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| Q1    |  |
| Q2    |  |
| Q3    |  |
| Q4    |  |
| Q5    |  |
| Q6    |  |
| Q7    |  |
| Q8    |  |
| Q9    |  |
| Total |  |

Name and Surname: \_\_\_\_\_

Student Number: \_\_\_\_\_

Lecturer's Name: \_\_\_\_\_

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**PROGRAM** : NATIONAL DIPLOMA  
ACCOUNTING/BANKING/CREDIT  
MANAGEMENT/LOGISTICS/MANAGEMENT/  
MARKETING

**SUBJECT** : **BUSINESS LAW 1A**

**CODE** : **BSL1A11/BUS11A1/BUL41A1**

**DATE** : 31 MAY 2016

**DURATION** : 2 HOUR

**TOTAL MARKS** : 100

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**EXAMINER** MISS N ISMAIL  
MISS B KGORI  
MISS T NEUHAUS  
MRS S HASSEN (APB)

**MODERATOR** ADV EA FREDERICKS

**NUMBER OF PAGES** TWELVE (12) PAGES

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**INSTRUCTIONS:** ALL PAPERS MUST BE HANDED IN

1. Answer all questions.
2. Write legibly.
3. All cellphones must be switched off.
4. Write your lecturer's name on all the provided answer sheets

## **QUESTION 1: CONSENSUS**

1.1 Ayant lives in Pretoria. He advertises to sell his old cellphone on OLX. Thomas, who lives in Johannesburg, sees the advertisement and posts an offer to purchase to Ayant on the 15<sup>th</sup> of July 2016. The offer reaches Ayant on the 17<sup>th</sup> of July 2016. Ayant sends his acceptance letter via post on the 19<sup>th</sup> of July 2016. The letter arrives on the 21<sup>st</sup> of July 2016 and he reads the letter on the 28<sup>th</sup> of July.

1.1.1 According to South African law, which theory regarding the time and place of the conclusion of a contract, will be applicable to the abovementioned set of facts. (1)

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1.1.2 When was the contract concluded? (1)

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1.1.3 Where will the contract be concluded? (1)

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1.1.4 The letter gets lost by the post office and never arrives at Thomas's post box. Would the contract still have been concluded between the parties and provide a reason for your answer. (2)

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1.2 State whether the following contracts are valid, voidable or void. Provide a reason for your answer.

1.2.1 Sulaiman is selling his car to Muneer. Sulaiman is aware that his car's brake cables have been eaten by rats and that they no longer work at all. He informs Muneer that his car is in perfect working order. (2)

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1.2.2 Prudence buys her husband a gold ring. She believes the ring to be solid gold. A week after her husband has been wearing it, the gold starts to chip off. She finds out that the ring is not solid gold and that it is actually only gold plated. (2)

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1.2.3 Nazreen's mother has been pestering her to buy her iPad for R12.50. After months she finally gives in and reluctantly sells the iPad to her mother. (2)

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1.2.4 Thomas threatens to leak naked photo's of Raquel if she doesn't sell her car to him for R420. (2)

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## **QUESTION 2: CAPACITY**

2.1 Fully discuss the capacity of persons in the following age groups.

2.1.1 Persons aged 0-7. (2)

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2.1.2 Persons aged 7-18. (2)

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2.1.3 Persons older than 18. (2)

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2.2 Thomas is a 17 year old unemancipated and unmarried minor. He concludes a contract with Muneer (a major with full legal capacity), to buy his 10 year old laptop for R100 000. Thomas gave Muneer a fake driver's license showing he was 21 years old. Discuss the legal position. (3)

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2.3 List the various matrimonial property regimes recognised by SA Law. (3)

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2.4 In the following questions, state whose consent is required in order for the following persons to conclude a valid contract.

2.4.1 An Insolvent person. (1)

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2.4.2 Spouse married in community of property. (1)

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2.4.3 Child selling immovable property to the value of R200 000. (2)

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2.5 Discuss the capacity of mentally deficient persons to enter into a contract. (2)

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### **QUESTION 3: POSSIBILITY OF PERFORMANCE**

3.1 Lorraine concludes a contract with Mikayla in terms of which Mikayla will deliver 5kg of illegal blood diamonds in exchange for R300 000. Mikayla has already delivered the illegal blood diamonds and claims the purchase price from Lorraine. Lorraine refuses to pay the purchase price.

