

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

BETWEEN

H.E. RAILA AMOLO ODINGA.....1ST PETITIONER

H.E. STEPHEN KALONZO MUSYOKA.....2ND PETITIONER

AND

INDEPENDENT ELECTORAL AND

BOUNDARIES COMMISSION.....1ST RESPONDENT

THE CHAIRPERSON OF INDEPENDENT

ELECTORAL AND BOUNDARIES COMMISSION.....2ND RESPONDENT

H.E. UHURU MUIGAI KENYATTA.....3RD RESPONDENT

RESPONSE TO PETITION

In response to the Petition, the 1st and 2nd Respondents state THAT:

1. Save what is herein expressly admitted, the 1st and 2nd Respondents deny each and every allegation of fact as set out in the Petition as if the same were herein set out verbatim and traversed seriatim.

2. The 1st Respondent is established under Article 88 of the Constitution. It is charged with the exclusive mandate of conducting or supervising referenda and elections to any elective body or office established by the Constitution, and any other elections as prescribed by an Act of Parliament. The 1st Respondent is accorded the status of an independent

constitutional commission pursuant to Article 248 (2)(c) of the Constitution with the principal purpose of, *inter alia*, protecting the sovereignty of the people.

3. In carrying out its duties under Article 88 of the Constitution, the 1st Respondent is enjoined by Article 249 (2) of the Constitution to exercise its powers subject only to the Constitution and national legislation.
4. The 1st and 2nd Respondents (hereinafter “the Respondents”) admit paragraphs 1, 2, 3 and 4 of the Petition in so far as the same are merely descriptive of the parties save that their addresses of service for the purposes of this Petition is care of **V.A. Nyamodi & CO. Advocates, Lowerhill Duplex Apartments, Lowerhill Road, Upperhill, P.O. Box 51413 – 00200 Nairobi** and **Iseme, Kamau and Maema Advocates, IKM Place, Tower A, 1st Floor, 5th Ngong Avenue, Off Bishops Road P.O. Box 11866 - 00400, Nairobi** respectively.
5. The Respondents conducted a general election on the 8th August, 2017 and for the presidential election, the following candidates contested and the results were as below-

NAME OF CANDIDATE	VALID VOTES	% OF VOTES CAST	NO. OF COUNTIES THE CANDIDATES ATTAINED AT LEAST 25% OF THE TOTAL VALID VOTES CAST
John Ekuru Longoggy Aukot	27,311	0.18%	0
Mohamed Abduba Dida	38,093	0.25%	0
Shakhalaga Khwa Jirongo	11,705	0.08%	0
Japheth Kavinga Kaluyu	16,482	0.11%	0
Uhuru Kenyatta	8,203,290	54.27%	35
Michael Wainaina Mwaura	13,257	0.09%	0
Joseph William Nthiga Nyaga	42,259	0.28%	0
Raila Odinga	6,762,224	44.74%	29

6. The tallying process confirmed that Uhuru Kenyatta, the 3rd Respondent herein, garnered the largest number of votes and satisfied the constitutional threshold set out in Article 138 (4) of the Constitution by

receiving more than half of all the votes cast in the election and at least twenty five per cent of the votes cast in each of more than half of the counties.

7. The Respondents aver that the presidential election was conducted in accordance with the Constitution, the Independent Electoral and Boundaries Commission Act, the Elections Act, the Regulations thereunder and all other relevant provisions of the law. The Petitioners' allegations as contained in paragraph 5 of the Petition are couched in generalities, misplaced and without factual basis.
8. The Petitioners' allegations of massive, systemic, systematic and deliberate non-compliance with the Constitution and the law in paragraph 6 of the Petition are couched in generalities and misconceived. The Respondents aver that the presidential election process was backed by an elaborate electoral management system supported by various electoral laws, which included several layers of safeguards to ensure an open, transparent, participatory and accountable system to guarantee free and fair elections pursuant to Article 81 as read together with Article 86 of the Constitution.
9. The Respondents aver that the contents of paragraphs 7, 8, 9 & 10 of the Petition are restatements of the law and do not, without more, present requisite grounds of a Petition under Rule 8 of the Supreme Court (Presidential Election Petition) Rules, 2017.

