



KENYA ELECTRICITY TRANSMISSION COMPANY

**The Kenya Electricity System Improvement
project (KESIP)**

**FINAL VULNERABLE AND
MARGINALIZED GROUPS FRAMEWORK
(VMGF)**

April 2019

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ABBREVIATIONS AND ACRONYMS

ACHPR	African Commission on Human and Peoples' Rights
AD	Anno Domini (Latin for the year of the Lord)
ADR	Alternative Dispute Resolution
AIDS	Acquired Immune Deficiency Syndrome
ARAPs	Abbreviated Resettlement Action Plans
ASAL	Arid and Semi-Arid Land
CBO	Community Based Organization
CEO	Chief Executive Officer
CLO	Community Liaison Officer
CoK	Constitution of Kenya
CRA	Commission on Revenue Allocation
CRC	Community Resettlement Committees
CS	Cabinet Secretary
EA	Executing Agency
EMCA	Environmental Management and Coordination Act
ERB	Energy Regulatory Board
ERC	Energy Regulatory Commission
ESIA	Environmental and Social Impact Assessment
ESS	Environmental and Social Standards
ESMF	Environmental and Social Management Framework
ESMP	Environmental and Social Management Plan
ETF	Environmental Trust Fund
FPIC	Free, Prior and Informed Consultations
GBV	Gender-based violence
GMTS	General Manager Technical Services
GoK	Government of Kenya
GRMs	Grievance Redress Mechanisms
GRS	Grievance Redress Systems
HIV	Human Immune Deficiency Virus
HH	Household
ID	Identification Card
IDA	International Development Association
IDR	Independent Review Panel
IP	Indigenous People
IPPs	Independent Power Producers
IPPF	Indigenous People Policy Framework
KCAA	Kenya Civil Aviation Authority
KETRACO	Kenya Electricity Transmission Company Limited
KESIP	Kenya Electricity System Improvement Project
KFS	Kenya Forestry Services
KNBS	Kenya National Bureau of Statistics
K-OSAP	Kenya Off Grid Solar Access Programme
KNES	Kenya National Electrification Strategy
KPA	Kenya Ports Authority
KPC	Kenya Pipeline Company

KPLC	Kenya Power and Lighting Company
Kshs	Kenya Shillings
KV	Kilovolt
KWS	Kenya Wildlife Services
LCPDP	Least Cost Power Development Plan
MCA	Member of the county assembly
M&E	Monitoring and Evaluation
MoE	Ministry of Energy and Petroleum
MW	Mega Watts
MV	Medium Voltage
NDMA	National Drought Management Authority
NGO	Non-Governmental Organizations
NLP	National Land Policy
NMT	National Environment Tribunal
OMV	Open Market Value
OP	Operational Policy
PAPs	Project Affected Persons
PCC	Public Complaints Committee
PDO	Project Development Objective
PDP	Project displaced persons
PIM	Participatory Impact Monitoring
PMU	Project Management Unit
PIU	Project Implementation Unit
PPP	Public Private Partnerships
PRA	Participatory Rural Appraisal
RAP	Resettlement Action Plan
RoW	Right of Way
RRA	Rapid Rural Appraisal
RPF	Resettlement Policy Framework
RPT	Resettlement Project Team
RWG	Resettlement Working Group
SA	Social assessment
SEA	Sexual exploitation and abuse
SEP	Stakeholder Engagement Plan
SIA	Social Impact Assessment
TLs	Transmission lines
ToRs	Terms of Reference
UN	United Nations
US	United States
VMG	Vulnerable and Marginalized Group
VMGF	Vulnerable and Marginalized Groups Framework
VMGOs	Vulnerable and Marginalized Groups Organizations
VMGP	Vulnerable and Marginalized Groups Plan
WARMA	Water Resource Management Authority
WB	World Bank
WBG	World Bank Group

EXECUTIVE SUMMARY

Introduction

1. The Government of Kenya (GoK) is seeking financial support of US\$320 million from the World Bank (WB) for the Kenya Electricity System Improvement Project (KESIP). The proposed implementation period is 5 years, from 2019 to 2024. The project aims to improve the power systems and electricity access and reliability, in line with the Kenya Growth and Development Strategy. Under the Least Cost Power Development Planning (LCPDP) process and through feasibility studies, KETRACO has identified priority projects for implementation through the WB financing of KESIP.

2. The Project Development Objective (PDO) of KESIP are to: (i) increase the capacity, of transmission system; and (ii) increase access to electricity in Kenya.

3. The project will have three components: Component 1: Access expansion and distribution network strengthening (to be implemented by the Kenya Power and Lighting Company Limited); Component 2: transmission network expansion and strengthening (to be implemented by KETRACO); and Component 3: technical assistance and capacity building (to be implemented by the Ministry of Energy (MoE)).

4. The transmission component has a funding allocation of approximately US\$120 million equivalent. The exact locations and impacts of the subprojects to be implemented under Component 2 are not yet known, but they are likely to include: (i) construction of high-voltage transmission lines and associated substations (ii) supporting the refurbishment and extension of a number of substations.

5. The lines and substations to be constructed are currently not selected. KETRACO has identified a long list of possible subprojects consisting of 10 sub-projects involving 132 kV and 220 kV transmission lines and associated substations and construction of three new 400/220kV substations.

6. The investment by KETRACO is estimated to cost US\$317 million. The exact lines and substations that can be supported within the funding allocation for this category of US\$ 120 million under KESIP will be determined later based on priority, readiness, and environmental and social screening and assessment. The proposed transmission lines are likely to pass through areas inhabited by vulnerable and marginalized groups (VMGs) as defined by the GoK in the Constitution of Kenya (CoK), 2010 and by the WB under the indigenous peoples (IP) – Operational Policy 4.10.

Policies that have been triggered for KESIP

The project has triggered the following safeguard policies of the WB: Environmental Assessment OP/BP 4.01; Natural Habitats OP/BP 4.04; Forests OP/BP 4.36; Physical Cultural Resources OP/BP 4.11; Indigenous Peoples OP/BP 4.10; and Involuntary Resettlement OP/BP 4.12

Justification of VMGF

7. A VMGF is developed in line with WB's OP 4.10 when a proposed project design is not yet finalized, hence it is not possible to identify all of the impacts to facilitate the preparation of VMG Plans (VMGPs). This condition applies to KESIP since at the time of preparation of this

VMGF: (i) project sites have not yet been identified; and (ii) those IPs/VMGs whose rights and livelihoods may be affected by the subprojects have not yet been defined.

8. Considering the proposed lines for funding, however, there is a possibility that the project implementation will be undertaken in areas where IPs/VMGs are present or have collective attachment to the project area. Therefore, in line with the country's provisions for VMGs and following best practices documented in the WB's OP 4.10, the GoK has commissioned the preparation of this VMGF to ensure that the project development process fully respects the dignity, human rights, economies, and culture of IPs/VMGs and that the KESIP subprojects have broad community support from the affected IPs/VMGs.

Purpose of this VMGF

9. This VMGF describes the policy requirements and planning procedures that KESIP will follow during the preparation and implementation of its subprojects, especially those identified as occurring in areas where IPs/VMGs are present. It outlines the specific means of ensuring that the IPs/VMGs are given fair, prior and informed consultation before, during and after the project implementation.

Potential Users of the VMGF

10. This Framework has been prepared as a reference document for use by KETRACO as the implementing agency, as well as by other key stakeholders who will be involved in the planning, implementation, management and operation of the proposed KESIP for KETRACO. As a reference material, the framework is useful to the following project key stakeholders:

- i. World Bank as the funding and development partner;
- ii. Senior government officials responsible for policy making, and project planning and development planning;
- iii. Government extension workers in the various ministries;
- iv. Non-governmental organizations (NGOs) involved in natural resource management;
- v. KETRACO, as the implementing agency;
- vi. National and County Government officials responsible for planning and resource management;
- vii. Legislators, politicians and other local leaders;
- viii. Potential consumers of electricity;
- ix. The private sector;
- x. Planners and engineers for the preparation of plans and designs of the subproject activities;
- xi. Project affected persons (PAPs) and host communities;
- xii. Engineers, contractors and all technical persons to be involved in the implementation of the subproject activities; and
- xiii. Consultants recruited to support the preparation of the instruments to be used to implement the VMGF including the VMGPs.

Consultations for the preparation of this VMGF

11. A meeting was held in Nairobi on February 22, 2018 that brought together stakeholders representing the potential beneficiaries and partner agencies. The meeting participants reviewed the

draft VMGF and gave their inputs that have been used to refine this Framework. A matrix of the discussions is presented in Annex 6 together with the list of the participants.

12. *Institutional arrangements for project implementation:* The T-Line subprojects will be under the administrative authority of the MoE, with KETRACO as the implementing agency. County governments in the respective project regions will also be involved while policy and strategic decisions will involve the following Ministries:

- Ministry of Finance;
- Ministry of Environment and Natural Resources;
- Ministry of Lands and Settlement (Physical Planning Department);
- Ministry of Roads, Public Works and Housing;
- Ministry of Agriculture;
- Regional Administration (Offices of the County and Sub-County Commissioners); and
- Subproject Steering Committee

Ancillary facilities

13. The transmission Component will have ancillary facilities such as worker camps, borrow pits and waste disposal sites during the construction phase of the subprojects. However, treatment of all these ancillary facilities has been covered under the ESMF which will guide the conduct of the Environmental and Social Impact Assessment (ESIA), which will be subsequently summarized into ESMP. The ESMP report will be made part and parcel of the contractor's contract and will be annexed to the document for monitoring and supervision as part of his deliverables.

14. Acquisition and compensation for ancillary facilities sites will be, in principle, on a willing seller-willing buyer principle and on a temporary basis, i.e. the acquisition and usage of such sites will only apply during the construction stage, after which ownership of the ancillary facility site will revert to the pre-project owner(s). Also, the contractor will be required to mitigate or pay compensation for any related impacts, and to restore each site after construction in accordance with the requirements of OP 4.12 and the conditions agreed with the land holders ceding it for project use. If an ancillary facility site is in VMGs land or affects VMGs, the contractor under the oversight of KETRACO or KETRACO approved social specialists, in consultation with the VMGs will be required to obtain an agreement with the affected VMGs through an FPIC process, and to prepare a VGMP to be implemented by the contractor with KETRACO's oversight. The VGMP will include, in addition to agreed conditions for use of the land, compensation and conditions of restoration, a stakeholder engagement and communication plan, a GRM and a benefit sharing plan (e.g. on issues of employment, sharing of such resources as water) as well as plans for the Labour Influx and GBV awareness and management. VMGs or other communities affected by the contractor's activities at the ancillary facilities sites will engage in a participatory monitoring process to ensure that all the measures included in the contractor's VMGP, including the restoration of the ancillary sites, especially borrow pits, waste disposal sites as well as workers camps, are implemented as spelt out in the VMGP.

Benefit sharing

15. KESIP is designed to directly support connecting 100,000 new consumers in urban, peri-urban and rural areas another 20,000 new consumers in slums and informal settlements through the national grid, in addition to other electricity systems improvement measures. The location of subprojects is not known at this point of project preparation. In this regard, if subprojects under

KESIP will be implemented in VMG areas, then they will benefit from grid connections under component 1. Also, should a subproject under component 2 be in a VMG area, then KETRACO will engage the VMGs in a free prior and informed consultations process for the preparation of VMGPs in accordance with this VMGF.

16. In addition to the potential of KESIP to extend grid connection to VMGs under component 1, it is also important to note that a sister project, KOSAP, which is also supported by the World Bank, has specifically been designed to extend off-grid electricity connections to 14 underserved counties that have not been reached with grid electrification. Eight of these counties are overwhelming VMG counties, which in practice means they are the majority beneficiaries of project benefits under KOSAP. The other six counties have minority VMG communities and the VMGF that was prepared for KOSAP has committed to special targeting of the VMGs in these six counties to ensure they access project benefits. For these reasons, the combined efforts of KESIP and KOSAP will ensure the government achieves its commitment to universal electricity access for all Kenyans by 2022, including, VMGs.

17. On its part, KETRACO's mandate is to accelerate construction of transmission lines and related substations but not distribution. For this reason, the VMGP to be prepared under component 2 will be based on addressing the issues that were raised by VMGs during the consultations for the preparation of this VMGF, including potential benefits that the VMGs can access from a KETRACO implemented subproject. A key benefit will be to ensure VMGs are accorded preferential treatment in unskilled labour employment, and to secure their representation on community level committees such as the Community Grievance Committees that will be established for the project. The commitments made by KETRACO during the consultations for this VMGF are presented in Table 2 below while details are in Annex 6.

Grievance Redress Mechanism

18. *GRM*: There will be two levels of grievance redress, i.e. the community level and the Company level. The GRM at the community level will be guided by the community's cultural norms and values. KETRACO will encourage the formation of Community Resettlement Committees (CRC) as the lowest level and first court of appeal for grievances arising from subproject implementation. CRCs will be established for each subproject, and their roles will be to resolve grievances through a culturally acceptable manner. KETRACO's Community Liaison Officer (CLO) will be the link between the CRC and KETRACO. The CRCs will be subproject based and the selection of the committee members will be guided by the community's governance practices but will be expanded to include women, youth and people with disabilities. At the KETRACO level, the PIU will be responsible for resolving grievances that have been referred to it by the CRC or CLO. Grievances received directly by the PIU will be referred first to the CRC, depending on the nature of the grievance.

Monitoring and evaluation

19. *Monitoring and Evaluation*: Monitoring and evaluation (M&E) are fundamental components of projects implemented by KETRACO. Monitoring should be participatory and include the assessment of beneficial and adverse impacts on IPs/VMGs within project impact areas. The M&E should be based on FPIC with the IPs/VMGs who should play an integral role on its implementation. All monitoring activities will principally remain the responsibility of the KESIP project team. KETRACO will be responsible for compiling the data and auditing for completeness

of the records, and for packaging compiled M&E information. However, if found to be necessary, in agreement with the World Bank, third party monitors may be engaged to independently monitor the implementation of KESIP, including the VMGF and VMGPs.

Budget for VMGF implementation

20. Tentatively, an approximate budget for the implementation of this VMGF and related VMGPs has been included in table 9. The actual budget estimates will be provided once subproject sites are known. The budget for the implementation of the VMGF will mainly include costs for capacity building for KETRACO staff, working under the guidance of an expert consultant, to screen for IPs/VMGs and prepare VMGPs; stakeholder engagement and other meetings, information dissemination, hiring of consultants to prepare the VMGPs, SA, SEP, GRM and M&E.
21. Once the subprojects have been appraised and finalized in the context of the VMGF, the required budget estimates will be allocated by KETRACO from the project funds for proper implementation of the VMGPs. The VMGPs budgets will be revised periodically, e.g. on a yearly basis, or as necessary to ensure full implementation of the VMGPs. The VMGPs' budget will also include costs for implementation, such as travel and other logistical costs of the relevant PIU staff. If consultants will be used, resources will be required to facilitate KETRACO staff to undertake regular supervision visits. These costs will be included in the VMGP implementation budget.

Disclosure

22. This VMGF will be disclosed in compliance with relevant Kenyan regulations and WB's OP 4.10. This is after the document has been reviewed and cleared by the World Bank (WB). The document will be disclosed at the Website of the WBG and KPLC websites and will also be available to any stakeholders in an accessible language, especially the VMGs who may have no access the website. KETRACO will also provide copies of the approved VMGPs for disclosure at the WBG Website and KETRACO website and at the local project level for access. Summaries of the VMGPs will be developed and translated into Kiswahili. These will be placed in the public offices (chiefs and ward offices) of the affected communities.

