

NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY
FACULTY OF THE BUILT ENVIRONMENT
DEPARTMENT OF QUANTITY SURVEYING
BACHELOR OF QUANTITY SURVEYING (HONORS) DEGREE
PART II FIRST SEMESTER EXAMINATIONS – JANUARY 2008

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. **(10Marks)**
- 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
- (iv) 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?

(5Marks)

END OF EXAMINATION