COLLECTIVE BARGAINING AGREEMENT

BETWEEN

COUNTY GOVERNMENT OF MOMBASA

("The Employer")

AND

KENYA MEDICAL PRACTITIONERS, PHARMACISTS & DENTISTS' UNION

(KMPDU)

This Collective Bargaining Agreement (hereinafter referred to as "the Agreement"), reached between the Kenya Medical Practitioners Pharmacists and Dentists' Union (KMPDU - hereinafter referred to as the Union) on the first part and; County Government Mombasa (hereinafter referred to as the County or as the Employer)
COUNTY GOVERNMENT OF MOMBASA
PREAMBLE
The parties, meeting together in free and voluntary association, have determined to regulate the relations between them in the interest of promotion of sound industrial relations, the economic well-being of the workers and the Employer and overall improvement of healthcare service delivery in the public health sector. In order to achieve these objectives, they have agreed to enter into the following Collective Bargaining Agreement freely and voluntarily negotiated between the Employer and the Union. This agreement is made in the interest of the health of the Kenyan people.

NOW THEREFORE THE PARTIES HAVE AGREED AS FOLLOWS:
ARTICLE I - TERMS OF THE AGREEMENT

A. Effective Date and Duration of Agreement
1. This Agreement shall be effective from 1st July 2017 and shall remain in force for a period of four (4) years until amended or renewed as provided for herein.
2. Any agreements previously entered into between the parties shall remain in force and continue to be implemented in accordance with their terms.
3. In the event of a conflict between this Agreement and any other previous agreements, this Agreement shall prevail.
4. The Union shall submit its proposals for the next negotiation to the Employer not less than ninety (90) days before the expiry of the existing Agreement.

B. Waiver Clause
1. Regardless of any procedure set forth in this agreement, the signatory parties may mutually agree upon any method for achieving goals; or resolving any question, controversy, claim or matter of difference related to this agreement or the performance or breach of any part thereof.
2. Any such mutual agreement shall constitute a waiver which shall be documented in writing and signed by the authorized officers of both parties.
C. Severability Clause

1. Any provision inconsistent with or contrary to laws of Kenya shall be considered as invalid to the extent of the inconsistency without harm to the remaining provisions of the agreement.

2. If any section of this Agreement is held invalid by operation of law or by any court of law or tribunal of competent jurisdiction or if compliance with or enforcement of any section is restrained by such court of law or tribunal, the remainder of this Agreement shall not be affected thereby, and the parties shall enter into negotiations and conclude within a period of ninety (90) days for the purpose of arriving at a mutually satisfactory replacement for such section.

D. Amendment

1. This agreement may be amended by either party giving the other party a 30 days’ notice of the intended amendment and the receiving party accepting such proposed amendment.

2. The amendment shall be in writing and signed by the designated representatives of both parties.

E. The C.B.A. Implementation Monitoring Committee

1. A committee is hereby established under this Agreement.

2. This committee shall comprise of nine (9) members made up of five (5) representatives from the Employer and four (4) representatives from the Union.

3. This committee shall meet at least once every six (6) months or on a need basis to monitor the progress of implementation of the Agreement.

4. This team may be convened by either party on a need basis to resolve any dispute in the interpretation, application or execution of this agreement.

F. Dispute resolution

In the event the parties to this agreement fail to resolve the dispute in the interpretation, application or execution of this agreement, the dispute shall be reported to the Ministry responsible for labor relations in line with the labour laws.
ARTICLE II: UNION RIGHTS

A. Representation

The Union shall represent its members in all matters concerning terms and conditions of employment and other matters as stipulated in the laws.

B. Check Off

1. The Employer shall deduct from Union members and remit to the Union a trade Union fee that will be determined by the Union through its structures and whose membership is provided to the Employer as per the first schedule of the Labor Relations Act (General) Regulations 2014 as stipulated in (Appendix B of this Agreement)

2. The Employer shall deduct and remit to the Union, agency fee from beneficiaries of this agreement who are not members of the Union upon gazettement by the Ministry of Labour to that effect as per the Labour Relations Act 2007

3. Deduction of agency fees will be effective from the effective date of this agreement.

4. The Union dues and fees so deducted by the Employer shall be paid direct to the Bank account nominated by the Union within ten (10) days upon payment of salaries to the employees.

