

# AFFIDAVIT for the proof of any claim other than a claim based on Promissory Note or other Bill of Exchange [Section 44(4)]

IN THE MATTER OF FRESH EARTH GLUTEN FREE BAKE HOUSE (PTY) LTD. (In Liquidation)

|                          |  |
|--------------------------|--|
| NAME IN FULL OF CREDITOR |  |
| ADDRESS IN FULL          |  |
| PO BOX NO                |  |
| TEL                      |  |
| EMAIL                    |  |
| TOTAL AMOUNT OF CLAIM    |  |
| AMOUNT OF CLAIM IN WORDS |  |

I<sup>1</sup> \_\_\_\_\_ do hereby make oath and say:

- That I am<sup>2</sup> \_\_\_\_\_ of<sup>3</sup> \_\_\_\_\_
- That I have personal knowledge of the facts hereinafter stated.
- That<sup>4</sup> FRESH EARTH GLUTEN FREE BAKE HOUSE (PTY) LTD.
- Which Company/Close Corporation/Individual has been placed in liquidation/whose estate has been sequestrated, was at the date of Liquidation/Sequestration, and still is, truly indebted to the Creditor in the sum stated above.
- For<sup>5</sup> \_\_\_\_\_
- That the said debt arose in the manner and at the time set forth in the annexed account, complying with the provisions of Section 44(6) of the Insolvency Act 24 of 1936.
- That no other person besides the Company/Close Corporation/Insolvent is liable (otherwise than as surety) for the said debt or any part thereof
- That the Creditor has not, nor any other person, to my knowledge on the Creditors' behalf received any security for the said debt or any part thereof, save and except<sup>6</sup> \_\_\_\_\_  
which security I value at \_\_\_\_\_
- That this claim was not acquired by Cession after the institution of the proceedings by which the Company/Close Corporation/Individual was placed in Liquidation/Estate was Sequestrated.

\_\_\_\_\_  
SIGNATURE OF DEPONENT

I hereby 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 the \_\_\_\_\_ day of \_\_\_\_\_ 2020 and that the Regulations contained in Government Gazette Notice No. R1258 of 21 July 1972, as amended, and Government Gazette Notice No. R1648 of 19 August 1977, as amended, having been complied with.

Full name and address of Commissioner of Oaths

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

\_\_\_\_\_  
COMMISSIONER OF OATHS

<sup>1</sup> Full name.  
<sup>2</sup> Here state the relation of the deponent to the creditor, as Manager, Director, etc., or strike out if the deponent is the creditor  
<sup>3</sup> Full name of creditor  
<sup>4</sup> Name of Company/Close Corporation / Insolvent  
<sup>5</sup> Type of transaction e.g. goods sold and delivered.  
<sup>6</sup> Here insert nature, particulars and value of mortgage, pledge or other security (if any).

# STATEMENT OF ACCOUNT

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

In the case of the claim being in respect of goods sold and delivered on an open account.

This statement should be completed in every respect and attached to your claim document.

Name of Company in Liquidation **FRESH EARTH GLUTEN FREE BAKE HOUSE (PTY) LTD.**

Name and Address of Creditor

Brief Description of goods Supplied

## DETAILS OF SALES

| DATE | INVOICE NO | AMOUNT | Monthly Totals<br>(NOT PROGRESSIVE) |
|------|------------|--------|-------------------------------------|
|      |            |        |                                     |
|      |            |        |                                     |
|      |            |        |                                     |
|      |            |        |                                     |
|      |            |        |                                     |
|      |            |        |                                     |

TOTAL DEBITS "A" \_\_\_\_\_

## DETAILS OF PAYMENTS RECEIVED AND CREDITS ALLOWED

| DATE | INVOICE NO | AMOUNT | Monthly Totals<br>(NOT PROGRESSIVE) |
|------|------------|--------|-------------------------------------|
|      |            |        |                                     |
|      |            |        |                                     |
|      |            |        |                                     |
|      |            |        |                                     |
|      |            |        |                                     |
|      |            |        |                                     |

TOTAL DEBITS "B" \_\_\_\_\_

AMOUNT OF CLAIM AS PER AFFIDAVIT I.E. "A" LESS "B" \_\_\_\_\_

### 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 sequestration, whichever is the lesser.
3. A brief description of goods sold must be given i.e. Groceries, Clothing etc.

