



JARAMOGI OGINGA ODINGA UNIVERSITY OF SCIENCE AND TECHNOLOGY

SCHOOL OF ENGINEERING AND TECHNOLOGY

**UNIVERSITY EXAMINATIONS FOR THE DEGREE IN CONSTRUCTION
MANAGEMENT**

4TH YEAR 1ST SEMESTER 2017/2018 ACADEMIC YEAR

CENTRE: MAIN CAMPUS

COURSE CODE: TCM 3411

COURSE TITLE: CONSTRUCTION AND LAW

EXAM VENUE: CR

STREAM: BSc CONSTRUCTION MGT.

DATE: 18/12/2017

EXAM SESSION: 9.00 – 11.00 AM

DURATION: 2 HOURS

Instructions

- 1. Answer question 1 (Compulsory) and ANY other two questions**
- 2. Candidates are advised not to write on question paper**
- 3. Candidates must hand in their answer booklets to the invigilator while in the examination room**

QUESTION ONE (30marks)

- a) Define the following terms commonly applied in construction law (10marks)
 - i. Alternative dispute resolution
 - ii. Tort
 - iii. Restrictive covenants
 - iv. Statutory meeting
 - v. Privity of contract
- b)
 - i. Explain the difference between void and voidable contracts (2marks)
 - ii. Briefly describe the common methods of creating agency (8marks)
- c) Briefly describe the superior courts of the judiciary system in Kenya (10marks).
 - i.

QUESTION TWO (20marks)

- a) Discuss what an incorporated company in Kenya entails [4marks]
- b) Explain the fundamental differences between public and private companies operating in Kenya (10marks)
- c) Briefly state under what circumstances incorporated companies operating in Kenya can be wound up (6marks)

QUESTION THREE (20marks)

- a) Define the following legal terms (6marks)
 - i. Common law
 - ii. Ultra vires
 - iii. Stare decisis
- b) Briefly discuss five fundamental un-written sources of law in Kenya. (10marks)
- c) Common law is characterized by the writ system and doctrine of stare decisis. Briefly explain the difference between writ system and stare decisis (4marks)

QUESTION FOUR (20marks)

- a) Briefly explain the difference between alternative dispute resolution and court litigation (4marks)
- b) Discuss four significant advantages of alternative dispute resolution mechanisms over court litigation (8marks)
- c) Explain under what circumstances a contract may be considered voidable? (8marks).

QUESTION FIVE (20marks)

- a) Explain the difference between agency and tort in law (4marks)
- b) Discuss five defenses acceptable by courts in tort law (10marks)
- c) Briefly state land tenure systems applicable in Kenya (6marks)