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School of Computing, Engineering and Built Environment

**MODULE MMK226783: CONSTRUCTION CONTRACTS & DISPUTE MANAGEMENT**

**COURSEWORK 2 (CW2 ≡ 70%)**

**First Diet**: Session 2022-23

Nawan City Council of the North-West of Scotland has recently completed draft sets of tender documents for their infrastructure projects which are set to start in early-2023. The documents were prepared by their in-house construction team. However, due to the amount of money ring-fenced for the projects, Nawan wants to ensure they do not face any adverse issues during the implementation of the projects. The projects are very sensitive considering they are meant for regeneration of a rundown part of the city, at a time of austerity, and they do not want any mishap around the next local elections assumed to take place in mid-2024.

The Council has, thus, consulted your consultancy firm for advice on the suitability of the form(s) of contract(s) they could adopt. They have great faith in your firm as a result of the good service you have provided to them, over the years, on various projects, involving local, national and international companies and associated contracts.

They have set aside £60 million (GBP) (equivalent to say $66.9 million, USD, at 1st October 2022 of £1 = $1.115 exchange rate) for works on three old factory buildings to be converted for use as office buildings. To help them achieve value for money and faster delivery on this conversion project, they would be willing to consider separate contracts for the supply and installation of certain items such as removal and replacement of roof structures and associated coverings, and windows and doors. In addition, works for the adjoining roads and drainage system, currently estimated at about £18m (say $20.07m), may also be separated.

To assist manage the signed contract(s) more effectively, they have some special requirements that they would prefer incorporated in the contract(s). Most notably, Nawan wishes to stipulate liquidated damages, at a minimum of 10% of the contract sum per week, on any main contract. This would be in addition to the performance security which is to be set at 15% of the contract, and which they believe they could call upon as they wish. They regard both of these as effective contract management mechanisms for them to help achieve value for money and deliver their projects much quicker, and/or, as a minimum, within the agreed contract duration(s). They would also prefer to exclude, in the signed contracts, any reference to co-operation and force majeure, as they believe in their mind, that these could be regarded as implied in any construction contract.

If the use of your firm’s recommended contracts for the conversion project is without major contractual complications, and regarded as successful, they may use them, if appropriate, for their proposed follow-up, 2024, £72m (say $80.28m) infrastructure projects including their extensive road, and associated drainage, works in the city. They would like you to consider this when suggesting appropriate form(s) for them.

As such, you are to prepare and submit a report that recommends one or two forms of contract(s) for Nawan to deliver their £60m (say $66.9m) conversion project. Your report should critically analyse the suitability of your recommended form(s) of contract(s). Your report could also consider the Applicable Law to be stipulated in the contract(s). For instance, you may recommend Scottish or English law, as the Applicable Law, depending on the one which you consider to be more effective in managing any potential contractual complications.

**Note**: please be reminded that your work should be in the form of a critical analysis report. You are advised to click on this [GCU Academic Writing](https://www.gcu.ac.uk/aboutgcu/academicschools/gsbs/study/ldc/academicwriting) hyperlink for general guidance on how to write this report. There, you will also find specific guidance on how to structure this report. You do not have to provide an ‘Executive summary’ for such a report of a small length. You are also advised to provide a list of ‘References’ instead of a ‘Bibliography’.

It would be worthwhile to use citations (including cases, statutes, academic journal articles, conference papers and books) wherever necessary to back your arguments. Your discussion should be referenced using the Harvard referencing system. If you are unfamiliar with this system please click on this [GCU Harvard Style](https://gcu.libguides.com/referencing) hyperlink where you will find the new Cite Them Right referencing guide and also receive explanations with examples. There are also Academic Writing Support documents, which are accessible via the GCULearn / Blackboard Communities, on the [SEBE Common Room](https://blackboard.gcal.ac.uk/webapps/blackboard/execute/courseMain?course_id=_47043_1). You may also click on [The Oxford University Standard for Citation of Legal Authorities (OSCOLA)](https://www.law.ox.ac.uk/oscola#:~:text=The%20Oxford%20University%20Standard%20for%20Citation%20of%20Legal%20Authorities%20is,in%20the%20UK%20and%20beyond.) hyperlink, to assist you with referencing legal materials. It is important that your work is properly referenced as you will be submitting your work via the “Turnitin” online similarity checking application, on GCULearn, to assist prevent plagiarism. And, you have the opportunity to submit your work via Turnitin to test it for formative purposes.

The report should strictly be between 3,500 and 4,000 words. It should also be submitted as a Microsoft Word document, via GCULearn using the ‘Assignments and Tests’ menu item, latest by **14:00hrs**, on **Thursday, 15th December 2022**. It will automatically be submitted via the “Turnitin” facility. It is, thus, paramount that your work is adequately referenced to avoid falling foul of plagiarism. For further information on plagiarism, including the University’s position on plagiarism and an online tutorial to try, please click on this [plagiarism](https://www.gcu.ac.uk/student/support/induction/essentials/itguide/plagiarism/) hyperlink. There is also further guidance on plagiarism that are accessible via the ‘Referencing’ Content Folder under the 'Assignments and Tests’ menu item.

