



**Strathmore**  
UNIVERSITY

**STRATHMORE LAW SCHOOL  
MASTERS OF LAWS  
END OF MODULE EXAMINATION  
LLM 8310: PUBLIC-PRIVATE PARTNERSHIPS LAW**

DATE: **Wednesday, 18<sup>th</sup> October 2023**

Time: **3 Hours**

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**Instructions**

1. This examination consists of **THREE** questions.
2. Answer **ALL THREE** questions.
3. This is a **CLOSED-BOOK** examination. You are not permitted to bring any written or electronic information to the examination room or to make reference to such material in any way.
4. **DO NOT** copy and paste from any online source or from another candidate. The answers will be subject to a plagiarism check and a similarity index of over 30% will automatically lead to disqualification.
5. You should spend a fair amount of time organising your thoughts before starting to write.
6. Careful organisation and clarity will be highly valued.
7. Please start each question on a new page.

### **Examination Question 1 — 20 Marks**

For the first two decades of this century, the global economy has had upheavals. The global economic crisis of 2008 was soon followed by a global pandemic that nearly shut down global trade. War between Russia and Ukraine has only added to the economic challenges facing countries including our own. Consequently, many nations have been forced to focus on strengthening domestic manufacturing capacities. There is a global turn to economic self-sufficiency to minimise vulnerability that was created by interdependence of preceding decades. The march to globalization may well have been halted.

Due to declining economic performance, many African governments are struggling to keep up with sovereign debt repayment schedules, a few have defaulted, while others have suffered credit rating downgrades by international credit rating agencies, making their economic situation worse.

You are lawyer in the Republic of Tendas, one of the African nations caught in this financial quagmire. The government of Tendas has engaged you to provide professional advice on what it should do to achieve its objective of building a resilient domestic economy that is not vulnerable to global economic crises. You are well briefed that this government is unable to finance such a development agenda from public coffers. What options are available to it and what should the government do to deploy them? In your answer explain why the option or options you have recommended are ideal for the circumstances Tendas finds itself in.

*[20 Marks]*

### **Examination Question 2**

Kasim International is a road construction company incorporated in the Republic of Medusa. It recently signed a public-private partnership agreement with the Government of Kenya to construct the Shauri Moyo Dual Carriage SuperHighway that will connect the City of Nairobi and the City of Mombasa. The investment is meant to open up the port of Mombasa and increase commercial activity with neighbouring landlocked countries.

The agreement between the parties sets January 2024 as the effective date for the commencement of the project. Provide legal advice to Kasim International on the legal steps it needs to take in order to commence the project in a manner that complies with the Public-Private Partnerships Act of Kenya.

*[20 Marks]*

### **Examination Question 3**

Leaders from various parts of Kenya have presented development proposals to the national government. Among the proposals made are the following:

1. Construction of a Level 5 hospital in Lodwar, Turkana County.
2. Construction of an airport in Lamu, Kilifi County.
3. Construction of the tallest skyscraper in the world in the Maasai Mara National Game Reserve, Narok County.
4. Construction of a solar panels manufacturing plant in Limuru, Kiambu County.
5. Construction of a military complex in Mandera, Mandera County.

The government through a gazette notice has appointed you to lead a panel of experts whose mandate is to evaluate the development proposals and advise the national government which should be taken up and whether they are suitable for financing through public-private partnerships or other methods.

For each of the ones listed above, enumerate the considerations the panel should take into account in determining whether to recommend their implementation by the government; and for those you recommend, enumerate the most suitable financing model for each giving reasons for your recommendations.

***[20 Marks]***