INFORMATION ABOUT CLASSES:

The classes will be held as per the schedule and teaching timetable for the second semester.

PREREQUISITES:

There are no prerequisites for this course.

READINGS MATERIALS:

A course pack will be provided with all of the assigned readings.

REFERENCE MATERIALS:

If you have a special interest in this area though and wish to refer to additional materials I would recommend any of these:

- G Soo and T Cheng, with E Wong and A McInnis *Construction Law and Practice in Hong Kong*, Thomson, 3rd Edition. This serves as a general reader for the subject and is one of the few local texts. Broad coverage with a reasonable divide between the law and practice sides.
- J Murdoch and W Hughes, *Construction Contracts: Law and Management*, Taylor and Francis, 4th edn. This is another good text but from the UK. I like this because of how it brings construction management into the subject.
- A McInnis, *Hong Kong Construction Law*, Butterworths, looseleaf. This is my main work which covers the field in real detail and with an obvious emphasis upon the law.
- M Fung, *Butterworths Building Law Handbook*, Butterworths. New 3rd Edition. Very good on the building legislation (e.g. the Buildings Ordinance) in Hong Kong. The first and second editions were by McInnis.
- S Furst et al, Keating on Building Contracts, 10th edn. Sweet & Maxwell. The first (no pun intended) of three leading UK texts on the subject and overseen by prominent London construction barristers.
- Crown Office Chambers, Emden’s Construction Law, looseleaf. This is the third and final leading UK text again by a set of barristers. This is the oldest of the three texts noted and the only looseleaf. A Hong Kong edition will be published in 2017 with McInnis as the first general editor.
- F Pretorius, P Lejot, McInnis et al, Project Finance for Construction & Infrastructure. Principles and Case Studies. Blackwell. This text is used in the UK for built environment students. Covers public private partnerships as well. Helpful case studies including the Western Harbour Crossing.
- James Pickavance, A Practical Guide to Construction Adjudication, Wiley Blackwell. One of the newest and most comprehensive texts on the subject. It covers the UK fully but also has chapters on Australia, Malaysia, New Zealand and Singapore which have all passed security of payment legislation now like HK will.
- Hong Kong Law Reports. This is the official set of law reports for Hong Kong. Sweet & Maxwell. The other leading set of law reports is Hong Kong Cases by Lexisnexis.
- Building Law Reports, Informa, Atkins Chambers edits, one of two leading report law reports in this area in the UK but also covering a small selection of cases from overseas including Hong Kong. The other set of UK law reports are the Construction Law Reports by Lexisnexis.
- International Construction Law Review, Informa, Humphrey Lloyd, Doug Jones eds. The leading international review on the subject.
- The Construction Law Journal, Sweet & Maxwell, Andrew Burr, ed. Cases and articles also with an international side.

**AIMS:**

The purpose of this course is to provide a complete introduction to the subject of construction law and practice in Hong Kong. It will consist of four main areas: (1) the construction process and the law with an introduction to the topic and its importance to the local economy; the parties engaged in the construction industry and their regulation; the forms of contract and procurement methods for construction services; (2) law in the context of construction contracts; (3) public private partnerships and international projects; and (4) dispute resolution in the construction industry.

**LEARNING OUTCOMES:**

This course aims to address the following skills. By the end of the course, students should have:
1. Awareness of the subject of construction law as both a discipline and legal practice area.
2. Understanding of the historical, legal, contractual and theoretical frameworks for the subject.
3. Facility in dealing with construction claims and disputes on a construction project.

ASSESSMENT:

Assessment will be on both coursework and by open book final examination

The apportionment of marks will be:-

<table>
<thead>
<tr>
<th>Component</th>
<th>Percentage</th>
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<tbody>
<tr>
<td>Final Examination</td>
<td>70%</td>
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<tr>
<td>Examination duration</td>
<td>Three hours</td>
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<tr>
<td>Grading pattern</td>
<td>Standard</td>
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<tr>
<td>Coursework</td>
<td>30%</td>
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</tbody>
</table>

- Case Comment. 20% You will be expected to submit a “case comment” which is a short commentary on a court judgment that you can choose and will be agreed by end of the second week of the Course. Credit earned for the assignment will count towards the final grade. The deadline for submission of the case comment is the end of week 8. You will be provided with an outline of how a case comment may be written to assist you and the criteria against which it will be marked.
- Short Answer Test. 10% You will be expected to take a short answer test up to 30 minutes in duration after the end of week 4 and at the beginning of the class in week 5 which examines the construction process and the law.

To pass this course you must obtain an aggregate mark of 50% overall.

To enable the full benefit to be obtained from this course, students should attend all of the classes and activities. Assessment is intended to enable students to demonstrate their capacity to understand, analyze and apply rules and principles and to assess their ability to synthesize primary and secondary material and to solve construction law problems.

A 3-hour examination will be held during the University examination period. The examination is designed to assess students’ knowledge and understanding of the course. Students are expected to read the prescribed readings and revise those materials covered in class. Further information on the examination will be provided throughout the course including areas of emphasis.

