**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**COMMERCIAL AND ADMIRALTY DIVISION**

**(MILIMANI LAW COURTS)**

**INSOLVENCY CAUSE NO. ……………OF 20..**

**IN THE MATTER OF (NAME OF THE DEBTOR) LIMITED**

**AND**

**IN THE MATTER OF THE COMPANIES ACT, ACT NO. 17 OF 2015**

**AND**

**IN THE MATTER OF THE INSOLVENCY ACT, ACT NO. 18 OF 2015**

**AND**

**IN THE MATTER OF THE INTERPRETATIONS AND GENERAL PROVISIONS ACT**

**PETITION**

To, **THE HIGH COURT AT NAIROBI, COMMERCIAL AND ADMIRALTY DIVISION**, the humble Petition of **(Name of the Petitioner/Creditor),** the Petitioner, showeth as follows: -

1. That **(Name of the debtor)**, (hereinafter called “the Company”) was incorporated on …………….. under the Companies Act, Cap 486 of the Laws of Kenya.
2. The registered office of the Company is at **(the physical address of the debtor),** and the registered postal address of the company is at **(postal address of the debtor)**
3. The nominal capital of the company is **………………..** divided into …………. shares of Kshs …………..each.
4. That the Directors of the Company at incorporation were, and still are:
5. ………………………..
6. ………………………….
7. The objects for which the Company was established are as set forth in the Memorandum of Association thereof.
8. That between and/or on ………….. **(Narration of the facts that led to accrual of the debt).**
9. That the Company settled KShs. ……………… only **(where there is a part payment)** but defaulted to pay the balance of KShs. ……….. **(the unpaid debt).** **Annexed hereto and marked as …………… is a copy of (attach documents evincing the outstanding debt)**
10. That the Petitioner has served the Company with several demands and notices to pay but the Company has defaulted to settle the Outstanding Amount. **(Annexed hereto and marked as ……………….. is a copy of the demand letter to the Company dated ……………)**
11. That the Petitioner further served the Company with the 21 days’ statutory notice but the notice has not elicited any response from the Company. (**Annexed hereto and marked as ………………….. is a copy of the 21 days’ statutory notice to the Company)**
12. That the debt herein is undisputed; the Company has acknowledged its indebtedness to the Petitioner and promised to pay but later reneged on its promises. (**Annexed hereto and marked as …………… is a copy of (attach documents evincing the admission)**
13. That the Petitioner believes that the Company is insolvent and unable to pay its debts as it has failed to comply with the said statutory notice as required by the law or at all.
14. That in the circumstances it is just and equitable that the Company be liquidated by this Court.

**YOUR PETITIONER THEREFORE HUMBLY PRAYS**: -

1. FOR A DECLARATION THAT the Company is unable to pay its debts to the Petitioner.
2. FOR A DECLARATION THAT it is just and equitable for the Company to be liquidated.
3. That (Name of the Debtor) may be liquidated by the court under the provisions of the Insolvency Act, Act No. 18 of 2015 and all other enabling provisions of the law.
4. THAT following liquidation, the net assets of the Company be distributed to the Petitioner in satisfaction of the Outstanding Amount plus accrued interest.
5. ANY other orders that this Honorable Court may deem fit and just to issue.

**Dated** at **Nairobi** this …………… day of ……**……**…………. 20….

**………………………………**

**(****Name of the Creditor (where the Creditor is company the person authorized to sign on behalf of the company)**

**………………………………**

**……………………………..**

**ADVOCATES FOR THE PETITIONER**

**ENDORSEMENT**

**NOTE:** It is intended to serve this Petition on **……………………. P.O. Box ……………..** and the Deputy Registrar of the High Court of Kenya at Nairobi, Commercial and Admiralty Division, Milimani Law Courts, Nairobi. The Petition is set down for Hearing in the High Court of Kenya at Nairobi, Commercial and Admiralty Division, Milimani Law Courts, Nairobi on the ...................... day of ..................................... 20… at 9:00 “o” clock in the forenoon or soon thereafter as the same may be called out for hearing.

**………………………………**

**DEPUTY REGISTRAR**

**COMMERCIAL AND ADMIRALTY DIVISION**

**HIGH COURT OF KENY AT MILIMANI, NAIROBI**

**Drawn & Filed by:**

…………………………

**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**COMMERCIAL AND ADMIRALTY DIVISION**

**(MILIMANI LAW COURTS)**

**INSOLVENCY CAUSE NO. …………… OF 20…….**

**IN THE MATTER OF (Name of the debtor)**

**AND**

**IN THE MATTER OF THE COMPANIES ACT, ACT NO. 17 OF 2015**

**AND**

**IN THE MATTER OF THE INSOLVENCY ACT, ACT NO. 18 OF 2015**

**AND**

**IN THE MATTER OF THE INTERPRETATIONS AND GENERAL PROVISIONS ACT**

**VERIFYING AFFIDAVIT**

**I**, **(name of the creditor/ where the Creditor is company the person authorized to sign on behalf of the company),** a resident of …………. within the Republic of Kenya and of Post Office Box Number ……………., Nairobi, do hereby make oath and state as follows:

1. That I am the **(the Petitioner herein or (designation of the person swearing the affidavit where the petitioner is a company)** of the Petitioner and duly authorized and competent to swear this affidavit.
2. That I am conversant with the facts of this Petition and swear this affidavit in verification of the correctness of the several statements contained in the said Petition.
3. That the matters deponed to herein are true to the best of my knowledge.

**SWORN** at **NAIROBI** by the said )

**…………………….** )

this day of 20… )

) ………………………….……….

**BEFORE ME** ) **DEPONENT**

)

**COMMISIONER FOR OATHS** )

**Drawn & Filed by:**

…………………………..

**TO BE SERVED UPON: -**

**……………………………**

**EXPLANATORY NOTE**

**This liquidation petition is to be used in commencing liquidation proceedings against a debtor by the Creditor.**