

REPUBLIC OF KENYA  
IN THE SUPREME COURT OF KENYA AT NAIROBI  
ELECTION PETITION NO.1 OF 2017

BETWEEN

H. E. RAILA AMOLO ODINGA.....1<sup>ST</sup> PETITIONER  
H. E. STEPHEN KALONZO MUSYOKA.....2<sup>ND</sup> PETITIONER

-AND-

INDEPENDENT ELECTORAL AND  
BOUNDARIES COMMISSION.....1<sup>ST</sup> RESPONDENT  
THE CHAIRPERSON OF INDEPENDENT ELECTORAL  
AND BOUNDARIES COMMISSION.....2<sup>ND</sup> RESPONDENT  
H. E. UHURU MUIGAI KENYATTA.....3<sup>RD</sup> RESPONDENT

1<sup>ST</sup> RESPONDENT'S REPLYING AFFIDAVIT

I, **EZRA CHILOBA** a resident of Nairobi and of Post Office P.O Box 45371 - 00100, Nairobi Nairobi within the Republic of Kenya do make oath and state as follows:

1. THAT I am the Chief Executive Officer of the Independent Electoral and Boundaries Commission ('**the Commission**'), the 1<sup>st</sup> Respondent in this Petition.
2. THAT I am well seized of the matters deponed to herein and being duly authorized by the said 1<sup>st</sup> Respondent, I am competent to swear this affidavit on its behalf.
3. THAT I have read and understood the contents of the following pleadings filed by the Petitioner:-

(a) The Petition dated 18<sup>th</sup> August 2017;

- (b) The Supporting Affidavit of Raila Amolo Odinga on 18<sup>th</sup> August 2017;
- (c) The Supporting Affidavit of Stephen Kalonzo Musyoka sworn on 18<sup>th</sup> August 2017;
- (d) The Affidavit in Support of the Petition sworn by Moses Wamuru on 18<sup>th</sup> August 2017;
- (e) The Affidavit of Apprielle Oichoe sworn on 18<sup>th</sup> August 2017;
- (f) The Supporting Affidavit of Koitamet ole Kina sworn on 18<sup>th</sup> August 2017;
- (g) The Supporting Affidavit of Godfrey Osotsi sworn on 18<sup>th</sup> August 2017
- (h) The 2<sup>nd</sup> Affidavit of Godfrey Osotsi sworn on 18<sup>th</sup> August 2017;
- (i) The Verifying Affidavit of Duncan Anunda sworn on 18<sup>th</sup> August 2017;
- (j) The Affidavit of Olga Karani sworn on 18<sup>th</sup> August 2017;
- (k) The Affidavit of Benson Wasonga sworn on 18<sup>th</sup> August 2017;
- (l) The Affidavit of Ibrahim Mohamud Ibrahim sworn on 18<sup>th</sup> August 2017;
- (m) The Supporting Affidavit of Dr. Nyangasi Oduwo sworn on 18<sup>th</sup> August 2017;
- (n) The Further Affidavit of Dr. Nyangasi Oduwo sworn on 18<sup>th</sup> August 2017;
- (o) The Supporting Affidavit of George Kegoro sworn on 18<sup>th</sup> August 2017; and
- (p) The Supporting Affidavit of Mohamed Noor Barre sworn on 18<sup>th</sup> August 2017.

I wish to respond to the averments set out in the said Affidavits as follows:-

4. THAT I confirm that the 1<sup>st</sup> Respondent conducted the presidential election on 8<sup>th</sup> August, 2017 in accordance with the provisions of Articles 81, 83 and 86 of the Constitution as read together with the Election Act 2011 (as amended) the Regulations thereunder and all other relevant provisions of the law.
  
