hypothecation 289 • Mortgages of land 290 • Legal charges 293 • Discharge 294.	
XII. CARRIAGE OF GOODS	295
Carriage on land 295 • Common carriers 296 • Carriage by sea 297 • Immunities 299 • Charterparty 300.	
XIII. LAW OF TORTS	302
Conditions of liability in tort 302 • Tort distinguished from crime and contracts 304 • Limitation of action in tort 305 • Negligence 306 • Liability of auditors 309 • Vicarious liability 311 • Trespass 313 • Defamation 319 • Remedies 324 •	
XIII. THE LAW OF PROPERTY	326
Categorization of property 327 • Land as property 328 • Easements 330 • Profits 332 • Licences 333 • Restrictive covenants 333 • Leases 334 • Mortgages and charges 336 • Sale of property 338 • Appointment of receiver 340 •	
Appendix of cases	342
Index	465