



UTHM

Universiti Tun Hussein Onn Malaysia

UNIVERSITI TUN HUSSEIN ONN MALAYSIA

**FINAL EXAMINATION
SEMESTER II
SESSION 2017/2018**

COURSE NAME : CONSTRUCTION LAW
COURSE CODE : BPD 20302
PROGRAMME CODE : BPC
EXAMINATION DATE : JUNE / JULY 2018
DURATION : 2 HOURS
INSTRUCTION : ANSWER ALL QUESTIONS

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THIS QUESTION PAPER CONSISTS OF **THREE (3)** PAGES

- Q1** Nur QS Consult has been appointed as the consultant for a 20-storey hotel project with green concept in Iskandar Puteri, Johor Bahru. Mr. Harith is the quantity surveyor who is responsible for the project as required by the client. To ensure the project can be completed within time that stipulated by the client, he was instructed to explain to the contractor several terms used in the construction contract (PWD Form of Contract) particularly liquidated ascertained damages (LAD) and extension of time (EOT).
- (a) Explain the importance of liquidated ascertained damages (LAD) provisions in construction projects. (10 marks)
- (b) Discuss **THREE (3)** relevant events that may allow contractor to claim an extension of time (EOT) in construction projects. (15 marks)
- Q2** Bina Inovasi Corporation (Contractor Grade 7) and MHH Realty (Client) are two parties who plan to settle their dispute on the issue of payment claims by using arbitration. Both parties are free to choose an arbitrator to resolve the dispute. However, there are several considerations that need to be taken into account by both parties particularly in the selection of arbitrator and arbitration methods.
- (a) Explain **FIVE (5)** qualification of an arbitrator. (15 marks)
- (b) Interpret **TWO (2)** types of arbitration. (10 marks)
- Q3** Law of Tort is one of significant principles to protect plaintiff from any damages in construction project.
- (a) Describe **TWO (2)** basic requirements to establishing an action in negligence. (10 marks)
- (b) Discuss the case of **Hedley Byrne & Co. Ltd vs Heller (1964)** found in Law of Tort. (15 marks)

Q4 Variation Order (VO) is any work that has changed from the original contract either in terms of design, building materials or quantities which is generally caused by Superintending Officer (SO) instructions. Nowadays, VO has become a common phenomenon in the construction industry. Construction projects process known to be complex activities due to critical involvement of many human and non-human factors, time factor, high variability, various uncertainties and also complex relationships among the participants. In some cases, the issues on VO become worst if both parties i.e. client and contractor have a conflict of understanding which leads to contract disputes and the project might end-up with arbitration, litigation or total abandonment. Therefore, all parties that involves in construction project need to have a sound understanding regarding VO.

(a) Outline **FIVE (5)** changes in construction that permit contractor to claim under VO clauses.

(15 marks)

(b) Describe **FOUR (4)** ways to control the occurrence of VO in construction project.

(10 marks)

-END OF QUESTIONS-

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