5. THAT in the lead-up to the presidential election, the following are some of the key milestones that were achieved:
  - a) Design and implementation of a new Strategic Plan 2015-2020 setting out key priorities for strengthening electoral systems and processes in Kenya. The strategic plan was launched in July 2015 in a well-attended public forum with all stakeholders in attendance. Attached hereto and marked “**EC-1**” is a copy of the strategic plan.
  - b) Following the launch of the strategic plan, the 1<sup>st</sup> Respondent designed and implemented a two-year Elections Operations Plan (**EOP**) as the roadmap towards free, fair and credible 2017 General Election. The EOP was formally launched in January 2016 in a public forum with all stakeholders in attendance. The EOP was endorsed and fully funded by the National Assembly. Attached hereto and marked “**EC-2**” is a copy of the said EOP.
  - c) Conclusion of the law reform agenda through the promulgation of various electoral laws and regulations as well as amendments to existing regulations governing the electoral process. These included:
    - i. The Election Laws (Amendment) Act, No. 36 of 2016;
    - ii. The Elections Laws (Amendment) Act, No. 1 of 2017;
    - iii. The Elections Offences Act, 2016;
    - iv. The Elections (General) (Amendment) Regulations, 2017;
    - v. The Elections (Registration of Voters) (Amendment) Regulations;
    - vi. The Elections (Technology) Regulations;

- vii. The Elections (Party Primaries and Party Lists) Regulations;  
and
  - viii. The Elections (Voter Education) Regulations.
- 
- d) Increasing the number of registered voters from 14.4 million voters in 2013 to 19.6 million voters in 2017 which is equivalent to 78% coverage of eligible voters.
  - e) Conducting an audit of the register of voters as required by Section 8A of the Elections Act, 2011 as amended. Attached hereto and marked “EC-3” is a copy of an extract of the audit report.
  - f) Closing the registration of voters as per Section 5(1) of the Elections Act as read together with Regulation 12 of the Elections (Registration of Voters) Regulations on 7<sup>th</sup> March 2017. Annexed hereto and marked “EC-4” is a copy of the relevant Gazette Notice.
  - g) Opening the register of voters for verification of biometric data by members of the public in accordance with Section 6A (1) of the Elections Act between 10<sup>th</sup> May – 9<sup>th</sup> June 2017. Annexed hereto and marked “EC-5” is a copy of the relevant Gazette Notice.
  - h) Certification of the register of voters in accordance with Section 6A (3) (a) of the Elections Act. Annexed hereto and marked “EC-6” is a copy of the relevant Gazette Notice.
  - i) Publication of the timetable and roadmap for the party primaries and General Election through Gazette Notice of 17<sup>th</sup> March 2017. Attached hereto and marked “EC-7” is a copy of the said Gazette Notice.
  - j) Resolving disputes arising from nomination of candidates. Over 90% of the disputes the 1<sup>st</sup> Respondent handled were from the Orange Democratic Movement Party. Attached hereto and marked “EC-8” is a report of the disputes resolved.

- k) Registering over 14,500 candidates to participate in the 2017 General Election which is an increase of approximately 16% from the 2013 General Election. Annexed hereto and marked “EC-9” is a copy of the Gazette Notice.
- l) Gazettement of 40,883 polling stations and 338 tallying centres across the country including the prisons and for the Diaspora. Annexed hereto and marked “EC-10” is a copy of the relevant Gazette Notice.
- m) Gazettement of County Returning Officers, Deputy County Returning Officers, Constituency Returning Officers and Deputy Constituency Returning Officers through various Gazette Notices, Addenda and Corrigenda, copies of which are annexed hereto and marked “EC-11”.
- n) Acquisition and deployment of an integrated electoral management system for voter registration, voter identification, candidate registration and results transmission.
- o) Procurement and distribution of election materials to polling stations across the country.
- p) Recruitment, training and deployment of over 360,000 election officials across the country.
- q) Undertaking continuous voter education programmes across the country using different strategies and platforms.
- r) Accreditation of over 15,000 individual observers, 105 international observer institutions, 254 local institutions and more than 7,000 journalists from over 30 local and international media houses.

