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Claim form as required by section 44(4) and 44(6) of The Insolvency Act 24 of 1936

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In the Insolvent Estate of: \_\_\_\_\_ (In Liquidation)

Name of creditor: \_\_\_\_\_  
(herein referred to as the said Creditor)

Address in full: \_\_\_\_\_

Postal address: \_\_\_\_\_

Telephone number: \_\_\_\_\_

Cell phone number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Banking details: \_\_\_\_\_

Total Amount of claim: R \_\_\_\_\_

I, \_\_\_\_\_ do hereby make oath and state that:

1. I am \_\_\_\_\_ of \_\_\_\_\_  
\_\_\_\_\_.
2. I have personal knowledge of the facts hereinafter stated.
3. That \_\_\_\_\_ whose estate was  
sequestrated/liquidated is still indebted to \_\_\_\_\_  
in the sum of R \_\_\_\_\_  
( \_\_\_\_\_ )  
(Amount in words)  
for \_\_\_\_\_
4. The said debt arose in the manner and at the time set forth in the account hereunto annexed.
5. No other person besides \_\_\_\_\_ is liable for the said debt  
or any part thereof.

6. The said Creditor has not, nor has any other person, to my knowledge on its behalf, received any security for the said debt or any part thereof save and except \_\_\_\_\_  
\_\_\_\_\_. Which security the said Creditor values at R \_\_\_\_\_
7. The said Creditor \_\_\_\_\_ solely on the proceeds of the property which constitutes its security for the satisfaction of his/her/its claim
8. That the claim was not acquired by cession after the institution of the proceedings by which the estate was sequestrated/ liquidated.

\_\_\_\_\_  
SIGNATURE OF DECLARANT

I certify that this Affidavit was signed and sworn to before me on the \_\_\_\_\_  
at \_\_\_\_\_ by the deponent who has acknowledged:

- a) That he/she knows and understands the contents of the declaration;
- b) That he/she has no objection to taking the prescribed oath; and
- c) He/she considers the prescribed oath binding on his conscience; and
- d) Uttered the words "I swear that the contents of this declaration are true, so help me God", alternatively "I truly affirm that the contents of this declaration are true".

Full name and physical address of Commissioner

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**STATEMENT OF ACCOUNT**

in terms of Section 44(6) of the  
Insolvency Act.

In the case of the claim being and attached to your in respect of goods  
sold and delivered on an open account. This statement should be  
completed in every respect claim document.

Name and Address of Creditor:

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Name of Insolvent Estate/Company/  
Close Corporation in Liquidation:

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Brief Description of goods Supplied:

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**DETAILS OF SALES**

Date	Invoice No.	Amount	Monthly Totals (Not Progressive)

**TOTAL DEBITS "A" R** \_\_\_\_\_

**DETAILS OF PAYMENTS RECEIVED AND CREDITS ALLOWED**

Date	Payments or Credits (Specify)	Amount	Monthly Totals (Not Progressive)

**TOTAL DEBITS "B" R** \_\_\_\_\_

AMOUNT OF CLAIM AS PER AFFIDAVIT i.e. "A" LESS "B" R \_\_\_\_\_

- NOTE:
- (1) If no payments were received or credits given, state "NIL" under "B".
  - (2) "A" and "B" must reflect full period of trading or for period of 12 months before date of liquidation / sequestration, whichever is the lesser.
  - (3) A brief description of goods sold must be given i.e. Groceries, Clothing

[ONLY COMPLETE IF CREDITOR IS A CLOSE CORPORATION]

EXTRACTS OF THE MINUTES OF A MEETING OF THE MEMBERS OF

\_\_\_\_\_ (“the Close Corporation”)

HELD AT: \_\_\_\_\_

ON: \_\_\_\_\_

MEMBERS PRESENT:

MEMBERS ABSENT:

1. \_\_\_\_\_

1. \_\_\_\_\_

2. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

**THE ABOVE CLOSE CORPORATION HEREBY RESOLVE:**

In the Insolvent Estate of:

\_\_\_\_\_ (In Liquidation)

that \_\_\_\_\_ be authorised to sign all documents on behalf of the Close Corporation, to prove claims on behalf of the Close Corporation, to nominate and vote for the election of a trustee/liquidator on behalf of the Close Corporation and to sign powers of attorneys, with or without powers of substitution, in favour of any person to act on behalf of the Close Corporation at any meeting of creditors and/or members convened in terms of the Close Corporation, Companies and/or Insolvency Acts of the Republic of South Africa to give effect to the aforementioned powers.

