

QUESTION ONE (30 Marks) (Compulsory)

- a) Explain the following phrases commonly applied in construction contract administration **(10 Marks)**
- i. Law of contract
 - ii. Programme of works
 - iii. Performance security
 - iv. Privity of contract
 - v. Specific Performance
- b)
- i. Discuss the difference between offer with conditions and offer subject to written agreement in formation of contracts **(4 Marks)**
 - ii. Highlight the duties of a quantity survey in construction contract administration **(6 Marks)**
- c) Explain how conflicts can arise among human beings including how they can be resolved before they degenerate into disputes **(4 Marks)**
- d) i. Briefly explain the key differences between the Old Red book and New Red Book Federation Internationale Des Ingenieurs Conseils (FIDIC) Forms of contract **(3 Marks)**.
- ii. Under the joint Building Council (JBC) standard form of contract in Kenya state items that can be considered for inclusion for payment under the fluctuation clause **(3 Marks)**

QUESTION TWO (20 Marks)

The National Construction Authority (NCA) was established in 2012 through an Act of Parliament in Kenya.

- a. State the broad mandate of the National Construction Authority (NCA) and three reasons its Board can invoke to suspend a contractor **(4 Marks)**.
- b. Discuss the procedure of instituting enquiries into the conduct of errant contractors as provided for in this Act of Parliament **(16 Marks)**.

QUESTION THREE (20 Marks)

The Government of Kenya has appointed you Project Manager for an externally donor funded project whose scope is majorly civil engineering and the donor is desiring to adopt an international form of contract.

- a. Recommend to your employer the most appropriate form of contract for this project **(2 Marks)**.

b. Draft an invitation for prequalification of bidders to be advertised in Daily Newspapers clearly spelling out the criteria to be met by the bidders **(18 Marks)**.

QUESTION FOUR (20 Marks)

Alternative dispute resolution (ADR) is gradually getting more popular in dispute resolution than the conventional court litigation process. As an expert in dispute resolution, answer the following questions:

- a. Explain possible causes of failure of negotiation as an alternative dispute resolution mechanism **(6 Marks)**.
- b. Briefly discuss the advantages of alternative dispute resolution mechanism over court litigation **(6 Marks)**
- c. How does dispute resolution under public sector form of contract issued by Public Procurement Oversight Authority (PPOA) differ from that provided under MDB Harmonized FIDIC form of contract. **(8 Marks)**

QUESTION FIVE (20 Marks)

- a. Explain what a consortium means in relation to the structure of the Kenyan construction industry **(4 Marks)**.
- b. Explain situations when the project manager or architect can be an owner's agent or a certifier **(2 Marks)**.
- c. Discuss ways of classifying contractors other than through the National Construction Authority's mode of classification **(10 Marks)**.
- d. Highlight the disadvantages of public private partnership as a project delivery vehicle **(4 Marks)**.