



RIARA LAW SCHOOL

UNIVERSITY EXAMINATION FOR BACHELOR OF LAWS (LLB) DEGREE

AND

PRE-KENYA SCHOOL OF LAW CORE COURSES COMPLIANCE PROGRAM

SEPTEMBER – DECEMBER 2019

**RLB 308: LAW OF BUSINESS ASSOCIATIONS II**

**INSTRUCTIONS**

1. This is the final examination in the Law of Business Associations II. You will earn 70% of your final grade from this final examination and 30% from the Continuous Assessment Assignments (CATs).
2. This examination has **FOUR** questions divided into Sections A and B. Please **ANSWER ALL QUESTIONS IN SECTION A AND ONE QUESTION IN SECTION B.**
3. This examination has 2 pages, including this one.
4. Time allocated for this examination is **TWO (2) HOURS**. You must stop writing when time is called.
5. Please sign the roll sheet when you turn in your answer sheet. If you fail to sign the roll sheet, we shall have no way of establishing that you sat for this examination and your marks will not be reported.
6. This is a **PARTIALLY OPEN BOOK** examination. This means you are permitted to bring print copies of the Companies Act No. 17 of 2015 and the Insolvency Act No. 18 of 2015 to the examination room. However, you are not allowed to access materials stored in computers, electronic gadgets or the internet. You should not bring to the examination room any of the following: cell phones, tablets, computers, notes, outlines, or books. Neither should you bring to the examination room books or materials unrelated to this course. If you need to have medicine or food items with you, please let the invigilator know before the examination begins.
7. This examination is governed by **Riara University Academic Honesty Regulations**. Students who violate those regulations will be penalized. Students have an obligation to report to the invigilator any incidences of academic dishonesty compromising the integrity of this examination.

## **SECTION A: COMPULSORY QUESTIONS**

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### **QUESTION 1 (30 marks)**

Marceau was appointed a director of Yatta Cement Limited (a private company) on 28<sup>th</sup> June 2019 during the company's Annual General Meeting (AGM). Before her appointment, she was among the company's clinker (a raw material in cement production) suppliers and had supplied 200 tonnes of clinker between January and May 2019 for which she had not yet been paid. The other directors were not aware that she was a clinker supplier and that she had in fact supplied clinker to the company. At the board of directors meeting held on 15<sup>th</sup> August 2019, Marceau proposed that the company pays a higher price for all clinker supplied in 2019 to attract clinker suppliers to supply more to the company and enable it beat the market competition for the shortage in clinker supplies. The company paid high prices to the clinker suppliers but consequently incurred heavy losses. It has come to the other director's attention that Marceau was a clinker supplier and had cumulatively supplied 75% of Yatta Cement's clinker in 2019. The directors are uneasy with this state of affairs and approach you, the newly appointed company secretary for advice on the arising legal issues and the appropriate causes of action available to the company. Using relevant authorities and case law, advise the board of directors.

### **QUESTION 2 (20 MARKS)**

Aldi Supermarkets Limited has been experiencing financial challenges for the past three years. It has defaulted on its loan facilities with three leading banks since August 2019 and has delayed employees' salaries for September, October and November. The directors are concerned and approach you, one of the legal advisors on their panel of advocates, seeking legal advice on the available legal options for the company. Using applicable statutory references and appropriate case law, advise Aldi Supermarkets Limited.

## **SECTION B: ANSWER ONE (1) QUESTION**

### **QUESTION 3 (20 MARKS)**

Sinkline Limited is a public limited company based in Industrial Area, Nairobi. Since 2016, its financial statements have been audited by Bientot Associates (Certified Public Accountants). Its 2016, 2017 and 2018 audited financial statements reflected growth in revenue and assets and increased profits year after year. However, the directors have noted that Bientot Associates charges high fees for their audit services and they would like to find out if the company can be excluded from auditing its accounts or if not how to outsource them at more competitive rates from another firm. They approach you, a distinguished commercial lawyer for legal advice. Using relevant case law and statutory references, advise Sinkline Limited.

### **Question 4 (20 Marks)**

Using relevant statutory references and case law, discuss the duties of company administrators and liquidators.