6. THAT despite the complex political and legal environment in the lead up to the 2017 General Election, the 1<sup>st</sup> Respondent put in place mechanisms and infrastructure towards what has been lauded as the most free, fair and credible election in Kenya’s history.

## **REPLY TO THE SUPPORTING AFFIDAVIT OF RAILA AMOLO ODINGA**

7. THAT the contents of paragraph 4, 5 and 6 of the Affidavit are correct.
8. THAT the 1<sup>st</sup> Respondent denies the allegations in paragraph 7 and 8 of the Affidavit. I confirm that the 2017 General Election was conducted in a transparent, open and accountable manner in accordance with the Constitution and applicable electoral laws. Indeed as noted in paragraph 5 above and confirmed by both local and international observers, the electoral process was peaceful and credible. Annexed hereto and marked “EC-12” are copies of the various observer reports.
9. THAT further, I confirm that the tallying and transmission of results of the presidential election was undertaken at the polling stations, collated and declared at the constituency tallying centers and at the national tallying center. The results declared are therefore credible and represent the will of the people of Kenya.
10. THAT as demonstrated below, the system put in place by the 1<sup>st</sup> Respondent beginning from the period before the polls were conducted and until the results were declared on the 11<sup>th</sup> of August 2017 was credible, transparent and accountable and complied in all respects with the provisions of Articles 81, 83 and 86 of the Constitution and the relevant provisions of the Elections Act.
11. THAT to the best of my knowledge, there was no compromise or interference with the system for results transmission before, during or after the declaration of the outcome of the presidential election as alleged or at all.

12. THAT in answer to paragraph 9(b) of the affidavit, I confirm that the collation, tallying and transmission of the results of the elections held on 8<sup>th</sup> of August 2017 were in accordance with provisions of the Constitution, the Election laws and the decision of Court of Appeal in *Civil Appeal No. 105 of 2017, Independent Electoral and Boundaries Commission v. Maina Kiai, & 5 Others*.
13. THAT the documents made available to the court provide incontrovertible evidence that the results declared by the 1<sup>st</sup> Respondent were substantially consistent with and a true reflection of the actual results tallied and declared at the gazetted polling stations with the consequence that the finality of the results declared by the 1<sup>st</sup> Respondent cannot be faulted.
14. THAT the allegations set out in paragraph 9 (d) of the Affidavit do not relate to the 1<sup>st</sup> and 2<sup>nd</sup> Respondents.
15. THAT the alleged facts in support of the Petition as contained in the affidavits of Dr. Nyangasi Oduwo, Godfrey Osotsi and Koitamet ole Kina are addressed below and in the affidavits of James Muhati and Immaculate Kassait.
16. THAT the statement in paragraph 11 is not denied to the extent that it merely gives the context for the establishment of the Kenya Integrated Elections Management Systems (KIEMS).
17. THAT as regards paragraphs 12 it is important to note that the law was amended vide the Election Laws (Amendment) Act, 2017 to provide for a period of four (4) months within which to procure and put in place the KIEMS.

18. THAT the contents of paragraph 16 are untrue. The suggestion by the 1<sup>st</sup> Petitioner that the electronic electoral system may have been exposed to risk of interference is speculative.
19. THAT in paragraph 17 of the Affidavit, the Petitioner accuses the 1<sup>st</sup> Respondent of failing to defend Petition No. 127 of 2017, *Dr. Kenneth Otieno v The AG & IEBC*. That allegation is untrue. From the ruling delivered in that case, it is clear that the 1<sup>st</sup> Respondent filed a defense in those proceedings and advanced arguments against the orders sought. After considering all the issues, the court granted some of the orders sought. The fact that the 1<sup>st</sup> Respondents position was not accepted by the court cannot be deemed as failure to oppose the petition. Attached hereto and marked “**EC-13**” is a copy of the decision of the court.
20. THAT in paragraph 18, the Petitioners falsely accuse the 1<sup>st</sup> Respondent of filing Petition No. 415 of 2016, *Collins Kipchumba Tallam v The AG*. That accusation is not only unfair but is also malicious. To the Petitioners’ knowledge, the 1<sup>st</sup> Respondent is not and was not a party to the said suit. It did not instruct any Counsel to act for it or at its behest. The 1<sup>st</sup> Respondent has no exclusive contract with the Counsel that appeared for the Petitioner in the suit. The allegation by the Petitioners in paragraph 18 is therefore unfortunate and vexatious. For the avoidance of doubt, that allegation is vehemently denied.
21. THAT as regards the allegation in paragraph 19 of the affidavit, the 1<sup>st</sup> Respondent denies the allegation that it deliberately set out to ensure the failure of the KIEMS system. To the contrary, the KIEMS system performed exceptionally well in the identification of voters and results transmission. Where there were anticipated challenges in voter identification and results transmission, the 1<sup>st</sup> Respondent invoked complementary mechanism as provided for in law. The allegation of