5. In the event of an Employee’s salary being paid after more than one month the Employee Union dues shall be deducted in respect of the number of months paid and remitted as stipulated in clause 4 above

6. An Employee who is also a member of the Union may revoke the check-off by resigning their membership from the Union and informs the employer in writing. However, any such member will immediately upon this resignation be deducted agency fees.

7. The Employer shall not discourage new appointees from becoming Union members.

C. Information & Data
1. The Union shall have the right to access any information or data that may be of concern to the Union's membership. The Employer shall, upon request, furnish the Union with such information provided that the provision of such information is within the law.

2. The information shall be provided without undue delay or within a duration mutually agreed upon by the Union and the Employer as stipulated in the relevant laws.

D. Meeting Places

The Union shall have the right to meet its members in their places of work as provided for in the existing Recognition Agreement.

E. Provisions for Union Officials

1. Union officials elected to serve in the Union's National Advisory Council may be granted unpaid leave upon written request to the Employer which request the employer may consider in line with the prevailing laws and regulations.

2. No Employee shall be discriminated upon for the sole reason of being a Union official

ARTICLE III: DOCTORS RIGHTS

A. Employee classification – job grades

The entry level for Doctors (Medical Practitioners, Pharmacists and Dentists) shall be set at Job Group M. Progression shall follow provision under the existing scheme of services of Medical Pharmacists and Dental Officers. The Employee classification shall then change to the new structure upon completion of the ongoing Job Grading Exercise.

B. Promotions

1. The Employer shall promote officers as per the prevailing scheme of service and other relevant policies and laws
2. The Employer shall take measures to promote officers who have served in one grade for more than the designated period taking into account the number of years served and qualifications acquired.

3. In case of common establishment, the effective date of promotion will be the date the officer qualifies for promotion provided there is no adverse report. The employer shall endeavor to facilitate the employee with training opportunities that will lead to the improvement of the employee's skills and competencies to enhance service delivery and employee's career progression and development.

4. When vacancies outside the common establishment arise, they will be advertised and filled competitively as per the prevailing scheme of service and relevant laws.

5. The employer shall endeavor to have staff establishment within a year of the effective date.

C. Resignation

An employee who intends to resign from employment shall do so as per the existing laws and Human Resource Policy guidelines.

D. Transfers

1. The Union recognizes the Employer's right and duty as an Employer to deploy and transfer officers.

2. All transfers and postings of the Employees' shall be as provided for in to the County Government Act 2012 and other relevant laws

3. The employer shall not use the power to transfer employees capriciously, arbitrarily or unreasonably and shall in the exercise of such powers act in accordance with the norms and standards, values and principles of public service. An Employee transferred at the initiative of the Employer shall be paid a transfer allowance in accordance with the Human Resource Policies and Procedures Manual for Public Service of 2016.
4. The Employer shall collaborate with the National Government and other County Governments to provide a mechanism for transfer of labour, pension and benefits to the intent that the Employee severing service at the National or County level does not lose accrued benefits as long as the Employee remain in public service.

E. Training and Development

1. The Employer shall undertake continuus professional development of all employees doctors under its employment.

2. Training shall be aligned to the realization of Vision 2030, the Employers' goals and objectives as outlined in the strategic plans of the Employer, and international standards and guidelines.

3. The employer shall provide appropriate budget in compliance with the human resource manual for training

4. An employee shall be eligible for postgraduate training on completion of mandatory professional internship and registration by the relevant regulatory boards.

5. Release of the Employees eligible above shall be subject to prevailing human resources training policies

6. Employees released on paid study leave shall continue to enjoy their terms of Employment in line with existing policies.

7. All employees trained shall be bonded in Employer's service in accordance with the provisions of the prevailing Human Resources Training Policy.