10. In response to paragraphs 11 & 12 of the Petition, the Respondents state that the Petitioners have not pleaded how and in what manner the 1st Respondent abdicated its role and duty as alleged. The Respondents aver that the sovereign power of the people was exercised through the presidential election held on 8th August, 2017. In conducting the said elections, the 1st Respondent discharged its mandate in accordance with the Constitution and the applicable body of electoral laws. The allegation that the 1st Respondent was “*an institution and law unto itself*” is unfounded and has not been substantiated.
11. In further response to paragraph 12 of the Petition, the 1st Respondent denies the allegation that it abdicated its role and duty to exercise, protect and safeguard the sovereign will of the people of Kenya. On the contrary, the 1st Respondent managed and conducted the presidential election in accordance with the Constitution, the Elections Act and all governing statutes.
12. In response to paragraphs 13 and 14, the Respondents state that the allegations are vague and couched in generalities and lack particulars as required by law. The Respondents reiterate that the presidential election was conducted in accordance with the Constitution, the Elections Act and all governing statutes and was not marred with irregularities as alleged by the Petitioners.
13. In response to paragraph 15 of the Petition, the Respondents state that they verified and accurately tallied the results of all the candidates in

declaring the results of the presidential elections in accordance with Article 138 (10) of the Constitution.

14. The Respondents deny the allegation in paragraph 16 of the Petition and state that in declaring the results of the presidential election, effect was given to the sovereign will of the people of Kenya. The Respondents deny the vague and unsubstantiated claims.
15. In reply to paragraph 17 of the Petition, the Respondents state that Section 83 of the Elections Act provides as follows-

No election shall be declared to be void by reason of non-compliance with any written law relating to that election if it appears that the election was conducted in accordance with the principles laid down in the Constitution and in that written law or that the non-compliance did not affect the result of the election.

16. The Respondents further state that the presidential election was conducted in accordance with the Constitution, the Elections Act and Regulations thereunder and all other relevant statutes.
17. The Respondents deny the vague and generalised allegation in paragraph 18 of the Petition and state in response that the rejected votes did not account for at least 2.6% of the total votes cast as alleged. The total number of rejected ballots was 81,685 as declared in Form 34C, a percentage of 0.54% of the votes cast.

18. In response to paragraphs 19, 20 & 21 of the Petition, the Respondents state that the Supreme Court in *Presidential Election Petition No. 5 of 2013, Raila Odinga v Independent Electoral and Boundaries Commission & Others*, considered the provisions of the Constitution, the Elections Act and Regulations thereto in arriving at its decision. The Petitioners claim is a matter for submissions and does not constitute a complaint arising out of the conduct of the 2017 Presidential elections. In any event, the Supreme Court decision was a correct interpretation of the law and the minority decision in the Seychelles Constitutional Court was upheld by the Seychelles Court of Appeal in the case of *Popular Democratic Movement v Electoral Commission (2011) SLR 385*.

(a) violation of the principles of a free and fair election and electoral process

19. The Respondents deny the allegation in paragraph 21.1 of the Petition that they contravened the principles of a free and fair election under Article 81(e) of the Constitution as read together with Section 39 of the Elections Act and the Regulations thereunder. On the contrary, the Respondents reiterate that they conducted their election in accordance with the Constitution, the Election Act and the Regulations thereto.

Relay and Transmission of Results

20. In response to paragraph 21.2, the Respondents state that the process of relay and transmission of results from the polling stations to the constituency and National Tallying Centre (NTC), and from the constituency tallying centre to the NTC was simple, accurate, verifiable,

secure, accountable, transparent, open and prompt. This process secured a free and fair election as required by Article 81 (e) (iv) and (v) of the Constitution. In particular, the Respondents state that:-

- a. Upon the close of polling, the votes cast were counted and the results were then recorded in Forms 34A, an image of the Form 34A was captured by the Kenya Integrated Election Management System (KIEMS) kit and the statistics in the Form 34A were then entered into the KIEMS kits at all polling stations. The presiding officer would then simultaneously relay the statistics and the image of the Form 34A to the relevant constituency returning officer and to the NTC.
- b. The completion of the transmission of the image of Forms 34A was dependent on the availability of 3G or 4G network coverage. In respect of areas lacking 3G or 4G network coverage, the Respondents established alternative mechanisms to ensure completion in transmission of the image of the Form 34A.
- c. In accordance with Section 39 (1C) of the Elections Act, the 1st Respondent published the images of Forms 34A and 34B in respect of the presidential election on its public portal.
- d. The Respondents aver that all polling stations transmitted the statistics of the results through KIEMS accompanied by the electronic image of Forms 34A.