3.1.1 Discuss whether Mikayla will be successful in claiming the purchase price from Lorraine. (3)

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3.1.2 Discuss whether Mikayla will be successful reclaiming the illegal blood diamonds from Lorraine. (3)

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3.2 Distinguish between objective and subjective possibility of performance. (2)

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#### **QUESTION 4: FORMALITIES**

4.1 Discuss what the requirement of formalities refers to. (2)

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4.2 List at least three (3) types of contracts where the law requires formalities. (3)

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#### **QUESTION 5: TERMS OF THE CONTRACT**

5.1 Define the following concepts:

5.1.1 *Essentialia* (1)

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5.1.2 *Naturalia* (1)

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5.1.3 *Incidentalia.* (1)

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5.2 Identify the following types of time clauses or condition.

5.2.1 Busi and Sabreen conclude a contract in terms of which Sabreen will stop working for her when she reaches 25. (1)

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5.2.2 Naz and Taryn conclude a contract in terms of which Naz will employ Taryn on condition that she passes all her exams. (1)

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5.2.3 Imo-Rhesa concludes a contract with Eesa in terms of which Imo-Rhesa will purchase Eesa's vehicle upon Eesa's death. (1)

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5.2.4 Mary and Joseph conclude a contract in terms of which Mary will rent Joseph's house. The contract includes a term that states that if Mary brings an animal onto the property the contract will terminate. (1)

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5.3 Identify the following contractual terms.

5.3.1 Payton and Paige conclude a credit agreement. One of the terms in the contract states that in the event that one of the parties fails to pay an instalment, the other party will be liable to pay a fine of R250. (1)

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5.3.2 Cherie and Sipho conclude a contract of sale. In the contract it states that the house sold must continue to be used as a soup kitchen. (1)

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5.3.3 Jack and Jill conclude a contract in terms of which Jack will climb up the hill to fetch her a pail of water. The contract clearly states that if Jack is unable to fetch the pail of water, the contract will automatically terminate. (1)

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5.3.4 Donald Trump concludes a contract with Hilary Clinton. The contract contains a term that states that if any alterations need to be made to the contract, they must be done in writing. (1)

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5.3.5 Kanye West buys a TV from Game with an undertaking that it is without defect and should it fail in the first 24 months, he can take it back for a full refund. (1)

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## **QUESTION 6: INTERPRETATION**

6.1 Discuss the Parol Evidence Rule (3)

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6.2 Two months after purchasing a house, Susan notices that the contract of purchase and sale reflects the incorrect purchase price as a result of a typing error. Identify and discuss the concept to remedy this error. (3)

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6.3 List the guidelines used to determine parties' intention. (5)

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### QUESTION 7 BREACH OF CONTRACT

7.1 List and discuss the various forms of breach of contract. (10)

[illegible]

(10)

## **QUESTION 8: REMEDIES FOR BREACH OF CONTRACT**

8.1 List two (2) circumstances where specific performance cannot be claimed. (2)

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8.2 AKA is buying Trevor Soah's house. In terms of the contract, a deposit of 50% must be paid before delivery of the keys. The deposit was not made and AKA demands delivery before the payment of the deposit.

8.2.1 Discuss the defence Trevor Soah can use in order to refuse delivering the house keys. (2)

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8.2.2 Assume the keys have now been delivered and the purchase price has been fully paid and Trevor Soah enters the house and notices that one of the walls is broken, discuss the most appropriate remedy in this case. (2)

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8.3 Discuss when cancellation of the contract can be claimed. (3)

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8.4 Discuss how the court will go about determining damages. (4)

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### **QUESTION 9: TRANSFER AND TERMINATION OF PERSONAL RIGHTS**

9.1 Provide the period of prescription for the following:

9.1.1 Debt secured by a mortgage bond. (1)

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9.1.2 A debt arising from an instalment sales agreement. (1)

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9.1.3 Debts in respect of taxation (SARS). (1)

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9.2 Sameera owes her sister, Shaaista, R5 000. One Sunday afternoon, Shaaista needs R2 000 in cash to pay the plumber, however, the ATM closest to her residence is out of service. Shaaista borrows R2 000 from Sameera.

9.2.1 Identify the method of termination that is applicable. (1)

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9.2.2 List the requirements to be met in order for the method of termination identified in question 9.2.1 to be effective. (4)

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9.3 List at least two (2) other ways that a contract can be terminated. (2)

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**TOTAL [100]**

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