

NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY
FACULTY OF BUILT ENVIRONMENT
DEPARTMENT OF QUANTITY SURVEYING
PART I SECOND SEMESTER EXAMINATIONS – JUNE 2011
LAW: CONSTRUCTION AND ENGINEERING I – AQS1205

Time: 3 hours

Total Marks: 100

INSTRUCTIONS:

Answer any four questions, all questions carry equal marks.

Question One

- a) For a contract to be valid there are certain requirements which are supposed to be met, name and discuss these requirements with aid of case laws (20 marks)
- b) What is the most significant difference between contract and tort (5 marks)

Question Two

- a) Explain the phrase *legal capacity* from the context of contract law (3 marks)
- b) Explain what happens to the offer in the event that the offeree passed away (2 marks)
- c) Distinguish offer from acceptance (2 marks)
- d) What is the difference between effluxion of time and lapse of time (2 marks)
- e) Highlight the important facts which should be considered for effective revocation (6 marks)
- f) Name and explain ways of communicating an offer (5 marks)
- g) What are the causes for breaching in contract? (5 marks)

Question 3

- a) Discuss the requirements for acceptance giving relevant case laws (15 marks)
- b) With the aid of examples discuss problems associated with contracts concluded over the telephone and telex (8 marks)
- c) What is a contract (2 marks)

Question Four

- a) Under misrepresentation, the injured party can escape from the contract or claim restitution depending on the type of misrepresentation involved. Briefly discuss types of misrepresentation giving examples (15 marks)
- b) If a contract has been formed through misrepresentation the prejudiced party may decide to have the contract cancelled and claim restitution. Discuss the requirements for successful restitution (10 marks)

Question Five

- a) Explain with examples the circumstances which render a contract invalid (10 marks)
- b) Discuss the following remedies for breach of contract
 - i) Rescission / cancellation (5 marks)
 - ii) Damages (5 marks)
- c) Discuss the remedies for tortious behavior (5 marks)

Question Six

- a) Discuss with examples the proof which the plaintiff has to bring in order for him to succeed in negligence action (10 marks)
- b) With the aid of case law authorities discuss the general defenses in tort (7 marks)
- c) Discuss the difference between public nuisance and private nuisance (8 marks)