Please also note that there is a Coursework submission cover sheet which you can access via the ‘Assignments and Tests’ menu item. You are required to insert the sheet at the front of your assignment. I would suggest you simply download the sheet, save it and start your assignment from page 2 of the sheet. You will see that page 2 onwards of the sheet is already formatted using Font: Times New Roman, Size 12 and Line spacing: 1.5 lines – you are also required to maintain this formatting. Remember to also complete the rest of the sheet with your details such as Name, Matriculation Number, Programme Title, Signature and Date.

Please see below some guidance on the marking criteria and the Coursework Feedback Form which will be applied in the assessment of this coursework.

If you have any generic questions about the coursework, please post them onto the ‘Coursework Forum’ allocated for this, and which you will find under the 'Assignments and Tests’ menu item.

Good luck

Gibril Njie

**Guidance on coursework requirements**

**Reports**

The following will constitute **positive** **criteria for marking** and will be rewarded:

1. Work that is planned and structured.

2. Work which embodies an argument and is rigorous, logical and sustained.

3. Work that is concise and precise.

4. Work that is clearly presented.

5. Work that is fully referenced.

6. Text which embodies a balance of explanation and analysis.

7. Text in which specific claims made in the narrative are supported by evidence and argument.

8. Work which consistently engages with the question and is relevant to the topic.

The following will represent **negative** **criteria for marking** and will be penalised:

1. Work that is deficient in planning and structure

2. Work that is poorly argued and amorphous.

3. Work that is poorly presented.

4. Work that is poorly referenced.

5. Text in which claims made in the narrative are unsupported and which lapse into opinion and anecdote.

6. Text which is deficient in explanation and analysis.

7. Text which is simply a reproduction of lecture notes or in which originality, innovation and imagination are conspicuous in their absence.

8. Text which does not relate to the topic.

**Explanation of Assessment Categories**

All assessments are marked out of 100% and the broad categories of marks used are similar to those used throughout the University’s Degree Programmes. These are as contained below in the Coursework Feedback Form:**Coursework 2 Feedback Form (CW2 ≡ 70%)**

**Student name**:

***Overall Coursework 2 Mark***

***(%):***

**Module Code & Title**: **MMK226783 & Construction Contracts &**

**Dispute Management**

**Lecturer / Date**:

|  |  |  |
| --- | --- | --- |
| **Element** | **Max.****Mark** | **Mark Awarded** |
| Introduction | 10 |  |
| Literature review / relevant background research | 50 |  |
| Conclusions / Recommendations | 20 |  |
| Referencing | 10 |  |
| Structure / Grammar  | 10 |  |

|  |  |
| --- | --- |
| **Indicative Mark** | **Commentary** |
| **70% and above** **(EXCELLENT PASS)** | Besides attributes listed in the 60-69% category, work in 70+% category should be exceptionally clear, address most of the key issues within the question; be theoretically informed, and demonstrate a sophisticated level of comprehension, analysis and evaluation with a clear display of exceptionally acute powers of analysis and interpretation; it should be well structured and coherent throughout. The standard of English is excellent, with an extensive use of sources (often beyond prescribed reading lists) and consistent use of appropriate quotations from text. |
| **60-69% (GOOD PASS)** | Generally of a high standard, confidently and clearly written, displaying a thorough understanding of the issues and theories pertinent to the topic. Submissions in this category focus very clearly on the question and demonstrate extensive reading, systematic use of evidence and supporting arguments in building a sound analysis. The work shows both soundness of judgment and a grasp of the complexity of the arguments involved. Coursework submissions in this category provide careful and coherent statements of the advantages and disadvantages of different theoretical evidence, supported where relevant by empirical evidence. There is room for improvement in one or two of the measured elements or there may be room for a sharper analysis. |
| **50-59% (PASS)** | Work graded in this category is generally of an acceptable standard. The coursework submission tends to be a solid piece of work which answers the question set, shows evidence of familiarity with available texts; provides a reasoned analysis of the main issues; reaches a clear conclusion in a generally focused and well written manner, making good use of citations, quotations and references. There is room for improvement in depth of analysis and ability to frame and develop coherent arguments using evidence to support the case; also, there is room for expansion in the breadth of reading and supporting literature cited.  |
| **40-49% (FAIL)** | Work in this category is of an standard that exhibits a number of characteristics which indicate that there is substantial room for improvement, e.g. in terms of the analysis undertaken, the literature reviewed, the standard of the written English, the sharpness of focus on the question or remit, the sophistication of the analysis provided and the use of correctly referenced sources. |
| **Below 39% (BAD FAIL)** | Work in this category falls down in at lWest one of the categories indicated above, to such an extent that the work as a whole falls below the required standard. Work in this category is very weak and well short of a pass level. It exhibits failure to address the one or more of the following: the question set; failure to identify the issues accurately; failure to understand and use core concepts; lack of analysis and discussion on the key issues; failure to distinguish between important and unimportant facts and theories; failure to understand or interpret the main arguments in the literature; failure to cite sources; failure to provide proper references; failure to develop reasoned argument; absence of coherent structure; a poor standard of sentence construction, grammar & spelling. |

**General Comments**