**AN CHUIRT CHUARDA**

**(THE CIRCUIT COURT)**

**[Insert county] CIRCUIT RECORD NO [insert record number]**

**Between**

**[Insert name of lender]**

**Respondent/Plaintiff**

**-V-**

**[Insert name of borrower]**

**Applicant/Defendant**

**GROUNDING AFFIDAVIT**

I, [inset name], **[Agent insert occupation]** of[inset address] aged 21 years and upwards, do **MAKE OATH** and say as follows:

1. I am the applicant in these proceedings and I make this affidavit on my behalf from facts within my own knowledge save where otherwise appears and where so appears I believe same to be true.
2. I refer to the pleadings already had herein when produced.
3. [insert summary of borrowings, default and outstanding debt]
4. At all material times I was a consumer under the European Communities (Unfair Terms in Consumer Regulations) 1995 implementing EU Directive 93/13 on unfair terms in consumer contracts.
5. [set out reasons for default].
6. [Set out the details of the order made by the County Registrar].
7. I have been advised by my legal advisors that since I was a consumer that there is a long standing obligation under EU law for the court to carry out an assessment of its own motion of the terms of this loan and mortgage for fairness under Directive and Regulations.
8. I have been advised by my legal advisors that this obligation was referred to in the recent High Court case of *AIB v Counihan* [2016] IEHC 752. No such assessment was carried in before the County Registrar
9. In addition we have been advised by our legal advisors that the County Registrar should have assessed the proportionality of the repossession order in the context of our rights to a home under the Charter of Fundamental Rights the European Convention on Human Rights, and the Land and Conveyancing Law Reform (Amendment) Act 2019. No such assessment was carried out.
10. It was always my intention to appeal the decision of the County Registrar but [set out reason why the appeal was not made in time]
11. Given that we formed the intention to appeal with the prescribed time limit, that my previous solicitors did not inform me of these rights and that we have a strong ground for appeal I would ask the court to extent the time for appeal. I refer to a copy of the Notice of Appeal in draft form upon which I have marked my initials “xx 2” prior to swearing this affidavit.
12. We are currently not making repayments on the loan [**Insert amount**] but I undertake to commence immediate repayments of [**insert amount**].

Sworn by the said [insert name]

1. who is personally known to me; or
2. who has been personally identified to me by
who is personally known to me and who has certified to me his/her personal knowledge of the Deponent; or
3. the identity of the Deponent has been established by me by reference to a

containing a photograph of the Deponent.

This day of October 2017
at

Deponent Practising Solicitor/Commissioner for Oaths

**AN CHUIRT CHUARDA**

**(THE CIRCUIT COURT)**

**[Insert county] CIRCUIT**

**RECORD NO [insert record number]**

 **[insert name of lender]**

 **Respondent/Plaintiff**

**AND**

**[insert name of borrower]**

**Applicant/Defendant**

**AFFIDAVIT OF [INSERT NAME]**

**[insert name of solicitor]**