

**NATIONAL UNIVERSITY OF SCIENCE AND TECHNOLOGY**  
**FACULTY OF BUILT ENVIRONMENT**  
**DEPARTMENT OF QUANTITY SURVEYING**  
**PART II FIRST SEMESTER EXAMINATIONS – JANUARY 2011**  
**LAW: CONSTRUCTION AND ENGINEERING I – AQS2106**

Time: 3 hours

Total Marks: 100

**INSTRUCTIONS:**

Answer any four questions.

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**QUESTION ONE**

- a) Referring to the Standard Building Contract when is ownership of unfixed materials off/on site vested to the client. Discuss. (15 marks)
- b) What are Interim Valuations and Interim Payment Certificates? (4 marks)
- c) List 6 general tender documents that are used in the construction industry. (6 marks)

**QUESTION TWO**

- a) With aid of examples, where possible, explain the following:-
  - i) Agency (4 marks)
  - ii) Privity (4 marks)
  - iii) Vicarious liability (4 marks)
  - iv) Implied terms (4 marks)
- b) List and explain three conditions under which a contract can be discharged. (9 marks)

### **QUESTION THREE**

- a) Define the following legal jargon within the building construction law.
- i) Subpoena (2 marks)
  - ii) Discovery (2 marks)
  - iii) Sine die (2 marks)
  - iv) Default judgement (2 marks)
  - v) Civil summons (2 marks)
  - vi) Applications (2 marks)
- b) What is a surety? (5 marks)
- c) List any two types of defence in surety. (4 marks)
- d) Differentiate between civil and criminal law. (4 marks)

### **QUESTION FOUR**

- a) Identify and discuss three different ways of solving construction related disputes. (15 marks)
- b) Of the above which one is a better way of settling disputes and why? (10 marks)

### **QUESTION FIVE**

- a) A Contractor includes the amount of bricks delivered to a site for a project in his claim. The bricks were not yet used by the time of claim. Who retains the ownership of these materials? Discuss. (5 marks)
- b) Contractor orders some precast units from a specialist manufacturer. The materials are still in the workshop of the manufacturer by the time a claim was done by the Contractor. Should client pay? Advise. (5 marks)
- c) The Contractor liquidates before paying Manufacturer in (b) above. The materials have so far been fixed and Manufacturer demands the client to pay him. Does the Manufacturer's demand hold? Advise. (9 marks)
- d) Under what circumstances can the Client determine a contract against the Contractor? (6 marks)

**END OF EXAMINATION**