**SIGNED ON BEHALF OF THE CLOSE CORPORATION** at \_\_\_\_\_ this \_\_\_\_\_ day of

\_\_\_\_\_

1. \_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_

MEMBER  
(Authorized herewith)

3. \_\_\_\_\_

4. \_\_\_\_\_

[ONLY COMPLETE IF CREDITOR IS A COMPANY]

EXTRACTS OF THE MINUTES OF A MEETING OF THE DIRECTORS OF

\_\_\_\_\_ (“the Company”)

HELD AT: \_\_\_\_\_

ON: \_\_\_\_\_

DIRECTORS PRESENT:

DIRECTORS ABSENT:

1. \_\_\_\_\_

1. \_\_\_\_\_

2. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

**THE ABOVE COMPANY HEREBY RESOLVE:**

In the Insolvent Estate of:

\_\_\_\_\_ (In Liquidation)

that \_\_\_\_\_ be authorised to sign all documents on behalf of the Company, to prove claims on behalf of the Company, to nominate and vote for the election of a trustee/liquidator on behalf of the Company and to sign powers of attorneys, with or without powers of substitution, in favour of any person to act on behalf of the Company at any meeting of creditors and/or members convened in terms of the Close Corporation, Companies and/or Insolvency Acts of the Republic of South Africa to give effect to the aforementioned powers.

**SIGNED ON BEHALF OF THE COMPANY** at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_.

1. \_\_\_\_\_

\_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

(Authorized herewith)

4. \_\_\_\_\_

**[ONLY COMPLETE IF CREDITOR IS A PARTNERSHIP]**

**EXTRACTS OF THE MINUTES OF A MEETING OF THE PARTNERS OF**

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\_\_\_\_\_ (“the PARTNERSHIP”)

HELD AT: \_\_\_\_\_

ON: \_\_\_\_\_

**PARTNERS ABSENT:**

1. \_\_\_\_\_

1. \_\_\_\_\_

2. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

**THE ABOVE PARTNERSHIP HEREBY RESOLVE:**

In the Insolvent Estate of:

\_\_\_\_\_ (In Liquidation)

that \_\_\_\_\_ be authorised to sign all documents on behalf of the Partnership, to prove claims on behalf of the Partnership, to nominate and vote for the election of a trustee/liquidator on behalf of the Partnership and to sign powers of attorneys, with or without powers of substitution, in favour of any person to act on behalf of the Partnership at any meeting of creditors and/or members convened in terms of the Close Corporation, Companies and/or Insolvency Acts of the Republic of South Africa to give effect to the aforementioned powers.

**SIGNED ON BEHALF OF THE PARTNERSHIP** at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_.

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

\_\_\_\_\_  
(Authorized herewith)

[ONLY COMPLETE IF THE CREDITOR IS A TRUST]

EXTRACTS OF THE MINUTES OF A MEETING OF THE TRUSTEES OF

\_\_\_\_\_  
("the TRUST")

HELD AT: \_\_\_\_\_

ON: \_\_\_\_\_

TRUSTEES PRESENT:

TRUSTEES ABSENT:

1. \_\_\_\_\_

1. \_\_\_\_\_

2. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

**THE ABOVE TRUST HEREBY RESOLVE:**

In the Insolvent Estate of:

\_\_\_\_\_ (In Liquidation)

that \_\_\_\_\_ be authorised to sign all documents on behalf of the Trust, to prove claims on behalf of the Trust, to nominate and vote for the election of a trustee/liquidator on behalf of the Trust and to sign powers of attorneys, with or without powers of substitution, in favour of any person to act on behalf of the Trust at any meeting of creditors and/or members convened in terms of the Close Corporation, Companies and/or Insolvency Acts of the Republic of South Africa to give effect to the aforementioned powers.

**SIGNED ON BEHALF OF THE TRUST** at \_\_\_\_\_ this \_\_\_\_\_ day of

\_\_\_\_\_

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

\_\_\_\_\_

(Authorized herewith)

**[TO BE COMPLETED IF THE CREDITOR IS A CLOSE CORPORATION, COMPANY, PARTNERSHIP OR TRUST]  
POWER OF ATTORNEY TO PROVE CLAIMS ETC.**

In the Insolvent Estate of: \_\_\_\_\_ (In Liquidation)

I/We, the undersigned: \_\_\_\_\_

in my/our capacity(s) as\*: \_\_\_\_\_ of

\_\_\_\_\_

hereinafter referred to as the said Creditor), Do hereby nominate, constitute and appoint\*\*

\_\_\_\_\_  
\_\_\_\_\_

jointly and severally, with power of substitution, to be my/our lawful Attorney/s and Agent/s in my/our name, place and stead, to appear before the Master of the High Court, or before the Magistrate, or before any Presiding Officer, at his or their office, likewise before any Commissioner, and to appear at all Meetings of Creditors and/or Members to be held in the above matter and then and there as my/our agent in act and deed to prove and file my/our claim or claims against the Estate or the Company in liquidation, as the case may be; to vote for the election of a Trustee, to vote for the election of a Liquidator, as the case may be; to give the Trustee/s or the Liquidator/s directions as to the management thereof; on my/our behalf to examine any person or persons, and further to represent me/us in all matters relating to the Estate or Company in liquidation, as the case may be, including the right to vote on an Offer of Compromise, Scheme of Arrangement or Composition, and generally for effecting the purposes as I/we might or could do if personally present and acting therein, hereby ratifying allowing and confirming and promising and agreeing to ratify, allow and confirm all and whatsoever my/our said Attorney/s and Agent/s shall lawfully do or cause to be done in the premises by virtue of these presents.

