Faculty of Science and Technology

Bachelor of Engineering (Honours) in

Civil Engineering

SCE5482

Construction Law & Practice

Teaching and Learning Outline

A. QF Level 5

B. Credit Values 3

C. Year 3 or 4

D. Pre-requisite Contract Administration and Measurement (SCE4281)

E. Co-requisite Nil

F. Module Aim(s)

The module aims to equip students with knowledge of construction law and practice in Hong Kong which covers legal and contractual issues that may govern the professional responsibilities of practicing engineers to various stakeholders in public, clients, and the industry. Coping with growing global mobility of civil engineering profession and infrastructure projects in the 21st century, students will also be introduced to the United Nations Commission on International Trade Law (UNCITRAL) and World Trade Organisation (WTO) procurement framework, and will be provided practical insights on common international construction contract forms including FIDIC, ICE Conditions of Contract and NEC3.

G. Module Learning Outcomes

On completion of this Module, students are expected to be able to:

1. interpret and prepare industry standard documents as part of the contract document for international and local civil engineering projects;

2. analyze contractual law cases for applications in civil engineering projects;

3. identify and deal with the respective legal roles and responsibilities of design professionals, owner/developers and prime contractors in the design and construction process; and

4. appraise operation of major forms of construction procurement, in public and private sectors, and critically evaluate the rationale for current trends in construction procurement.

H. Module Outline

The following topics/areas will be covered:

1. *Principles of law of contract:*
   - principles of contract law, including but not limited to contract formation, warranties, conditions, waiver affirmation, and estoppel, roles of parties involved in a construction contract, composition and function of contract documents, contractual arrangement and usage in the construction industry

2. *Principles of law of tort:*
   - principles and implication of law of tort, concepts of negligence, damage, liability, and insurance

3. *Risk and liability:*
   - professional insurance; sureties; statutory duties; professional relationships, duties and liabilities

4. *International and local practices:*
   - requirements of WTO on government procurement; requirements of procurement purposes and objectives under UNCITRAL framework; comparison among international contract forms: FIDIC, ICE Conditions of Contract and NEC3; interpretation of GCC for conventional local infrastructure projects; appreciation of relevant local ordinances and regulations

I. Curriculum Hours / Class Contact Hours

- Lecture : 28 hours
- Tutorial : 14 hours

J. Teaching and Learning Strategies

A mixture of teaching and learning approaches and strategies would be adopted to help students integrate the knowledge of the principles and practice of construction law in civil engineering projects.

Direct instruction in lectures would be used to facilitate an effective transmission of basic knowledge from tutors to students. Classroom interactions would be an effective way for students to construct knowledge with support from tutors, fellow students and others. In this module, a variety of learning activities, including group discussions, problem-based learning, role play, project work and case studies, etc. will be adopted to facilitate students' learning process and enhance their generic skills.

K. Assessment Strategies and Measurement of MLOs

Assessment will be criteria-based and will enable students to demonstrate their achievement of both the programme and module learning outcomes. Assessment may take a variety of forms. Appropriate assessment methods and tasks are chosen and designed with reference to the measurement dimensions. The measurement dimensions are set in alignment with the programme and module learning outcomes and used as reference in assessing students' progress and achievement.

The following abilities will be assessed through coursework and examination. Coursework includes assignments and a test.

1. Ability to explain and apply principles of the law of contract, the law of tort in civil engineering projects.

2. Ability to identify and contrast criteria and potential consequences of the adoption of UNCITRAL and WTO procurement frameworks.

3. Ability to distinguish the pros and cons and the limitations of various international commonly used contract forms.

4. Ability to apply appropriate clauses in GCC and other relevant statuary requirements in contract management.

A summary of assessment methods is shown in the table below:

Module Learning Outcomes (MLOs)	Assessment Methods				Details of Assessment Methods
	A	P	T	E	
1. Interpret and prepare industry standard documents as part of the contract document for international and local civil engineering projects;	✓		✓	✓	- Assignment: Paper coursework on procurement framework, contract forms, law of contract and law of tort - Test: Comprehensive paper test on law of contract and law of tort - Examination: Comprehensive paper examination focused on procurement framework, contract forms, law of contract and law of tort
2. Analyze contractual law cases for applications in civil engineering projects;	✓		✓	✓	- Assignment: Paper coursework on procurement framework, contract forms, law of contract and law of tort - Test: Comprehensive paper test on law of contract and law of tort - Examination: Comprehensive

					paper examination focused on procurement framework, contract forms, law of contract and law of tort
3. Identify and deal with the respective legal roles and responsibilities of design professionals, owner/developers and prime contractors in the design and construction process; and	✓		✓	✓	- Assignment: Paper coursework on procurement framework, contract forms, law of contract and law of tort - Test: Comprehensive paper test on law of contract and law of tort - Examination: Comprehensive paper examination focused on procurement framework, contract forms, law of contract and law of tort
4. Appraise operation of major forms of construction procurement, in public and private sectors, and critically evaluate the rationale for current trends in construction procurement.	✓			✓	- Assignment: Paper coursework on procurement framework, contract forms, law of contract and law of tort - Examination: Comprehensive paper examination focused on procurement framework, contract forms, law of contract and law of tort