**CERTIFIED EXTRACT FROM THE MINUTES OF A MEETING OF  
DIRECTORS/MEMBERS OF THE ABOVE-MENTIONED  
COMPANY/CLOSE CORPORATION HELD**

|                             |  |
|-----------------------------|--|
| COMPANY / CLOSE CORPORATION |  |
| PLACE                       |  |
| DATE                        |  |

**IT WAS RESOLVED:**

1. That \_\_\_\_\_ in his capacity as director / secretary / accountant / member or \_\_\_\_\_ of the Company/Close Corporation, be and is hereby authorised and empowered to sign all the necessary documents to enable the Company/Close Corporation to prove its claim against:-

**FRESH EARTH GLUTEN FREE BAKE HOUSE (PTY) LTD.**

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2. And to attend meetings of Creditors of the said Estate, and to speak and vote on behalf of the Company/Close Corporation with power, in his/her discretion to substitute and appoint any other persons to attend such meetings on the Company's/Close Corporation's behalf and to vote thereat

CERTIFIED A TRUE COPY \_\_\_\_\_

AUTHORISED OFFICIAL \_\_\_\_\_

# POWER OF ATTORNEY TO PROVE CLAIMS ETC.

|                    |  |
|--------------------|--|
| I, the undersigned |  |
| In my capacity as  |  |
| Of                 |  |

(Hereinafter referred to as the said Creditor) do hereby nominate, constitute and appoint:-

**HRAP BROOKS and/or C BRAND and/or JDK REITZ and/or D SCHICKERLING and/or ANSIE DU TOIT and/or MERISKA FOUCHE and/or RENET FOUCHE and/or R STRYDOM and/or H STRYDOM and/or OLGAR MALEMA and/or ZELDA HATTINGH and/or** \_\_\_\_\_

With power of substitution to be the said Creditors' lawful Attorney and/or Agent in the said Creditor's name, place and stead, to attend all meetings of Creditors in the matter of:-

**FRESH EARTH GLUTEN FREE BAKE HOUSE (PTY) LTD.**

On the said Creditor's behalf to prove the said Creditor's claim to exercise on the said Creditor's behalf all voting and other powers in respect of such claim particularly in respect of the appointment of a Liquidator/Trustee and/or any Offer of Composition and/or submission to Arbitration of any dispute and/or the Composition or admission of any claim against the Company/Close Corporation/Estate and to give the Liquidator/Trustee directions as to the administration of the Company/Close Corporation/Estate and generally to act on the said Creditor's behalf at all meetings of the Company/Close Corporation/Estate in all matters and things in which the said Creditor's interests are concerned, hereby promising to ratify and confirm whatsoever the Attorney and/or Agent may do or perform by virtue of these presents.

DATED AT \_\_\_\_\_ THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020.

AS WITNESSES

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

\_\_\_\_\_  
SIGNATURE

# NOTES:

## 1. AFFIDAVIT

### 1.1. COMPLETION AND SIGNATURE

The Commissioner of Oaths must print his full name business address below his signature and state his designation and area for which he holds his appointment or by which office held by him, if he holds his appointment *ex officio*.

Any alterations must be initialled by the Deponent and the Commissioner of Oaths.

### 1.2. SECURITY

If security is claimed, then the amount at which the Creditor values such security must be inserted. A Secured Creditor who relies upon his security should state that fact on the Affidavit above the signature of the Deponent.

### 1.3. PROMISSORY NOTES ETC.

Where the claims in respect of Promissory Notes, Bills of Exchange or Cheques, the appropriate Affidavit form should then be completed which can be obtained by request from the Liquidator/Trustee.

## 2. SUPPORTING VOUCHERS

### 2.1. GOODS SUPPLIED ON OPEN ACCOUNT

A detailed Statement as per attached, supporting the Affidavit must be attached to the claim, showing the monthly total and a brief description of the purchases and the payments for the full period of trading or for a period of 12 months immediately prior to the date of liquidation/sequestration, whichever is the lesser.

Furnish explanations why any item is dated after Liquidation/Insolvency/Judicial Management.

### 2.2. MONEY LENT

Annex a detailed Statement of Account plus Acknowledgement of Debt or receipts or paid cheques.

### 2.3. INTEREST

Interest must be calculated to date of the Provisional Order of Liquidation/Sequestration/Judicial Management.

The 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).

### 2.4. LEGAL CHARGES

Annex the Attorney's Bill of Costs which must show dates of the items therein.

### 2.5. MORTGAGE BONDS AND HP AGREEMENTS

Annex the original documents and a detailed statement. Refer to 1.2 above re the valuation and 2.3 above re the calculation of interest.

### 2.6. RENT

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

### 2.7. SURETYSHIPS

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

## 3. POWER OF ATTORNEY

Where a limited Company/Close Corporation proves a claim, the Power of Attorney must be signed by a Director or any other person authorised by a Resolution, and a copy such Resolution, as per the enclosed documents, must be annexed to the Power of Attorney.

## 4. VOTING

Should you be unable to attend the meeting, and you are prepared to agree to a representative by the General Body of Creditors, may we suggest that the POWER OF ATTORNEY be completed with the relevant portion left blank and initialled.