CHAPTER 1: INTRODUCTION

1.1 Background

1. The country's long-term development blueprint, the Vision 2030, aims at transforming Kenya into a globally competitive, newly industrialized, middle income and prosperous country. Efficient, accessible and reliable infrastructure is identified as an enabler to achieving sustained economic growth, development and poverty reduction by lowering the cost of doing business and improving the country's global competitiveness.
2. The Government of Kenya (GoK) is committed to universal access to modern forms of energy by year 2030. Through the intervention of the GoK and its development partners, a total of 1.25 million new clients were connected to the national grid in the year ended 30th June 2016, raising the country's electricity access to a historic record of 60%. The electrification rate was planned to increase to 70% by end of 2017 and to 100% by 2030. To attain these goals, policy and regulatory frameworks have been articulated for the energy sector through the Energy Policy - Sessional Paper No.4 of 2004, and the Energy Act of 2006. The Energy Policy and Act have been reviewed to be aligned to the Kenya Vision 2030, the Constitution of Kenya (2010) and global trends. However, the Energy Bill 2013 is still in draft.
3. The national government, with the support of development partners, has allocated substantial resources for the development of energy infrastructure, including exploitation of renewable energy resources. These efforts provide opportunities for collaboration with private sector in renewable energy development and national electrification.
4. To align the sector plans with the Kenya Vision 2030 targets, the electricity subsector has adopted a coordinated planning approach. The Energy Regulatory Commission (ERC), as mandated by the Energy Act of 2006, coordinates a stakeholders' committee, the Least Cost Power Development Plan (LCPDP), to develop and review the electricity subsector plans.
5. KETRACO will draw from lessons learnt from the Kenya Electricity Expansion Project (KEEP) to implement the proposed Kenya Electricity System Improvement Project (KESIP). KEEP was financed through an International Development Association (IDA) credit by the World Bank (WB). The project was implemented from 2010 to 2017 by the Kenya Power and Lighting Company (KPLC), Rural Electrification Authority (REA), KETRACO and Kenya Electricity Transmission Company Limited (KenGen). KEEP's Project Development Objectives (PDOs) were to: (i) increase the capacity, efficiency, and quality of electricity supply; and (ii) expand access to electricity in urban, peri-urban and rural areas. By adding new geothermal generation capacity to the grid, the project has enhanced the energy available for all consumers, reducing the cost of supply while contributing to a greener energy mix. By connecting new typically poor consumers living in informal settlements, the project has provided grid access to energy and created conditions for productive activities.

1.2 The Kenya Electricity System Improvement Project

6. The GoK is seeking financial support of US\$320 million from the WB for KESIP, for a proposed implementation period of 5 years, from 2019 to 2024. The project's aim is to improve the power systems and electricity access and reliability, in line with the Kenya Growth and Development Strategy. The development of KESIP is driven by the imperative to dramatically improve reliability of electricity supply to underpin economic activity and to sustain electrification. Electricity service interruptions in recent years have been due to a number of factors that include: inadequate generation capacity (especially during dry periods when hydropower availability is reduced); congestion in the transmission infrastructure that constrains power transfers from where there is surplus generation capacity to regions where there is a deficit; scheduled interruptions for line work and unscheduled interruptions due to a weak network; inadequate preventive maintenance; vandalism; inadequate automation, etc.

7. KESIP is designed to address the transmission and distribution aspects of electricity to ensure reliable power supply by building resiliency into the network so as to enable it to react to unexpected events by isolating problematic elements while the rest of the system is restored to normal operation. This will also be achieved through minimizing the impact of scheduled network maintenance on the fewest number of customers possible. Ultimately, the transmission and distribution projects will provide reliability, enhance security of supply to the existing demand hubs in the country, expand transmission and distribution capacity necessary to enhance electrification initiatives, and reduce technical losses in areas currently served by long medium voltage lines.

8. Under the LCPDP process and through feasibility studies, KETRACO has identified priority projects for implementation, out of which a few transmission lines and /or substations will be funded through KESIP:

- i. Malindi-Weru-Kilifi 220 kV 72kms and associated substation;
- ii. Machakos-Mwala-Sarara 132 kV 78kms;
- iii. Rumuruti-Maralal 132 kV 148 kms and associated substation;
- iv. Kabarnet-Rumuruti 132kV 111kms and associated substation;
- v. Menengai-Olkalaou -Rumuruti 70kms;
- vi. Sotik-Nyamira 132kV 50kms;
- vii. Kilgoris-Lolgorien-Kihancha 80 kms;
- viii. Kimuka 400/220kV substation;
- ix. Gilgil 400/220kV substation; and
- x. Lessos 400/220kV substation.

Table 1: List of equipment to be installed at existing substations

	Equipment to be installed
Narok	1 x 23 MVA 132/33 kV
Bomet	1 x 23 MVA 132/33 kV
Kieni	1 x 23 MVA 132/33 kV
Mwingi	1 x 23 MVA 132/33 kV
Kitui	1 x 23 MVA 132/33 kV
Wote	1 x 23 MVA 132/33 kV
Kabarnet	1 x 23 MVA 132/33 kV
Kitale	1 x 100 MVA 220/132 kV
Olkaria IAU	1 x 105 MVA 220/132 kV
Malindi	1 x 23 MVA 220/33 kV
Garsen	1 x 23 MVA 220/33 kV
Kibos	1 x 150 MVA 220/132/33 kV 1 x 45 MVA 132/33 kV
Garissa	SVG/STATCOM 132/33 kV
Sultan Konza	SVG/STATCOM 132/33 kV
Lessos	SVG/STATCOM 220/132 kV
Isinya	SVG/STATCOM 400/220 kV

1.3 Proposed Project Development Objective(s)

9. The project development objectives (PDO) for KESIP are to: (i) increase the capacity of the transmission system; and (ii) increase access to electricity in Kenya.

10. The proposed project aims to address system bottlenecks in the medium voltage (MV) network to reduce technical losses and create capacity to support last mile electrification. The proposed project will directly support connecting 100,000 new consumers in urban, peri-urban and rural areas and another 20,000 new consumers in slums and informal settlements. The proposed project is also expected to support high-voltage transmission network while also providing technical assistance support for sector studies, including a detailed feasibility study to be carried out by KETRACO to determine the technical, legal, environmental and social feasibility of implementing some identified transmission lines under PPP arrangements. The preparation of the relevant feasibility- stage safeguard instruments (ESIA, RAP, VMGP and social assessments) as appropriate will also be supported under the project. Finally, the proposed project is expected to support technical assistance and capacity building support to KPLC and KETRACO, the two implementing agencies, MOE and other sector agencies.

1.3.1: Project Components

11. The project's development objectives will be achieved through three components: (i) Last mile electrification and grid expansion (approximately US\$ 235 million) which will be implemented by KPLC; (ii) Transmission network expansion and strengthening (approximately US\$ 85 million)

to be implemented by KETRACO; and (iii) technical assistance and capacity building, needed for among others, for PPP feasibility studies; sector development and strengthening and sustaining the policy, institutional, and regulatory environment; and enhancing institutional, governance, management, technical and operational capacity of the sector agencies (approximately US\$ 15 million), to be implemented by the Ministry of Energy.

12. Component 1: Access expansion and distribution network strengthening (approximately US\$ 235 million equivalent): Kenya National Electrification Strategy (KNES) has identified that to achieve universal access by 2022, some 2.3 million connections will need to be made through grid densification (extending the existing distribution network by 2km). Another 580,000 connections will need to be made through grid intensification within 600m radius of existing distribution network and some 270,000 connections through grid expansion (within 25km radial distance around the periphery of the existing distribution system of KPLC). The proposed project will aim to support mostly grid densification and intensification and some grid expansion to reach about 120,000 new connections benefiting about 450,000 people. The exact lines and substations to be supported under this component will be determined during project implementation.

13. Component 2: ***Transmission network expansion and strengthening (approximately US\$120 million equivalent)***: This component is expected to introduce high voltage network to areas that have been serviced by long medium voltage lines to reduce technical losses and reinforce the existing medium voltage networks. The component will also increase transmission adequacy for interconnecting different regions of the country and improve reliability of power transmission and ensure compliance with N-1 contingency criteria. KETRACO has identified 10 sub-projects involving 132 kV and 220 kV transmission lines and associated substations and construction of three new 400/220kV substations estimated at US\$317 million. The exact lines and substations that can be supported within the funding allocation for this category under the proposed project will be determined later based on priority, readiness, and environmental and social screening and assessment. A long-list of sub-projects is provided in Annex 2.

14. The component is also expected to support an owner's engineer (firm), which will help KETRACO with preparation of design, bidding documents, bid evaluation, and project supervision during the implementation phase. The funding requirement for the 10 transmission lines and three substations is around US\$250 million. With the funding allocation available, only 2 or 3 lines and 1 or 2 substations can be supported under the proposed project. The environment and social screening and assessment following IDA guidelines is ongoing for all the lines and substations in the long list.

15. Component 3: ***Technical assistance and capacity building (approximately US\$15 million equivalent)***:

16. The component will support a detailed feasibility study in accordance with the PPP law to determine technical, financial, legal, social and environmental feasibility of piloting development of some identified transmission lines under PPP arrangements, including establishing the value for money for PPP. The initial phase of the study will start soon with support from an on-going IDA credit (Eastern Electricity Highway Project, P126579), while the second phase will be supported under the proposed project. Implementation of the PPP pilot will be supported by Africa50 and IFC Advisory who are currently in discussion with KETRACO. The feasibility study will be supervised by IFC on behalf of KETRACO and closely coordinated with Africa50 to ensure a consistent

approach for all the lines included in the pilot PPP. This component will also support the preparation of the relevant feasibility-stage safeguard instruments (ESIA, RAPs, Social Assessments and Vulnerable and Marginalized Groups Plans) that will need to be prepared. The ToRs for such ESIA, RAPs, Social Assessments and Vulnerable and Marginalized Groups Plans will be prepared to meet the WB Performance Standards applicable to PPP transactions (in line with OP 4.03) and will be submitted to the Bank for clearance before being adopted.

17. The component will also include sector studies, capacity building, and training activities to help sustain and enhance the policy, institutional and regulatory arrangements and reforms of the GoK as well as gender and citizen engagement. Some of the studies to be supported under the component will include optimal power market design, system operation and dispatch guidelines for the ERC. Capacity building will include training and activities to strengthen governance, management, technical and operation capacity of the sector agencies including MOE, ERC, KenGen, GDC, and REA.

18. The Support to KETRACO will enable the company to develop the basic building blocks for a state-of-the art transmission company able to attract commercial financing - a cost reflective wheeling tariff, a strong balance sheet through delineation of separation points of KPLC and KETRACO's transmission assets, capacity to manage the PPP program, improved O&M practices and standardization of design specifications, improved O&M practices and standardization of design specifications. The component will also include consultancy support and incremental operating costs for KPLC and KETRACO PIU. Finally, this component will also support the incremental operational costs of the planning and coordination unit at MoE.

19. This VMGF is only concerned with Component 2 of KESIP, which will be implemented by KETRACO, and which does not deal with any PPP activities. It should be noted that the exact locations and impacts of the subprojects to be implemented under Component 2 are not yet known, but they are likely to include: (i) supporting the extension of high-voltage distribution system aligned with the recent expansion in the transmission network; (ii) upgrading heavily loaded distribution lines to operate at a higher voltage; and (iii) supporting the refurbishment and extension of a number of substations.

1.3.2 Benefit sharing for VMGs under the project

20. According to the PDO, KESIP is designed to directly support connecting 100,000 new consumers in urban, peri-urban and rural areas another 20,000 new consumers in slums and informal settlements through the national grid, in addition to other electricity systems improvement measures. The location of subprojects is not known at this point of project preparation. In this regard, if subprojects under KESIP will be implemented in VMG areas, then they are likely to benefit from grid connections under component 1. Also, should a subproject under component 2 be located in a VMG area, then KETRACO will engage the VMGs in a free prior and informed consultations process for the preparation of VMGPs in accordance with this VMGF.

21. In addition to the potential of KESIP to extend grid connection to VMGs under component 1, it is also important to note that a sister project, KOSAP, which is also supported by the World Bank, has specifically been designed to extend off-grid electricity connections to 14 underserved counties that have not been reached with grid electrification. Eight of these counties are

overwhelming VMG counties, which in practice means they are the majority beneficiaries of project benefits under KOSAP. The other six counties have minority VMG communities and the VMGF that was prepared for KOSAP has committed to special targeting of the VMGs in these six counties to ensure they access project benefits. For these reasons, the combined efforts of KESIP and KOSAP will ensure the government achieves its commitment to universal electricity access for all Kenyans by 2022, including, VMGs.

22. On its part, KETRACO’s mandate is to accelerate construction of transmission lines and related substations but not distribution. For this reason, the VMGP to be prepared under component 2 will be based on addressing the issues that were raised by VMGs during the consultations for the preparation of this VMGF, including potential benefits that the VMGs can access from a KETRACO implemented subproject. A key benefit will be to ensure VMGs are accorded preferential treatment in unskilled labour employment, and to secure their representation on community level committees such as the Community Grievance Committees that will be established for the project. The commitments made by KETRACO during the consultations for this VMGF are presented in Table 2 below while details are in Annex 6.

23. From the project’s point of view, the VMGPs that will be prepared in accordance with this VMGF, will be considered a benefit sharing strategy since they will include the issues that KETRACO committed to in its response to the questions and concerns raised by VMGs during consultations for this VMGF. In addition, should additional benefits that are within the ability of the project to deliver, then these will be considered during the VMGP preparation which will be undertaken in consultation with the VMGs.

Table 2: Commitments by KETRACO during Consultations with VMGs

Specific Feedback from VMGs and other stakeholders	KETRACO’s Response/commitment to Feedback and How it Will Be Reflected in the Framework. If Not, Why Not?
<ul style="list-style-type: none"> • Involvement of KWS during initial planning of the projects and route selection should be emphasized. • KWS urged KETRACO to ensure the protection of conservancies and wildlife and/or communities living in forests 	<ul style="list-style-type: none"> • Subproject sites/routes are not yet known, which is why KETRACO is preparing this VMGF. Once they become known, and should they traverse areas under KWS mandate, then KWS and other key government agencies will be consulted as early as possible. • KETRACO will work hand in hand with KWS to address any issues affecting protection of wildlife in the community conservancies and other sites, including any communities which may be living in the forest should a KETRACO T-Line facility be located in such a forest.
<p>Will there be monitoring and evaluation after project closure to determine the effectiveness of mitigation measures?</p>	<p>-Monitoring and evaluation is a key factor during the entire life of the project to ensure that the project is being implemented according to design. In the course of implementation, remedial or corrective measures will be considered where necessary, on a needs basis, based on the recommendations from the ongoing monitoring activities.</p> <p>-Post implementation evaluation is undertaken to assess the achievements and lessons learnt during implementation.</p> <p>-KETRACO will work with the participating VMGs to design a participatory monitoring process to ensure their active involvement in project implementation activities.</p>
<p>There is a need for mitigation measures for TLs passing through forests that pose danger to cultural</p>	<p>-KETRACO makes all efforts through design, to avoid or minimize impacts on populations, cultural sites and natural resources when TLs pass through designated forest areas</p>

