LAW: CONSTRUCTION AND ENGINEERING II – AQS 2106

TIME: 3 Hours
TOTAL MARKS: 100

INSTRUCTIONS

Answer Four (4) Questions Only.
All Questions Carry Equal Marks.

QUESTION 1

a) With the aid of examples describe a tender, highlighting the most common tender documents that are used in the construction industry. (10 Marks)
b) With the aid of case laws, discuss the mistakes that often take place in tendering during offer and acceptance of Construction projects. (10 Marks)
c) What are the remedies of the mistakes you have discussed above? (5 marks)

QUESTION 2

a) What are fittings and fixtures in construction projects? (5 Marks)
b) With the aid of case laws, describe and explain the effects to the supplier of supplying and delivering building materials at a site without informing the owner of the property of the reservation of ownership in the materials. (15 Marks)
c) What is ownership by Accession and delivery? (5 marks)
QUESTION 3

a) What are payment certificates? (5 Marks)

b) With reference to the contract documents you have studied, as well as making reference to case laws discuss the conclusiveness of payment certificates. (15 Marks)

c) What is the correct contractual procedure if the client delays paying the contractor for work done and certified by the architect? (5 Marks)

QUESTION 4

a) Discuss the most common methods that are used to solve disputes in the construction industry. (10 Marks)

b) Under what circumstances may a court set aside an Arbitrator’s award? (5 Marks)

c) In what ways is arbitration better than litigation in solving disputes in the construction industry? (5 marks)

QUESTION 5

a) Describe and explain liquidated and ascertained damages, citing concrete examples in the construction industry. (6 Marks)

b) Discuss the various penalties and the circumstances under which penalties may be deducted. (9 Marks)

c) Discuss the builder’s lien and the various expenses that one may bestow on the property of another. (10 marks)
QUESTION 6

a) With the aid of examples where necessary, define the following legal jargon that is common within building construction law.

(i) Waiver of contract
(ii) Mandament Van Spolie
(iii) Provisional Sentence
(iv) Subpoena
(v) Discovery
(vi) Res Judicata
(v) Sine Die
(vi) Abosolution from the Instance
(vii) Rule nisi
(viii) Interdict

(20 Marks)

b) What are the insurances that a contractor is liable to take in a building contract?

(5 Marks)

END OF EXAMINATION