CONSTRUCTION LAW

COURSE AIMS

The aim of the course is to enable students to develop a detailed understanding of the legal and organisational framework within which construction contracts take place. This entails the legal and commercial processes of structuring, negotiating, recording and enforcing contracts and business deals in construction. The course will enable learners to develop a comprehensive understanding of the complexity of construction procurement and contracting under various standard form contracts such as International Federation of Consulting Engineers (FIDIC), General Conditions of Contract (GCC), Joint Building Contracts Committee (JBCC) and New Engineering Contract (NEC).

COURSE OUTCOMES

A student who completes this course should be able to:

- Relate the general law of contract to the formation of construction contracts;
- Explain the basic principles underlying the formation of contracts and its application in construction (this includes contractual documents in construction e.g. specifications, drawings and bill of quantities and their contractual implications);
- Demonstrate an understanding of the various legislation affecting construction contracts and dispute resolution procedures;
- Explain the roles and responsibilities of the parties in a construction contract;
- Demonstrate an understanding of the principle and drafting policy of various standard forms of contract;
- Identify and explain various forms of standard contracts together with their underlying principles and appropriate choice of contract and risk allocation (FIDIC, GCC, JBCC and NEC);
- Place construction contracts in the context of procurement methods and tendering processes;
- Describe the legal position of subcontractors within a construction contract;
- Identify the circumstances and processes for suspension and termination of contracts and decide on the appropriate remedies for breach of contract;
• Evaluate various forms of financial protection in contracts including insurance, bonds, guarantees, retention;
• Assess the basic principles associated with contractual claims.

COURSE CONTENTS

• A suite of standard contracts in construction with emphasis on the Joint Building Contract Committee (main and subcontracts) and discussion of articles of agreement.
• Contractual documents in construction (e.g. Specifications, drawings, and bill of quantities and their contractual implications).
• Legislation affecting construction (e.g. Professional Councils Act such as Council for the Built Environment (CBE), South African Council for the Quantity Surveying Profession (SACQSP) and South African Council for Project and Construction Management Professions (SACPCMP). The Environmental Act, Health and Safety Act; Industrial relations Act, etc. Advanced and International standard contracts (e.g. FIDIC, NEC and ICE).