



**UNIVERSITY OF JOHANNESBURG
KINGSWAY CAMPUS**

FACULTY OF LAW

SUPPLEMENTARY EXAMINATION: 2018

SUBJECT NAME: COMMERCIAL LAW 1B DURATION: 120 minutes

SUBJECT CODE: KMR1B11 MARKS: 70
COL41B1

EXAMINERS: Mrs Raashi Chauhan
 Mr Siyabonga Heleba
 Mr Jentley Lenong
 Mr Sershiv Reddy
 Mrs Rethabele Seema

MODERATOR: Prof Kathleen van der Linde

THIS PAPER RUNS TO 4 (FOUR) PAGES

GENERAL INSTRUCTIONS TO STUDENTS

- 1. Answer all the questions in your script.**
- 2. Write clearly and legibly.**
- 3. Number your answers carefully.**
- 4. Leave a line open between each answer (for example, between questions 1.1 and 1.2).**
- 5. Ensure the correct use of grammar and spelling.**

QUESTION 1

- 1.1 Name two ways in which a director may be removed and briefly explain each process. (4)
- 1.2 Name any three (3) persons who are ineligible to be appointed as a director. (3)
- 1.3 Name any three (3) persons who are disqualified from being a director. (3)
- 1.4 Name any three (3) persons who may bring an application to declare a director to be delinquent or to be placed under probation. (3)
- 1.5 Explain the business judgment test in terms of section 76 (4) of the Companies Act 71 of 2008. (4)
- 1.6 Differentiate between a *de facto* director and an *ex officio* director. (2)
- 1.7 Explain the differences between a manager and a director. (4)
- 1.8 Explain the difference between an executive and a non-executive director. (2)
- 1.9 Discuss the main elements of the fiduciary duty of a director as contained in the Companies Act 71 of 2008. (5)

TOTAL	[30]
--------------	-------------

QUESTION 2

Arya and Adya are two directors of Chauhan Ltd. One of their competition companies, Singh Moves (Pty) Ltd, has approached Arya and Adya about a possible merger. They think that instead of being in competition with one another, it would be best to merge and have one company working together.

- 2.1 A merger is known as a..... (1)
- 2.2 Indicate whether the proposed transaction is an affected transaction. (1)
- 2.3 Name the type of resolution that is required for the approval of such a transaction. (1)
- 2.4 Name the three key stages of a merger. (3)

- 2.5 One of the shareholders of Chauhan Ltd, Arnav, is not keen on a merger and would prefer not being a part of it and she is willing to give up her shareholding as a result. Name the remedy available to Arnav, as well as the steps that need to be taken for such remedy. (8)

TOTAL	[14]
--------------	-------------

QUESTION 3

Internet-for-All Ltd is a newly incorporated company. Madison, one of the directors of the company, wants the company to offer shares to the public in order to obtain capital.

- 3.1 Name the document which the company should draw up in order to make an offer of shares to the public and provide a brief definition. (2)
- 3.2 Identify the type of offering referred to above and provide a reason for your answer. (2)
- 3.3 Kayla saw the advert advertised by Internet-for-All Ltd and decided to subscribe for shares in the company based on the information she was provided with. It later appeared that there was false information contained in the document and now, because of this untrue statement, Kayla has suffered a loss. Who can Kayla hold liable for the loss? (2)

TOTAL	[6]
--------------	------------

QUESTION 4

Raina is an entrepreneur who is very interested in starting her own business. She is not familiar with the various enterprises and was wondering if the only option available to her would be to register a company. Raina comes to you to seek advice on the options that are available to her in relation to the various types of business enterprises that she could start. She has also heard of partnerships, close corporations and the business trust but is not sure of exactly what they are.

- 4.1 Explain to Raina **in an email** the various types of business enterprises that she may wish to consider. Your email should state this by identifying the type of enterprise as well as the respective characteristics of each. (12)
- 4.2. Raina has heard of a close corporation and thinks that such a business may be a viable option for her future business. Advise her whether it would be possible to incorporate a close corporation or if there is any other method to acquire a close corporation presently. (4)

A further 2 marks will be allocated for format and numbering.

A further 2 marks will be allocated for language and spelling. (4)

TOTAL	[20]
GRAND TOTAL	[70]
