



# The Co-operative University of Kenya

## SPECIALS AND SUPPLEMENTARY EXAMINATION AUGUST-2019 EXAMINATION FOR THE DIPLOMA IN CO-OPERATIVE MANAGEMENT

UNIT CODE: COCM 1215

UNIT TITLE: COMPANY LAW

DATE: 27<sup>TH</sup> AUGUST, 2019

TIME: 2:30 PM – 4:30 PM

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### INSTRUCTIONS:

- Answer question **ONE (compulsory)** and any other **TWO** questions

### QUESTION ONE

- (a) On 6.9.2019 Rada formed a company under the name Iwaka Ltd. Before the company was duly registered, Rieng entered into a contract in which Iwake Ltd, received a down payment of shs. 500,000.00 for the supply of household items to New Position Ltd. Iwak Ltd. Feels aggrieved and has approached you for legal advice. Required;
- (i) Describe pre-incorporation contracts and liability of the same with regard to the above case, and advice New Position Ltd on the remedies available. (10 Marks)
- (b) Section 423 of the Insolvency Act provides that only the High Court has jurisdiction to supervise the liquidation of companies registered in Kenya. Outline the circumstances under which a company may be liquidated by court. (10 Marks)
- (c) Explain the consequences of a court order to wind up a company. (10 Marks)

### QUESTION TWO

- (a) Discuss the doctrine of ultra vires. (4 Marks)
- (b) How would you explain to a new shareholder of a central depository system (CDS) account three circumstances in which a CDS account might be suspended? (6 Marks)
- (c) Outline FIVE sources of law. (10 Marks)

### QUESTION THREE

- (a) Explain why a court in exercising its inherent jurisdiction for the sake of justice might disregard the principles of legal personality. (10 Marks)
- (b) Describe the consequences of incorporation of a company. (10 Marks)

### QUESTION FOUR

- (a) Explain FIVE duties of directors of a company. (5 Marks)
- (b) Offset and Quavo are directors in Takeoff Ltd. The two are seeking to turn their private company into a public company. Advise them on the process and relevant instruments. (10 Marks)
- (c) Outline the differences between a Limited Liability Company and a Partnership. (5 Marks)

### QUESTION FIVE

- (a) Discuss the instances in which one can become a member of a company. (10 Marks)
- (b) ..As a member, the shareholder will enjoy certain rights in the company which, unless modified or excluded by the company's articles, will generally comprise the following rights as provided for under section 114... Outline the rights provided in section 114 of the Companies Act. (10 Marks)