failure in transmission is unfounded. Similarly, the allegation of breach of security of the results is incorrect.

22. THAT in response to paragraph 20 of the Affidavit, I am aware that during a workshop held on 22<sup>nd</sup> May 2017 representatives of the Petitioners were informed of the mapping of network coverage and how the same had been shared by the mobile network operators. Therefore the allegation that the Petitioners were ambushed two days to the election date is false.
23. THAT the allegation in paragraph 21 of the affidavit to the effect that the 1<sup>st</sup> Respondent delayed in carrying out testing verification and deployment of technology is not true. The 1<sup>st</sup> Respondent tested the KIEMS system on 9<sup>th</sup> June 2017 as required by law. The 1<sup>st</sup> Respondent also conducted other tests, verified and deployed the KIEMS system.
24. THAT in paragraph 22 of the Affidavit, the 1<sup>st</sup> Petitioner makes reference to an Affidavit of Prof. Kaloki, which Affidavit was not served on the 1<sup>st</sup> and 2<sup>nd</sup> Respondents. The 1<sup>st</sup> Respondent reserves it's right in respect of that false allegation that Prof. Kaloki had sworn an affidavit in support of the petition. Without prejudice to that averment I confirm that the allegation that the Communication Authority of Kenya (the "**CAK**") advised the 1<sup>st</sup> Respondent against hosting a private cloud to supplement the 1<sup>st</sup> Respondent's primary and disaster recovery sites is not true. On the contrary, the CAK was satisfied with the arrangements put in place by the 1<sup>st</sup> Respondent. I attach hereto a copy of a letter dated 31<sup>st</sup> July 2017 from the CAK marked "**EC-14**".
25. THAT in view of the foregoing, the allegations in paragraphs 24 and 25 of the Affidavit that the KIEMS system was compromised and that the

presidential election was substantially conducted using manual processes lack merit.

### Voting Process – Article 86

26. THAT the allegations in paragraphs 26 and 28 of the Affidavit that the 1<sup>st</sup> and 2<sup>nd</sup> Respondent's breached and acted contrary to the provisions of Article 86 with regard to the voting process are not true. The 1<sup>st</sup> and 2<sup>nd</sup> Respondents acted within the confines of the law by ensuring that:

- a) the method of voting used was '*simple, accurate, verifiable, secure, accountable and transparent*';
- b) *the votes cast were counted, tabulated and the results announced promptly by the presiding officer at each polling station;*
- c) *the results from the polling stations were openly and accurately collated and promptly announced by the returning officer; and*
- d) *appropriate structures and mechanisms to eliminate electoral malpractice were put in place, including the safekeeping of election materials.*

### Voting system, procedure and method adopted

27. THAT the contents of paragraph 27 of the Affidavit are denied. I confirm that the 1<sup>st</sup> Respondent transmitted the result from the polling stations and the constituency tallying centres as required by law.

28. THAT allegation in paragraph 28 of the Affidavit are denied. To the contrary the Petitioners had been supplied with all forms 34B and all Forms 34A were available on the public portal. In fact, by their own letter dated 14<sup>th</sup> August 2017 the Petitioners acknowledged having been provided with access to all the requested forms. Attached hereto and marked "EC-15" are copies of the relevant correspondence.

