THREE HOURS are allowed for this paper.

This is a closed book examination. All answers should be attempted.

**Answer each Section on a new answer booklet.**

The maximum number of marks is 150.
SECTION A

QUESTION 1
CIDB Document 1010 (2005) describes circumstances underpinning the selection of the most appropriate choice of commonly used standard forms of contract. Provide an overview of the model adopted, together with a detailed commentary on the various criteria applied in the process.

(25 Marks)

QUESTION 2
Public Sector contracts in South Africa generally require disputes to be resolved through reference to the formal court structures. However, within the private sector, it is more common for alternative dispute resolution methods (ADR) to be adopted. Provide an overview of the various ADR methods commonly adopted, comment on their strengths and weaknesses, and describe the connectivity between the various approaches as applied within specific contractual forms.

(25 Marks)
SECTION B

ANSWER ON A NEW ANSWER BOOKLET

Part 1 (25 Marks)

1. The attainment of socio-economic objectives through public sector procurement is regulated by:
   A. The Codes of Good Practice relating to Black Economic Empowerment
   B. The Preferential Procurement Policy Framework Act
   C. The Municipal Finance Management Act
   D. The Public Finance Management Act
   E. None of the above

2. The Preferential Procurement Policy guarantees contracts to the target groups:
   A. True
   B. False

3. Targeted procurement cannot be used as a mechanism to promote job creation:
   A. True
   B. False

4. Preference points for tender adjudication of a project estimated at R750 000, 00 in terms of the Preferential Procurement Regulations (2011) is based on the following price/development scoring:
   A. 80/20
   B. 90/10
   C. 20/80
   D. 10/90
   E. None of the above

5. The only objective of the Broad-Based Black Economic Empowerment Act is to promote black business ownership and control.
   A. True
   B. False

6. The success of the preferential procurement initiative is dependent on:
   A. Eliminating competition in tendering
   B. Omitting penalty clauses in contracts
   C. Addressing constraints to business development
   D. Reducing quality standards
   E. All of the above
7. Preferential procurement cannot be a verifiable and auditable system that satisfies public sector accountability:
   A. True
   B. False

8. The 90/10 points scoring system can result in a potential direct price premium of:
   A. 12.5%
   B. 15%
   C. 11.1%
   D. 25%
   E. None of the above

9. A business enterprise with no equity ownership by black persons can only be a Level 9 Contributor in terms of the Construction Sector Scorecard.
   A. True
   B. False

10. Which of the following is NOT a sub-element of Ownership in the Construction Sector Scorecard:
    A. Realisation Points
    B. Executive Management
    C. Voting Rights
    D. Economist Interest
    E. All of the above

11. The application of the Preferential Procurement Policy Framework Act is not mandatory in the public sector:
    A. True
    B. False

12. Should more than one tenderer score the most number of adjudication points, the award should then be based on:
    A. The lowest price
    B. Highest % of woman ownership
    C. The highest score for socio-economic goals
    D. Price and woman ownership
    E. None of the above

13. Which contractual relationship should be used as a targeting strategy to best promote a meaningfully share in ownership, control, management, responsibilities, risks and profits:
    A. Nominated sub-contract
    B. Joint Venture
    C. Development contract
    D. Labour only contract
    E. None of the above
14. The Public Finance Management Act makes provision for price preferencing in the award of tenders:
   A. True
   B. False

15. Which of the following is not a criterion for CIDB contractor registration?
   A. Works Capability
   B. Annual Turnover
   C. Financial Capability
   D. Black Shareholding
   E. All of the above

16. In terms of the narrow-based BEE definitions, a business entity that is owned, managed and controlled by at least 25.1% black persons is classified as:
   A. Black Influenced Enterprise
   B. Black Enterprise
   C. Black Empowered Enterprise
   D. Black Engendered Enterprise
   E. None of the above

17. Fronting and abuse of the preferential procurement policy can be linked to:
   A. The points scoring system
   B. Employee empowerment
   C. A lack of effective monitoring
   D. Time, quality and cost imperatives
   E. None of the above

18. A contractor with a 6GB grading can tender for a public sector building project estimated at R20 million.
   A. True
   B. False

19. A Level 5 Contributor has a total score of 45% and above but less than 55%
   A. True
   B. False

20. The BBBEE status of a construction enterprise with a scorecard of 75% will be classified as:
   A. A Level 6 Contributor
   B. A Level 2 Contributor
   C. A Level 4 Contributor
   D. A Level 3 Contributor
   E. None of the above
21. The role of the CIDB in promoting Uniformity in Construction relates to preferential procurement only:

