IN LIQUIDATION

NOTES FOR THE GUIDANCE OF CREDITORS COMPLETING CLAIM FORMS

Kindly follow the undermentioned requirements when preparing claim forms to ensure that there is no undue delay in submitting claims for proof or that your claim is not rejected at the creditor's meeting.

(1) The affidavit for proof of claim should be fully completed and must be signed before a Commissioner of Oaths. The Commissioner of Oaths must not have a direct or indirect interest in the affidavit and hence certainly not be an employee of the creditor proving the claim against the estate. Please ensure that the Commissioner of Oaths in question inserts his full names and full address after he has signed the document.

(2) If the claim is not based on a bill, promissory note or cheque page one should be completed. A detailed statement supporting the affidavit must be attached to the claim showing the monthly total and a brief description of the purchase and payments for the full period of trading or for a period of twelve months immediately before the date of liquidation, whichever is the lesser (attached hereto). Invoices **must** also be attached in proof thereof.

(3) Where a claim is in respect of promissory notes, bills of exchange or cheques, page one should be ignored and page two should be completed and any bills, notes or cheques must be attached to the claim.

(4) Should you wish to vote at a meeting of creditors by an agent, a R1,00 Revenue Stamp must be affixed to the Power of Attorney and be cancelled by initialling and dating the stamp. Should you fail to do so this might result in your claim not being proved at a meeting of creditors. if you do not wish to vote kindly ensure that the name of the LIQUIDATOR or any member of his staff is not included in the Power of Attorney as they are disqualified from voting.

You should insert the name of the person whom you desire to represent you or alternatively, should you be prepared to agree to the representative to be appointed by the general body of creditors (with no charge to you),may we suggest that the Power of Attorney be completed with the relevant portion left blank.

(5) Where a limited company proves a claim the affidavit must be signed by a director or any other persons duly authorised by a company to do so. A suitable form of resolution is attached and should you wish to make use of the same, kindly complete it in full and return one copy with the claim document.

(6) In the case of a claim being based on a mortgage or notarial bond or hire purchase agreement, the original Bond of Agreement must be attached to the claim together with a statement showing the amount due.

(7) The claim documents on full completion should be delivered to this office at least 72 hours before the date of the meeting or alternatively, you may wish to submit the claim directly to the Magistrate or relevant Master's office before whom the meeting is to be held.

(8) Kindly note that we do not accept any liability for any claim which is sent to ourselves and is subsequently not proved for whatever reason. We will also not accept any liability if at the time of advising creditors no danger of a contribution exists and subsequently it transpires that a contribution is to be levied.

****

(Form C) **AFFIDAVIT**

FOR THE PROOF OF ANY CLAIM OTHER THAN A CLAIM BASED ON A PROMISSORY NOTE OR OTHER BILL OF EXCHANGE (SECTION 44(4))

IN THE ESTATE OF ……………………………………………………… (IN LIQUIDATION)

Name of Creditor	
Postal Address	**Code** ....
Contact number	**E-mail :** ....
Amount of Claim	**Account No** ....

I, ... declare under oath the following:

1. That .... whose estate has been liquidated, was at date of liquidation, and still is, indebted to .... in the sum of .... for ....

2. That the said debt arose in the manner and at the time set forth in the account hereunto annexed.

3. That no other person besides the said .... is liable (otherwise as surety) for the said debt or part thereof.

4. That I, the said ...., have not, nor has any other person, to my knowledge on my behalf received any security for the said debt or any part thereof, save and except ....

   That I, the said ...., hold as security for the said debt or any part thereof security other than movable property which I have realised in terms of Section 83 of the Insolvency Act and I value the security held by me in the amount of ....

5. I, the said .... do *not rely solely on the realisation of the asset for the purpose of realising the aforesaid debt.

6. That the claim was *not acquired by cession after the institution of the proceedings by which the Estate was liquidated.

7. That the requirements of Section 44(6) of the Insolvency Act have been complied with.

Signature of Declarant ....

I certify that the Deponent has acknowledged that he/she knows and understands the contents of this Affidavit which was signed and sworn before me at on this day of 20...

Commissioner of Oaths ....

*** Strike out inappropriate words according to the facts of your claim. Do not complete 4 and 5 if you do not have security.**

<u>BANKING DETAILS FOR DIRECT DEPOSITS OF DIVIDENDS :</u>

Name of Account Holder :..	
Name of Bank :	
Branch:	**Branch code :** ....
Type of Account :	**Account Number :** ....

(Form D) **AFFIDAVIT**

FOR THE PROOF OF ANY CLAIM BASED ON A PROMISSORY NOTE OR OTHER BILL OF EXCHANGE (SECTION 44(4))

IN THE ESTATE OF ……………………………………….. (IN LIQUIDATION)

Name of Creditor ....
Postal Address .... Code ....
Contact number .... E-mail : ....
Amount of Claim .... Account No ....