- e. At the time of the declaration of the results of the presidential election, the Respondents had in their possession all the forms required in law for purposes of a declaration of the results of the presidential election.
- f. The Respondents state that the procedure adopted in the transmission and tallying of results of the presidential election was in conformity with the decision of the Court of Appeal in *Civil Appeal No. 105 of 2017, Independent Electoral and Boundaries Commission v. Maina Kiai, & 5 Others*. The allegation by the Petitioners that the 1st Respondent *deliberately pre-determined and set itself on a path of subverting the law and being a law unto itself* therefore lacks merit.
- g. The Respondents reiterate that the presidential election was conducted in accordance with Article 81(e) (v) of the Constitution, the Elections Act and the Regulations thereunder and that the results of the presidential election were declared in accordance with Article 138 (10) of the Constitution. In reply to paragraph 21.2.2.6.2, the Respondents state that the results were declared after tallying of the results in all statutory forms required.
- h. The Respondents state that the allegation in paragraph 21.2.3 is incorrect. The statistics entered into the KIEMS kits was not the result and is therefore not comparable with the results recorded in Forms 34A. If there were any discrepancies in the statistics entered in the KIEMS kits, which is denied, these would be as a result of

inadvertent human error during the transfer of figures from Forms 34A to the KIEMS kits. The said discrepancies, if any, did not materially affect the outcome of the presidential elections.

- i. The Respondents aver that the declaration of the results of the presidential election was on the basis of results contained in Forms 34B from each of the 290 constituencies and the diaspora. The results contained in Form 34B is an aggregation of Forms 34A in each constituency. In the circumstances, the results declared by the 2nd Respondent were not affected by any variances or errors that may have occurred at the point of data entry into KIEMS.
- j. The Respondents deny the allegation that in more than 10,000 polling stations, data entered in KIEMS was not consistent with information and data from the respective Forms 34A. The data entered in KIEMS was statistics. The result of the election from each polling station was contained in Forms 34A. It is therefore incorrect to compare the statistics entered in KIEMS with the results from each polling station as contained in Forms 34A.
- k. In view of the foregoing, the presidential election was conducted in an impartial, neutral, efficient, accurate and accountable manner in accordance with Article 81(e) of the Constitution.
- l. In response to paragraph 21.2.4, the Respondents aver that the results contained in Forms 34B tally with the results obtained from the polling stations as set out in Forms 34A which are the primary

data entry forms. Any isolated cases of discrepancies and/or inconsistencies between the results as contained in Forms 34A and Forms 34B which is denied, arose from inadvertent human error during the process of tallying and verification of the results contained in the Forms 34A. The said errors, if any, did not materially affect the outcome of the elections.

- m. The Respondents deny the contents of paragraph 21.2.5 and aver that the role of the constituency returning officer as set out in Regulation 83 (1) of the Elections (General) Regulations, 2012 is limited to tallying and verifying the count of the votes as contained in Forms 34A from the polling stations, declare the result of the election and deliver to the 2nd Respondent the collated results for the election of the president to the national tallying centre.
- n. In turn, the 2nd Respondent's role is to tally the results received at the national tallying centre as set out in Regulation 83 (2) of the Elections (General) Regulations, 2012.
- o. The Respondents reiterate the contents of paragraph 20(l) above and aver that if there were any inaccuracies, the same were minimal and occasioned by inadvertent human error and not deliberate and calculated as alleged by the Petitioners. The allegation by the Petitioners that the inaccuracies and inconsistencies affect and account for at least 7 million votes is false and fails to satisfy the evidentiary threshold required to validate that factual assertion.

- p. With respect to the allegation that the results in Forms 34B are materially different from what the 1st Respondent relayed contained in paragraph 21.2.6, the 1st Respondent restates that the numbers entered in KIEMS was statistics. The result of the election from each constituency was contained in Forms 34B. It is therefore incorrect to compare the statistics entered in the KIEMS kits with the results from each constituency as contained in Forms 34B.
- q. In response to paragraph 21.2.7 of the Petition, the 1st Respondent states that in compliance with its constitutional and statutory obligation to ensure transparency of the electoral process, it publicly relayed the statistics transmitted from the polling stations on a public portal, which statistics were available to the public, including the media. The allegation that the 1st Respondent deliberately created a false narrative is incorrect. To the Petitioners' knowledge, the Respondents clarified that the statistics on the public portal were not the results of the presidential election.
- r. The 2nd Respondent confirms that at the time of the declaration of the result of the presidential election, he had in his possession 290 Forms 34B from all the constituencies and the diaspora.

