

**NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY
FACULTY OF ARCHITECTURE AND QUANTITY SURVEYING
BACHELOR OF QUANTITY SURVEYING (HONOURS) DEGREE
PART I FIRST SEMESTER SUPPLEMENTARY EXAMINATIONS – JULY 2005**

LAW: CONSTRUCTION & ENGINEERING II – AQS 2106

TIME: 3 Hours

TOTAL MARKS: 100

INSTRUCTIONS:

Answer **4** questions.

QUESTION 1

Many people complain that they are confused by legal terminology.

Please give brief definitions of the following:

- | | |
|----------------------------------|-----------|
| (1) Rule nisi | (3 marks) |
| (2) Interdict | (5 marks) |
| (3) Subpoena | (2 marks) |
| (4) Edictal citation | (2 marks) |
| (5) Sine Die | (2 marks) |
| (6) Res judicata | (3 marks) |
| (7) Absolution from the instance | (3 marks) |
| (8) Provisional sentence | (4 marks) |
| (9) Discovery | (1 mark) |

QUESTION 2

(a) What is a contract of suretyship? (12 marks)

(b) What does the General Law Amendment Act 1956, Section 6, say about the contract of suretyship? (3 marks)

(c) Define the following:

- | | |
|---------------------------|-----------|
| (i) Cession of action | (3 marks) |
| (ii) Benefit of excussion | (4 marks) |
| (iii) Benefit of Division | (3 marks) |

QUESTION 3

An architect wishes to determine a nominated subcontractor's contract and has drafted a

letter to that effect. He has given you the draft letter to read and see if it makes sense. What are your comments regarding the architect's letter

QUESTION 4

(a) According to the Conventional Penalties Act 1962, what is the definition of "*Penalty*"? (5 marks)

(b) In deciding whether a clause embodies a penalty or a pre-estimate of damages, what does the court consider normally? (20 marks)

QUESTION 5

Discuss the contractor's liens and the waiver of contractor's liens. (25 marks)

END OF EXAMINATION