

**TERMINATION WHEN TIME OF THE ESSENCE IN
CONSTRUCTION**

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**A master's project report submitted in partial fulfillment of the
requirements for the award of the degree of
Master of Science in Construction Contract Management.**

**Faculty of Built Environment
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DECLARATION

“I declare that this Master Research Project entitled “*Termination of Contractor When Time is of the Essence in Construction*” is the result of my own research and that all sources are acknowledged in the references. The project report has not been accepted for any degree and is not concurrently submitted in candidature of any other degree.”

Signature :
Name : HILMI BIN HAJJAN
Date : 30 January 2012

“I hereby declare that I have read this project report and in my opinion this project report is sufficient in terms of scope and quality for the award of the degree of Master of Science in Construction Contract Management”

Signature :

Name of Supervisor I : MR. JAMALUDDIN YAAKOB

Date : 30 JANUARY 2011

*To my beloved parent, wife and my family members
for their endless love, care and support.....*

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ABSTRACT

The phrase 'Time is of the essence' in a contract shows that time for performance is an essential condition of the contract. If a party fails to perform his obligation timely as stipulated the other party may either treat the contract as repudiated or terminate the contract. Construction contracts normally contain dates for commencement and completion that make time is of the essence of the contracts. In addition they also contain extension of time and liquidated damages clauses. The issue is then whether or not the employers may terminate the contracts in the event that the contractors fail to complete their works within the time stipulated. The methodology adopted in this research is case law based. There is no limitation as for the court cases referred to in terms of type of projects as long as they relate to contractor's breach of time for performance and the employer's right to terminate the contract. The cases were extracted from the Malayan Law Journal using the Lexi-Nexis database. Six related cases were shortlisted and analysed. The findings show that an employer may validly terminate the contract if he can show that time remains the essence of the contract at the time the termination is exercised and he complies with the conditions and procedures as stipulated in the contract.