Impartiality, neutrality, efficiency, accuracy and accountability.

21. In response to paragraph 21.3 of the Petition, the Respondents aver that the presidential election was conducted in an impartial, neutral, efficient,

accurate and accountable manner. The Respondents complied with Article 81(e) (v) as read together with Sections 39, 44 and 44A of the Elections Act, the Regulations made thereunder and Section 25 of the Independent Electoral and Boundaries Commission Act.

22. The Respondents deny the allegation that it selectively manipulated, engineered or deliberately distorted, inflated or interfered with the votes cast and counted in favour of the Petitioners and/or the 3rd Respondent or that there was any systemic and systematic manipulation and distortion of the results as alleged in paragraphs 21.3.1 - 21.3.5 of the Petition . The Respondents confirm that the results of the presidential election declared by the 2nd Respondent were based on the results indicated in Forms 34B which confirmed that the 3rd Respondent met the constitutional threshold set out in Article 138 (4) of the Constitution.

Lack and failure of operational transparency

23. In reply to paragraph 21.4, the Respondents aver that the presidential election was conducted in an open and transparent manner.
24. In response to paragraph 21.5, 21.6 and 21.7, the Respondents aver that in the conduct of the presidential election, they were guided by the decision of the Court of Appeal in *Civil Appeal No. 105 of 2017, Independent*

Electoral and Boundaries Commission v. Maina Kiai, & 5 Others as demonstrated below-

- a. The 1st Respondent collated, tallied and electronically transmitted the results of the presidential election.
- b. The results declared at the constituency tallying centres were final.
- c. In response to paragraphs 21.5.3 to 21.5.5 and 21.12 of the Petition, the Respondents state that in compliance with its constitutional and statutory obligation to ensure transparency of the electoral process, the statistics from the polling stations were transmitted simultaneously with scanned images of the Forms 34A and 34B by the presiding officers in the polling stations and the constituency returning officers respectively to the Respondents.
- d. The 1st Respondent uploaded the said statistics and images on an online portal accessible to the public, including the media. The Respondents however clarified that the said statistics did not constitute the results of the presidential election. The Respondents further state that the data displayed on the public portal was statistics and not results as alleged.
- e. The Respondents deny the allegations at paragraph 21.5.6 of the Petition. The Respondents did not eject any of the Petitioners' agents from any polling station.

- f. In response to paragraph 21.5.7, the Respondents deny that there were in excess of 14,000 defective returns from the polling stations as alleged.
25. In reply to paragraph 21.8, the Respondents reiterate the averments contained in paragraph 24 and deny the allegation that they declared incorrect final results as alleged.
26. The 1st Respondent denies the allegations contained in paragraph 21.9 of the Petition and states that it conducted the presidential election in accordance with the Constitution, the Elections Act and the Regulations.

Verifiability

27. The Respondents deny the allegations in paragraph 21.10 and state that the results declared by the 2nd Respondent were in accordance with the Constitution, the Elections Act and all other relevant statutes.
28. The information in Forms 34A is consistent with the results tallied in Forms 34B.
29. The information in Forms 34B was accurate and verifiable. As explained above, the statistics contained in the public website were not the result of the election.
30. The Respondents aver that the presidential election met the requirements of Article 81 (e) (iv) as read together with Article 86 of the Constitution.

(b)Voting, counting and tabulation of results

31. The allegations in paragraph 22.1 and 22.5 are incorrect. The Respondents state that the results from the polling stations and the constituency tallying centres were counted, tabulated and accurately collated in compliance with Article 86 (b) and (c) of the Constitution as read together with the Elections Act.
32. In response to paragraph 22.2 of the Petition, the Respondents restate the averments in paragraph 23 (i) and (p) above. The Respondents further aver that there were no inconsistencies in the votes cast as captured in Forms 34A and Forms 34B.
33. In response to paragraph 22.3 and 22.4 of the Petition, the Respondents aver that the results in Forms 34B include all polling stations within the constituencies. The Respondents deny that the said results are inaccurate in mathematical additions in favour of the 3rd Respondent. The Respondents put the Petitioners to strict proof of any averment to the contrary.