<p>sites of the vulnerable populations due to opening up of rivers which are sacred places of worship, risk of climate change and disruption of livelihood activities especially for hunter-gatherers</p>	<p>- In consultation with the affected VMGs community members, the RPF that has been prepared for KESIP will be used to determine eligibility and to guide compensation for any cultural sites such as shrines or graveyards in the event that these have to be moved, if avoidance is impossible -the participating communities will be invited during VMGP preparation to propose safeguards to be used to minimize project impacts on the people and environment</p>
<p>Will there be special compensation packages for vulnerable groups?</p>	<p>-Consultation with stakeholders has only just began. During the compensation stage, KETRACO will involve IPs/VMGs in the process to get inputs on how they can be adequately compensated. -All PAPs, including VMGs will be compensated for their lost assets, including land, structures, trees and crops. However, VMGs will be given preferential treatment in employment opportunities, especially for unskilled labor</p>
<p>Will the other ethnic groups, e.g. the Luos and Kambas, living among the vulnerable communities be characterized as VMGs?</p>	<p>-Mary Amuyunzu-Nyamongo (WB Consultant) clarified that the WB’s OP 4.10 and the Constitution of Kenya, 2010, have clear criteria for identifying IPs/VMGs which are being applied to the KESIP project. -As the aim of the World Bank policies is to “Do No Harm” to people or the environment, if there are other ethnic communities living among the VMGs, e.g. as squatters, then the project will compensate them for their assets such as structures that may be affected by the project, but not for land. -On the other hand, should they also have legal proof of land ownership, and such land is affected by the project, they will also be compensated for their affected land parcels. KETRACO will ensure that all PAPs are adequately compensated for their lost assets at full replacement cost as guided by the World Bank’s OP 4.12.</p>
<p>KETRACO should involve opinion leaders, women representatives and local administration in all the stages of the projects in order to ensure public support of the project and to effectively educate the VMGs who are highly influenced by their leaders</p>	<p>-Free prior informed consultations will be undertaken throughout the project cycle. -Participating VMGs will decide on the consultation methods and strategies that is culturally appropriate for them, but which ensures that all PAPs – men, women, people with disabilities, and vulnerable VMG households can be involved and their needs considered. Every voice should count.</p>
<p>There are low literacy levels in Kilifi County and most educated people undermine and intimidate the less educated - their views also overpower those of the less educated</p>	<p>-Free, prior and informed consultations will be the guiding principle throughout the project stages. -Differentiated consultations, e.g. consulting the more vulnerable members such as women, people with disabilities, and vulnerable VMG members separately, might be a good way of involving all PAPs and circumventing elite capture of the consultation process</p>
<p>In Kilifi County, most local leaders are not residents of the area hence they do not understand the issues affecting the local community. Sometimes they withhold vital information from the community</p>	<p>-FPIC will be conducted throughout the project cycle -When forming committees for the projects, KETRACO will ensure that committee members represent all segments of the community -VMGs will be given opportunity to select their members who should represent them in such committee and who they must hold accountable -In the spirit of free, prior and informed consultations, PAPs, including VMGs, will be given adequate notice of meetings to enable them avail themselves from such meetings -Also, VMGs will be consulted in ways that is culturally appropriate to them, which would help to ensure their participation</p>

24. The WB's Operational Policy, OP 4.10 on Indigenous Peoples (IPs) contributes to the Bank's mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of IPs. For all projects that are proposed for WB financing and affect vulnerable and marginalized Groups (VMGs), as defined by the Constitution of Kenya (2010), the WB requires the borrower to engage in a process of free, prior and informed consultation (FPIC). The objectives of the policy are to avoid adverse impacts on IPs/VMGs, secure broad community support for the project and provide the IPs/VMGs with culturally appropriate benefits.

25. The WB provides project financing only where FPIC results in broad community support to the project by the affected IPs/VMGs. Such WB-financed projects are prepared in a manner that includes measures to:

- a. Avoid potentially adverse effects on the IP/VMG communities;
- b. When avoidance is not feasible, minimize, mitigate, or compensate for such effects;
- c. Ensure that the vulnerable and marginalized people receive social and economic benefits that are culturally appropriate and gender, as well as inter-generationally inclusive; and
- d. The VMG Plans (VMGPs) are prepared based on FPIC with IPs/VMGs.

26. The OP 4.10 is triggered when it is likely that groups that meet the policy's criteria "*are present or likely to be present in, or have collective attachment to the project area.*" The preparation of this VMG Framework (VMGF) is, therefore, to guide the preparation of instruments whose implementation would safeguard the rights, dignity and cultures of the IPs/VMGs and ensure they access project benefits in culturally appropriate ways. Due to the presence of IPs/VMGs in some counties where KESIP will be implemented, OP 4.10 has been triggered for KESIP.

CHAPTER 2: PURPOSE, JUSTIFICATION AND OBJECTIVES OF VMGF

27. *Justification of the VMGF:* A VMGF is developed in line with WB's OP 4.10 when a proposed project design is not yet finalized, hence it is not possible to identify all the impacts to facilitate the preparation of VMG Plans (VMGPs). This condition applies to KESIP since at the time of preparation of this VMGF: (i) project sites have not yet been identified; and (ii) those IPs/VMGs whose rights and livelihoods may be affected by the subprojects have not yet been defined.

28. OP 4.10 stipulates that in the event that IPs/VMGs are likely to be affected by a WB financed supported project, but the subproject sites are not known at the time of project preparation, then a VMGF must be prepared to provide guidance to the implementing agencies on the procedures and processes to be followed in the development of a social assessment (SA), VMGPs, grievance redress mechanism (GRM), as well as a monitoring and evaluation (M&E) framework. The actual instruments will be prepared when the exact project sites have been determined.

29. It is expected that some IPs/VMGs will be found in some counties in which KESIP will be implemented. However, at this stage of project preparation, the exact subproject sites are yet to be identified and the exact impacts of the project on IPs/VMGs are not yet completely known. KETRACO has, therefore, prepared this VMGF to comply with requirements and provisions of OP 4.10 and in line with the applicable laws and regulations of Kenya.

30. *Purpose/Objectives of the VMGF:* This Framework describes the policy requirements and planning procedures that will be used during the preparation and implementation of the project components, especially those identified as occurring in areas where IPs/VMGs are present. Once the subproject sites have been established, screening will be done to assess and confirm the presence of VMGs. This will be followed by a site-specific SA that should inform the preparation of individual VMGPs as set out in this Framework and further public consultations and stakeholder engagements will be conducted at this stage. Screening will be done as guided by the WB's OP4.10. The screening steps are articulated further below.

31. The objective of this VMGF is therefore to ensure that the management of issues related to IPs/VMGs is integrated into the development and operation of proposed investments to be financed under KESIP to ensure effective mitigation of potential adverse impacts while enhancing accrual of benefits for IPs/VMGs. This Framework provides information on the following:

- i. The types of investments likely to be proposed for financing under the project;
- ii. The potential positive and adverse effects of such investments on IPs/VMGs;
- iii. A plan for carrying out the SA for such investments;
- iv. The process for preparing VMGPs;
- v. A framework for ensuring FPIC with the affected IPs/VMGs at each stage of project preparation and implementation;
- vi. Institutional arrangements, including capacity building where necessary, for screening project-supported investments, evaluating their effects on IPs/VMGs, preparing VMGPs, and addressing any grievances;
- vii. Monitoring and reporting arrangements, including mechanisms and benchmarks appropriate for the project; and
- viii. Disclosure arrangements for VMGPs.

32. *Potential users of the VMGF:* This VMGF has been prepared for use by KETRACO as the implementing agency to guide the preparation of Social Assessments (SA) and related Vulnerable and Marginalized Groups Plans (VMGPs) if subprojects may be located in, or traverse IP lands. It will also be a useful reference document for other key stakeholders who will be involved in the planning, implementation, management and operation of the proposed KESIP for KETRACO. As a reference material, the framework will be useful to the following project key stakeholders:

- xiv. World Bank as the funding and development partner;
- xv. Senior government officials responsible for policy making, and project planning and development planning;
- xvi. Government extension workers in the various ministries;
- xvii. Non-governmental organizations (NGOs) involved in natural resource management;
- xviii. KETRACO, as the implementing agency;
- xix. National and County Government officials responsible for planning and resource management;
- xx. Legislators, politicians and other local leaders;
- xxi. Potential consumers of electricity;
- xxii. The private sector;
- xxiii. Planners and engineers for the preparation of plans and designs of the subproject activities;
- xxiv. Project affected persons (PAPs) and host communities;
- xxv. Engineers, contractors and all technical persons to be involved in the implementation of the subproject activities; and
- xxvi. Consultants recruited to support the preparation of the instruments to be used to implement the VMGF including the VMGPs.

33. **Ancillary facilities:** The transmission Component will have ancillary facilities such as worker camps, borrow pits and waste disposal sites during the construction phase of the subprojects. However, treatment of all these ancillary facilities has been covered under the ESMF which will guide the conduct of the Environmental and Social Impact Assessment (ESIA), which will be subsequently summarized into ESMP. The ESMP report will be annexed to the Contractor's contract for monitoring and supervision as part of his deliverables.

34. Acquisition and compensation for ancillary facilities sites will be, in principle, on a willing seller-willing buyer principle and on a temporary basis, i.e. the acquisition and usage of such sites will only apply during the construction stage, after which ownership of the ancillary facility site will revert to the pre-project owner(s). Also, the contractor will be required to mitigate or pay compensation for any related impacts, and to restore each site after construction in accordance with the requirements of OP 4.12 and the conditions agreed with the land holders ceding it for project use. If an ancillary facility site belongs to or affects VMGs, the contractor under the oversight of KETRACO or KETRACO approved social specialists, in consultation with the VMGs will be required to obtain an agreement with the affected VMGs through an FPIC process, and to prepare a VGMP to be implemented by the contractor with KETRACO's oversight. The VGMP will include, in addition to agreed use of the land, compensation for related impacts and conditions of restoration, a stakeholder engagement and communication plan, a GRM and a benefit sharing plan (e.g. on issues of employment, sharing of such resources as water) as well as plans for the Labour Influx and GBV awareness and management. VMGs or other communities affected by the contractor's activities at

the ancillary facilities sites will engage in a participatory monitoring process to ensure that all the measures included in the contractor's VMGP, including the restoration of the ancillary sites, especially borrow pits, waste disposal sites as well as workers camps, are implemented as spelt out in the VMGP.

35. As the contractor will be acting on behalf of KETRACO, it will be KETRACO's responsibility to provide oversight for the contractor's activities, and to ensure that the aspects of this VMGF (and RPF) that are the responsibility of the contractor are implemented in accordance with the provisions of the respective document. To this end, KETRACO will ensure that:

- i. The contractor's responsibilities for ancillary facilities as spelt out in this VMGF (and RPF) – including preparation of a VMGP (in case ancillary facilities are in VMGs areas) form part of the agreement between KETRACO and the contractor;
- ii. All agreements between the contractor and the VMGs communities are implemented in culturally appropriate ways. In this regard, KETRACO will require the Contractor to have as one of its staff, a social specialist with expertise in VMGs socio-cultural norms, and experience in OP 4.10, to ensure that relations with VMGs and benefit sharing activities are culturally appropriate.

36. In addition to KETRACO's responsibilities, the following principles will apply to KETRACO and the contractor in addressing ancillary facilities impacts in accordance with the provisions of OP 4.12 and this VMGF.

- a. If any ancillary facility is in a VMG area, such land will be acquired by the contractor on a willing seller-willing buyer principle, on a temporary basis and thorough an FPIC process.
- b. As proof of the willing seller-willing buyer approach, the contractor will document and submit to KETRACO a report detailing the land acquisition process for ancillary facilities including FPIC and the resulting agreement with the affected community which includes adequate compensation and a VGMP.
- c. In the context of the willing seller-willing buyer principle, the contractor will take care to ensure that the ancillary facilities do not cause harm to any neighbouring households or communities living within the vicinity of the ancillary facility site or to the affected VMG. In this regard, the contractor with oversight from KETRACO approved social specialists, in consultation with the VMGs will be required to prepare a VMGP to be implemented by the contractor and supervised by KETRACO, including, in addition to agreed use of the land, compensation and conditions of restoration, a stakeholder engagement and communication plan, a GRM and a benefit sharing plan(e.g. on issues of employment, sharing of such resources as water) as well as plans for the Labour Influx and GBV awareness and management, and participatory monitoring.
- d. All measures to be taken by the contractor such as the restoration of the ancillary sites, especially borrow pits, waste disposal sites as well as workers camps, will also be spelt out in the VMGP.
- e. KETRACO will ensure that these guiding principles are adhered to by the contractor.

CHAPTER 3: LEGAL AND INSTITUTIONAL FRAMEWORK FOR VMGs IN KENYA

37. This section describes Kenya’s legal and institutional framework with respect to IPs/VMGs. It also provides an analysis of the similarities and differences between OP 4.10 and the national legal provisions.

3.1 Constitution of Kenya, 2010

38. The GoK uses the term ‘vulnerable and marginalized groups,’ which the 2010 Constitution of Kenya (CoK) recognizes as groups being in a disadvantaged position in relation to dominant communities in the country. The CoK does not provide a definition of IPs but mentions “marginalized groups” and “marginalized communities.” In this regard, Article 260 of the constitution defines a “marginalized group” as “a group of people who, because of laws or practices before, on or after the effective date, were or are disadvantaged by discrimination on one or more of the grounds in Article 27(4).” Article 260 goes on to define a marginalized community as:

- i. A community that because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole;
- ii. A traditional community that, out of a need or desire to preserve its unique culture and identify from assimilation, has remained outside the integrated social and economic life of Kenya as a whole;
- iii. An indigenous community that has retained and maintained a traditional lifestyle and livelihood based on a hunter-gatherer economy; and
- iv. Pastoral persons or communities, whether they are (i) nomadic; or (ii) a settled community that, because of its relative geographic isolation, has experienced only marginal participation in the integrated social and economic life of Kenya as a whole.”

39. The CoK captures the disadvantaged position of VMGs in relation to other dominant communities in Kenya. It “promotes and pledges to protect the diversity of language of the people of Kenya and promotes the development and use of indigenous languages” (Article 7 (3)). It spells out human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalized as national values and principles of governance (Article 10 (2)(b)).

40. The CoK (2010) explicitly makes provisions on how to address the concerns of the marginalized groups. It requires the state to address the needs of vulnerable groups, including ‘minority or marginalized’ and ‘particular ethnic, religious or cultural communities’ [Article 21(3)]. It also provides for: affirmative action programs and policies for minorities and marginalized groups [(Articles 27(6) and 56)]; rights of ‘cultural or linguistic’ communities to maintain their culture and language [(Articles 44(2) and 56)]; protection of community land, including ‘ancestral lands and lands traditionally occupied by hunter gatherer communities’ (Article 63); and provides for an equalization fund for basic services to marginalized areas (Article 204). The Community Land Act, 2016, is the legal framework that provides guidance on the treatment of community lands including compensation for community or VMGs lands that may be required for development of projects. The Act states that the County Government shall hold any unregistered community land in trust for the community and may not sell or dispose of such land, except in accordance with the law. Kenya’s legal framework will be followed in addition to the provisions of OP 4.12, in particular, about full

compensation at current replacement cost, in case a subproject is to be implemented on community or VMGs land. To this end, all PAPs will be compensated for their lost assets, especially land, prior to start of construction activities as required by OP 4.12.

Excerpts from the Community Land Act, 2016, and the Constitution of Kenya, 2010, on the Treatment of community Land. (It is to be noted that in Kenya, most VMGs lands fall within the category of unregistered community land)

Box 1: Treatment of community land

Constitution of Kenya, 2010, Article 40 (3): *no interest in, or right over community land may be compulsorily acquired by the State except in accordance with the law, for a public purpose, and upon prompt payment of just compensation to the person or persons, in full or by negotiated settlement.*

Community Land Act, Article 8: *A county government shall not sell, dispose, transfer, convert for private purposes or in any other way dispose of any unregistered community land that it is holding in trust on behalf of the communities for which it is held.*

Community Land Act; Article 6 (2) *The respective county government shall hold in trust for a community any monies payable as compensation for compulsory acquisition of any unregistered community land. (3) Upon registration of community land, the respective county government shall promptly release to the community all such monies payable for compulsory acquisition. (4) Any such monies shall be deposited in a special interest earning account by the county government.*

Community Land Act; Article 15 (1) *Community land may be converted into public land through compulsory acquisition in the manner prescribed under the Land Act, 2012. (2) A community land management committee shall present any notice of intention to compulsorily acquire part or the whole of the community land from the National Land Commission given accordance with section 131 of the Land Act, 2012, to the community assembly for information and any other direction on the matter regarding the compulsory acquisition process. (3) Community land may also be converted into public land through transfer and surrender with the approval of at least two thirds of the community assembly.*

16. (1) *A community may convert whole or part of its land to private land through transfer with the approval of at least two thirds of the community assembly.*

41. Article 69(1)(a) of the Community Land Act compels the State to: ‘ensure sustainable exploitation, utilization, management, and conservation of the environment and natural resources’, and Article 69(1)(d) requires the state to “encourage public participation in the management, protection and conservation of the environment.” Further, Article 56 requires the State to “ensure that VMGs have reasonable access to water, health services and infrastructure.”

