



**NAMIBIA UNIVERSITY**  
OF SCIENCE AND TECHNOLOGY

13 Jackson Kaujeua Street  
Private Bag 13388  
Windhoek  
NAMIBIA

T: +264 61 207 2081  
F: +264 61 207 9081  
E: [coll@nust.na](mailto:coll@nust.na)  
W: [www.nust.na](http://www.nust.na)

**Centre for Open and Lifelong Learning**

# **FEEDBACK TUTORIAL LETTER**

## **1<sup>ST</sup> SEMESTER 2023**

### **ASSIGNMENT 1**

#### **COMMERCIAL LAW 1A**

#### **CML111S**

# Feedback Tutorial letter 2023 Assignment 1

1.1

- Consensus – defective
- Fraudulent misrepresentation

(2)

1.2

- Consensus – defective
- Undue influence

(2)

1.3

- No consensus
- Counter-offer – rejection of offer

(2)

1.4

- No Consensus
- Mistake due to the qualities of the agreed subject matter

(2)

1.5

- No consensus
- Offer expired

(2)

[  
10]

## QUESTION

2.1

- Offer

- Acceptance

(2)

2.2

- Contract concluded in Namibia
- Legal
- Information theory applies
- Contract concluded where acceptance is communicated to the offeror, i.e. where the offeror hears the acceptance.

(4)

2.3

- Contract concluded in Cape Town, South Africa
- Not legal
- Dealing with a written agreement – contract is concluded at the place where the last necessary signature is placed on the contract.

(4)

**[10]**

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### **QUESTION 3**

- The legal concept is misrepresentation which could be defined as
- an unlawful, untrue statement
- about an existing fact or state of affairs
- made by one party to the other contracting party
- with the aim of inducing the aggrieved party to enter into the contract.
- Fraudulent/intentional misrepresentation is
- where the seller (Fred) knew that the statement is not true.
- The innocent party (John) has a choice either to uphold
- or cancel the contract and

- claim damages in addition

[10]

#### QUESTION 4

4.1 Information theory

Concluded where the offeror hears the acceptance

In Namibia

4.2 expedition theory

The moment the letter of acceptance is posted

Noordoewe

4.3 No

Falls away

4.4 No

Expired

#### QUESTION 5

5.1 option

Offer within an offer- has to wait until he comes back

5.2 Audi alteram partem rule

Nemo iudex in sua causa

5.3 offer and acceptance

