



DCM LEVEL II

LAW GOVERNING CREDIT PRACTICE

TUESDAY: 27 November 2018.

Time Allowed: 3 hours.

Answer any FIVE questions.

ALL questions carry equal marks.

QUESTION ONE

- (a) Describe four types of securities used in commercial transactions. (8 marks)
- (b) Dada Wahito has just received a loan application form and is in the process of assessing the security that the applicant would use to secure the loan.

Required:

Summarise to Dada Wahito three qualities she should ensure that the provided security possesses. (6 marks)

- (c) Outline three main functions of a security. (6 marks)
- (Total: 20 marks)**

QUESTION TWO

- (a) Discuss five remedies available to mortgagees and chargees. (10 marks)
- (b) A search is a purposeful inspection of the title records or register records at the relevant lands registry, before purchasing a piece of land.

With reference to the above statement:

- (i) Differentiate between "Official search/postal search" and "Personal/unofficial search". (4 marks)
- (ii) Highlight three challenges one might encounter when conducting searches. (3 marks)
- (iii) Explain three reasons that might necessitate conducting searches. (3 marks)
- (Total: 20 marks)**

QUESTION THREE

- (a) Summarise six circumstances under which a guarantor is discharged. (12 marks)
- (b) Describe four duties of a bailee in a bailment. (8 marks)
- (Total: 20 marks)**

QUESTION FOUR

- (a) (i) Outline three characteristics of a floating charge. (6 marks)
- (ii) Explain two circumstances under which a floating charge crystallises. (4 marks)
- (b) (i) Outline six main contents of a debenture trust deed. (6 marks)
- (ii) Highlight four remedies available to debenture holders. (4 marks)
- (Total: 20 marks)**

QUESTION FIVE

(a) One of the methods one can use to recover their debt is through litigation.

Required:

With reference to the above statement, state six factors one should consider before embarking on legal proceedings. (6 marks)

(b) Explain the two main alternative dispute resolution methods a creditor might use to resolve any dispute surrounding the debt owed by a debtor. (4 marks)

(c) LNG Bank Ltd. would like to raise finances in order to expand its business. The bank has been advised to consider the option of using corporate bonds. The management is unfamiliar with corporate bonds and has sought your assistance.

Required:

Advise the management of LNG Bank Ltd. on the following:

(i) Definition of a corporate bond. (2 marks)

(ii) Four advantages that might accrue to LNG Bank Ltd. from issuing a corporate bond. (8 marks)

(Total: 20 marks)

QUESTION SIX

(a) Explain the meaning of the following terms as used in bankruptcy:

(i) Debt. (2 marks)

(ii) Secured creditor. (2 marks)

(b) Explain three consequences that result when a person is adjudged bankrupt. (6 marks)

(c) Identify four criteria that a debtor must meet before a bankruptcy application may be made by the debtor's creditor(s). (4 marks)

(d) One or more creditors of a debtor may make an application to the court for a bankruptcy order to be made in respect of the debtor in relation to a debt or debts owed by the debtor to the creditor(s). Such an application may be made only if at the time the application is made, certain conditions are met.

Required:

With reference to the above statement, discuss three conditions that the debt referred to above must meet. (6 marks)
(Total: 20 marks)

QUESTION SEVEN

(a) Identify two types of voluntary liquidation of a company. (2 marks)

(b) Discuss eight circumstances under which a company might be liquidated by the court. (8 marks)

(c) List four persons who could make an application to the court for liquidation of a company. (4 marks)

(d) The court has the power to delegate its powers to a liquidator in a compulsory winding up.

Required:

With reference to the above statement, describe six powers that a court might delegate to a liquidator. (6 marks)
(Total: 20 marks)

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