(c) Substantive non-compliance, irregularities and improprieties

34. The Respondents aver that the presidential election was conducted in accordance with Articles 38, 81 and 86 of the Constitution as read together with Sections 39 (1C) and Section 44 of the Elections Act and the Regulations thereunder and Section 25 of the Independent Electoral and Boundaries Commission Act.

Ungazetted and undesignated polling stations

35. The 1st Respondent avers that it discharged its mandate under Regulation 7 (1)(c) of the Election (General Regulations) 2012 and published in Gazette Notice Number 6396 of 26th June 2017 a notice specifying the polling stations established for each constituency. The 1st Respondent avers that it did not establish any secret and ungazetted polling stations as alleged by the Petitioner in paragraph 23.1 of the Petition or at all.
36. The 1st Respondent states that there were no results from any ungazetted polling station that were included in the final tally as alleged in paragraph 23.2 of the Petition. The Petitioner is put to strict proof of any averment to the contrary.

Ungazetted and undesignated returning and presiding officers

37. In response to paragraph 23.3 of the Petition, the 1st Respondent states that all Forms 34B were executed by duly gazetted and accredited constituency returning officers.
38. In response to paragraph 23.4 of the Petition, the 1st Respondent avers that all the Forms 34B were valid, signed and/or stamped by the constituency returning officers in accordance with the Election Regulations.
39. The 1st Respondent avers that it complied with the requirements of Regulation 5 of the Election (General Regulations) 2012 and provided a list of the persons proposed for appointment as presiding officers to political parties through the office of the Registrar of Political Parties. It

is therefore not correct that a significant number of returns were signed by strangers as alleged in paragraph 23.6 of the Petition.

Improper and invalid returns

40. The 1st Respondent denies the vague allegations in paragraphs 23.7, 23.7.1 and 23.7.3 of the Petition and states that all the Forms 34A and Forms 34B used in the presidential election were in accordance with Regulation 79 (2) (a) and 87(1) (a) of the Election (General Regulations) 2012.
41. The Respondents denies the allegations in paragraphs 23.7.2 of the Petition and puts the Petitioners to strict proof thereof. The 1st Respondent further avers that to the extent that there were only 291 Forms 34B, the Petitioners' reference to 14,078 and 25,000 Forms 34B is misplaced.
42. The Respondents deny the allegations in paragraphs 23.7.4 and 23.7.5 of the Petition and aver that all Forms 34A were signed and finalised at the polling stations. No Forms 34A have been altered or tampered with as alleged.
43. In response to paragraphs 23.7.6 to 23.7.20, the Respondents state that the Forms 34A and Forms 34B bear various security features to safeguard against introduction of foreign forms. The Respondents further state as follows:-

- a) All Forms 34A and Forms 34B were signed and/or stamped as required under the law.
- b) The Respondents deny the allegation that a number of Forms 34B did not indicate the names of the returning officers and put the Petitioners to strict proof.
- c) The Respondents deny the allegation that a substantial number of Forms 34A and Forms 34B do not bear the 1st Respondent's stamp or authentic stamp and put the Petitioners to strict proof.
- d) The Respondents deny the allegation that a substantial number of Forms 34A and Forms 34B do not bear the signatures of the candidates' agents or the reason for refusing to sign and put the Petitioners to strict proof. In any event, the refusal by the agents to sign the said forms does not invalidate the results announced.
- e) The Respondents deny the allegation that the same person was the presiding officer in a considerable number of polling stations in different areas and put the Petitioners to strict proof. The Respondents state that the 1st Respondent appointed presiding officers in respect of each of the polling stations in the country.
- f) In response to paragraphs 23.7.11 to 23.7.14 of the Petition, the Respondents aver that there is no obligation under Regulation 87 for the constituency returning officers to indicate the number of Forms 34A handed over to them. The integrity of Forms 34A and Forms 34B was not compromised and the results contained therein are valid. In

any event, the alleged irregularities, if any, do not render the Forms 34 invalid and do not affect the final result.