8. An Employees shall be facilitated to undertake at least one short course per year for a minimum period of 5 days. A decentralized model of receiving these trainings on site in the Counties should be incorporated in the Training Policy

9. Postgraduate and Sub-Specialty courses that are not available locally may be sponsored by the Employer based on service need. These courses shall be availed to Employees on merit and the selection panel shall be the Committee responsible for training
10. Employees undertaking Post Graduate training in foreign countries, who have been granted course approval, will receive their basic salary, house allowance and a maintenance allowance at the prevailing rates in conformity with the prevailing Human Resources training policy taking into consideration any maintenance allowance already being paid by the sponsor.

F. Research
The employer shall endeavor to facilitate operational and clinical research for employees at the County facility level.

G. Intern Doctors
The County shall accord the Intern Doctors similar working conditions as accorded to the employees in article V below.

H. Post Internship Engagement
Where Intern Doctors have been cleared, registered and engaged to provide services to the Employer, they shall be remunerated at the rate commensurate with the entry point of the Job Group for Medical/Dental Officers and Pharmacists.

ARTICLE IV: REMUNERATION
The two parties agreed that the remuneration shall be as set as per Appendix ‘A’ and will be effective as from 1st July 2017.

A. Annual increment
Doctors will continue to enjoy the prevailing annual increment as per existing policies in addition to the phased Job Evaluation Salaries to be implemented with effect from 1st July 2017.

B. Allowances
The following shall be payable to doctors (Medical Practitioners, Pharmacists and Dentists)
• Hardship Allowance as per SRC circular
• House Allowance as per SRC Circular Ref. no. SRC/TS/MDP/3/1/2(2) Appendix D.
• Emergency Call Allowance
• Extraneous Allowance
• Risk Allowance
• Leave Allowance payable once a year

ARTICLE V: EMPLOYMENT CONDITIONS

A. Work Hours

All Employees shall work for 40 hours a week. Any extra hours worked shall be compensated as stipulated in law

B. Gazetted Public Holidays

All doctors who work on gazetted Public Holidays will be granted paid days off equivalent to the number of holiday days worked.

C. Doctors’ Room

Each facility where the employees serve, shall have a Doctors’ room set up within a period of two years adequately furnished with a computer, internet access, lounge chairs and a television set

D. Call Room

Each facility where the employees serve shall be provided with call rooms adequately equipped with clean beds for rest when on call at night progressively starting with level five and four health facilities within a period of one year followed by level three health facilities within two years

E. Medical equipment
1. The employer endeavors to reasonably provide the Employees with tools and equipment necessary for performance of their duties.

2. Where this is not the case, the employee may raise a grievance through channels prescribed under this agreement.

F. Support staff

The employer shall endeavor to provide adequate health professionals and other support staff in accordance to the staffing norms and standards.

G. Safety & Health

The Employer shall ensure that all facilities provide employees with sufficient safety measures in accordance with Occupational Safety and Health Act (OSHA).

H. Transport & Security for Employees ‘on call

Where the Employer has not provided a Call Room and the employee is expected to attend to a call at night;

1. The Employer shall provide transport within a radius of 40 kms from the health facility necessary to get the employee to and from the said facility

2. Where the circumstances necessitate security, the Employer shall make adequate arrangements for appropriate security to accompany the transport by activating the mechanism under the National Police Service Act

I. Staff Housing

Where facilities have institutional houses, an employee will be given an opportunity to be allocated such a facility and shall pay rent at the prevailing Employer rates.

J. Staffing

1. The Employer shall endeavor to attract and retain Employees’ to its employment

2. The Employer shall additionally endeavor to progressively employ Medical Practitioners, Pharmacists and Dentist annually so as to conform with the staffing norms and standards
ARTICLE VI: LEAVE

A. Annual leave
1. An Employee shall be entitled to an Annual leave of thirty (30) working days per leave year which shall be utilized within the provision of the Human Resource Policies and Procedures Manual for Public Service, 2015.
2. An Employee may carry forward a balance of 15 days to the next leave year subject to approval by the authorized officer.
3. An Employee who takes a minimum of one half of his annual leave entitlement will be eligible for leave allowance once a year. The rate of leave allowance shall be as per applicable laws.
4. An Employee stationed in any designated hardship area who takes not less than half of his annual leave entitlement once every period of six months will be granted in addition to his leave, travelling time of five (5) days each way and normal travelling privileges

B. Sick leave
1. All Employees who fall sick and cannot perform their duties due to illness are entitled to a paid sick leave for up to ninety (90) days every leave year, thereafter a sick leave of ninety (90) days with half pay and thereafter an unpaid sick leave during the same leave year.
2. Employees may also take their annual leave to care for a sick dependent and where it has been exhausted an officer may apply for compassionate leave as provided for in the Human Resource Policies and Procedures Manual for Public Service, 2016.