A. True  
B. False

22. Construction related businesses with turnovers between R5 million and R35 million can select 4 out of the 7 elements for their BBBEE rating:

A. True  
B. False

23. An Exempted Micro Enterprise (EME), in terms of the Construction Sector Charter, is automatically classified as:

A. Non-compliant Contributor  
B. Level 4 Contributor  
C. Level 1 Contributor  
D. Level 3 Contributor  
E. None of the above

24. A quantity surveying practice with an annual turnover of R20 million, can select any 4 of the 7 elements to determine its BBBEE scorecard rating:

A. True  
B. False

25. In terms of the New Preferential Procurement Regulations (2011), preference points are awarded for a combination of HDI ownership and BBBEE scorecard rating:

A. True  
B. False

(25 Marks)
Part 2 (75 Marks)

1. What are the key factors that determine whether a procurement system may be considered to be transparent? (4)

2. In promoting job creation / labour intensive activities, state four (4) examples of labour categories that can be targeted. (4)

3. List the key requirements that are necessary to be specified in tender documents in order to facilitate the monitoring of socio-economic deliverables. (3)

4. A tender for a sports hall is estimated at R1,2 million and is to be adjudicated in terms of the following table:

<table>
<thead>
<tr>
<th>BBBEE STATUS LEVEL OF CONTRIBUTOR</th>
<th>80/20 POINTS SYSTEM (MAXIMUM = 20 POINTS)</th>
<th>90/10 POINTS SYSTEM (MAXIMUM = 10 POINTS)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level 1</td>
<td>20</td>
<td>10</td>
</tr>
<tr>
<td>Level 2</td>
<td>18</td>
<td>9</td>
</tr>
<tr>
<td>Level 3</td>
<td>16</td>
<td>8</td>
</tr>
<tr>
<td>Level 4</td>
<td>12</td>
<td>5</td>
</tr>
<tr>
<td>Level 5</td>
<td>8</td>
<td>4</td>
</tr>
<tr>
<td>Level 6</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Level 7</td>
<td>4</td>
<td>2</td>
</tr>
<tr>
<td>Level 8</td>
<td>2</td>
<td>1</td>
</tr>
<tr>
<td>Non-compliant contributor</td>
<td>0</td>
<td>0</td>
</tr>
</tbody>
</table>

Three tenders were received with the following details:

<table>
<thead>
<tr>
<th>TENDERER</th>
<th>PRICE</th>
<th>BBBEE SCORECARD RATING</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>R1, 15 million</td>
<td>Level 8 Contributor</td>
</tr>
<tr>
<td>B</td>
<td>R1, 22 million</td>
<td>Level 6 Contributor</td>
</tr>
<tr>
<td>C</td>
<td>R1, 25 million</td>
<td>Level 1 Contributor</td>
</tr>
</tbody>
</table>

Using the applicable formulae, calculate the tender adjudication points for each tenderer as per the table below:
12. Indicate the anticipated tender value range and type of construction works for each of the following contractor grading designations.

<table>
<thead>
<tr>
<th>GRADING</th>
<th>TENDER VALUE RANGE</th>
<th>TYPE OF WORK</th>
</tr>
</thead>
<tbody>
<tr>
<td>7 GB</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5 CE</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8 EE</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(6)

13. What are the two (2) primary objectives of categorizing contractors in the Register of Contractors?

(2)

14. Explain the difference in concept of narrow-based black economic empowerment and broad-based black economic empowerment (BBBEE)?

(2)

15. List the seven (7) elements of the construction sector scorecard (for general construction only) together with its percentage (%) weighted score (note: total score to be 100%).

(7)

16. List the differences (indicating the elements and % weightings) between general construction and that for built-environment professionals (BEPs) in terms of the construction Sector Charter.

(4)

17. Explain the main difference in application between the Construction and Property Charters?

(2)

18. What is the maximum turnover threshold for an Exempted Micro Enterprise (EME) practicing as a Built Environment Professional (BEP) and what BBBEE scorecard rating can such enterprise automatically qualify for?

(2)

19. Who do verification agencies, that issue BBBEE scorecards, have to be registered with?

(1)

20. What are the limitations of sub-contracting if a tenderer is awarded a contract on the basis of preference points?

(2)

(75 marks)

Total marks for Section B, Parts 1 and 2 = 100