29. THAT the contents of paragraph 30 of the Affidavit are denied. It is clear from the said paragraph that in any event the Petitioners do not dispute the presidential election results as declared but only allege unsubstantiated qualitative anomalies.
30. THAT the conclusion in paragraph 31 of the affidavit has no basis in fact or at all.
31. THAT the statement in paragraph 32 of a comparison between Forms 34A and 34B supplied by the 1<sup>st</sup> Respondent is a tacit admission that the Petitioners had received Forms 34A and 34B from the 1<sup>st</sup> Respondent. I confirm that there were no massive numerical discrepancies as alleged by the Petitioners that affected the results declared by the 2<sup>nd</sup> Respondent.
32. THAT in response to paragraphs 39, I am aware that the 1<sup>st</sup> Respondent wrote to the Director of Public Prosecutions to discharge his constitutional mandate. The allegation of partiality or failure to act is therefore untrue. We attach a copy of the said letter marked “EC-16”.
33. THAT in answer to paragraphs 41 and 42 of the Affidavit, the 1<sup>st</sup> Respondent avers that the voting system used was simple, accurate, verifiable, secure, accountable and transparent. It involved deployment of an integrated electronic electoral system which enabled electronic voter identification, and electronic results transmission, together with a complementary system of voter identification and voting system which enabled the voters to exercise their right to vote by secret ballot by casting their votes by use of ballot papers.
34. THAT the 1<sup>st</sup> Respondent further avers that voting was conducted only in gazzetted polling stations in Kenya and only results for the gazzetted polling stations were tallied and ultimately declared. It is therefore not

true that voting was undertaken in ungazetted polling centres as alleged or at all. I adopt the averments in the Affidavit of Immaculate Kassait on the specific allegations on that aspect of the claim.

### **REPLY TO THE AFFIDAVIT OF THE HON. STEPHEN KALONZO MUSYOKA**

35. THAT the allegation at paragraph 7 of the Affidavit that the credibility of the election was compromised is incorrect for the reasons set out in the proceeding paragraphs.

### **REPLY TO THE SUPPORTING AFFIDAVIT AND FURTHER AFFIDAVIT OF DR. NYANGASI ODUWO**

36. THAT I reiterate and adopt the averments set out in the Replying Affidavit of Immaculate Kassait in relation to the specific issues raised in those Affidavit.

### **REPLY TO THE AFFIDAVIT OF APPRIELLE OICHOE**

37. THAT I reiterate and adopt the responses in the Replying Affidavit sworn by James Muhati. In addition I wish to state as follows:-

38. THAT in response to the allegations in paragraph 4(iv) of the Affidavit, it is not true that the 1<sup>st</sup> Respondent replaced Forms 34 A and entered results in forms not provided for. I confirm that the results in all polling stations were entered in the statutory Forms 34A.

39. THAT despite the fact that all presiding officers had been trained and instructed to take an image of the Forms 34A for transmission through the KIEMS kit, in some instances, the presiding officers decided to take images of other documents for purposes of testing if the KIEMS kit was functioning before taking the image of the Forms 34A. In view of the

fact that one of the security features of the system was for the system to capture and transmit one image only for each of the six (6) elections and thereafter lock itself, the test documents were transmitted instead of the Forms 34A. By way of example I annex hereto a letter dated 16<sup>th</sup> August 2017 from the Presiding Officer Bulla Dadacha Stream 02 polling station explaining the erroneous uploading of an exercise book page marked “EC-17”.