C. Maternity & Paternity Leave
Female Employees will be entitled to Maternity Leave of ninety (90) calendar days and Paternity Leave of fourteen (14) calendar days for male employees.

D. Compassionate Leave
This leave may be granted to an Employee who has exhausted his/her annual leave entitlement on compassionate grounds. The leave period will be ten (10) working days in a calendar year.

E. Unpaid leave


2. It may also be granted to employees whose spouses are posted to foreign missions during the term of the tour of duty.

3. Unpaid leave may be granted by the authorized officer to the Employees who have been appointed in international public agencies/organizations for a period not exceeding three years.

4. Unpaid leave is neither salary increment earning nor pension earning.

5. Unpaid leave may be granted by the authorized officer to the Employees whose spouses are offered appointment in International Public Agencies/Organizations for a period not exceeding one year.

ARTICLE VI: BENEFITS

A. Health Insurance

The Employer shall provide a comprehensive medical insurance cover for the Employees, their spouses and children as per the Human Resource Policies and Procedures Manual for Public Service 2016 and other applicable laws in consultation with the union.

B. Workman’s Compensation

All Employees’ shall qualify for compensation in accordance with the Work Injury Benefit Act (WIBA).

C. Professional Indemnity
Employees shall be indemnified against any liability that may occur in the course
of the performance of their duties and responsibilities in due diligence.

D. Retirement Benefits/Service Gratuity
1. Employees will be entitled to full retirement benefits when they retire either at
fifty (50) years upon request, on mandatory retirement age of sixty (60) years and
at sixty –five (65) years for Employees living with disability (PWD) as per the
applicable laws.
2. Employees will also be entitled to service gratuity upon retirement on medical
grounds provided they have served for the requisite pensionable period as per the
applicable laws.

E. Redundancy
Should it be necessary for the Employer to terminate the services of any employees
for reasons of redundancy, the following procedure should be followed: -
1. The Union shall be notified of the reasons and the extent of the intended
redundancy within a period of not less than thirty (30) days prior to the date of the
intended date of termination on account of redundancy. The parties shall meet and
discuss the matter within a period of thirty (30) days from the date the Union was
informed.
2. The selection of the redundant employee(s) shall be done by the Employer
considering factors such as productivity, skills and competencies as well as service
needs.
3. The Employees being declared redundant shall be entitled to a notice or pay in lieu
of Notice.
4. The employee declared redundant shall be entitled to a severance pay at the rate of
fifteen (15) days salary for each completed year of service.
F. House Mortgage

An Employee shall be entitled to a mortgage scheme facilitated by the Employer as per civil servants Housing and mortgage scheme.

G. Car loan

An Employee shall be entitled to a car loan scheme facilitated by the Employer as per civil servants car loan and grants scheme.

ARTICLE VII: GRIEVANCE

a. Individual Grievances

Individual employees of the County Government of MOMBASA wishing to raise a grievance with which he/she is directly and personally concerned, shall first approach his immediate superior. If case settlement is not reached, he/she shall have the right to appeal to the higher levels of Management as soon as possible in accordance with the established procedures. The employee may be accompanied by an accredited Union representative as per.

b. Collective Claims

These shall mean any claims for alteration to terms of service regarding matters specified in Clause 2(b) of this Agreement, which may affect all employees of any group of the County Government of Mombasa.

i. Such claims shall be raised in writing with the Employer by the Union’s General Secretary or his authorized representative one month before the expiry of the current agreement; within which period the parties will endeavor to reach a settlement. All agreements jointly reached shall be committed in writing and signed by both parties.

