

**NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY
FACULTY OF ARCHITECTURE AND QUANTITY SURVEYING
BACHELOR OF QUANTITY SURVEYING (HONOURS) DEGREE
PART I SECOND SEMESTER EXAMINATIONS - MAY 2006**

LAW: CONSTRUCTION AND ENGINEERING I – AQS 1205

TIME: 3 Hours

TOTAL MARKS: 100

INSTRUCTIONS:

Answer both Questions in Part A
Answer any two Questions in Part B

PART A

QUESTION 1

- a) A contract usually comes into being by way of an offer and acceptance. With the aid of examples and case law authorities discuss the requirements for:
- (i) a valid offer (12 marks)
 - (ii) a valid acceptance (8 marks)
- b) (i) Outline the circumstances in which an offer lapses. (4 marks)
- (ii) A debtor may breach a contract in a number of ways including positive malperformance. Define positive malperformance and discuss the legal remedies available to the creditor in the event of malperformance by the debtor. (6 marks)

QUESTION 2

- a) Discuss the delict of defamation, the available remedies to the defamed party, and the defenses available to the defendant. (15 marks)
- b) Discuss private nuisance and remedies available to the injured party. (10 marks)
- c) Explain briefly your understanding of the delict of negligence. (5 marks)

PART B

QUESTION 3

- a) What does the work of a quantity surveyor include. (5 marks)

- b) Who qualifies to register with the Quantity Surveyors Council of Zimbabwe in terms of the Quantity Surveyors Act (Chapter 27:13). (5 marks)
- c) Briefly outline the procedure for application for registration with the Council, and the circumstances under which the Council may refuse to register an applicant. (10 marks)

QUESTION 4

- a) When one of the parties to a contract commits a breach of that contract, there are certain remedies available to the innocent party.
Briefly discuss the following remedies:
- (i) specific performance (5 marks)
 - (ii) rescission / cancellation (5 marks)
 - (iii) damages (5 marks)
- b) What constitute improper, disgraceful or unprofessional conduct by a quantity surveyor. (5 marks)

QUESTION 5

Name and discuss the requirement of a valid contract. (10 marks)

Briefly discuss:

- (i) the procedure followed by the Quantity Surveyors Council of Zimbabwe in conducting a disciplinary enquiry. (5 marks)
- (ii) the orders that may be granted by the Council after the completion of the enquiry. (5 marks)

END OF EXAMINATION