

# **BRUNI & McLAREN**

## **NOTES FOR THE COMPLETION OF CLAIM FORMS**

### **1. AFFIDAVIT**

- a) THE COMMISSIONER OF OATHS MUST PRINT HIS/HER FULL NAME AND BUSINESS ADDRESS BELOW HIS/HER SIGNATURE AND STATE HIS/HER DESIGNATION AND THE AREA FOR WHICH HE/SHE HOLDS HIS/HER APPOINTMENT EX OFFICIO.
- b) Alterations must be initialed by Declarant and Commissioner of Oaths.
- c) If security is claimed then the amount at which the Creditor values such security must be inserted.
- d) A Secured Creditor who relies upon his security should state the fact on the Affidavit above the signature of the declarant. This insertion should be initialed.

### **2. SUPPORTING VOUCHERS**

(EACH INVOICE ATTACHED MUST BE ENDORSED "CERTIFIED TRUE COPY" & SIGNED BY AN AUTHORISED SIGNATORY)

#### **a) GOODS SUPPLIED ON ACCOUNT**

Complete the statement annexed to the Affidavit (for the last 12 months). THIS STATEMENT MUST BE SIGNED AND THE RUBBER STAMP OF THE COMPANY AFFIXED. Furnish explanation why any item is dated after Insolvency/Liquidation/Judicial Management.

#### **b) MONEY LENT**

Annex detailed statement of account plus Acknowledgement of Debt/od receipts or paid cheques.

#### **c) INTEREST**

Must be calculated to date of Provisional Order of Sequestration/ Liquidation/ Judicial Management. Rate of interest and periods must be shown. No interest is claimable on open accounts unless an agreement by the Debtor to pay such interest is annexed.

#### **d) LEGAL CHARGES**

Annex Attorney's Taxes Bill of Costs WHICH MUST SHOW DATES OF ITEMS THEREIN.

#### **e) MORTGAGE BONDS AND HIRE PURCHASE AGREEMENTS**

Annex original and detailed statements. Refer 1 (c) above regarding valuation of security and 2(c) above regarding calculation of interest.

#### **f) RENT**

Annex original lease (if any) and detailed statement of rent due up to date of Provisional Order of Sequestration/ Liquidation/ Judicial Management showing rental and periods.

#### **g) SURETYSHIP**

Annex original documents and detailed statement of claim against principal debtor.

### **3. POWER OF ATTORNEY**

N\$5-00 Revenue Stamps to be cancelled with date and initials of signatory. Refer also to notes at end of Power of Attorney Form.

### **4. SIGNING AUTHORITY**

The person signing the claim does so in his/her personal capacity. If the proprietor of a Firm, this should be stated. If a Director of Office of a company, authority to sign on behalf of the company must be evidenced by the attaching of a Resolution in this regard. (On a letter head or rubber stamp at bottom of page)

# AFFIDAVIT FOR THE PROOF OF AN OPEN ACCOUNT, ETC.

..... in Liquidation.

Name of Creditor .....

Address in full .....

Total amount of claim N\$ .....

I, .....

In my capacity as .....

declare under oath that the above Company (in Voluntary / Compulsory Liquidation), a company duly registered and placed under Liquidation by order granted by the High Court of Namibia, was, at the date of the said order, and still is, justly

and truly indebted to the above creditor in the sum of .....

..... for .....  
and that the said debt arose in the manner and at the time set forth in the account hereunder annexed, and that detailed accounts thereof were despatched to the Company on the respective dates recorded thereon and at least quarterly thereafter as is required by Section 44 (6) of the Insolvency Act as amended, and that the claim was not acquired by cession or purchase since the institution of the proceedings whereby the said Company was placed in liquidation, and this deponent further says that no other person besides the said Company is liable for the said debt, or any part thereof, otherwise than as Surety, and that he has not, nor has any other person to his knowledge, for the use of the above creditor or any other person above mentioned received security for the same or any part thereof, save and except\*

.....  
.....  
.....

which security is valued at N\$ .....

And this deponent says lastly that when the right of set-off claimed by the above Creditor and appearing from the account hereunto annexed accrued he did not know of any act of insolvency upon which the Company was afterwards placed in liquidation or of the intention of the Company to go into liquidation or that the Company's assets were insufficient to discharge its liabilities.\*\*

.....  
Signature of Deponent

Signed and Sworn at ..... this ..... day of .....

Before me, the deponent having acknowledged that he knows and understands the contents of this affidavit.

..... (C.O. or J.P.)

in my capacity as ..... for the district of .....

\*Here insert nature, particulars and value of mortgage, pledge, or other security.

\*\*When no set-off is claimed, strike out this clause and initial the alteration.

### PLEASE NOTE

- (a) This Affidavit must be supported by a detailed Statement of Account and, where the Claim is in respect of goods supplied, by copies of Invoices covering the last three months of trading.
  - (b) Where the Claim is founded on a liquid document, such document must be annexed.
  - (c) Where a Claim is secured, the original document creating the security (Mortgage Bond, Deed of Pledge, etc.) must be annexed.
- The Claim must be for the amount owing at the date of Liquidation and, where interest is claimed, it must be calculated to that date. The principles regulating the claim of interest in insolvency should be followed.
  - Claims for legal costs should be taxed.

**BANKING DETAILS**

**BANK:**

**ACCOUNT i.n.o.:**

**ACCOUNT NO:**

**BRANCH NO:**

**e-mail address:**