

# COMPANIES

## CLAIM NO.

### **AFFIDAVIT**

FOR THE PROOF OF A CLAIM OTHER THAN A CLAIM

BASED ON A PROMISORY NOTE OR BILL OF EXCHANGE

(Section 220 of the Companies Act) (Chapter 24:03)

Official Use

This claim was proved at a meeting held before me on  
this.....Day of ..... 201.....

.....  
Presiding Officer

**NB 1. WHEN COMPLETING THIS AFFIDAVIT THE CREDITOR SHOULD TAKE DUE ACCOUNT OF THE GUIDANCE NOTES OVERLEAF RELATIVE TO THE COMPILATION AND PROOF OF A CLAIM**

**\*Delete the inapplicable word (See below)**

NAME OF COMPANY (In Liquidation) .....

NAME OF CREDITOR.....

POSTAL ADDRESS.....

Email.....

TOTAL AMOUNT OF CLAIM

I,.....

Address ..... Phone.....

New Bank Name.....Account Holder's Name.....

Branch Name ..... Account Number .....

### DECLARE UNDER OATH THAT

- (1) (a) I am the above named creditor. Or  
(b) I am the duly appointed representative of the above-named creditor in my capacity as .....  
and I am fully cognisant with the claim
- (2) The above-named Company (in liquidation) was at the date of commencement of winding up (as defined in Sections 210 and 244 of the Companies Act [Chapter 24:03] and still is indebted to the above –named creditor for the aforesaid amount in respect of  
.....
- (3) The said debt arose in the manner and at the time set forth in the annexed account.
- (4) The aforesaid was acquired by cession or purchase after the date of commencement of winding up of the aforesaid company (in liquidation).
- (5) No other persons besides the aforesaid company in liquidation is liable otherwise than as surety or co-principal debtor for the said debt or any part thereof
- (6) (a) The above creditor has not only to my knowledge received any security for the said debt or any part thereof OR  
(b) The above-named creditor holds security for the said debt the nature and particulars of such security as follows  
.....

which security the above named creditor values at

- (7) The above named creditor claims a right of preference for the amount of  by virtue  
of being.....

The above-named creditor claims set-off as set out in the annexed account and avers that at the time when the right set-off accrued he did not know of the intention of the company (in liquidation) to liquidate its estate, or that the said company's assets were insufficient to discharge its liabilities.

Sworn before me at .....

.....  
Creditor's signature

.....  
Commissioner of Oaths

This.....day of.....201.....

## **NOTES FOR THE GUIDANCE OF CREDITORS IN REGARD TO THE PROOF OF CLAIMS**

### **1. LODGING OF CLAIMS PRIOR TO THE MEETING**

Note that we are required to lodge the affidavit and power of attorney with the Master of the High court, not less than 48 hours before the scheduled time of the meeting [Exceptions See Note 4 below] Please ensure that the affidavit and power of attorney are returned to us timeously.

### **2. COMPILATION AND EXECUTION OF PROOF OF CLAIMS**

- (a) As a liquidator, trustee or assignee must investigate and adjudicate claims he cannot
  - (i) Assist in the compilation of a claim: and
  - (ii) Act on behalf of a creditor in the proof of a claim
- (b) A creditor or his representative (duly authorized by a power of attorney) must personally attend the meeting of creditors to formally prove the claim before the Master of High Court. Non attendance will lead to the rejection of the claim by the Master of High Court in which case, the creditor will be involved in additional costs should he decide to request convening of a special meeting.
- (c) In the event of the affidavit and special power of attorney having to be signed outside Zimbabwe such documents must be executed before a Notary Public who should affix his seal.
- (d) In the event of a claim being preferred for damaged agreement must be reached with the liquidator or trustee in defined liquidated sum prior to proof

### **3. COMPILATION OF THE AFFIDAVIT**

- (a) Only amounts incurred prior to insolvent/liquidation/assignment must be included. If interest is legally claimable on the claim, the amount outstanding must be calculated to the date of insolvency or winding up.
- (b) If interest is legally claimable the authority for so claiming must be so stated. Interest is not normally claimable without a Court Order or unless special agreement has been reached between the parties to pay interest.
- (c) Legal costs incurred subsequent to insolvency or liquidation are not normally recoverable. If legal costs are claimed a certificate of costs from the relevant Court must be attached to the affidavit together with any Deputy Sheriff or Messenger's return.
- (d) The nature of the claim must be described as "goods sold and delivered" or "services rendered" – or " money lent" or "arrear rent" etc
- (e) A detailed statement must be annexed to the affidavit showing invoice numbers, dates of supply, amounts of the individual invoices and the dates thereof and the payments received by the creditor and the dates thereof.
- (f) Creditors must state the nature of particulars of their security. If they rely upon a mortgage bond. They must state the number of the bond and attach it to the affidavit. Likewise if the cause of debt is based on an acknowledgement of debt such documents must be annexed.
- (g) Creditors must also value their security and insert the value in the affidavit. Creditors are reminded that the trustee/liquidator/assignee has power to take over the security at the value placed upon it or to abandon the security to the creditor at the declared figure. It is therefore in the creditor's interest to place a realistic value upon the security.

### **4. DIRECT SUBMISSION OF CLAIMS EXCEPTIONS**

- (a) Claims Preferred
  - (i) In a voluntary liquidation and/or
  - (iii) In respect of salaries and wages.

Should be sent DIRECT to the liquidator/trustee/assignee.

# POWER OF ATTORNEY

## TO PROVE CLAIM AND VOTE IN REGARD TO THE LIQUIDATION OF INSOLVENT AND ASSIGNED ESTATES AND COMPANIES

### OFFICIAL USE FILED WITH CLAIM NUMBER

NAME OF THE ESTATE OR COMPANY (in the course of (liquidation)).....

NAME OF CREDITOR.....

ADDRESS:.....

I/WE:.....

In my/our capacity as.....of the above-mentioned creditor, and as such duly authorized thereto.

**DO HEREBY NOMINATE, CONSTITUTE AND APPOINT**.....

with power of Substitution, to be my/our lawful Attorney and Agent, in my/our name, and place and stead to attend all meetings of creditors in the above-named estate or company in the course of liquidation on my/our behalf to:

- (1) Prove my/our claim: and
- (2) Exercise all voting and other powers in respect of such claim particularly in respect of any office of composition and/or submission to arbitration of any dispute and/or the compromise or admission of any claim against aforesaid estate or company (in the course of liquidation): and
- (3) Give the liquidation/trustee/assignee direction ad to the administration and /or liquidation of the aforesaid estate or company (in the course of liquidation): and
- (4) Vote in respect of any scheme of arrangement formulated by or on behalf of the company (in the course of liquidation); and

GENERALLY to act on my/our behalf at the meetings of the aforesaid estate or company (in the course of liquidation) in all matters and things in which my/our interests are concerned hereby promising to ratify and confirm whatsoever my/our said attorney and agent may do to perform by virtue of these presents.

SIGNED AT.....THIS.....DAY OF .....201.....

As Witness:

1.....

2.....

.....

Creditor's signature

- (1) The relevant liquidation, trustee or assignee cannot be nominated to act as the agent of the creditor
- (2) If the Power of Attorney is executed outside Zimbabwe the creditor's signature must be authenticated by a Notary Public
- (3) The completed Power of Attorney must be annexed to the relevant proof of debt prior to onward transmission to the Master of High Court.