

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

LAW: CONSTRUCTION & ENGINEERING II – AQS 2106

TIME: 3 Hours

TOTAL MARKS: 100

INSTRUCTIONS:

Answer question **one and any other three** question.

- Note:** (i) Candidates are allowed to refer to the Standard Form of Building Contract
(ii) Answers to be illustrated with the use of Case law

QUESTION 1

- a) What is a tender? (2 marks)
- b) Discuss in detail the legalities involvement in tendering? (20 marks)
- c) List the set of tender documents. (3 marks)

QUESTION 2

- (a) In what circumstances can an arbitration award be set aside by the court according to section 33 (1) of the Arbitration Act 42 of 1965. (12 marks)
- (b) Discuss the advantages of arbitration over litigation. (13 marks)

QUESTION 3

- a) What are Liquidated and Ascertained Damages? (5 marks)
- b) Payment certificates are conclusive in their own right, that is they cannot be adjusted by the client and are legally binding. Discuss this assertion. (15 marks)
- c) Describe the correct contractual procedures to be followed by the contractor in the event that the client delays paying for work done that has been certified by the Architect as being due for payment. (5 marks)

QUESTION 4

- (a) Discuss the ownership of unfixed materials and goods in a building contract. Pay special attention to the supplier, contractor and the client (15 marks)
- (b) What are the insurances that a contractor is liable to take in a building contract. Write detailed notes on these. (10 marks)

QUESTION 5

- a) Differentiate between patent and latent defects. (3 marks)
- b) Define a penalty according to the conventional penalties Act 1962. (2 marks)
- c) Is a client entitled to deduct penalties if in the final analysis he suffers little or no loss as a result of the late completion of the works? (15 marks)
- d) Are minutes of site meetings regarded as an adequate notice of delay? (5 marks)

QUESTION 6

- a) Differentiate between civil and criminal law. (2 marks)
- b) Define these terms:
(i) Subpoena
(ii) Subpoena duces tecum
(iii) Sine Die
(iv) Res judicata
(v) Rule nisi
(vi) Interdict (6 marks)
- c) Discuss the defences in surety. (10 marks)
- d) Explain builder's lien making mention of some principles which have a significant bearing on actions aimed at preserving, renouncing, waiving or relinquishing a lien. (7 marks)

END OF EXAMINATION