**South African Council for the Architectural Profession**

**PROFESSIONAL PRACTICE EXAMINATION**

**OCTOBER 2020**

**PAPER 2**

* This is an open book paper. Only material listed in the suggested Reading Material circulated by SACAP for this examination is allowed to be used.
* Candidates must answer all questions.
* Total marks for paper 2 – **150 marks**
* Time allowed for paper 2 – **3 hours**
* Pass mark – **50%** in either paper
* Please ensure that you have provided your correct **EXAMINATION NUMBER** for identification purposes.
* No cell phones, programmable calculators, laptops and/or other electronic equipment are permitted to be used during the examination.

**QUESTION 1** *30 marks*

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| --- | --- | --- | --- |
| 1.1 | South African contract law is essentially a modernised version of which law of contract? | | (2) |
|  | | | |
| 1.2 | 1. | Provide the legal definition of a "contract". | (4) |
|  | | |
| 2. | What aspect of this definition differentiates a contract from an agreement? | (3) |
|  | | | |
| 1.3 | Identify and describe three (3) actions that would constitute a breach of contract *(3 marks each)*. | | (9) |
|  | | | |
| 1.4 | Aside from acting as the principal agent during construction, under what other circumstance would a relationship of agency exist between an architectural professional and a client? | | (6) |
|  |  | |  |
| 1.5 | What would an employer typically be required to provide when a contractor is required to waive the lien as part of a construction project? | | (3) |
|  | | | |
| 1.6 | Which liability to the public is one not able to contract out of as part of the provision of architectural services? | | (3) |
|  | | | |

**QUESTION 2** *30 marks*

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| 2.1 | Describe three (3) disadvantages of entering into a BESPOKE form of construction contract *(3 marks for each)*. | (9) |
|  | | |
| 2.2 | Describe three (3) advantages of entering into a STANDARD form construction contract *(3 marks for each)*. | (9) |
|  | | |
| 2.3 | As part of which construction pricing strategy is the contractor compensated for the costs incurred to carry out the works? | (3) |
|  | | |
| 2.4 | Identify three (3) ways in which the quantities for a construction contract may be calculated as part of the bill of quantities pricing strategy *(2 marks for each)*. | (6) |
|  | | |
| 2.5 | What would a contractor typically do in order to overcome the risks involved in fixing the contract sum for a construction project? | (3) |
|  | | |

**QUESTION 3** *15 marks*

* Select the correct answer from the list provided. There is only one correct answer to each question.
* Provide only the question number and the letter of the selected answer.
* The acronym 'JBCC-PBA' refers to the JBCC Principal Building Agreement.

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| 3.1 | Over and above the standard scope of service, an architectural professional may request additional fees to carry out the obligations of the principal agent within the JBCC-PBA. | | (3) |
| A. | TRUE |
| B. | FALSE |
|  | | | |
| 3.2 | In the JBCC-PBA, the latent defects liability period runs… | | (3) |
| A. | until the final payment certificate is issued |
| B. | until practical completion |
| C. | from when the site is handed over |
| D. | from when the tender is awarded |
|  | | | |
| 3.3 | It is incorrect to say that the principal agent "manages" the contractor as part of the obligations in the JBCC-PBA. | | (3) |
| A. | TRUE |
| B. | FALSE |
|  | | | |
| 3.4 | There is no clause within the JBCC-PBA that provides for a way in which to evaluate the contractor’s performance. | | (3) |
| A. | TRUE |
| B. | FALSE |
|  | | | |
| 3.5 | The contractor is the only party to the JBCC-PBA who has the right to suspend the works. | | (3) |
| A. | TRUE |
| B. | FALSE |
|  | | | |

