



DCM LEVEL II

LAW GOVERNING CREDIT PRACTICE

TUESDAY: 24 November 2020.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Explain the following types of land tenure.
- (i) Free hold estate. (4 marks)
 - (ii) Joint tenancy. (6 marks)
 - (iii) Tenancy in common. (6 marks)
- (b) In relation to land ownership in Kenya, explain two provisions that govern ownership of land in Kenya by foreigners. (4 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) Outline eight qualities of a good collateral. (8 marks)
- (b) James Bee intends to obtain a secured loan from Wakope Bank Ltd to expand his small business. He has approached you for advice on the types of collateral he could use to obtain the loan. Advise James Bee by identifying six types of collateral that he might use to obtain the secured loan. (6 marks)
- (c) Describe three reasons why collateral is important to the borrower. (6 marks)
- (Total: 20 marks)**

QUESTION THREE

With specific reference to corporate securities:

- (a) Discuss four differences between “shares” and “debentures”: (8 marks)
- (b) Explain three disadvantages of investing in corporate bonds. (6 marks)
- (c) Describe three types of corporate bonds. (6 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) Outline eight contents of a pledge agreement. (8 marks)
- (b) Explain two circumstances under which the re-delivery of a pawn will render a pledge contract terminated. (4 marks)
- (c) Explain four essential elements of the common law lien. (8 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) Describe four circumstances that will render a guarantor liable without providing notice to the surety. (8 marks)
- (b) Explain four features of a contract of guarantee. (8 marks)

- (c) Explain the concept of contribution as applied in:
- (i) Contracts of guarantee. (2 marks)
 - (ii) Contracts of indemnity. (2 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) Explain three ways through which a debtor can commit an act of bankruptcy by concealing himself. (6 marks)
- (b) Outline four debts which are provable in bankruptcy. (4 marks)
- (c) Swago Musa has been a leading Rhumba artist in Milingo Island for the last 20 years and has acquired a trade name "Swagona Rhumba". He has registered the name as a trademark. His songs are very popular in the whole of East and Central Africa.

In January 2017, Swago Musa commenced a distribution business, but it declined in December 2017 and so he approached Maji Bank for an advance to boost his business.

Maji Bank insists that he must have a good collateral or security for him to secure an advance.

Swago Musa is at a loss as to where he will get a collateral as he does not own land.

Required:

Identifying the legal principles applicable in the above case, advise Swago Musa on whether he can use his registered trademark as collateral for a loan. (10 marks)

(Total: 20 marks)

QUESTION SEVEN

- (a) The directors of Truth Limited have received a court order appointing an inspector to investigate the affairs of the company. The investigation arose from a report prepared by the Attorney General.
- Advise the director on four duties of the company's management during such an investigation. (8 marks)
- (b) Outline four instances when a company might be wound up under the just and equitable ground. (4 marks)
- (c) Explain four legal provisions governing the undistributed property of a dissolved company. (8 marks)

(Total: 20 marks)

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