40. THAT I confirm that upon noting this error, the 1<sup>st</sup> Respondent uploaded the Form 34A for the said polling stations on the public portal. The said Form 34A is annexed hereto and marked “EC-18”.
41. THAT I reiterate that the results of the outcome of the presidential election in the various polling stations are as contained in the Forms 34A. The inadvertent transmission of wrong images on the public portal did not affect or invalidate the result contained in the statutory Forms 34A.
42. THAT the contents of paragraph 5 of the Affidavit and the report titled “*The Travesty that was the electoral process Kenya 2017*” are untrue. Remarkably the alleged report is not dated or signed and neither is the source or author indicated. It is plainly a document with no probative or evidentiary value. I reiterate that the system deployed by the 1<sup>st</sup> Respondent was not compromised and that the allegations contained in the said report are without basis.

**REPLY TO THE AFFIDAVIT OF MOHAMED NOOR BARRE AND IBRAHIM MOHAMUD IBRAHIM**

43. THAT I reiterate and adopt the responses contained in the Replying Affidavit of Abdibashir Alinoor.

## **REPLY TO THE AFFIDAVIT OF BENSON WASONGA**

44. THAT in response to paragraphs 4 to 7, of the Affidavit, I confirm that:-

- (a) the result of the election from each polling station was contained in Forms 34A.
- (b) the declaration of the results of the presidential election was on the basis of the results contained in Forms 34B from the 290 constituencies and the diaspora.
- (c) The total number of rejected ballots as declared in Form 34C was 81,685 and not 477,195 as alleged. The deponent has misconstrued the statistics published on the public display mode of KIEMS which was not a result within the meaning of the law. As a matter of fact the cause of the variance between the actual number of rejected ballots and the public website are as a result of human error.

## **REPLY TO THE SUPPORTING AFFIDAVIT AND 2<sup>ND</sup> AFFIDAVIT OF GODFREY OSOTSI**

45. THAT I reiterate and adopt the responses in the Replying Affidavit of James Muhati.

## **REPLY TO THE AFFIDAVIT OF MOSES WAMURU**

46. THAT I reiterate and adopt the responses in the Affidavit of Amina Shaku.

## **REPLY TO THE AFFIDAVIT OF KOITAMET OLE KINA**

47. THAT I reiterate and adopt the averments in the Affidavit sworn by James Muhati.

## REPLY TO THE AFFIDAVIT OF GEORGE KEGORO

48. THAT I note that the Affidavit of George Kegoro was filed out of time in breach of the Constitution and the Supreme Court (Presidential Petition Rules, 2017). I therefore make these responses under protest and without prejudice to the 1<sup>st</sup> and 2<sup>nd</sup> Respondents' right to make an appropriate application in connection with the failure by the Petitioners to file the affidavit within the legal timelines.
49. THAT in response to the said affidavit I reiterate and adopt the averments in the Affidavit sworn by Immaculate Kassait.
50. THAT Regulation 79 of the Elections (General) Regulations, 2012 as amended by Regulation 34 of the Elections (General) (Amendment) Regulation, 2017 (Legal Notice No. 72 of 2017) provides that the presidential results shall be in Form 34A and that the Presiding Officer shall immediately announce the results of the voting at the polling station before communicating the results to the Returning Officer. The presiding officer shall upon filling the Form 34A request each of the candidates or agents present to append their signatures and provide each political party candidate or their agents with a copy of Form 34A and also affix a copy of the results at the public entrance to the polling station or at any place convenient and accessible to the public at the polling station.
51. THAT in response to the contents of paragraphs 6, 8, 9, 10 and 11 of the Supporting Affidavit of George Kegoro, which are denied, the 1<sup>st</sup> Respondent avers that the statistics displayed electronically did not constitute and were not the results of the Presidential Election.