ii. In the event of failure to reach a settlement of the dispute within the period, the dispute shall be processed in accordance with the provisions of the Labour relations Act and the constitution of Kenya.
c. Collective Grievance

These shall mean grievances arising from a breach, real of alleged, of existing terms of service in the matters specified in Clause 2 (b) of this Agreement, which may affect all employees of any group of employees of the County Government of Mombasa such grievances shall be raised by the members’ representatives with the immediate superior in the first instance and in the event such grievance cannot be satisfactorily resolved, they then may immediately be referred by the Union’s Secretary General or his representative to the higher levels of Management in writing. In the event of failure to settle the matter, Provisions of the Labour Relations Act, 2007 and the Constitution of Kenya shall apply.
ARTICLE IX: DISCIPLINARY PROCEDURE

A. Basic Principles

1. Any employee may be subject to disciplinary sanctions as provided for in the Human Resource Policies and Procedures Manual for Public Service.

2. Warning letters and formal reprimands shall become part of the employee's personnel file and may be used in conjunction with subsequent personnel considerations for two (2) years following the date of the sanction. After two (2) years, the letters and reprimands shall not be referred to for further disciplinary action unless it is a similar offence.

3. Adverse letters that are applicable to pending legal proceedings shall be vacated in writing upon the conclusion if the Employee is absolved of the charges after exhausting all the appellate processes if any.

4. Where need be, a disciplinary committee shall be set up to deal with disciplinary issues in accordance with existing Labour legislation and relevant Public Service regulations.

5. An Employee shall not be condemned without being heard.

6. Regardless of the nature of the offence committed by the Employee, the Employer shall not withhold pay which is due or for which work has already been done.

7. Any Employee who feels that any disciplinary action taken against him is unfair can raise the matter using the grievance channel as described in Article VIII.

B. Termination of Employment

1. The employment of a doctor serving on contract basis may be terminated by an authorized officer in accordance to the provisions of the officers agreement.

2. The employment of a doctor serving on probationary terms may be terminated by either party giving by a notice of seven (7) days in writing or seven (7) days gross salary in lieu of notice.

3. Where an Employee's services are terminated as a result of a disciplinary process, they shall be paid the following: -
County Code: 001

a) Wages for number of days actually worked,
b) Annual leave accumulated lawfully on pro-rata basis

4. Where an Employee’s services are terminated while being housed by the Employer, they shall vacate the Employer’s house within thirty (30) days from the date they are notified of the dismissal subject to payment of rent.

IN WITNESS WHEREOF this Agreement has been duly executed by the parties as of this 6th DAY OF JULY, 2017.
SIGNED FOR AND ON BEHALF OF THE COUNTY GOVERNMENT OF MOMBASA

1. COUNTY SECRETARY
   Name: Francis Thrpe
   Signature: [Signature]
   Date: 18-07-2017

2. CHAIRPERSON COUNTY PUBLIC SERVICE BOARD
   Name: [Name]
   Signature: [Signature]
   Date: 17-07-2017

3. COUNTY EXECUTIVE COMMITTEE FOR HEALTH
   Name: Binyi Omari
   Signature: [Signature]
   Date: 6th July, 2017

4. CHIEF OFFICER FOR HEALTH
   Name: Dr. K. M. Ouma
   Signature: [Signature]
   Date: 6th July, 2017
FOR AND ON BEHALF OF THE KENYA MEDICAL PRACTITIONERS
PHARMACISTS AND DENTISTS UNION (KMPDU)

1. Name: Dr. SAMUEL OROKO

National Chairman, KMPDU

Signature: .................................................... Date: 06/07/2017

2. Name: Dr. OUMA OLGUA

Secretary General, KMPDU

Signature: .................................................... Date: 6/17/17

3. Name: Dr. DAISY KORIR

National Treasurer, KMPDU

Signature: .................................................... Date: 6/17/17

IN THE PRESENCE OF:-

4. Mr. JOHN M. OHAGA, Advocate

Independent Chairperson Doctors CBA negotiating Committee

Signature: .................................................... Date: 6/2/2017
APPENDIX ‘A’: REMUNERATION

Employees remuneration agreed by the two parties shall be as set out in the table below. The grading structures and basic salaries will be effective from 1st July 2017.