42. In terms of participation, the CoK has provisions against exclusion from participation in the governance and political life of the country. Article 56 states that the State “shall put in place affirmative action programs to ensure that minorities and marginalized groups participate and are represented in governance.” Article 7(b) obligates the State ‘to promote the development and use of indigenous languages’ while Article 11(2)(a) obliges it to promote all forms of cultural heritage.

3.2 Constitutional Implementation

43. Kenya's 2010 Constitution provides a rich and complex array of civil and political, socio-economic and collective rights of relevance to indigenous communities. However, important constitutional provisions alone are not enough. They require a body of enabling laws, regulations and policies to guide and facilitate their effective implementation. In 2011, Kenya's Parliament enacted 22 laws, which are of general application and will have a bearing on the way Government exercises power in various sectors, some of them of fundamental importance to IPs/VMGs.

44. Laws relating to reform of the judiciary, such as the Supreme Courts Act No. 7 of 2011 as well as the Vetting of Judges and Magistrates' Act 2011, are already transforming the way in which the judiciary is dealing with claims presented to it by local communities. The revamped judiciary is already opening its doors to the poorest and hitherto excluded sectors of Kenyan society.

45. The adoption of a law establishing the Environment and Land Court Act No. 19 of 2011 is important for IP/VMG communities given that the Court will "hear and determine disputes relating to environment and land, including disputes relating to: (a) environmental planning and protection, trade, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources; (b) compulsory acquisition of land; (c) land administration and management; (d) public, private and community land and contracts, choices in action or other instruments granting any enforceable interests in land; and (e) any other dispute relating to environment and land."

46. The Commission on Revenue Allocation (CRA) is mandated by Article 204 of the CoK to earmark 0.5% of annual state revenue to the development of marginalized areas – the Equalization Fund, in addition to 15% of national revenue for direct transfer to County Governments. Specifically, the tasks of the CRA as spelt out in the CoK include:

- i. recommend on equitable sharing of revenues between National and County Governments; and among counties, Article 216 (1)(b));
- ii. recommend on financing and financial management of County Governments (Article 216 (2);
- iii. define and enhance revenue sources of National and County Governments (Art. 216 (3) (b);
- iv. encourage fiscal responsibility by National and County Governments (Article 216 (3) (c); and
- v. determine, publish and regularly review a policy in which it sets out the criteria by which to identify the marginalized areas for the purposes of Article 204 (2) (Article 216 (4)).

47. The objective of the Equalization Fund is to eradicate marginalization and other forms of economic inequalities in Kenya and to bring all groups into mainstream development within 20 years from the date of promulgation of the CoK. It is notable that there is an overlap between the counties designated as marginalized by the CRA and the location of marginalized groups in the country.

48. Article 59 of the CoK establishes the Human Rights Commission, the Commission on Administrative Justice and the National Gender Equality Commission, which are all tasked with increasing inclusion and equality in access to services.

3.3 Definition and treatment of IPs/VMGs by the World Bank

49. The WB has a set of “Do No Harm” safeguard policies that are meant to protect project affected persons (PAPs) from impacts and actions of Bank financed projects. This is in recognition that some of the WB’s development activities have significant impacts on the rights and livelihoods of IPs/VMGs, who worldwide constitute the “poorest of the poor and continue to suffer from higher rates of poverty, lower levels of education and a greater incidence of disease and discrimination than other groups” (WB 2010). Since the early 1980s, the WB Group (WBG) has adopted a number of policies designed to mitigate harm to IPs in its financed projects (Mackay, 2005). These are referred to as safeguard policies.

50. The WB OP/BP 4.10 requires that WB financed projects are designed not only to avoid adverse impacts but equally important to recognize ‘the distinct identities and cultures of IPs/VMGs that have remained inextricably linked to the lands they inhabited and the natural resources they depend upon to survive’. The policy provides processing requirements for IPs/VMGs that include: (i) screening to confirm the presence of VMGs in a subproject area, (ii) conduct of SA, in consultation with communities involved; (iii) preparation of IP Plans (IPPs) or IP Policy Frameworks (IPPFs); and (iv) disclosure. It also requires the borrower to seek broad community support of IPs/VMGs through a process of FPIC before deciding to develop any project that targets or affects IPs/VMGs.

51. The WB, like the United Nations (UN), does not define IP because of the varied and changing contexts in which IPs live and because there is no universally accepted definition (paragraph 3). Consequently, the OP 4.10 does not define the term either but instead it presents a set of characteristics for identifying IPs/VMGs. For purposes of this policy, the term IPs is used in a generic sense to refer to a distinct, vulnerable, social and cultural grouping possessing the following characteristics in varying degrees:

- i. self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- ii. collective attachment to geographically distinct habitats or ancestral territories in the project area and to the natural resources in these habitats and territories;
- iii. customary, cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and
- iv. an indigenous language, often different from the official language of the country or region.

3.4 Other Legal and Policy Provisions that Facilitate Operationalization of OP 4.10 within Kenya’s Legal Frameworks

52. Kenya’s legal and regulatory framework has inclusion of several provisions, policies and instruments that if well developed and implemented hold promise for addressing marginalization and inclusion of IPs/VMGs. These include the National Land Policy (NLP). This Policy was endorsed in 2009 while the Land Act, Land Registration Act and National Land Commission Act were adopted in May 2012. Based on the NLP, Community Land Act No. 27 of 2016 was passed on 21st September 2016 along with a number of other land related laws and regulations (but it is not yet operational).

53. The NLP includes a key policy principle for restitution of land rights of minority communities as a way of restoration and protection of land rights which were violated by colonial and post-colonial governments (Articles 3.6.1.2 and 3.6.6 on restitution and land rights of minority communities, respectively). The NLP calls on the GoK to secure community land and to “document and map existing forms of communal tenure, whether customary or non-customary, in consultation with the affected groups, and incorporate them into broad principles that will facilitate the orderly evolution of community land law” (Article 3.3.1.2, paragraph 66).

54. The Forest Act of 2005 and Forest Policy of 2007 both have some provisions for the customary rights of forest communities and community forestry. The Forest Act states that “nothing in this Act shall be deemed to prevent any member of a forest community from using, subject to such conditions as may be prescribed, such forest produce as it has been the custom of that community to take from such forest otherwise than for the purpose of sale” (Article 22), and “...may include activities such as ‘collection of forest produce for community based industries.’”(Article 47.2.e) under a license or management agreement. The Act defines a "forest community" as “a group of persons who: (a) have a traditional association with a forest for purposes of livelihood, culture or religion [...] (Article 3). The Forest Policy recognizes the “traditional interests of local communities customarily resident within or around a forest” (paragraph 4.3).

55. The National Policy on Culture and Heritage (2009) aims to promote and protect the cultures and cultural diversity among Kenya’s ethnic communities. This includes the protection of indigenous languages, the expression of cultural traditions, knowledge, and practices, traditional medicines and community rights.

56. Of relevance to the situation of IPs/VMGs in the country is the Ministry of Education’s Sessional Paper No. I of 2005: A Policy Framework for Education, Training and Research - Meeting the Challenges of Education, Training and Research in Kenya in the 21st Century. This sessional paper establishes that the language of instruction shall be the mother tongue in lower primary school (classes 1-3) in the rural areas, and that a culturally sensitive approach must be used to address the learning needs of different communities, including the IPs/VMGs.

57. The Policy Framework for Nomadic Education in Kenya (COK, 2010) provides for appropriate approach to education. Although free and mandatory education was introduced in Kenya in 2003, the pastoralist areas have continuously recorded much lower enrolment, transition and completion rates compared to the rest of the country. The GoK formally adopted the Policy in 2010 to boost education access to nomadic communities. The policy contemplates education sessions based on seasons rather than calendar terms. It considers use of an academic calendar that is flexible and factors in climatic conditions and patterns of nomadic livelihood. It provides for the development of curriculum that would be useful to pastoral lifestyle. Further, it proposes the creation of a National Council for Nomadic Education.

58. The National Policy for the Sustainable Development of Northern Kenya and other Arid Lands (Sessional Paper No 8 of 2012) states that ‘the Government will put in place an institutional and legal framework for the development of Northern Kenya and other arid lands.’ The policy thus calls on the government to establish a range of institutions that will provide long-term continuity in Arid and Semi-Arid Lands (ASALs) development, including a National Drought Management

Authority (NDMA) and National Drought and Disaster Contingency Fund to increase responsiveness to drought, National Council on Nomadic Education, Northern Kenya Education Trust, Livestock Marketing Board, and Northern Kenya Investment Fund.

3.5 Similarities and Differences between CoK and OP. 4.10

59. The similarities and differences between Kenya’s key legal framework and Bank’s OP. 4.10 are summarized in Table 3.

Table 3: Similarities between COK and WB OP 4.10		
OP 4.10	Constitution of Kenya	Similarities/differences
Free, prior and informed consultation leading to broad community support	Article 118(1): “Parliament shall (b) facilitate public participation and involvement in the legislative and other business of parliament and its committees” Article 196(1) “A county shall ... (a) conduct its business in an open manner, and hold sittings and those of its committees in public participation and involvement in the legislative and other business of the assembly and its committees”	The Kenyan Constitution supports public participation and involvement in government business, but does not explicitly mention the concept of Free Prior and Informed Consultations leading to Broad Community Support
Mitigation of harm to IPs	Article 27(6) provides the means for redressing marginalization and other forms of discrimination. “To give full effect to the realization of rights guaranteed under this Article, the state shall take full legislative and other measures, including affirmative action programs and policies designed to redress any disadvantages suffered by individuals or groups because of past discrimination”	The Kenyan Constitution focuses on efforts to redress past marginalization
Culturally appropriate benefit-sharing	Article 69(1): “The State shall-(a) ensure sustainable exploitation, utilization, management, and conservation of the environment and natural resources and ensure equitable sharing of the accruing benefits”	The Kenyan Constitution focuses on equitable benefit-sharing and not on culturally appropriate benefit-sharing
Grievance redress mechanism	Article 67 establishes the National Land commission whose mandate is: “(e) to initiate investigations on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress; (f) to encourage the application of traditional dispute resolution mechanisms in land conflict”	The Kenyan Constitution focuses on redressing past grievances. It explicitly encourages the use of traditional dispute resolution mechanisms in land conflicts
Recognition and protection of customary land rights of IPs	Article 63(4) protects community land from arbitrary disposal “except in terms of legislation specifying the nature and extent of the rights of members of each community individually and collectively”	The Constitution provides for mechanisms for the protection of communally held land
Consultation and benefits-sharing related to the commercial	-Article 11(1): “The Constitution recognizes culture as the foundation of the nation and as the cumulative civilization of the Kenyan people and nation.”	The constitution focuses on promoting all forms of cultural expression and benefit sharing mechanisms

development of natural and cultural resources	<p>-Article 11(2) (a) obliges the state to: “promote all forms of cultural expression through...arts, traditional celebrations...and other cultural heritage. Article 11(2) (c) obliges the State to recognize the role of...and indigenous technologies in the development of the nation”</p> <p>-Article 11(3): “Parliament shall enact legislation to-(a) ensure communities receive compensation or royalties for the use of their culture and cultural heritage.”</p> <p>-Article 69(1) Provides for public participation in the management, protection and conservation of the environment: “The State shall- ...(d) encourage public participation in the management, protection and conservation of the environment”</p>	in case their cultural heritage is commercialized
Consultation and protections to avoid or mitigate the effects of economic and physical displacement of IPs		This issue is not addressed in the Kenyan Constitution

60. The CoK and other related legislations as shown in Table 1 have a lot of similarities with the tenets of OP. 4.10. There is considerable overlap between the groups identified by the GoK as VMGs that have triggered OP 4.10 and those identified by the WB as IPs. Similarly, the groups identified both by the GoK and OP 4.10 align with some of the groups that have been identified by the African Commission on Human and Peoples’ Rights (ACHPR) in its conceptualization of the notion of indignity and what it means in the African context.

61. In Kenya, the people who identify with the indigenous movement are mainly pastoralists and hunter-gatherers as well as a number of small farming communities. Pastoralists are estimated to comprise 25% of the national population, while the largest individual community of hunter-gatherer’s number approximately 30,000. Pastoralists mostly occupy the ASALs of northern Kenya and towards the borders between Kenya and Somalia, South Sudan, Ethiopia and Uganda.

62. Generally, there is no contradiction between the objectives and key principles of OP 4.10, the CoK and the other legal documents of relevance to IPs/VMGs. Thus, the implementation of some key Constitutional provisions would create an environment supportive of the application of OP 4.10 in Kenya.

3.6 Overview of the VMGs in Kenya

63. Table 4 presents a brief overview of the main IPs/VMGs in Kenya. A comprehensive description of IPs/VMGs is provided in Annex 2.

Table 4: Classification of IPs in Kenya by the WB	
Name	Key characteristics
Sengwer	The Sengwer live in the three administrative sub-counties of Marakwet, West Pokot and Trans Nzoia and along Cherangany Hills. They are estimated to be 50,000 (30,000 of them live in their traditional territories and another 20,000 in the diaspora). They lived by hunting and bee-keeping. While most Sengwer are officially landless, a few, especially those in the northern parts of the Cherangany Hills received some land, but even this land is contested.
Ogiek	The Ogiek (Ogiot - sing.) ethnic group consists of 20-30 groups of former hunters and honey gatherers, mostly living in forested highlands in western Kenya. Traditionally the Ogiek had occupied most of the forests in the extreme west and south of Western Kenya, but today their main area of living is in and around the Mau forest, which is not part of the operational areas.
Turkana	The Turkana people are the second largest of the pastoral people of Kenya with a population of 1,034,000. They occupy the far northwest corner of the nation, an area of about 67,000 square kilometers. Their animals are the main source of income and food. Turkana's have also pursued other non-pastoral income-earning activity in both urban and rural environments.
Rendile	The Rendile are a Cushitic tribe that inhabits the climatically harsh region between Marsabit hills and Lake Turkana in Northern Kenya where they neighbour the Borana, Gabbra, Samburu and Turkana tribes. They (Rendile) consist of nine clans and seven sub clans. The primary towns include Marsabet, Laisamis, Merille, Logologo, Loyangalani, Korr, Kamboi, Ngurunit, and Kargi.
Gabra	The Gabra are an Oromo people who live as camel-herding nomads, mainly in the Chalbi desert of northern Kenya and the highlands of southern Ethiopia. They are closely associated with other Oromo, especially their non-nomadic neighbors, the Borana. The Gabra speak the Borana dialect of Oromo, which belongs to the Cushitic branch of the Afro-Asiatic language family and have a population of about 3,000.
Ajuran	The Ajuran are ethnically Somalis. They were a kingdom that ruled Somalia before the advent of Europeans into Africa. They are about 59,000 located in Marsabit, Isiolo and Moyale sub-counties and Wajir North.
Maasai	The Maasai (or Masai) are semi-nomadic people located primarily in Kenya and northern Tanzania. Maasai's population is about 684,000 and is located in the Rift Valley Province, Kajiado and Narok sub-county.
Ilchamus	They are originally a pastoralist people who used to live on the mainland but due to clashes, some of them were forced to migrate to an island in Lake Baringo, while others remained on the mainland. They have a population of 34,000 and are located in Southeast and southern shore of Lake Baringo, and southwest shore as far north as Kampi ya Samaki.
Aweer/ Boni	These are a remnant hunter-gatherer group living along the Kenyan coast in Lamu sub-County on the mainland. The Aweer have a population of 8,000 and are located in the Coast Province, in Lamu, and Tana River counties in forests.
Pokot	They are basically divided into two sub-groups based on livelihood and have a population of 662,000. The Pokot are located in the Rift Valley Province, Baringo and West Pokot sub-counties
Endorois	Endorois community is a minority community that was living adjacent to Lake Baringo and has a population of about 20,000. Once able to migrate with the seasons between Lake Bogoria and the Mochongoi forest, the Endorois are now forced to live on a strip of semi-arid land between