- g) The Respondents states that the results of the presidential election were declared on the basis of the aggregate of Forms 34B which reflected the will of the people. The allegation that the 1st Respondent manufactured the results of the presidential election is false and has not been substantiated.
- h) The Respondents deny that 14,078 Forms 34A have fatal and irredeemable irregularities as alleged by the Petitioners in paragraph 23.7.16 of the Petition and put the Petitioners to strict proof.
- i) In response to paragraphs 23.7.17 to 23.7.19 of the Petition, the Respondents state that at the time the declaration of the outcome of the presidential election by the 2nd Respondent, the 1st Respondent had received all the statutory forms required for purposes of the declaration. The Petitioners' allegation that there are in excess of 3.5 million votes outstanding lacks merit and has not been substantiated.
- j) The Respondents deny the allegations in paragraph 23.7.20 of the Petition and aver that all Forms 34A were processed and the results declared in accordance with the law.

Contradictory and inconsistent operational procedures

- 44. In response to paragraph 23.9 to 24, the 1st Respondent states that the instructions given to its staff were consistent with the Constitution and

the law as interpreted by the High Court and the Court of Appeal. There was therefore no non-compliance with the law as alleged by the Petitioners.

45. The 1st Respondent avers that if there were any irregularities or improprieties, which are denied, the same were not material and did not affect the integrity or outcome of the presidential election.

(d) Rejected votes/ballots

46. In response to paragraph 25 of the Petition, the Respondents aver that the number of rejected ballots in respect of the presidential election is as declared by the 2nd Respondent in Form 34C which is 81,685 and not as alleged by the Petitioners.
47. In response to paragraphs 26 and 27 of the Petition, the Respondents aver that the presidential election was conducted in accordance with the Constitution and the law. The result of the presidential election is clear and there is therefore no basis for an examination, audit or scrutiny.
48. In response to paragraph 28 of the Petition, the 2nd Respondent avers that the result of the presidential election was as contained in the aggregate of Forms 34B and not the public portal. The statistics in the public portal did not affect the outcome of the result of the presidential election as declared by the 2nd Respondent.

49. The Respondents state in response to paragraph 29 of the Petition that rejected ballots were properly excluded from valid votes by the Respondents in accordance with the law.

e) Other contraventions and violations

Contravention of Article 35(2) of the Constitution

50. The Respondents reiterate that the statistics in the public portal were not the results of the presidential election and the 1st Respondent did not violate or contravene the Petitioners' rights under Article 35(2) of the Constitution as alleged in paragraph 30 of the Petition.

Intimidation and improper influence

51. The Respondents deny that the presidential election was marred or significantly compromised by intimidation, improper influence or corruption as alleged in paragraphs 31 and 33 of the Petition.
52. The Respondents are strangers to the allegations in paragraphs 32 of the Petition and are unable to plead thereto.
53. In response to paragraphs 34 the Respondents state that the presidential election was conducted, administered and managed in accordance with Articles 38, 81 and 86 of the Constitution and the Elections Act and the regulations thereto.
54. In reply to paragraph 35 of the Petition, the Respondents state that the presidential election was free, fair and in accordance with the

Constitution. The Respondents gave effect to and respected the sovereign will of the people of Kenya.

Questions or issues for determination by the Court

55. The Respondents state that as result of the foregoing are the issues for determination by the Court:-
- (a) Whether the 3rd Respondent was validly elected and declared the President elect by 2nd Respondent during the presidential elections held on 8th August 2017.
 - (b) What consequential declarations, orders and reliefs should this Honourable Court grant.

REASONS WHEREFORE, the Respondents invite this Honourable Court to find and hold that:

- (a)The Respondents were not in breach of and did not contravene the provisions of the Constitution, the Elections Act or of any other statute;
- (b)The presidential election was conducted in accordance with the Constitution and the Elections Act and all other relevant statutes and a valid declaration of the outcome of the presidential election made;
- (c)The 3rd Respondent was validly elected as the President of the Republic of Kenya;

(d)The people of Kenya exercised their sovereign power of the vote
and their decision should be respected;

(e)The Petition lacks merit and should be dismissed; and

(f) The Petitioners should bear the costs of the Petition;

DATED at NAIROBI this day 24th day of August 2017

V.A Nyamodi & Co.

Advocates for the 1st Respondent

Iseme Kamau & Maema

Advocates for the 2nd Respondent

DRAWN & FILED BY

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Lodged in the Registry at Nairobi on the 24th day of **August, 2017**

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Registrar