There is no mark for participation; however, participation is actively encouraged. The topics of study for the course are outlined below in four general parts. Students will be encouraged to take an active approach to their learning in both self-study and the classroom. Sharing experiences and views will be welcomed and may play an important part in your learning and development. Students are encouraged to form study groups and work together in the course as research has shown that co-operative peer learning enhances academic achievements through clarification of concepts, discussion of ideas, generation of approaches and problem-solving.

Students are advised to complete all of the assigned readings. For purposes of the course additional readings may improve your overall result and is always encouraged though not expected.
The course convenor’s role in class is to lecture, inform and facilitate understanding of the subject matter as well as to raise questions.

**SUBMISSION POLICY:**

The written materials that might be submitted during the course will be done so electronically and will be checked for plagiarism using the *Turnitin* system. Students are referred to the relevant regulations regarding the submission of all work and academic honesty below.

**ACADEMIC HONESTY:**

The University is a community designed for scholarship - for learning, teaching and research. In a community of scholars, academic integrity and honesty are of course critical values. Further, exams, homework, papers and other kinds of assessments are essential to the learning process and honesty and integrity are central to them and your studies. As you know you are bound by the Academic Honor Code which requires among other things that you observe and uphold the highest standards of academic integrity and honesty in all the work that you do in the course and that as members of the University community you have the responsibility to help maintain our academic reputation. Thus the University takes a strict view on this and as a result if you are found to have infringed the Honor Code sanctions will be imposed. For the entire Honor Code and for further details visit [http://tl.ust.hk/integrity/student-1.html](http://tl.ust.hk/integrity/student-1.html)

**TOPICS OF STUDY IN FOUR PARTS:**

1. The construction process and the law.
   - an introduction to the topic of construction and its importance to the local economy
   - the forms of contract and procurement methods for construction services
   - the NEC form of contract
   - an NEC case study

2. Law in the context of construction contracts.
   - money
   - time
   - construction payment claims
   - contractors’ claims and damages plus a sample claim

3. Public private partnerships and international projects
   - Public Private Partnerships (PPP)
   - the Singapore Sports Hub case study

4. Dispute resolution in the construction industry.
   - construction arbitration and alternative dispute resolution
   - adjudication and the Security of Payment Legislation proposed for Hong Kong in late 2017
<table>
<thead>
<tr>
<th>The Week</th>
<th>The Topics</th>
<th>Required Readings</th>
<th>Powerpoints</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>An Introduction to the Topic of Construction and its Importance to the Local Economy</td>
<td>Ch 1 <em>Construction Law and Practice in HK</em> (Cheng, Soo, Wong, McInnis)</td>
<td>An Introduction to the Topic of Construction and Its Importance to the Local Economy</td>
</tr>
<tr>
<td>2</td>
<td>The Forms of Contract and Procurement Methods for Construction Services</td>
<td>Ch 3 <em>Construction Law and Practice in HK</em> 3.001 to 3.024 and Ch 19 above</td>
<td>The Forms of Contract Today</td>
</tr>
<tr>
<td>3</td>
<td>The NEC Standard Form of Contract</td>
<td>Relational Contracts – NEC in Perspective, Robert Gerrard</td>
<td>The NEC</td>
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<tr>
<td>4</td>
<td>NEC Case study</td>
<td>Two summaries of the Fuk Man Road Project in Sai Kung</td>
<td>Fuk Man Road</td>
</tr>
<tr>
<td>5</td>
<td>Money</td>
<td>Ch 15 <em>Construction Law and Practice in HK</em> above</td>
<td>Money</td>
</tr>
<tr>
<td>6</td>
<td>Time</td>
<td>Ch 16 <em>Construction Law and Practice in HK</em> above</td>
<td>Time</td>
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<tr>
<td>7</td>
<td>Construction Payment Claims</td>
<td>Claims and Damages, <em>Hong Kong Construction Law</em> (McInnis and Adams)</td>
<td>Construction Payment Claims</td>
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<tr>
<td>8</td>
<td>Contractors’ Claims and Damages</td>
<td>same</td>
<td>Contractors’ Claims and Damages</td>
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<td>9</td>
<td>The Private Finance Initiative and Public Private Partnerships</td>
<td>Ch 5 *Project Finance for Construction &amp; Infrastructure: Principles and Case Studies, (Pretorius, Lejot, McInnis, Arner and Hsu)</td>
<td>Public Private Partnerships</td>
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<tr>
<td>11</td>
<td>Construction Arbitration and Alternative Dispute Resolution</td>
<td>Ch 21 <em>Construction Law and Practice in HK</em> above</td>
<td>Construction Arbitration and ADR</td>
</tr>
<tr>
<td>12</td>
<td>Adjudication</td>
<td>Proposed Security of Payment Consultation Document, Development Bureau Hong Kong June 2015</td>
<td>Adjudication</td>
</tr>
<tr>
<td>13</td>
<td>Review</td>
<td>as above</td>
<td>as above</td>
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**EVALUATION OF TEACHING:**

Students will be invited to complete an evaluation of teaching towards the end of the course.

**CONCERNS AND QUESTIONS:**

If you have any concerns or questions about the course, please contact the course convener. If your concerns persist, please contact the Program Leader.

Dr. Arthur McInnis, January 2017