Legends: A – Assignment
P – Project
T – Term Test
E – Final Examination

The percentage contributions to the overall module assessment are:-

- Assignment : 20%
- Test : 20%
- Examination : 60%

L. Reading List

Textbooks:

1. CHENG, T.S.C., WONG, E. and SOO, G. (2011) *Construction law and practice in Hong Kong*, 2nd ed. Hong Kong: Sweet & Maxwell Limited.

2. LEUNG, D.Y.K. (2010) *A practical approach to conditions of contract for civil engineering works.* Hong Kong: Hong Kong University Press.

3. CHENG, T.S.C., WONG, E. and SOO, G. (2011) *Construction law and practice in Hong Kong*, 2nd ed. Hong Kong: Sweet & Maxwell Limited.

4. GLANNON, J.W. (2010) *The law of torts: examples & explanations series*. 4th ed. New York: Aspen Publishers.

References:

5. ASHWORTH, A. (2006) *Contractual procedure in the construction industry*. 5th◦ed. New York: Prentice Hall.

6. ARROWSMITH, S and ANDERSON, R.D. (eds.) (2011) *The WTO regime on government procurement: challenge and reform.* Cambridge: Cambridge University Press.

7. BAILY, P. *et al*. (2008) *Procurement principles and management.* 10th ed. New York: Financial Times Prentice Hall.

8. EGGLESTON, B. (2006) *The NEC 3 engineering and construction contract: a commentary*. 2nd ed. Oxford: Blackwell Science.

9. JAEGER, A.V. and HÖK, G.S. (2010) *FIDIC; a guide for practitioners.* Berlin, Heideberg: Springer-Verlag.

10. MARSH, P.D.V. (2000) *Contracting for engineering and construction projects.* 5th ed. Aldershot, Hampshire: Gower.

Technical Documents

FIDIC

11. FIDIC. (1999) *Construction contract (Red Book)*. Geneva: International Federation of Consulting Engineers.

12. FIDIC. (1999) *EPC/Turnkey contract (Silver Book)*. Geneva: International Federation of Consulting Engineers.

13. FIDIC. (2006) *Client-consultant model agreement (White Book)*. 4th ed. Geneva: International Federation of Consulting Engineers.

NEC3

14. NEC. (2005) *NEC3 engineering and construction contract.* London: Thomas Telford.

Civil Engineering Works

15. HONG KONG. DEVELOPMENT BUREAU. (1999) *General conditions of contract for civil engineering works.*

16. HONG KONG. DEVELOPMENT BUREAU. (2002) *General conditions of contract for term contracts for civil engineering works.*

17. HONG KONG. CIVIL ENGINEERING AND DEVELOPMENT DEPARTMENT. (1992) *Standard method of measurement for civil engineering works*. (Continuously updated version incorporating corrigenda posted in the official webpage of the Department)

Building Works

18. HONG KONG. DEVELOPMENT BUREAU. (1999) *General conditions of contract for building works, 1999 edition.*

19. HONG KONG. DEVELOPMENT BUREAU. (2004) *General conditions of contract for term contract for building works.*

20. HONG KONG. ARCHITECTURAL SERVICES DEPARTMENT. (2001) *Standard method of measurement for building elements.*

Design and Build Contract

21. HONG KONG. DEVELOPMENT BUREAU. (1999) *General conditions of contract for design and build contract.*

22. HONG KONG. DEVELOPMENT BUREAU. (1999) *Administrative procedures for use with general conditions of contract for design and build contract.*

23. HONG KONG. DEVELOPMENT BUREAU. (1999) *Note on administrative procedures for use with general conditions of contract for design and build contract.*

Local Ordinances and Regulations

24. BUILDING ORDINANCE (CHAPTER 123) AND BUILDING REGULATIONS

25. FIRE SERVICES ORDINANCE (CHAPTER 95)

26. WATERWORKS ORDINANCE (CHAPTER 102)

27. WATER POLLUTION CONTROL ORDINANCE (CHAPTER 358)

28. ELECTRICITY ORDINANCE (CHAPTER 406)

29. GAS SAFETY ORDINANCE (CHAPTER 51)

30. PUBLIC HEALTH AND MUNICIPAL SERVICES ORDINANCE (CHAPTER 132)

31. Fire Safety (Commercial Premises) Ordinance (Chapter 502)