



**MASINDE MULIRO UNIVERSITY OF SCIENCE AND
TECHNOLOGY (MMUST)**

MAIN, WEBUYE, BUNGOMA CAMPUS

UNIVERSITY EXAMINATIONS

2021/2022 ACADEMIC YEAR

FOURTH YEAR SECOND SEMESTER

SPECIAL/SUPPLEMENTARY EXAMINATIONS

FOR THE DEGREE

OF BACHELOR OF COMMERCE

COURSE CODE: BCB 427

COURSE TITLE: PROCUREMENT LAW

DATE: THURSDAY, 28TH JULY 2022 TIME: 8:00 – 10:00AM

INSTRUCTIONS TO CANDIDATES

- 1. ANSWER QUESTION ONE AND ANY OTHER TWO QUESTIONS**
- 2. DO NOT WRITE ANYTHING ON THE QUESTION PAPER**

TIME: 2 HOURS

MMUST observes ZERO tolerance to examination cheating

This Paper Consists of 2 Printed Pages. Please Turn Over.



QUESTION ONE

Billain Ltd invited interested and eligible members to submit bids in response to a tender for provision of guarding services and alarm systems for a period of three years. The tender was closed and opened on 21/6/2021. Twenty companies participated in the tender process. Upon evaluating the tenders for compliance with mandatory requirements eight firms were disqualified for failing to comply with the mandatory requirements. The remaining tenders proceeded for technical and financial evaluation. Four security firms Max Ltd, Clin Ltd, Dute Ltd and Gento Ltd were successful and they were awarded the tender. However it turned out that Max Ltd had inflated the amount they were to be paid for the services in collusion with the procurement officers of Billain Ltd. Further Clin Ltd had Kasuku as one of the directors who was also a member of the evaluation committee. Those who were notified that they were not successful have launched a complaint to the Review Board.

- a. Explain the tender opening process. (5 marks)
- b. Highlight the role of the evaluation committee. (2 marks)
- c. At the end of the evaluation the evaluation committee should send a report to the accounting officer. State five contents of the report. (5 marks)
- d. What remedies does the Billain company have against Max and Chin Ltd. (3 marks)
- e. Public procurement seeks to achieve certain objectives. Explain (5 marks)
- f. In relation to sale of goods Act, elaborate on the exceptions to the general rule of *nemo dat quod non habet*. (10 marks)

QUESTION TWO

- a. Public Procurement Regulatory Board is responsible for the management of the Public Procurement Regulatory Authority. Discuss its role. (10 marks)
- b. Suppliers in public procurement may be debarred from participating in procurement. Explain the reasons for debarment. (5 marks)
- c. Distinguish between a sale and an agreement to sale (5 marks)

QUESTION THREE

- a. Highlight the contents of tender documents. (4 marks)
- b. Certain types of mistakes in the formation of a contract may affect the validity of a contract. Describe the mistakes. (10 marks)
- c. Explain the remedies available to an unpaid seller against the goods (6 marks)

QUESTION FOUR

- a. Identify and explain the Circumstances under which an accounting officer may terminate or cancel procurement or asset disposal proceedings without entering into a contract (12 marks)
- b. Explain when the following may be utilized;
- i. Force account (3 marks)
- ii. Framework agreement (3 marks)

QUESTION FIVE

- a. Describe the procedure for request for quotation as a method for procurement (10 marks)
- b. Public entities suffer huge losses due to rampant unethical practices. Explain the Measures that can be taken to ensure proper utilization of funds in public sector procurement (10 marks)