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<th>Designations</th>
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<td>SRC Band</td>
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<td>Medical/Dental Officer/Pharmacists</td>
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<tr>
<td>Senior Medical/Dental Officer/Pharmacists</td>
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<td>AD Medical/Dental/ Pharmaceutical Services HQ</td>
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<td>AD Medical/Dental/ Pharmaceutical Services Facility</td>
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<td>SAD Medical/ Dental/ Pharmaceutical Services HQ</td>
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<td>SAD Medical/ Dental/ Pharmaceutical Services Facility</td>
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<td>Deputy Director Medical/Dental/ Pharmaceutical Services HQ</td>
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<td>Senior Deputy Director Medical/ Dental/Pharmaceutical Services II</td>
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<td>Senior Deputy Director Medical/ Dental/Pharmaceutical Services II</td>
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<td>Senior Deputy Director Medical/ Dental/Pharmaceutical Services I</td>
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1 Or as provided in the scheme of service
2 The parties take note that the issue of the name of the allowance is in Court and therefore await determination
3 Or as per Appendix C [Ref: No. SRC/TS/CGOV/3/61 Vol. 111(136)] Attached
   House Allowance as per Appendix D. Ref: No: SRC/TS/MDP/3/1/2 (2) Attached
APPENDIX ‘B’

To
Chief Officer of Health
Government of..........................

NOTICE TO EMPLOYER AUTHORIZING DEDUCTIONS

1. In pursuance of an order Gazette Notice No. 5826 made with effect from the 19th of April 2012 by the Minister under section 48 of the Labour Relations Act, I, on behalf of the Kenya Medical Practitioners Pharmacists and Dentists’ Union (KMPDU), hereby request you to deduct monthly from the wages of the employees listed in this Notice, being employees who have acknowledged membership of the KMPDU, the sum of Kenya Shillings as determined by the union.

2. The total amount of deduction so made is required to be transmitted to the KMPDU by crossed cheque made payable into the official bank account of the trade union at the Standard Chartered Bank, Account name: Kenya Medical Practitioners Pharmacists and Dentists Unions, Account Number 0102019432900 Harambee Avenue Branch.

3. The remittances should be made, and notices thereof should be delivered, not later than the 7th day of the month next after the month in respect of which the deductions are made.

4. Notices of remittances should be delivered to the KMPDU headquarters or send to nec@kmpdu.org.

5. KMPDU is required by Section 50 of the Labour Relations Act to deliver a receipt for every remittance within fourteen days of receipt of notice of such remittance.

6. The Employer is required to make returns to the Registrar of Trade Unions of all payments made hereunder, in accordance with the order of the Minister.

This notice applies to employees’ wages payable by you at the end of the next month following the month shown in the date herein under. Date ..........................................

Dr. Ouma Oluga,

SECRETARY GENERAL
Registrar of Trade Unions
P.O. Box 30031,
Mombasa.

Employees in respect of whom deductions from wages are required to be made

We, the undersigned, hereby acknowledge that we are members of the Kenya Medical Practitioners, Pharmacists and Dentists Union (KMPDU).

<table>
<thead>
<tr>
<th>UNION MEMBERSHIP NUMBER</th>
<th>NAME OF MEMBER</th>
<th>PERSONAL NUMBER</th>
<th>ID/PASSPORT NUMBER</th>
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County Code: 001

The Table below shows extraneous allowance rates payable to officers deployed in urban, rural or hardship areas

<table>
<thead>
<tr>
<th>STAFF CATEGORY</th>
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APPENDIX "D": NEW RATES OF HOUSE ALLOWANCE (As per SRC Circular Ref. No: SRC/TS/MDP/3/1/2(20) dated 11th August 2015)

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<tr>
<th>JG</th>
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<th>Former Major Municipalities (Mombasa, Kisumu, Nairobi, Nyeri, Eldoret, Thika, Kisii, Malindi and Kitale)</th>
<th>Other former Municipalities</th>
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