



**MASINDE MULIRO UNIVERSITY OF SCIENCE AND
TECHNOLOGY**

(MMUST)

NAIROBI CAMPUS

UNIVERSITY MAIN EXAMINATIONS

2021/2022 ACADEMIC YEAR

FOURTH YEAR FIRST SEMESTER EXAMINATIONS

FOR THE DEGREE

OF

BACHELOR OF COMMERCE

COURSE CODE: BCB 403

COURSE TITLE: COMPANY LAW

DATE: TUESDAY, 26TH JULY 2022 TIME: 8:00 – 10AM

INSTRUCTIONS TO CANDIDATES

ANSWER QUESTION ONE AND ANY OTHER TWO QUESTIONS

TIME: 2 HOURS

MMUST observes ZERO tolerance to examination cheating

QUESTION ONE

The board of Borrowers Company Ltd. has applied for a loan from Uchumi Commercial Bank. The Bank has advised Borrowers Company Ltd. that any loan will be conditional upon the bank being granted security in the form of a combination of fixed and floating charges over the company's assets. The bank has also advised Borrowers Company Ltd. that the charges will be contained in the bank's standard form debenture document. This contains a "negative pledge clause" and a term which enables the bank to place the company in administrative receivership in the event of default by the company.

- a) In numbered paragraphs distinguish between a fixed and a floating charge. (6 marks)
 - b) What are the disadvantages of a floating charge to the bank. (10 marks)
 - c) Explain the meaning and purpose of a negative pledge clause'. (4marks)
 - d) Rights and remedies of unsecured and those of secured debenture holders (10marks)
- (Total 30 Marks)**

QUESTION TWO

- a) In *Salomon v Salomon & Company limited*, it was established that a company once formed, is considered as a separate legal entity from its members. Explain six exceptions to this rule. (12 marks)
 - b) Explain four implied terms in a contract of transfer of shares (4marks)
 - c) Explain four ways in which a promoter might avoid personal liability on pre-incorporation contracts (4marks)
- (Total 20 Marks)**

QUESTION THREE

- a) List any six documents that are kept at the registered office of accompany (6marks)
 - b) Chanda and Pete wish to form a business but they are not sure whether to form a private company or a partnership. Explain to them the advantages of a private company. (8marks)
 - c) Explain the statutory provisions for protecting minority shareholders of a company (6marks)
- (Total 20 Marks)**

QUESTION FOUR

- a) Explain the meaning of the term "derivative action" and list the characteristics of a derivative action. (6marks)
 - b) Ogeto, who owns 10,000 ordinary shares in Jeuri Ltd has financial problems. He wishes to use his shares as security for a loan and has come to you for advice.
What advice would you give him? (8marks)
 - c) A person dealing with a company is entitled to assume, in the absence of facts putting him in doubt, that there has been due compliance with all matters of internal management of procedure required by the articles"
Discuss the above statements. (6marks)
- (Total 20 Marks)**

QUESTION FIVE

- a) Explain the circumstances when a director may not be entitled to compensation for loss of office. (4marks)
- b) In relation to winding up, explain the circumstances when a company might be wound up by the court on just and equitable grounds. (6marks)
- c) In relation to corporate restructuring, explain the statutory provisions relating to Take-over bids (10marks)

(Total 20 Marks)

