



CCP PART II SECTION 4

LAW GOVERNING CREDIT PRACTICE

THURSDAY: 29 November 2018.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Distinguish between “indemnity” and “guarantee” as used in the law of contract. (4 marks)
- (b) Dan Mapesa agreed to give a guarantee to Liquid Bank Ltd. for an advance of Sh.200,000 to Teresa Mooh. Liquid Bank Ltd. made the advance, but it has reliably been informed that Dan Mapesa has become insane. The credit controller of Liquid Bank Ltd. has approached you for legal advice regarding Dan Mapesa’s liability.

Required:

Analyse the legal principles applicable in the above case and advise the credit controller of Liquid Bank Ltd. (6 marks)

- (c) Describe five qualities of good collateral that a lender should consider before accepting advancing a loan. (10 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) In relation to the release of security:
- (i) Explain the meaning of a “release of mortgage document”. (2 marks)
- (ii) Suggest six contents of the release of mortgage document. (6 marks)
- (b) Examine four duties of chargees in respect of the sale price of charged land. (4 marks)
- (c) The credit manager of your organisation has requested you to prepare a mortgage instrument for execution by a potential house mortgage customer.

Propose eight types of mortgage clauses that you would incorporate in the mortgage document. (8 marks)

(Total: 20 marks)

QUESTION THREE

- (a) Propose four ways of terminating a pledge. (4 marks)
- (b) (i) Outline two remedies that are available to the bailor. (2 marks)
- (ii) Analyse eight important features of bailment. (8 marks)
- (c) Evaluate three circumstances under which the unpaid seller’s right of lien might be terminated. (6 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) (i) Citing four examples, argue the case for securing a loan by way of a chattel mortgage. (4 marks)
- (ii) Analyse four rights of the secured party under a chattel mortgage. (4 marks)
- (b) (i) Assess four types of evidence of registration of a cooperative society that a potential member might rely on while confirming whether the cooperative society is fully registered. (4 marks)

- (ii) Examine four lending terms and legal obligations between parties, that a Sacco society is required to disclose. (4 marks)
- (c) Justify four reasons why it is important to regulate and supervise microfinance institutions in your country. (4 marks)
- (Total: 20 marks)**

QUESTION FIVE

- (a) In the context of corporate securities, explain the following:
- (i) Ownership securities. (2 marks)
- (ii) Creditorship securities. (2 marks)
- (b) Explain six advantages of using debentures as corporate securities. (6 marks)
- (c) Analyse five risks that are associated with corporate bonds. (10 marks)
- (Total: 20 marks)**

QUESTION SIX

- (a) In the context of corporate governance:
- (i) Summarise six shareholders' obligations. (6 marks)
- (ii) Propose six benefits that might accrue to a company from embracing good governance practices. (6 marks)
- (b) With reference to prudential guidelines on corporate governance by the Central Bank of your country for lending institutions, describe four restrictions on financial institutions in relation to insider loans. (8 marks)
- (Total: 20 marks)**

QUESTION SEVEN

- (a) Consumer protection in credit agreements provides for confidentiality, where customer information should not be disclosed to any person except on certain situations as provided under the law.
- With reference to the above provision, indicate four circumstances under which customer information could be disclosed. (4 marks)
- (b) Explain four provisions in relation to prepayment under consumer credit agreements. (8 marks)
- (c) Discuss four clauses that are contained in the contract between a customer and a microfinance institution for the provision of automated teller machine (ATM) services. (8 marks)
- (Total: 20 marks)**
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