GIVEN under my/our hand at \_\_\_\_\_ this \_\_\_\_\_ day of

\_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_

AS WITNESSES

(Duly Authorized)

1. \_\_\_\_\_

2. \_\_\_\_\_



Insert here whether Director, Owner or Partner

\*\* Name of Firm, Company or Initial in right margin authorizing us to appoint a representative.

PS A Manager or Secretary may only sign if his authority has been registered with the Master of the High Court, or if a Certified copy of a resolution of the Board of Directors of the Company authorizing such Manager or Secretary to sign is lodged with the claim.

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**[ONLY COMPLETE IF THE CREDITOR IS A PERSON IN HIS PERSONAL CAPACITY]  
POWER OF ATTORNEY TO PROVE CLAIMS ETC.**

In the Insolvent Estate of: \_\_\_\_\_ (In Liquidation)

I, the undersigned: \_\_\_\_\_

acting in my personal capacity

(hereinafter referred to as the said Creditor), Do hereby nominate, constitute and appoint\*\*

\_\_\_\_\_  
\_\_\_\_\_

jointly and severally, with power of substitution, to be my/our lawful Attorney/s and Agent/s in my/our name, place and stead, to appear before the Master of the High Court, or before the Magistrate, or before any Presiding Officer, at his or their office, likewise before any Commissioner, and to appear at all Meetings of Creditors and/or Members to be held in the above matter and then and there as my/our agent in act and deed to prove and file my/our claim or claims against the Estate or the Company in liquidation, as the case may be; to vote for the election of a Trustee, to vote for the election of a Liquidator, as the case may be; to give the Trustee/s or the Liquidator/s directions as to the management thereof; on my/our behalf to examine any person or persons, and further to represent me/us in all matters relating to the Estate or Company in liquidation, as the case may be, including the right to vote on an Offer of Compromise, Scheme of Arrangement or Composition, and generally for effecting the purposes as I/we might or could do if personally present and acting therein, hereby ratifying allowing and confirming and promising and agreeing to ratify, allow and confirm all and whatsoever my/our said Attorney/s and Agent/s shall lawfully do or cause to be done in the premises by virtue of these presents.

GIVEN under my/our hand at \_\_\_\_\_ this \_\_\_\_\_ day of

\_\_\_\_\_ 20 \_\_\_\_\_  
\_\_\_\_\_

AS WITNESSES

1. \_\_\_\_\_

2. \_\_\_\_\_

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## NOTES ON COMPLETION OF CLAIM FORM

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### **PLEASE TAKE NOTE OF THE FOLLOWING PRIOR TO COMPLETION OF THE CLAIM FORM**

#### **CLAIM FORM/AFFIDAVIT**

- Deponent and Commissioner should initial **every page** of the claim including the attached supporting documents.
- Commissioner of Oaths must print his **full names (not initials)** and business address below his signature.
- Any alterations must be initialed by both the deponent and the Commissioner of Oaths.
- A secured creditor, who relies upon his security should state such a fact at the applicable section on the claim form security as well as the amount at which the creditor values such security must be inserted.

#### **RESOLUTIONS i.e. "MINUTES OF THE EXTRACTS OF A MEETING OF..."**

- Deponent should only complete the applicable resolution e.g. if the creditor is a Close Corporation complete the resolution marked "ONLY COMPLETE IF CREDITOR IS A CLOSE CORPORATION".
- Remember to delete the not applicable MEMBER/DIRECTOR/TUSTEE/PARTNER.
- No Resolution is necessary if the creditor is a person claiming within his/her personal capacity.

#### **POWER OF ATTORNEY**

- If the creditor is a Company/Close Corporation, Trust or Partnership the correct Power of Attorney, marked as such should be completed and signed by the person duly authorized in terms of the Resolution to do so.
- If the creditor is a person claiming within his/her personal capacity the, the correct Power of Attorney marked as such should be completed.
- In ALL instances, the Power of Attorney should be signed by TWO independent witnesses.

#### **SUPPORTING VOUCHERS**

- **Services Rendered**: Annex copies of invoices and proof of payments to claim form
- **Goods supplied on open account**: complete the statements annexed to the Affidavit (for last 12 months). Furnish explanation why any item is dated after Insolvency/Liquidation/Judicial Management. See below regarding interest.
- **Monies lent**: annex detailed Statement of Account plus receipts or certified copies of paid cheques.
- **Interest**: must be calculated to date of **Provisional Order** of Insolvency/ Liquidation/Judicial Management. Rate of interest and periods must be shown. No interest may be claimed unless an Agreement between the parties to pay such interest is annexed.
- **Legal Charges**: annex Attorney's taxed Bill of Costs which must reflect dates alongside each of the items therein.
- **Mortgage Bonds & Instalment Sale Agreements**: annex original documents or certified copies and detailed statements. Refer above regarding interest.

- **Rent:** annex original Lease Agreement or certified copy and detailed statement of rent due up to date of Provisional Order showing rental and periods.
- **Suretyships:** annex original documents or certified copies and detailed statement of claim against principal debtor.