52. THAT the 1<sup>st</sup> Respondent avers that the final result of the presidential election is indeed verifiable and certifiable from an inspection of the Forms 34A and 34B.
53. THAT the 1<sup>st</sup> Respondent denies the contents of paragraph 7 of the Supporting Affidavit of George Kegoro.
54. THAT the 1<sup>st</sup> Respondent categorically denies the contents of paragraph 12 of the Supporting Affidavit of George Kegoro.
55. THAT in further response to Paragraph 12 of the Supporting Affidavit of George Kegoro, it is clear from, the Forms 34A and 36A in respect of Kithare Primary School Njia Ward, Igembe Central Constituency, the valid votes cast in respect of presidential election and member of county assembly are 448 and 461 respectively and not as alleged by the Deponent (annexed hereto and marked “EC-19” and “EC-20” respectively are relevant copies of Form 34A and 36A illustrating as much).
56. THAT upon closer inspection, it is apparent that the subject Supporting Affidavit of George Kegoro is clearly not underpinned in the Petition, lacks foundation in the pleadings and or primary Affidavits of the Petitioners and can only be described as an attempt to litigate a substantive Presidential Petition under the guise of presenting a Supporting Affidavit to the Petition herein. As indicated above, the affidavit also suffers the fatal defect for being time barred and in blatant defiance and abuse of this Honourable Court’s process and the law and ought to accordingly be struck out.



## REPLY TO THE AFFIDAVIT OF OLGA KARANI

57. THAT I reiterate and adopt the responses contained in the Affidavits of Immaculate Kassait and James Muhati and in addition state as follows:-
58. THAT the allegations contained in paragraph 4 of the said Affidavit are too general. They do not specify any specific commissioner that the deponent spoke to, where and when. I am informed by the 1<sup>st</sup> Respondent's advocates on record which I verily to be true that the said averment offends the principles of drafting for want of proper specifics.
59. THAT I have in any event enquired from the commissioners who have confirmed that the said allegations are untrue. I confirm that in instances where a voter could not be identified biometrically, the said voter would still be identified by keying in the KIEMS system their alpha numeric details.
60. THAT in response to paragraphs 6 & 7 of the Affidavit, I confirm that all agents at the National Tallying Centre were provided with access to the Forms 34A and 34B and given an opportunity to verify the results before declaration.
61. THAT I reiterate that the statistics entered in the KIEMS kit was not the result. The declaration of the results of the presidential election was on the basis of the aggregate of results contained in Forms 34B from each of the 290 constituencies and the Diaspora whose images were electronically transmitted by returning officers to the national tallying centre. In the circumstances any errors that may have occurred at the point of data entry into the KIEMS kit did not affect the result of the election.

62. THAT it is clear from the foregoing that the presidential election held on 8<sup>th</sup> August 2017 was conducted in accordance with the Constitution and the Electoral laws and that the same was free, fair and credible. The ensuing results are therefore a true reflection of the sovereign will of the people of Kenya.
63. THAT I make this affidavit in opposition of the Petition and the Affidavits in support thereof.
64. THAT the facts deponed to herein are true to the best of my knowledge information and beliefs save for facts deponed to on information, sources whereof I have disclosed.

<b>SWORN at NAIROBI</b>	]	
this 24 <sup>th</sup> day of August 2017	]	.....
by the said <b>EZRA CHILOBA</b>	]	<b>DEPONENT</b>
	]	
<b>BEFORE ME</b>	]	
	]	
	]	
	]	
	]	
<b>COMMISSIONER FOR OATHS</b>	]	

**Drawn & Filed By:**  
V.A Nyamodi & Company  
Advocates  
Lowerhill Duplex Apartments, Hse. 7  
Lowerhill Road, Upperhill  
P.O Box 51431 - 00200  
Nairobi

**Copies To Be Served On:-**

1. Iseme Kamau & Maema

Advocates

IKM Place, 5<sup>th</sup> Ngong Avenue

Off Bishops Road

P.O. Box 11866-00400

**Nairobi**

2. Murumba & Awele

Advocates

Mirage Plaza, Mezzanine 1 - Unit 7

Westlands, Chiromo Road

P.O. Box 22255-00505

**Nairobi**

3. Ogetto Otachi & Co.

Advocates.

Sifa Towers, 7th Floor

Lenana Rd/ Ring Rd Junction, Kilimani,

P.O. Box 79438-00200

**Nairobi.**

Lodged in the Registry at Nairobi on the **24<sup>th</sup>** day of **August** 2017

.....  
Registrar