I, ... declare under oath the following:

1. That .... whose estate has been liquidated, was at date of liquidation, and still is, indebted to .... in the sum of ...., by virtue of the following *promissory note/bill of exchange.

Date of note or bill	Name of Maker of Drawer	Name of acceptor	Name of person to whom payable	Date when payable	Name of endorser	Amount

2. That the said debt arose in the manner and at the time set forth in the account hereunto annexed.

3. That no other person besides the said .... is liable to me as drawer of the said *note/bill.

4. That I .... have not, nor has any other person, to my knowledge on my behalf received any security for the said debt or any part thereof, save and except ....
....

5. That the said *note/bill is in all respects genuine and valid.

Signature of Declarant ....

I certify that the Deponent has acknowledged that he/she knows and understands the contents of this Affidavit which was signed and sworn before me at on this day of 20....

Commissioner of Oaths ....

*** Strike out inappropriate words according to the facts of your claim. Do not complete 4 and 5 if you do not have security.**

<u>BANKING DETAILS FOR DIRECT DEPOSITS OF DIVIDENDS :</u>

Name of Account Holder :...
Name of Bank : ....
Branch: .... **Branch code :** ....
Type of Account : .... **Account Number :** ....

STATEMENT OF ACCOUNT

(In terms of Section 44(6) of the Insolvency Act as amended)

In the case of the claim being for goods sold and delivered on an open account, this statement must be completed in every respect and attached to your claim documents. This statement complies with the amendments of the Insolvency Act an Companies Act.

CREDITORS NAME : ....

CREDITORS ADDRESS : ....

COMPANY: .... **(IN LIQUIDATION)**

DESCRIPTION OF GOODS SUPPLIED : ....

"A" Monthly totals of goods supplied for 12 months prior to liquidation/liquidation			"B" Monthly totals of payments received for 12 months prior to liquidation/liquidation		
Deliveries Made	Month and Year	Total	Repayments Received	Month and Year	Total
	Balance (if any):	R			
12th Month		R	12th Month		R
11th Month		R	11th Month		R
10th Month		R	10th Month		R
9th Month		R	9th Month		R
8th Month		R	8th Month		R
7th Month		R	7th Month		R
6th Month		R	6th Month		R
5th Month		R	5th Month		R
4th Month		R	4th Month		R
3rd Month		R	3rd Month		R
2nd Month		R	2nd Month		R
Exact date of liquidation		R	Exact date of liquidation		R

Total "A" .... R ....   Total "B" .... R ....

AMOUNT OF CLAIM = TOTAL "A" - TOTAL "B"

R ....

POWER OF ATTORNEY

TO PROVE CLAIMS AND VOTE FOR LIQUIDATORS

I, the undersigned, ...

do hereby nominate, constitute and appoint

....

Or any person who may be present at such meeting and who may be prepared to act on my behalf. Such person will be entitled to insert his name on this Power of Attorney at such meeting to appear before the Master of the High Court, or any Magistrate, at his or their Offices, likewise before any Commissioner and to appear at all Meetings of creditors to be held in the matter of

....

(herein referred to as "the Estate") and then and there, on my behalf to file and prove my Claim or Claims against the said Estate, to vote for me in the election of a LIQUIDATOR to administer the Estate, to agree to the payment out of the Estate assets or funds contributed or otherwise, or out of the proceeds or otherwise of any property or interest over any special preference exists or is claimed, the premium and costs payable in respect of any Bond of Fidelity or Security filed with the Master of the High Court in this Estate and give the LIQUIDATOR directions as to the management of the Estate, likewise to receive the amount of Dividends to be awarded on my Claim against the Estate and grant receipts for the same, and further to represent me in all matters or things relating to the said Estate, including the right to vote on any offer of Composition and generally for effecting the purposes aforementioned, to do or cause to be done whatsoever shall be requisite, as fully and effectually, to all intents and purposes as I might or could do if personally present and acting herein; hereby ratifying, allow and confirm all and whatsoever my said Attorney(s) and Agent(s) shall lawfully do or cause to be done in the premises by virtue of these presents.

At a general meeting or second meeting of creditors I specifically instruct my agent to vote for the adoption of the LIQUIDATOR'S resolutions and the acceptance of the LIQUIDATORS report.

SIGNED: ....

Given under my hand at .... this .... day of .... 20...., in the presence of the undersigned Witnesses.

<u>Witnesses:</u>

1. ....

Address ....

2. ....

Address ....

EXTRACT OF THE MINUTES OF A BOARD MEETING OF :

..
HELD AT ....ON THIS ....
DAY OF .... 20....

<u>RESOLVED:</u>

In the matter of .... that

....

be authorised to sign all documents on behalf of the company, to prove claims on behalf of the company and to sign powers of attorneys in favour of

....

with power of substitution to act on behalf of the company at any meeting of creditors convened in terms of the Companies Act or Insolvency Act.

....
(Secretary)