**QUESTION 4** *40 marks*

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| You have been appointed to act as principal agent on a project that entails additions and alterations to an existing office building. A quantity surveyor has been appointed on the project, which is expected to last 12 months and requires the sectional completion of the works in order for the occupants to continue making use of parts of the building during construction. Having carried out the procurement (tender) process based on a bill of quantities, you have identified a potential contractor for the project, and are now entering into negotiations on behalf of your client (the employer). | | | |
|  | | | |
| 4.1 | The contractor wishes to make use of the JBCC Minor Works Agreement (JBCC-MWA). Provide two (2) reasons why you would advise both parties to rather enter into the JBCC Principal Building Agreement (JBCC-PBA) *(4 marks for each)*. | | (8) |
|  | | | |
| 4.2 | Following your advice, the contractor and the employer have agreed to enter into a JBCC Principal Building Agreement (JBCC-PBA) for the project. What is deemed to have occurred before the agreement is signed? | | (4) |
|  | | | |
| 4.3 | During a site meeting, the contractor enquires about the status of a claim for a revision of the date for practical completion that was reported verbally in a previous site meeting. | | |
| 1. | Why would you not provide your ruling as part of the discussions in a site meeting? | (6) |
|  | | |
| 2. | Under which circumstances would the contractor be correct to assume that this type of matter will be resolved in a site meeting? | (4) |
|  | | | |
| 4.4 | During a site inspection, you noted that the contractor is making use of existing balustrades as scaffolding to create a platform from which to work. While you strongly disagree with this method and believe it to be unsafe, what may you require the contractor to provide prior to proceeding with this portion of the works? | | (4) |
|  |  | |  |
| 4.5 | Despite the challenges and contractual disagreements, the contractor now informs you that a section of the works are complete and may be occupied. What is the principal agent required to provide prior to the occupation of this section? | | (4) |
|  | | | |
| 4.6 | When acting as principal agent, identify one (1) obligation that you ARE permitted and one (1) obligation that you are NOT permitted to delegate to the quantity surveyor? *(3 marks for each)* | | (6) |
|  | | | |
| 4.7 | Aside from the contractual obligations involved, provide two (2) reasons why is there an allowance for interim payments to be made to the contractor in terms of the JBCC Principal Building Agreement? *(2 marks for each)* | | (4) |
|  | | | |

**QUESTION 5** *15 marks*

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| 5.1 | In terms of the JBCC Principal Building Agreement (JBCC-PBA), what is the overriding obligation of the principal agent when assessing the contractor’s claim for a revision of the date for practical completion? | | (3) |
|  | | | |
| 5.2 | Provide a possible reason for the contractor’s obligation to provide the principal agent with a notification of intent to claim for a revision of the date for practical completion. | | (3) |
|  | | | |
| 5.3 | 1. | In terms of the JBCC-PBA, what type of event is considered to have occurred as part of the national lockdown experienced earlier this year? | (3) |
|  | | |
| 2. | Provide two (2) reasons why it is NOT recommended for the principal agent to instruct the contractor to accelerate the works as a result of this type of event *(3 marks each)*. | (6) |
|  | | | |

**QUESTION 6** *20 marks*

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| 6.1. | Provide three (3) reasons for the growing number of disputes in construction projects *(2 marks each)*. | | | (6) |
|  | | | | |
| 6.2 | * Select the correct answer from the list provided. * There is only one correct answer to each question. * Provide only the question number and the letter of the selected answer. * The acronym 'JBCC-PBA' refers to the JBCC Principal Building Agreement. | | | |
|  | | | |
| 1. | An architectural professional may act as the principal agent and the adjudicator on the same construction project in terms of the JBCC-PBA. | | (3) |
| A. | TRUE |
| B. | FALSE |
|  | | | |
| 2. | An architectural professional may participate in the settlement proceedings when appointed to act as the principal agent in terms of the JBCC-PBA. | | (3) |
| A. | TRUE |
| B. | FALSE |
|  | | | |
| 3. | Which form of dispute resolution provided in the JBCC-PBA is recommended when the dispute involves the amount certified in an interim payment certificate? | | (3) |
| A. | Adjudication |
| B. | Arbitration |
|  | | | |
| 4. | Which form of dispute resolution is not provided in a standard form professional service agreement between the architectural professional and the client? | | (3) |
| A. | Adjudication |
| B. | Arbitration |
|  | | | | |
| 6.3 | Why do you believe the JBCC Principal Building Agreement stipulates that both parties shall continue to perform their contractual obligations, regardless of whether a disagreement or a dispute exists between them? | | | (2) |
|  | | | | |