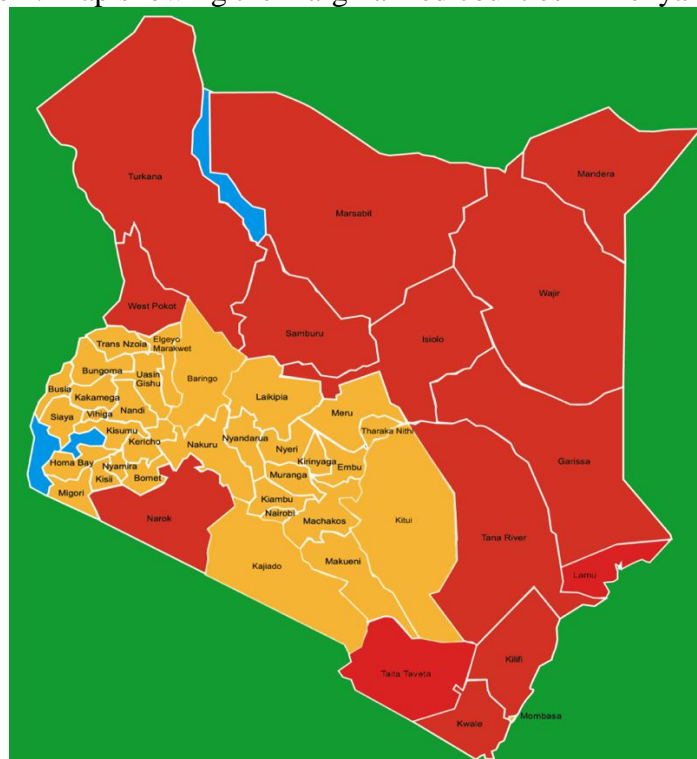
	their two traditional sites with no access to sustain their former cattle rearing and beekeeping livelihood.
Watha	The Watha people are mostly found in the rural arid and semi-arid lands of the country. A minority of them live in thick forests scattered all over the country. The people are traditionally hunters and gatherers. In Malindi sub-county a Watha community is found in four divisions (i.e. Malindi, Langobaya, Marafa and Magarini). In Tana River County the Watha are found in Sombo and Laza divisions while in Mandera they are located found in Central division. The population of Watha community is estimated at approximately 30,000 persons.

3.7 Location of IPs/VMGs in Kenya

64. Out of 47 counties in Kenya, 14 have been defined as “marginalized areas” by the CRA. The CRA defines these as “communities that have been excluded from social and economic life of Kenya for different reasons” and “geographic locations (County or sub-County) where significant populations of underserved communities live” (CRA, 2013).

65. The 14 underserved counties, which are deemed to be marginalized by CRA include Mandera, Wajir, Garissa, Tana River, Samburu, Isiolo, Marsabit, Narok, West Pokot, Turkana, Taita Taveta, Kwale, Kilifi and Lamu (as illustrated in Figure 1). They collectively represent 72% of the country’s total land area and 20% of the country’s population, including historically nomadic societies that even today continue to rely on pastoralism for their livelihoods. Their population is highly dispersed, at a density four times lower than the national average. They present profound infrastructure deficits, including lack of access to social services. There is also significant insecurity in certain areas, giving rise to substantial numbers of displaced persons and livelihood adaptations that further undermine economic prosperity.

Figure 1: Map showing the marginalized counties in Kenya (in red)



3.8 Electricity access by the IPs/VMGs in Kenya

66. Most of the IPs/VMGs are found in areas generally regarded as inaccessible, ASALs of Kenya. These areas were generally neglected over the years and the years of economic and political marginalization have resulted in the ASALs being the most under-developed areas in the country. The colonial governments regarded them as non-productive. Successive independent governments saw the areas as too expansive to invest in. It is upon this realization that recent government initiatives have been established to address the development challenges in these areas.

67. In the recent past a project, known as the Kenya Off-grid Solar Access Project (K-OSAP) was initiated to allow the IPs/VMGs in the 14 underserved counties to access solar powered electricity. This project will be implemented by MoE through REA and KPLC. This initiative will supply stand-alone solar panels and solar mini-grids to supply power to households and other establishments.

3.9 Institutional Arrangement

68. The T-Line subprojects will be under the administrative authority of the MoE, with KETRACO as the implementing agency. County governments in the respective project regions will also be involved while policy and strategic decisions will involve the following Ministries:

- Ministry of Finance;
- Ministry of Environment and Natural Resources;
- Ministry of Lands and Settlement (Physical Planning Department);
- Ministry of Roads, Public Works and Housing;
- Ministry of Agriculture;
- Provincial Administration; and
- Subproject Steering Committee.

69. The Ministry oversees the Energy Sector in Kenya and is responsible for procuring resources from the National Treasury and other developmental partners for the overall project implementation. The Ministry is also responsible for coordinating the actions of the implementing agencies to ensure they meet the PDOs. In this regard, KETRACO will look to the Ministry to provide oversight to ensure that the overall approach related to VMG issues between KETRACO and KPLC is well coordinated.

70. Generally, the KESIP Project will be implemented by three agencies - MoE, KPLC and KETRACO. In addition to providing overall oversight and coordination, the Ministry will be implementing part of Component 3 (technical assistance and capacity building). It will also be responsible for the overall monitoring of project progress and for consolidating the progress reports from each implementing agency.

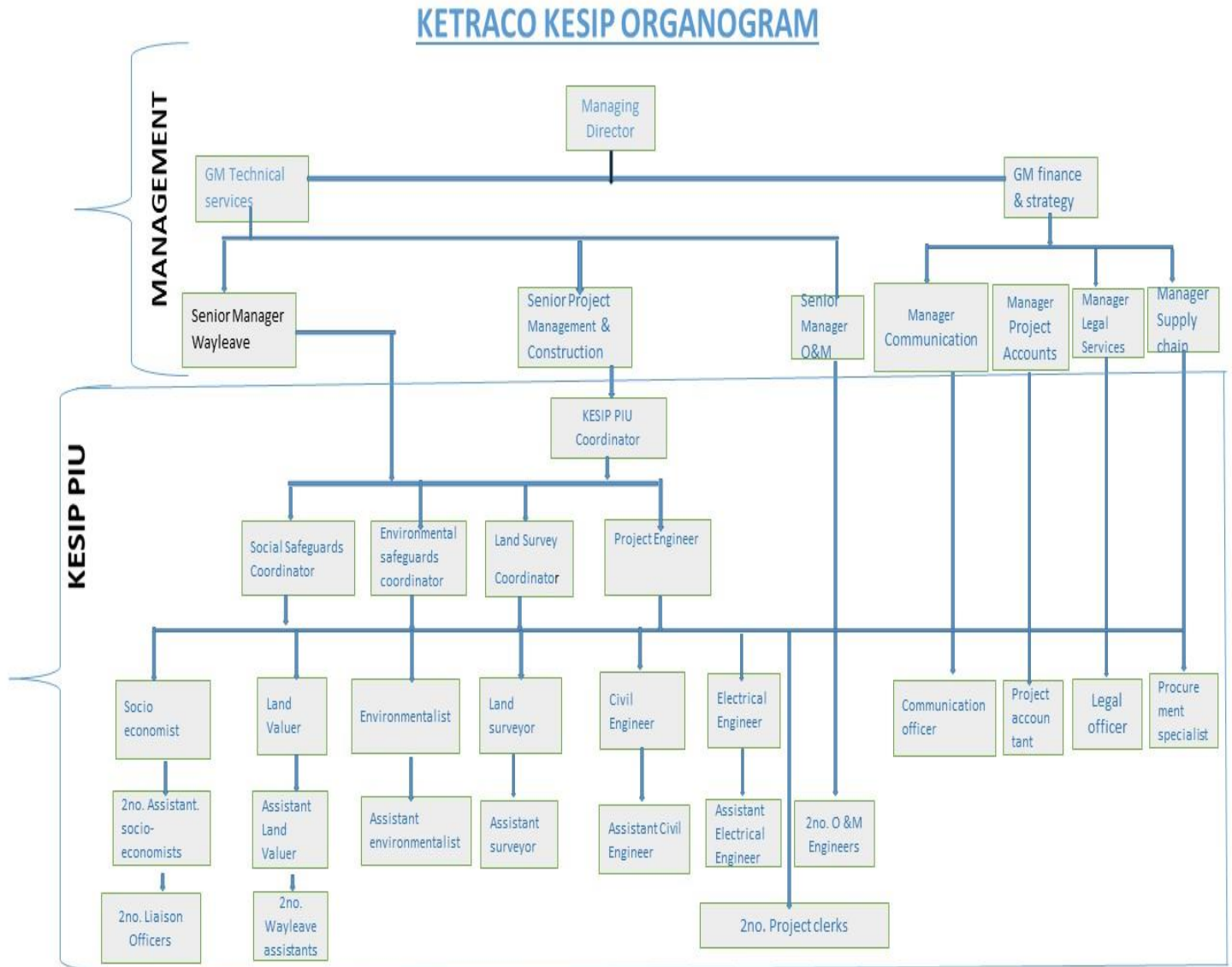
71. KPLC will be responsible for Component 1 (access expansion and distribution network strengthening) and associated technical assistance activities. KETRACO will be responsible for implementation of Component 2 (transmission network expansion and strengthening) as well as support for PPP feasibility studies and associated technical assistance activities.

72. Each transmission development VMGP will require that a detailed implementation process is in place for the delivery of the entitlement package to ensure compliance with this VMGF and to meet the objectives of the VMGP. The strategy of implementation would include the delineation of roles and responsibilities of organizations/institutions, as well as CSOs and community groups. In addition, it will articulate the procedures to be followed along with the support facilities available, and a timeframe for implementation of each of the activities.

73. A subproject steering committee will be formed if a determination is made during the screening that the subproject is likely to be in an area with IPs/VMGs, hence the likelihood to interfere with the people's livelihoods and rights. The committee will comprise representatives from MoE, KESIP PIU, county and sub-county representatives and IPs/VMGs. In addition, in each affected county, sector ministries including Environment and Mineral Resources, Lands, Gender, Sports, Culture and Social Affairs will also be incorporated in this committee. The committee will provide a link between KESIP, the IPs/VMGs and the county/sub-county administration. The committee will meet monthly and act as the focal point for all VMG related issues during the implementation of the subproject. The IPs/VMGs will be facilitated to form their own groups whose representative will be a member of the subproject steering committee.

74. For each subproject a specific PIU will be set up to manage and oversee all the activities of the VMGP. The size of the team, its formation, its functions and terms of reference (ToRs) will be dependent on the extent of the land acquisition, challenges of the T-Line in question and number of PAPs. In general, the PIU will comprise of an overall project manager, a socio-economist, surveyor, wayleave officer, environmentalist, socio-economist transmission engineer, land valuer, legal officer, financial administrator, database administrator and other key support staff, as illustrated in Figure 2. During implementation, the community will be involved in the project activities, especially on the management of grievances.

Figure 2: Project organogram



3.10 Roles and responsibilities

75. The MoE will provide oversight and procure the necessary resources for the project implementation. The Board of Directors (BoD) will be responsible for policy approval while the Chief Executive Officer (CEO) will approve the finances and operations, and provide overall direction for the project. The roles of the other technical staff are summarized in Table

Table 5: Roles and responsibilities of the RPT members

MoE	<ul style="list-style-type: none"> -Provide oversight -Provide resources for project implementation -Coordinate activities between KETRACO and KPLC -Consolidation of progress reports from KETRACO & KPLC -Reporting to the World Bank
Board of Directors	<ul style="list-style-type: none"> -Policy approval
CEO	<ul style="list-style-type: none"> -Approve finances and operations
General Manager, Technical Services	<ul style="list-style-type: none"> -Supervise technical designs and operations -Approve technical works -Administration of technical staff -Bridge between the management and the technical team
General Manager, Finance	<ul style="list-style-type: none"> -Company's chief accounting officer -Authorize payments -Supervise accounting systems
Manager, Supply Chain	<ul style="list-style-type: none"> -Preparation of RFP documents for consultancy works -Key member of the tender committee -Supervise procurement procedures -Issue contracts
Senior Manager Legal services	<ul style="list-style-type: none"> -In charge of company's legal services -Supervise way leave and land acquisition -Facilitate transfer of alternative land acquired for vulnerable PDPs -Draft contracts for outsourced RAP services and monitor the contract implementation -Promote amicable settlement of any disputes that may arise during the resettlement process -Facilitate the transfer of substation land to KETRACO -Register easements -Custodian of the company seal -Secretary to the board of directors
Manager Internal Auditor	<ul style="list-style-type: none"> -Audit company operations and systems -Implement the company's anti-corruption policy
Procurement officer	In charge of procurement processes for the project
Project Engineer	<p>Has overall responsibility for the project, including:</p> <ul style="list-style-type: none"> -Ensuring timely preparation and implementation of the RAP prior to start of civil works Prepare project progress reports -Coordinate work during construction -Supervise contractors -Handle re-routings -Disseminate information to contractor
Project Accountant	<ul style="list-style-type: none"> -Process payments to consultants -Process payments to PAPs -Verify compensation details -Make the actual payments
Land Surveyors	<ul style="list-style-type: none"> -Draw mutations for land transfers -Ground truthing -Rerouting the line -Scaling of the trace for valuation -Supervise contracted surveyors

Land Economist	<ul style="list-style-type: none"> -Wayleaves acquisition -Valuation and Compensation -Resolving land related disputes -Negotiations over compensation
Socio-economist	<p>Responsible for all social safeguard activities of the project, including:</p> <ul style="list-style-type: none"> -Link between the PAPs and KETRACO Contact local administration (county and national government) and plans for sensitization meetings -Hold sensitization meetings and sensitize communities on the project -Handle the social component of the project -Prepare RFPs, RPFs and TOR for RAP, SIA, SA and VMGP -Prepare RAP for the project -Supervise RAP Consultants -Responsible for supporting the project Engineer in ensuring timely implementation of the RAP/VMGP -Carry out a socio-economic survey of the project area -Oversee Resettlement¹
Engineers	<ul style="list-style-type: none"> -In-charge of various engineering works - civil, electrical and mechanical
Environmental experts	<ul style="list-style-type: none"> -Preparation of EIAs -Acquisition of ESIA licenses -Implementation of Environmental Social Management Plans (ESMP) -Supervise consultants
Support staff	<ul style="list-style-type: none"> -Support the project implementation process
Consultants	<ul style="list-style-type: none"> -Provide professional services - survey work, construction, valuation, design, wayleave acquisition, ESIA, RAP, SIA, SA, VMGP,among others
Liaison Officer	<ul style="list-style-type: none"> -Liaises with the community -Acts as the link through Communication (in the local language) between KETRACO and the Community
Communication Officer	<ul style="list-style-type: none"> -Develops and coordinates the Corporate communication between KETRACO and the community -Coordinates Corporate Social Responsibilities -Coordinates project notices and publications -In charge of complaints channeled through official corporate channels
Project Clerk	<ul style="list-style-type: none"> -Collates and manages all project data

76. For each of the subprojects, there will be put in place a system of ensuring that activities are developed and approved accordingly. Table 6 presents a decision flow matrix that will be improved upon as the instruments' requirements become clearer.

¹KETRACO has in-house trained staff who can undertake this work. In case there is need for more personnel, consultants will be sourced to augment the in-house team.

