**Notes**

A Deed of Acknowledgement of Debt is a legal document whereby the debtor/borrower acknowledges that they owe the lender money.

The purpose of a debt acknowledgement deed is to provide to the lender with a document setting out an amount of outstanding debt, that the lender may rely on as evidence of an existing debt should any issues or disputes in respect of the debt arise.

This document is a standard Deed used in cases where the debtor owes money to the lender arising out of a loan or supply of goods.

**DEED OF ACKNOWLEDGMENT OF DEBT**

**DATED 202**

**[PARTY 1]**

**(AS THE “PRINCIPAL”)**

**- AND -**

**[PARTY 2]**

**(AS THE “DEBTOR”)**

**-IN RESPECT OF-**

**[INSERT A SUMMARY OF WHAT THE DEBT IS IN RESPECT OF]**

**Drawn By:**

**DEED OF ACKNOWLEDGEMENT OF DEBT**

THIS **DEED OF ACKNOWLEDGMENT OF DEBT** (hereinafter called “this Deed”) is made the ………………..day of ………………………..20….

**BETWEEN**:

1. [FULL COMPANY NAME] a limited liability company incorporated in the Republic of Kenya with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (Principal); and
2. [FULL COMPANY NAME] a limited liability company incorporated in the Republic of Kenya with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (Debtor).

OR IF AN INDIVIDUAL

[ FULL NAMES] of Identification /Passport Number [INSERT THE NUMBER] and whose address is [INSERT THE ADDRESS] (hereinafter referred to as the Agent together with his/her personal representatives or permitted assigns).

**WHEREAS:**

1. The Principal entered into a Loan Agreement with the Debtor dated [INSERT] OR the Principal supplied the Debtor with [INSERT].
2. Owing to the failure by Debtor to make payment of the sum of [INSERT] (the “Debt Amount”) as and when it became due, the Debtor is indebted to the Principal for the Debt Amount.
3. The Debtor hereby acknowledges that it has defaulted and failed to pay the Debt Amount to the Principal.

**NOW THIS AGREEMENT WITNESSES AS FOLLOWS:**

1. **Acknowledgement Of Debt**

The Debtor hereby acknowledges and agrees:

* 1. [That the Principal in the course of business supplied to it goods worth the Debt Amount] OR [The Principal loaned the Debtor a loan equal to the Debt Amount].
  2. That it failed and/or neglected to pay the Principal for [such supply of materials [ OR [ the debt] and as a result, the outstanding amount owing from the Debtor to the Principal is the Debt Amount.
  3. That it is indebted to the Principal for the Debt Amount.
  4. That it is obliged to pay the Debt Amount to the Principal and that the Principal has the right to recover the Debt Amount.
  5. That it voluntarily executes this Deed and the execution of this Deed does not release it from the obligation owed by it to the Principal to pay the Debt Amount.

1. **Undertakings By Yang**

The Debtor hereby unconditionally and irrevocably undertakes and agrees with the Principal to pay the outstanding Debt Amount.

1. **Standstill And Forbearance**

In consideration of the fulfillment by the Debtor of the Conditions Precedent set out in clause 4 below, the Principal agrees to forbear to enforce its rights to sue the Debtor for a period of fourteen (14) days from the date of this Deed.

1. **Conditions Precedent**

The consideration by the Principal in Clause 3 above is conditional on the fulfillment of the following Conditions Precedent: -

1. **Confidentiality**

The Parties shall treat as confidential the provisions of this Deed, the process of negotiations and all information about the other Parties obtained or received by them as a result of the negotiations, entering into or performing their obligations under this Deed and shall not publish or otherwise disclose to any other person such information except where:-

* 1. it is required during any court proceedings or by the provisions of any law, statute or by any regulatory or governmental body having jurisdiction over it; or
  2. the information has come into the public domain through no fault of that Party.

1. **Waiver And Amendments**

None of the terms or provisions of this Deed shall be waived, altered, modified or amended in any respect except in writing signed by the Parties.

1. **Severability**

If any provision of this Deed shall be held to be void or unenforceable by any court or other authority the Parties agree that such determination shall not result in the nullity or un-enforceability of the remaining provisions of this Deed. The Parties agree to use their best endeavors to replace such unenforceable provision in a manner which will achieve, to the greatest extent possible, the economic, business and other purposes of the void or unenforceable provision.

1. **Notices**

Where a notice is to be given to any party it may be served by leaving it at the registered office or last known address of that party or by sending it by registered post to the registered office or the last known address of that party then it shall be deemed to have been served at the expiration of Seven (7) days after it has been posted or on the day on which it was delivered by hand or sent by electronic mail or facsimile or telex as aforesaid (provided that in the case of a notice sent by telex, the correct answer back acknowledgement is received and in the case of a notice sent by facsimile a printed confirmation of transmission is received and a hard copy of such notice is forthwith sent by prepaid post as above).

1. **Benefit Of Agreement**

This Deed and the provisions hereof shall be binding on and shall enure for the benefit of and be enforceable by the successors and assigns (as the case may be) of the Parties.

1. **Default**

In the event that the Debtor fails to pay the Debt Amount or any other payments due to the Principal, the Principal reserves its right to pursue legal settlement of the entire debt acknowledged under Clause 1 of this Deed.

1. **Governing Law**

This Deed and the rights and obligations of the Parties hereto shall be governed by and construed in accordance with the laws of Kenya and each of the Parties irrevocably submits to the non-exclusive jurisdiction of Kenyan courts.

1. **Miscellaneous**
   1. No failure, forbearance or delay by any party in exercising any right, power or remedy vested on it by this Deed or by any law shall operate as a waiver thereof nor shall the failure to exercise or delay in exercising a right or remedy provided by this Deed or by law constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy provided by this Deed or by law prevents the further exercise of the right or remedy or the exercise of another right or remedy. The rights and remedies provided by this Deed are cumulative and not exclusive of any rights or remedies provided by law.
   2. This Deed constitutes the entire agreement between the Parties on its subject matter and no amendment or cancellation thereof or addition thereto shall be of any force or effect unless reduced to writing and signed by the Parties.
   3. Eternal warrants that all necessary corporate and other necessary action has been taken to authorize and approve the execution, delivery and performance of this Deed.
   4. Eternal shall pay the stamp duty fees on the Deed.
   5. The Parties agree that they have negotiated this Deed freely and no threats have been made or inducements held out on either side, and the Parties have taken independent legal advice on the terms of this Deed.
   6. Parties refer to the Principal and the Debtor.

**IN WITNESS** whereof this Deed is duly executed as a deed and delivered by each of Parties hereto on the date stated at the beginning of this Deed.

|  |  |
| --- | --- |
| Signed by the duly authorised representative of the Principal  *Signature:*  *Name:*  *Designation:* | Signed by the duly authorised representative of the Debtor  *Signature:*  *Name:*  *Designation:* |
| in the presence of:-  *Witness’s signature*  *Witness’s Name:*  *Witness’s Designation*  *Witness’s Address* | in the presence of:-  *Witness’s signature*  *Witness’s Name:*  *Witness’s Designation:*  *Witness’s Address* |

Drawn By:-