Table 6: Decision for specific instruments

Activities	Who is responsible?	Who approves?
Appointment of resettlement project team (RPT)	General Manager Technical Services	General Manager Technical Services
Screening	The ESS specialists attached to the PIU, supported by expert consultants	General Manager Technical Services
Subprojects	Project Implementation Team	General Manager Technical Services
Determination and development of screening tools and approval	Project Implementation Team (ESS Specialist) with support from consultants with expertise on the social and cultural groups in the project area	General Manager Technical Services
Approval of budget and funding	Project Engineer	General Manager Technical Services
Obtaining World Bank No Objection	Project Engineer	World Bank
Reporting to the world Bank	Project Engineer	General Manager Technical Services

CHAPTER 4: POTENTIAL IMPACTS OF KESIP ON THE IPs/VMGs

4.1 Potential Positive Impacts

77. The potential positive impacts of the project will be realized in the economic, education, social, health, security and environmental sectors. Positive impacts are also anticipated on gender, beliefs and culture, including the following:

- i. Uplift the livelihood and economic outcomes of the IPs/VMGs due to employment creation, enhanced savings as funds used to purchase kerosene can be channeled for other uses or saved;
- ii. Diversification of livelihood and economic activities;
- iii. Better academic performance since students will be able to spend longer study hours due to availability of light;
- iv. Improved health services due to the fact that health facilities will be equipped with laboratories and refrigeration equipment that rely on electricity. This will also lead to enhanced safe delivery of pregnant mothers;
- v. Create an enabling environment for attaining gender parity among the IPs/VMGs by increasing the number of girls attending school, thereby reducing gender inequalities;
- vi. Investment in the generation of clean, renewable energy, which, given the challenges created by climate change, represents a positive social benefit for the society as a whole; and
- vii. Reduction in insecurity incidences through the increased ability to track the movement of the criminals which will be achieved through installing floodlight masts in areas where the mini-grids will be stationed.

4.2 Potential Adverse Impacts

78. Permanent infrastructure will result into an infinite loss of use of or limited access to property, vegetation, or land by the affected persons as a result of the subproject activities. While negative impacts are expected to be minimal, they could include the following:

- i. Land acquisition - land that is found suitable for some of the proposed infrastructural development may need to be acquired, which could translate to loss of land, pasture and/or crop cover;
- ii. Labor influx - civil works for some of the proposed infrastructure works may attract labor (skilled and unskilled) from outside the project area. This in turn may have negative social and cultural impacts such as increase of infections, child labor, teen pregnancies, young people dropping out of school to take up jobs, gender-based violence (GBV) and sexual exploitation and abuse (SEA), etc.; and
- iii. Temporal impacts - these may include short-term interruption in the current use of property or land by the affected communities or individuals as a result of the subproject activities.
- iv. Potential adverse impacts on community conservancies.
- v. Potential adverse impacts on cultural sites of the vulnerable populations, including impacts on rivers which and other sites such as sacred places of worship, or cultural activities such as initiation ceremonies.

- vi. Potential impacts on livelihood strategies of some VMGs especially the hunter-gatherer communities.

4.3 Proposed Mitigation Measures

4.3.1 Mitigation against impacts related to land take

79. To avoid or minimize adverse impacts and, at the same time, ensure enhancement of benefits and full participation of the IPs/VMGs, KETRACO will ensure the following measures are implemented.

- i. Avoid the need for land acquisition and displacement of VMGs. Where land acquisition is inevitable, the provisions of the Resettlement Policy Framework (RPF) will be followed. The RPF clearly stipulates all land tenures, including how community land, will be handled. Where unregistered community/VMG land will be affected, a comprehensive consultation process will be mounted by KETRACO, using the free, prior and informed consultation principles, to ensure VMGs understand the need for their land, either for wayleave or substation, so as to secure their broad support for the project. In this regard, free, prior and informed consultations with the VMG communities and their leaders will be done to agree with them on the best compensation modality for the community.
- ii. The IPs/VMGs and their organizations will be informed of the selection, design, and implementation processes to seek input and to provide clarification. KETRACO will carry out an analysis of the socio-economic impacts of the proposed subprojects on IPs/VMGs through a transparent process with the FPIC of the affected communities. It will also ensure that the interventions do not unnecessarily and intentionally exacerbate factors outside the scope of planned impacts. Further, KETRACO will screen the activities of subprojects for a preliminary understanding of the nature and magnitude of potential impacts, and explore alternatives to avoid or minimize any adverse impacts as detailed in the Environment and Social Management Framework (ESMF) and RPF.
- iii. As part of the free, prior and informed consultation process, VMGs will be sensitized on the provisions of the Community Land Act 2016. According to this Act, unregistered community land is held in trust for the community by the respective county governments. However, the Act prohibits the County Government from transacting on such land by stating that *“the County Government shall not sell, dispose, transfer or convert for private purpose or in any way dispose of unregistered community land that it is holding in trust on behalf of the community for which it held”*. Despite this prohibition, the Act empowers the county governments to *“hold in trust on behalf of a community any monies payable as compensation for compulsory acquisition of any unregistered community land”*, until the community has registered its land. The money is to be held by the County Government in an interest earning account. Upon registration, the Act requires the County Government to promptly transfer to the community all the compensation money and interest earned. The affected communities will also be sensitized on the OP 4.12 and OP 4.10 provisions that require that project benefits should flow directly to the

communities, and that where VMGs are concerned, such benefits should be culturally appropriate.

- iv. As it is not within the mandate or capacity of KETRACO to ensure or fast-track the registration process², KETRACO will inform VMGs and communities of the challenges of the conditions imposed by the Community Land Act, concerning cash compensation for unregistered community land as a way of discouraging them from opting for cash compensation. Also, due to the fact that an unregistered community is not formally organized and has no structures for handling compensation cash in the name of the community, and to avoid causing harm to the more vulnerable segments and households among VMGs who may lose out if the community decides to divide the cash among its members, e.g. by sub-clans or sub-ethnic groups, the VMGs will be sensitized on the option of in-kind compensation in the form of community subprojects which would ensure that everyone in the community benefits, without discrimination.
- v. To enable them select appropriate alternative compensation strategies, and in order to arrive at transparent agreements on in-kind compensation that also ensure that vulnerable subgroups are protected and no transitional hardships are imposed, KETRACO will inform the affected communities of the amount of cash compensation that corresponds to their land (at full replacement cost plus transaction costs) and work with them to identify viable alternatives of comparable value, in the form of in-kind compensation of their choice. In this regard, KETRACO will facilitate consultations among community members to ensure that the in-kind compensation projects that are selected are beneficial to all community members, including vulnerable individuals and households among them. Should KETRACO find that there are specific in-kind compensations that are particularly beneficial to vulnerable VMG households, then these will be included as priority for implementation. They will also be encouraged to actively participate in the implementation of the in-kind compensation projects through being involved in implementation monitoring.
- vi. Should VMGs or any other community insist on cash compensation after being sensitized on the conditions of the account that would be held in trust for them by the County Government and interest thereon, then they will be sensitized to organize themselves, and, in consultation with the County Government, agree on modalities that would enable them keep track of the account as they pursue registration of their land once the county and national governments put in place all the mechanisms for such registration with the view of having the funds released to them as soon as they register their land. While community managed trust arrangements are not included in the Community Land Act, 2016, KETRACO will pursue this possibility with the concerned county government as a way of assuring the community of the safety of their compensation money. This however is not a promise of this VMGF as it is not embedded in law.

²Community lands in Kenya have not yet been registered because the national and county governments are yet to put in place all the required institutional and other mechanisms for their registration, which in practice means that communities would not immediately enjoy benefits of cash compensation should they choose this as their preferred compensation mode. It is not known when the registration may happen, but it could take years, and Ketraco has no ability to intervene in this or to put a time limit to it.

For VMGs household or individuals who may lose housing or have their livelihoods significantly curtailed by the loss of land due to project activities, transitional assistance will be considered in consultations with them to cushion them from transitional hardships, as stipulated in the RPF. Also, local communities will be given the first employment opportunity by the contractors. In this regard, KETRACO will ensure that the contractor will not unnecessarily import labor, unless such importation is for skilled labor not found in the local community within the project area.

- vii. Whatever mode of compensation is agreed with the community, KETRACO will ensure that the compensation is implemented prior to start of works. This includes placing the cash into the County Government Account should they choose this mode of compensation.
- viii. Since subprojects to be implemented through KESIP are linear by nature (except for substations), most affected PAPs, including IPs/VMGs (if any) will normally relocate within their unaffected land parcels. Only those whose land parcels are totally affected by the wayleave corridor would relocate outside their land parcels, which means they would be resettled outside the way leave corridor. Such people are considered to be permanently displaced and are given support to relocate in addition to full compensation at current replacement cost for their land, structures and any other assets.

80. As much as possible, the project will promote the use of local labor – both skilled and unskilled. nevertheless, the project will mount a sensitization and awareness campaign to dissuade families from allowing their school/underage children from participating in project activities to guard against child labor.

4.3.2 Mitigation against other project impacts

81. During consultations with VMGs and other stakeholders for the preparation of this VMGF, stakeholders identified some potential adverse impacts on VMGs including impacts on community conservancies, cultural sites and livelihood strategies of some VMGs such as the hunter-gatherer communities. They were also concerned that there should be post-construction monitoring to determine the effectiveness of the proposed mitigation measures, including mitigation for T-Lines that may pass through forests. These requests/concerns will be addressed through the participatory monitoring process involving VMGs through their representative organizations as indicated in Table 8.

82. To mitigate against such impacts, KETRACO will work hand in hand with KWS to address any impacts on community conservancies, and with the communities' cultural leaders to ensure the protection of cultural heritage sites of the communities by ensuring subprojects are designed in such a way as to avoid any interference with such cultural sites. To achieve this, once subproject sites are known and initial route design is established, VMGs active participation of VMG community and cultural leaders will be sought to enable them to identify any cultural or livelihood sites along the initial route design. The findings will be taken on board in the design of the final subproject T-Line route. Should any residual impacts remain after mitigation through design, KETRACO will agree

with VMGs on appropriate mitigation measures for the same and the agreed to action will be included in the VMGP. The VMGs, especially their leaders, will be encouraged to actively monitor the implementation activities to ensure subprojects are implemented according to design.

83. Community participation will be a key factor in the implementation of this VMGF as it is the only way for ensuring that the concerns of the VMGs identified during the preparation of this VMGF, and the commitments made by KETRACO, (see Table 2 above) are implemented as agreed. To this end, the affected communities will be encouraged to undertake active monitoring of project activities and to bring any concerns to the attention of KETRACO

84. To protect the community from negative actions by project workers, safeguards will be built into the contractors' agreements to ensure that workers are not engaging in activities or vices that could disrupt the social and cultural set-ups of the local communities. To this end, measures will be put in place to ensure that the contractors, subcontractors and other agencies involved in the project to do not involve themselves in actions that will lead to sexual exploitation and abuse (SEA) of the communities or other gender-based violence (GBV) actions. To achieve this, the contractor will be required to sensitize communities and their staff on the kind of relationships between project workers and the community that may predispose community members to, e.g. SEA. On their part, contractors will be required to put in place Codes of Conduct (CoC) in appropriate languages, to be signed by their workers committing them not engage in sexual relations with community members, especially underage children, or any acts that may be disruptive or abusive to the cultural norms and social dynamics of the community. The CoC will include appropriate sanctions to be enforced by the contractor in case of failure to observe its provisions.

85. Finally, a GRM will be prepared for KESIP in consultation with the VMGs as outlined in chapter 8 of this VMGF. This will be another modality for ensuring community participation and monitoring of project activities.

CHAPTER 5: PLANS FOR CARRYING OUT SOCIAL ASSESSMENT FOR SUBPROJECTS

86. If, based on the screening, it is concluded that IPs/VMGs are present in, or have collective attachment to the subproject site, KETRACO will undertake a SA to evaluate the subproject's potential positive and adverse effects on the IPs/VMGs, and examine project alternatives where adverse effects may be significant. The breadth, depth, and type of analysis required for the SA will be proportional to the nature and scale of the proposed subproject's potential effects on the IPs/VMGs present. KETRACO will prepare detailed ToRs for the SA once it is determined that IPs/VMGs are present in the project area. The IPs/VMGs will be consulted based on the free, prior and informed consultations principles, which refers to a process whereby affected vulnerable and marginalized communities freely have the choice, based on sufficient information concerning the benefits and disadvantages of the project, of whether and how these activities occur.

87. KESIP projects affecting the IPs/VMGs that meet the OP 4.10 criteria, whether negatively or positively, will be prepared in consultation with the affected communities. The policy requires that the implementing agencies engage in FPIC with the affected vulnerable and marginalized communities at every stage of the project to fully identify their views concerning the potential impacts of the project on them and to obtain broad community support for the project. Similarly, the development of project-specific measures to avoid adverse impacts and enhance culturally appropriate benefits should be drawn in consultation with the IPs/VMGs.

88. The project will put the following measures in place:

- i. Ensure that project design frameworks and the attendant processes and activities are disclosed in culturally appropriate and accessible manner;
- ii. Ensure that IPs/VMGs and their organizations are fully incorporated in the selection, design, and implementation processes;
- iii. Ensure coordinated efforts to equitably distribute project services through the implementation of a stakeholder engagement plan (SEP);
- iv. Undertake specific impact assessments of proposed subprojects on the economic and social development of IPs/VMGs and dominant communities;
- v. In collaboration with the identified IPs/VMGs, screen all subprojects for potential impacts; and
- vi. Implement outreach activities to IPs/VMGs to raise awareness on the importance of the transmission subprojects.

89. Social Assessment will provide the VMGs with the opportunity to participate in the design of the project. It is anticipated that during the Social Assessment, the VMGs will be sensitized to ensure that places of cultural importance, community conservancies if any, and other critical habitats are not negatively impacted by the project. The monitoring of project activities will start at the social assessment stage.

CHAPTER 6: FRAMEWORK FOR ENSURING FREE, PRIOR AND INFORMED CONSULTATION WITH IPs/VMGs

6.1 Free, Prior and Informed Consultations during project implementation

90. The FPIC with the vulnerable and marginalized communities will be conducted at each stage of the project and especially during implementation. In this regard, the IPs/VMGs have been consulted at the Framework preparation stage to fully capture their views and ascertain their broad community support for the project. The FPIC, in relation to activities taking place that affect IPs/VMGs, refers to a process whereby affected vulnerable and marginalized communities freely have the choice, based on sufficient information concerning the benefits and disadvantages of the project, of whether and how these activities will occur according to their systems of customary representation and decision-making. Table 7 presents the operationalization of FPIC for the proposed project.

Table 7: Free, Prior and Informed Consultations	
Free	No threats: the IPs/VMGs will not be coerced to support any activity by any of the project teams and local leaders through any means such as threats of not being included in the project if they do not support the process
	No manipulation: the IPs/VMGs will not be manipulated by the leaders through any means possible to participate or support decisions and actions
	No intimidation: the IPs/VMGs will be allowed to participate in project activities with full understanding of their rights and of their own willingness
	No incentives: there will be no use of ‘carrot and stick’ tactics to lure IPs/VMGs into supporting or engaging in Project activities
Prior	The consultation process will start early and be iterative in nature. This will allow the PIU to incorporate concerns of the IPs/VMGs and recommendations into project design
	Before any activity is initiated, the project team will ensure that the development plans are finalized and the specific requirements, including consultations, consensus-building and land acquisition are included
Informed	Information to be provided will be accurate and in an appropriate language
	The information will articulate the objectives of the proposed activities, duration, those targeted, proposed benefits sharing and legal issues
	Information will be channeled by use of various media accessible to the IPs/VMGs
	Information will take into view the cultural contexts
Consultation	The form may vary for different communities – it may be oral or written but will be consultative and participatory
	The process for providing consent will reflect the diversity of views and outcomes which will be documented
	Decision-making will not exclude or marginalize individuals due to gender, ethnicity, age, disability, location or any other factor

6.2 Screening, Preparation and Implementation of VMGPs

91. The steps to be followed for the preparation of VMGPs for KESIP will include a screening process, to determine whether IPs/VMGs are present in, or have collective attachment to the subproject area. This screening will be conducted by the ESS within KETRACO PIU with the support of consultants with expertise on the socio-cultural dynamics of the groups in the project area. Ideally, the screening for IPs/VMGs should consider the GoK's framework for identification of IPs/VMGs according to the CoK, 2010. However, the WB criteria for identification of IPs/VMGs as per OP. 4.10 will be used to make a final determination.

92. The preparation of VMGPs will be done in accordance with the requirements of OP 4.10 and each VMGP will be submitted to the WB for review before the respective investment is considered eligible for Bank financing (see annexes 3, 4 and 5 for the relevant instruments on VMGPs).

93. The need for VMGPs will depend on: (i) the presence of IPs/VMGs; and (ii) the nature and scale of the subproject impact on groups that meet the OP 4.10 criteria. The VMGPs will capture the nature and scale of the subproject impacts and vulnerability of IPs/VMGs, including:

- i. Adverse impacts on customary rights of use and access to land and natural resources;
- ii. Negative effects on the socio-economic and cultural integrity;
- iii. Effects on health, education, livelihood, access to the project benefits, and social security status; and
- iv. Other impacts that may alter or undermine indigenous knowledge and customary institutions. It will also identify ways in which to bring benefits of the project to IP/VMG communities if technically feasible.

94. KETRACO will consult with IPs/VMGs and ensure that the PAPs receive culturally appropriate social and economic benefits. It will also establish measures to avert the identified potential adverse impacts on IPs/VMGs. Where this avoidance is proven to be impossible, VMGPs will outline measures to minimize, mitigate, and compensate for the adverse impacts.

95. The level of detail and comprehensiveness of the VMGPs will vary depending on the specific subproject and the nature of impacts to be addressed. If the impacts are limited to acquisition of customary land, the elements of the VMGP will be combined in the RAP. If IPs/VMGs are the sole or overwhelming majority of the subproject beneficiaries, the elements of the VMGP could be integrated into the subproject design or documents such as community development program to ensure that all IPs/VMGs participate in and receive culturally appropriate benefits from the project. Further, a social assessment will be conducted to identify and note any cultural differences that would need to be addressed by the subproject.

6.3 Preparation of a Social Assessment

96. The SA is aimed at ensuring FPIC with the IPs/VMGs during project design, planning and implementation. It will make provisions for ensuring that mitigation of potential adverse impacts deriving from subproject activities, including potential impacts identified in Table 2, are based on a

participatory and consultative processes acceptable to the IPs/VMGs and WB. The SA will address the following key issues:

- i. Profile of the community – livelihoods, ethnicity, household structure and leadership, gender relations;
 - ii. Likely impacts (both positive and negative), future livelihoods and resettlement patterns. This will include an affirmation as to whether the potential impacts identified during the preparation of this VMGF would result from project activities since the subproject site would already be known;
 - iii. Relationship of different groups and conflict potential of the project;
 - iv. Capacity and roles of social structures including customary institutions, economic and social groups;
 - v. Gender relations and women’s empowerment including GBV and SEA, and recommendations for their prevention;
 - vi. Constructive engagement of vulnerable groups including persons with disability, older persons, chronically ill, women and youth in the subproject; and
 - vii. Suggestions for accessible GRM.
97. Beyond social screening, the subproject investments will comply with the following:
- i. Conserve and sustainably use land and other natural resources that impact on IPs/VMGs and other communities;
 - ii. Mitigate any possible adverse impacts;
 - iii. Be socially and culturally acceptable to the IPs/VMGs and economically feasible;
 - iv. Be institutionally feasible - the local institutional capacity should be adequate to take up activities;
 - v. Be environmentally sustainable and avoid detrimental impacts from those activities that cannot be mitigated;
 - vi. Be supported by the IPs/VMGs and other communities through participatory consultation; and
 - vii. Be supported by training and capacity building, if necessary, to enhance IPs/VMGs and community development.

98. The PIU will prepare detailed ToRs for the SA study once it is determined that IPs/VMGs are present in a subproject site. These TORs will be approved by the Bank before the recruitment of expert consultants to support the conduct of the SA, as well as preparation of VMGPs and other social instruments under the project, including RAP and ESMP.

6.4 Capacity Building

99. During the IPs/VMGs’ orientation and mobilization process, their individual and organizational interests, capacity and skills will be assessed. If required, the VMGF proposes the provision of training for the IPs/VMGs and their organizations in resource mapping, record keeping, basic account keeping and M&E, among other skills that will enable them to be part of the entire project implementation.

100. Although KETRACO will engage qualified consultants to support the preparation of the RAP, SA, VMGP and ESMP for the project, the ESS staff involved in KESIP will be trained in:

- i. operationalization of the VMGF with special attention on developing VMGPs;
- ii. conducting SA;
- iii. community mobilization and sensitization;
- iv. stakeholder mapping and analysis;
- v. Conducting FPIC;
- vi. Use of participatory tools and techniques; and
- vii. Monitoring and evaluating the implementation of the VMGF instruments.

101. It is anticipated that the content and scheduling of the staff training will be done in such a way that it enhances the implementation process without interfering with the flow of the project activities.

CHAPTER 7: CONSULTATIONS AND STAKEHOLDER ENGAGEMENT

102. The CoK (2010) recognizes the right of citizens to participate in decisions that directly affect them. Hence, public participation and consultation is a cardinal requirement in all matters of public interest in Kenya. There are a variety of laws, regulations, and orders that have a bearing on stakeholder consultations and engagements, including: The Land Act, 2012; The Land Registration Act, 2012; The National Land Commission Act, 2012; County Government Act, 2012; and The Environmental Management and Coordination Act, (EMCA), 2012.

103. The stakeholder analysis and community engagement will be carried out in order to:
- i. Identify key stakeholders that are affected, and/or able to influence the project and its activities;
 - ii. Identify the most effective methods and structures through which to disseminate project information, and to ensure regular, accessible, transparent and appropriate consultation;
 - iii. Promote understanding among all project stakeholders - in an open, inclusive, culturally appropriate and transparent process of engagement and communication to ensure that stakeholders are well informed about the proposed investment;
 - iv. Disclose information as early and as comprehensively as possible;
 - v. Involve the stakeholders in the planning process. In this regard, the stakeholders are included in the scoping exercises, the assessment of impacts, and the generation of mitigation and management measures, and in providing local knowledge and information for the baseline status;
 - vi. Build relationships that will serve to establish and maintain a productive relationship between the project team and stakeholders;
 - vii. Engage marginalised and vulnerable groups of people by increasing the opportunity for them to comment on the proposed subprojects and to voice their concerns;
 - viii. Ensure the concerns of the VMGs are taken on board in the finalization of project design;
 - ix. Ensure that any negative impacts of the project on VMGs – including the potential adverse impacts identified in table 2 (where applicable) are mitigated in accordance with this VMGF and the provisions of the RPF on the VMGs;
 - x. Ensure that where VMGs are concerned, the project and related benefits are implemented in culturally appropriate ways
 - xi. Manage expectations, through providing space for understanding and managing stakeholder and community expectations and by disseminating accurate information in accessible ways; and
 - xii. Ensure compliance with both local regulatory requirements and international best practices.

104. This Framework seeks to ensure that IPs/VMGs are informed, consulted, and mobilized to participate in the relevant subprojects. The KETRACO PIU will undertake consultations from the very beginning and will continue till the end of the project. KETRACO will conduct FPIC with any likely impacted IPs/VMGs and those who work with and/or are knowledgeable of IPs/VMGs development issues and concerns. To facilitate effective participation, the VMGFs developed for the subprojects will propose a timetable to be followed to consult IPs/VMGs at different stages of the project cycle, especially during preparation of the civil works program.

105. The PIU will undertake a social impact assessment (SIA) to gather relevant information on: (i) socio-demographic data; (ii) social, cultural and economic situation; and (iii) social, cultural and economic impacts, both positive and negative, on the IP/VMG communities in the relevant subproject areas. Participatory consultation with affected households will be undertaken during project planning and implementation. The VMGP consultation will be done before the implementation of the project to capture and integrate feedback from the IPs/VMGs.

CHAPTER 8: GRIEVANCE REDRESS MECHANISM

8.1 Introduction

106. Grievance redress mechanism (GRM) refers to institutions, instruments, methods and processes by which a resolution to a grievance is sought and provided. For any energy project, a number of mechanisms are available to aggrieved parties to access redress. The mechanisms can be complex and diverse. They may be institution specific (internal) to a project and set up from its inception or others may emerge over time in response to needs identified while the project evolves. GRMs are intended to be accessible, collaborative, expeditious, and effective in resolving concerns through dialogue, joint fact-finding, negotiation and problem solving.

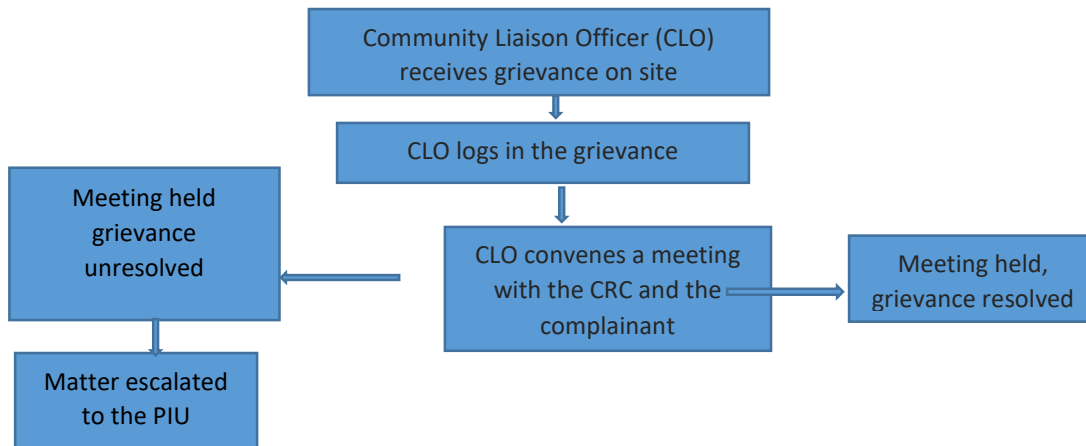
107. Grievances may arise from members of communities who are dissatisfied with the consultation, eligibility criteria, PAP categorization, valuation of assets, crop compensation rates, option packages offered, prohibitions, community planning measures, or the actual implementation. During the initial stages of the socio-economic survey, stakeholders shall be made aware of all the above matters and provided with copies of grievance procedures as a guide on how grievances will be managed.

108. Where a subproject is located in, or traverses VMGs land, a GRM will be prepared in consultation with them to ensure that it is culturally appropriate. This will accord the VMGs with an opportunity to actively participate in project activities and to ensure that any complaints, disputes or grievances resulting from project activities are resolved in ways that respect their dignity and human rights. The GRM will be another avenue for VMGs to monitor project activities and to report any implementation shortfalls or concerns.

109. There will be two levels of grievance redress, i.e. the community level and the Company level. The GRM at the community level will be guided by the community's cultural norms and values. KETRACO will encourage the formation of Community Resettlement Committees (CRC) for each subproject, whose roles will be to resolve grievances through a culturally acceptable manner. KETRACO's Community Liaison Officer (CLO) will be the link between the CRC and KETRACO. The CRCs will be subproject based and the selection of the committee members will be guided by the community's way of governance.

110. The community level grievance redress procedure will start with registration of the grievances with KETRACO's CLO on site or with the CRC. The CLO will convene a meeting with CRC, invite the aggrieved party to the meeting and present the grievance to the committee for hearing. The committee will resolve the complaint if possible, if not, the CLO will escalate the unresolved complaints to the PIU. The community level grievance redress procedure is illustrated in Figure 3.

Figure 3: Community Level Grievance redress procedure



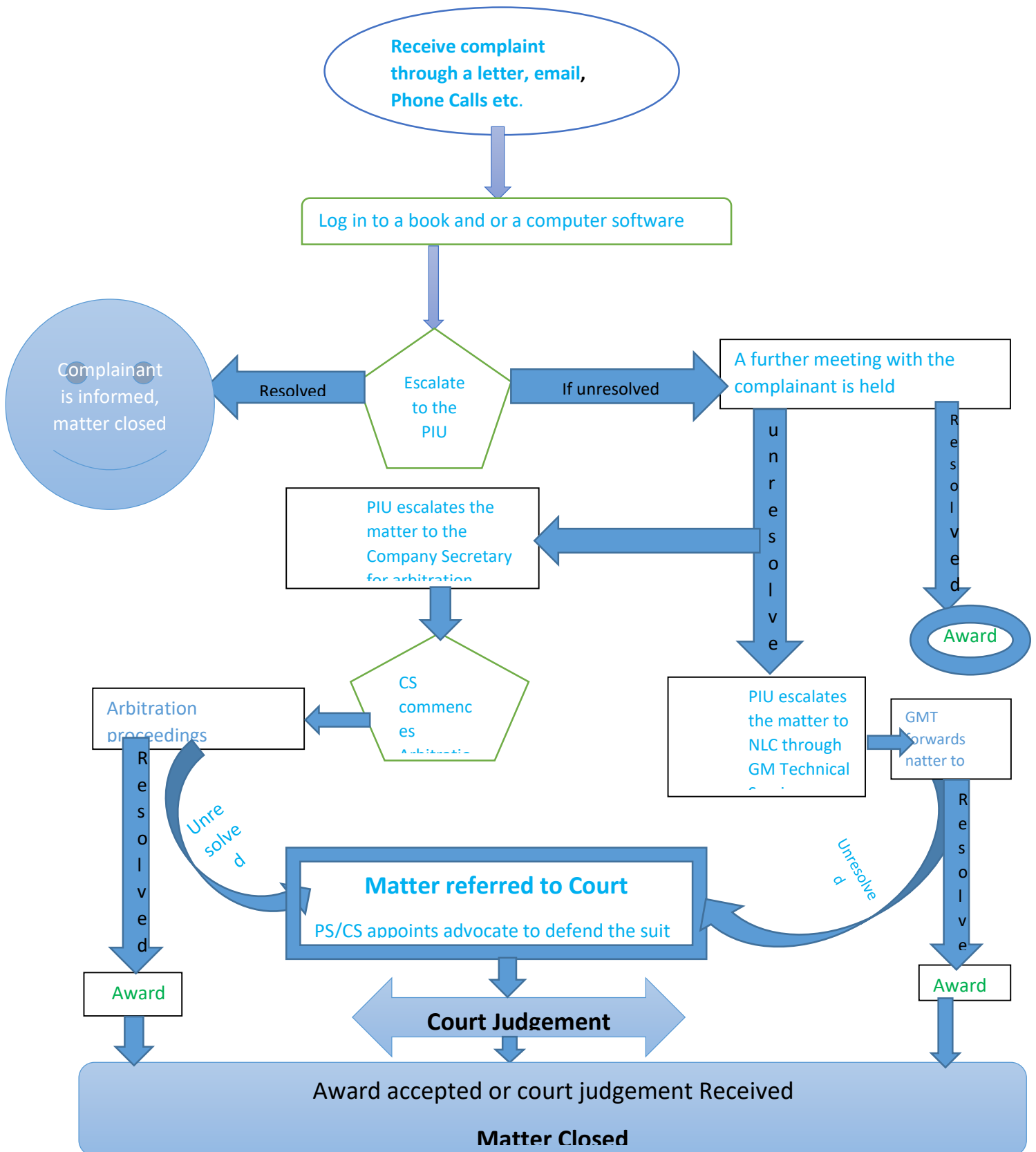
111. The second level grievance redress will be at the Company level, whereby, grievances will be received by KETRACO through email, letters, verbal, suggestion box or from the CLO. Once grievances are received, they will be logged into the grievance log in the office. Some grievances may be resolved immediately, if not, they will be escalated to KETRACO's PIU, as illustrated in Figure 4.

112. The PIU will hold a meeting with the aggrieved party and possibly resolve the grievance. However, if the PIU is unable to resolve it, depending on the nature of the grievance, the PIU will escalate the grievance to The NLC through the General Manager Technical Services (GMTS) or the Company Secretary for arbitration. NLC will resolve it but if unable to, the aggrieved party will have an option to go to court in which case the court judgement will be final.

113. Where the PIU escalates the matter to the Company Secretary (CS) for arbitration, the CS in consultation with the MoE will commence the arbitration process, and the aggrieved party will be invited for hearing. An award may be granted by the arbitration process and if the aggrieved party accepts the award, the grievance will be resolved. If the aggrieved party challenges the award in court, then the court judgement will be given and that will close the matter.

114. The project will try as much as possible to resolve issues locally and expeditiously to ensure that all affected persons do not suffer harm. KETRACO will partner with institutions with the capacity to train and undertake alternative dispute resolution (ADR) to accelerate the process. Mediators, who may be members of the IP/VMG communities or people with expertise in this area, will be identified and engaged on need basis.

115. Figure 4: KETRACO's Grievance redress procedure



8.2 World Bank Redress Service

116. The Bank's Grievance Redress Service (GRS) is aimed at making it more accessible for project affected communities and to help ensure faster and better resolution of project-related complaints. The GRS is open to everyone that believes he/she has been affected or harmed by a Bank-financed project and who feels his/her issues have not been resolved by the implementing agency. During consultations, the implementing agency should create awareness on the existence of the WB-GRS to the PAPs and all other stakeholders. The VMGPs should discuss the GRS procedures in detail and should clarify that the system:

- i. Is available to the PAPs but it does not deal with matters already considered by the GRS unless the complainants have new evidence previously not available to them;
- ii. Does not deal with Bank financed projects that have already been closed; and
- iii. Does not award damages nor provide direct compensation.

8.3 World Bank Inspection Panel

117. The Inspection Panel is the World Bank's independent complaints mechanism. Its mandate is to ensure that the voices of people who may be adversely affected by Bank-financed projects are heard, and to promote accountability at the Bank. The Inspection Panel independently, impartially and objectively evaluates the process followed by the Bank. The Panel does not investigate unless it receives a formal, written Request for Inspection. The Panel has the power to review Bank-funded projects and determine whether Bank Management is following the operational policies and procedures put in place in order to provide social and economic benefits, and avoid harm to people or to the environment. The individual VMGPs should also document the process of filing complaints to the Panel for the benefit of the PAPs.

CHAPTER 9: MONITORING, EVALUATION AND REPORTING

9.1 Monitoring and Reporting Mechanisms

118. Monitoring and evaluation (M&E) are fundamental components of projects implemented by KETRACO. Monitoring should be participatory and include the assessment of beneficial and adverse impacts on IPs/VMGs within project impact areas. The M&E should be based on FPIC with the IPs/VMGs who should play an integral role on its implementation.

119. All monitoring activities will principally remain the responsibility of the KESIP project team. KETRACO will be responsible for compiling the data and auditing for completeness of the records, and for packaging compiled M&E information. However, if found to be necessary, in agreement with the World Bank, third party monitors may be engaged to independently monitor the implementation of KESIP, including the VMGF and VMGPs.

120. The overall goal of the M&E process for the VMGP is to ensure that:

- i. Effective communication and consultations take place;
- ii. Reporting of any grievances that require resolution;
- iii. Document the performance of KESIP about the IPs/VMGs; and
- iv. Allow project managers and participants to evaluate whether the affected IPs/VMGs have maintained their rights, culture and dignity and that they are not worse off than they were before the project.

121. The specific objectives of the project evaluation will include:

- i. An assessment of the compliance of activities undertaken in relation to the objectives and methods identified in the VMGF;
- ii. An assessment of the consultation procedures that have taken place at the community and individual levels;
- iii. An assessment of whether the affected communities and individuals have had access to mitigation activities;
- iv. The occurrence of grievances and extent of resolution of disputes;
- v. An evaluation of the impact of the project on income and standard of living within the communities; and
- vi. Identification of actions that can improve the positive impact of the project and mitigate potential negative impacts.

122. The VMGPs will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out monitoring activities. The KESIP PIU will institute an administrative reporting system that will:

- i. Provide timely information about all grievances arising because of KESIP activities;
- ii. Identify any grievances that have not been resolved at a local level and require resolution through the involvement of the KESIP team; and
- iii. Document the timely completion of project obligations for all IPs/VMGs' grievances.

123. The M&E reports for each subproject investment will be prepared by the implementing agency annually and presented to IPs/VMGs for feedback before being handed over to the IP/VMG committees at subproject level, after formation, for discussion and preparation recommendations on

how to fine-tune the VMGP. There will be a subproject steering committee, which will be established for each subproject where IPs/VMGs will be represented. The M&E report will be submitted to this committee for review and then to KESIP team and the WB. Details on these and other indicators are contained in the respective ESMF.

124. Every year an independent external evaluation will be carried out to further cross-check the quality of the project implementation and offer a guarantee that the IPs/VMGs dignity, human rights, economies, social structures and cultures are being respected by KESIP, and that all decisions of relevance to the IPs/VMGs are undertaken with the following principles:

- i. That FPIC have been successfully done with the IPs/VMGs;
- ii. That the IPs/VMGs receive social and economic benefits that are culturally appropriate and socially inclusive (gender and inter-generationally); and
- iii. That adverse effects on the IPs/VMGs communities, especially the taking of unregistered community land, are, as much as possible, avoided, and if this not feasible, minimized through project design, and any residual impacts are mitigated or compensated in consultation with the affected VMGs in a culturally appropriate manner, based on broad support by the IPs/VMGs.

9.2 Participatory Impact Monitoring (PIM)

125. The M&E of the VMGF implementation, as well as the implementation of the subprojects in the operational areas inhabited by IPs/VMGs is an important management tool, which should include arrangements for FPIC with the affected IPs/VMGs. The implementation of PIM at subproject level will be an important element to assist the various structures to fine-tune their interventions to maximize culturally appropriate benefits and provide space for the IPs/VMGs communities to voice their concerns.

126. The PIM will be based on data gathered through the screening process/SAs, the organizations of the IPs/VMGs, the relevant governmental structures (lands, forests, development and social) at county or sub-county levels, etc. The organizations representing the IPs/VMGs will play a key role as facilitators of the PIM process and the selection of the facilitators will be in close collaboration with the decision-makers of the affected communities. The selected facilitators will be those able to identify and define issues based on the PIM reports, which reflect the situation on the ground in a transparent and plausible way. The facilitator will be people who are well versed with the project area /environment and understand the reports in such a way that they can explain to the affected in a way that is agreeable to their perceptions of issues. The monitoring and evaluation indicators are presented in Table 8.

Issues	Indicator	Responsibility	Data Sources
Capacity Building for implementation of VMGP	Number of individuals & institutions trained	KESIP PIU	Training workshops reports
IPs/VMGs orientation and mobilization	Number of IPs/VMGs meetings;	KESIP PIU VMGOs Elders	Reconnaissance survey reports

	Number of IPs/VMGs sensitized		Community meeting reports
Consultations with IPs/VMGs	Number of Participatory Rural Appraisal (PRA) or Rapid Rural Appraisal (RRA) Attendance of PRA/RRA PRA reports acceptable to IPs/VMGs	KESIP PIU VMGOs	RRA reports PRA reports
Mapping of community resources critical to IPs/VMGs	Level of VMGs participation Reports verified and accepted by IPs/VMGs	KESIP PIU VMGOs	Baseline survey reports Community transect reports
Development of strategies for participation of IPs/VMGs and mitigation measures	Number of projects passed by social screening Number of sub projects implemented Number of mitigation measures successfully implemented in culturally appropriate manner	KESIP PIU ESSs VMGOs	Implementing agency reports
Capacity Building	Types of training Number of Trainings Attendance by IPs/VMGs	KETRACO ESSs VMGOs	Training reports
Equitable representation of IPs/VMGs in decision making organs	Number of meetings attended by IPs/VMGs representatives Number and types of IPs/VMGs issues articulated	KESIP team ESSs VMGOs	County Level and National Steering Committee reports VMGO reports
Targeted Participatory M&E with IPs/VMGs concerning wayleave and/or substation acquisition of unregistered community land	Internal M&E External M&E Active involvement of VMG organizations in project monitoring	ESSs KESIP team VMGOs	Monitoring reports

CHAPTER 10: BUDGET

127. A tentative approximate budget for the implementation of this VMGF and related VMGPs has been included in table 9. The actual budget estimates will be provided once subproject sites are known. The budget for the implementation of the VMGF will mainly include costs for capacity building for KETRACO staff, working under the guidance of an expert consultant, to screen for IPs/VMGs and prepare VMGPs; stakeholder engagement and other meetings, information dissemination, hiring of consultants to prepare the VMGPs, SA, SEP, GRM and M&E.

128. Once the subprojects have been appraised and finalized in the context of the VMGF, the required budget estimates will be allocated by KETRACO from the project funds for proper implementation of the VMGPs. The VMGPs budgets will be revised periodically, e.g. on a yearly basis, or as necessary to ensure full implementation of the VMGPs. The VMGPs' budget will also include costs for implementation, such as travel and other logistical costs of the relevant PIU staff. If consultants will be used, resources will be required to facilitate KETRACO staff to undertake regular supervision visits. These costs will be included in the VMGP implementation budget.

129. All costs for implementing VMGPs will be financed by KETRACO through the KESIP budget. The attendant costs will be estimated during feasibility missions based on interviews with community members, key stakeholders and relevant government officials. The cost estimates will be updated after detailed surveys and investigations as well as further consultations with IPs/VMGs.

130. The budget for the implementation of a VMGP mainly includes costs for training of the PIU staff, IPs/VMGs committee members' consultation/meetings, development and distribution of communication materials, CBO/NGO/agency hiring consultants for VMGP implementation and monitoring, GRM, etc. Once a subproject has been appraised and finalized in the context of the VMGF, the required budget is to be allocated by the executing agency for proper implementation of the VMGP. The VMGPs' budget will also include costs for implementation such as salaries and travel costs of the relevant KESIP officers, where necessary, for the subproject development.

131. At this stage, it is not possible to estimate the exact number of IPs/VMGs who may be affected under KESIP since the technical designs and details of all investments have yet to be finalized and subproject sites and the actual impacts are not yet known. However, when these locations are known, and after the conclusion of the site-specific socio-economic study, a detailed and accurate budget for each VMGP will be prepared using the appropriate VMGP template. Table 9 provides estimates for the costs of implementing the VMGF, including preparing and implementing the VMGPs. The budget will be updated every six months to reflect the identified subprojects and their respective impacts and mitigation measures. Also, the appropriate template will be used in the preparation of VMGPs if these will be necessary when subproject sites are known.

Table 9: Proposed budget for VMGF/VMGP implementation		
Indicative Budgetary Item	Indicative Unit cost (USD)	Source of funds
Screening of subprojects for VMGs presence in the subproject areas	50,000	KESIP
Stakeholders engagement and ongoing consultations for the preparation and implementation of VMGP	250,000	KESIP
GRM activities	200,000	
M&E studies on the implementation of VMGPs under KESIP	350,000	KESIP
Evaluation and implementation of the VMGPs	500,000	KESIP
KESIP/VMGPs training manual	10,000	KESIP
Annual VMGPs audit	50,000	KESIP
Total	1,410,000	KESIP

CHAPTER 11: DISCLOSURE

11.1 Communication Framework

132. A PIU housed in KETRACO will manage KESIP. Specific arrangements for administering project activities at other levels will be established during project design. To ensure compliance with the WB's safeguards, KESIP will retain or recruit (if necessary) the current environmental and social safeguard specialists. These specialists will provide technical support and ensure compliance with the VMGF by coordinating and working with the executing institutions. A communication framework, to be developed for KESIP, will elaborate the principles, strategies and structures on how the project team and the affected IPs/VMGs should interact at each stage of project preparation, implementation, monitoring and review to satisfy the criteria of FPIC.

133. A subproject steering committee will be formed, if a determination is made during the screening that a subproject is likely to be located in an area with IPs/VMGs, hence the likelihood to interfere with the people's livelihoods and rights. The committee will comprise representatives from MoE, KESIP PIU, county and sub-county and IPs/VMGs. In addition, in each affected county, sector ministries including Environment and Mineral Resources, Lands, Gender, Sports, Culture and Social Affairs will also be incorporated in this committee. The committee will provide a link between KESIP, the IPs/VMGs and the county/sub-county administration. The committee will meet monthly and act as the focal point for all VMGF related issues during the implementation of the subproject. The IPs/VMGs will be facilitated to form their own groups whose representatives will serve on the subproject steering committee.

134. The committee will be informed about all KESIP activities and will be expected to communicate relevant information through the IPs/VMGs representatives to the communities. It should also gather information and feedback from the IPs/VMGs communities to channel the same to the relevant governmental structures and KESIP.

135. The elected representatives of the IPs/VMGs for a particular subproject will be responsible for facilitating the communication between the IPs/VMGs and the project team in their respective areas. They will be elected by PAPs during the pilot phase of the VMGF after a further introduction and general discussion on the VMGF, the communication channels, etc. to ensure that the elected representatives have broad community support and are elected by the VMGs on the basis of FPIC. Committee formation will be based on administrative boundaries of the areas traversed by the subproject due to the linear nature of T-Lines. KETRACO will provide guidance to the PAPs on formation of committees but the PAPs should independently select committee members.

11.2 Disclosure

136. This VMGF and subproject VMGPs will be made available to the affected IPs/VMGs and their groups in accessible locations, and in both English and Kiswahili languages for broader understanding.

137. Before project appraisal, the KESIP PIU will send the SA and draft VMGP to the WB for review. Once the WB accepts the documents as providing an adequate basis for project appraisal, it

will make the documents available to the public in accordance with its Policy on Disclosure of Information. The GoK will also make the documents available to the affected communities in the same manner as the earlier documents. It is notable that this VMGF was consulted upon with key stakeholders on February 22, 2018 and the feedback used to refine the document. The comments and response on the issues raised is presented in Annex 6. The list of participants is also attached.

138. Each subproject VMGP will be disclosed to the affected IPs/VMGs with detailed information of the subproject. This will be done through public consultations and made available in the form of brochures, leaflets, or booklets, using both English and Kiswahili. A summary of the VMGP will be made available in hard copies, in English and Kiswahili at: (i) Offices of the executive agency; (ii) sub-county or county offices; and (iv) any other local level public offices (chief, assistance chief, village administrator, ward representative, etc.). Electronic versions of the framework, as well as the VMGPs, will be placed on the official website of MoE, WB and KETRACO after approval and endorsement of the VMGF and each VMGP by the WB before the approval of the subproject.

11.3 Roles and Responsibilities

139. Specifically, the ESS specialists in KETRACO, with the support of consultants, will be responsible for:

- i. Screening for subprojects affecting IPs/VMGs;
- ii. Review and approve project proposals, ensuring that they adequately apply OP 4.10;
- iii. Assess the adequacy of the assessment of project impacts and the proposed measures to address issues pertaining to affected IPs/VMGs. This should entail an assessment of project impacts and social risks, circumstances of the affected indigenous communities, and the capacity of the applicant to implement the measures; and
- iv. Assess the adequacy of the consultation process and the affected IPs/VMGs communities' broad support to the project. They should monitor project implementation, and include constraints and lessons learned concerning IPs/VMGs and the application of this VMGF in its progress and monitoring reports. In addition, they should ensure that the affected IPs/VMGs are included in M&E exercises.

140. The CBOs and NGOs present and active in the area will be engaged during the SA studies as well as during the M&E of each subproject. The formation of GRM and steering committees for each subproject investment will also include representation of the CBOs and NGOs.

141. The WB will receive all the VMGPs prepared, review and provide a 'No Objection' or otherwise prior to subproject approval and start of implementation. During implementation, the WB will also conduct field visits and M&E. The WB will approve the VMGF for KESIP before being adopted for use by KETRACO.

ANNEXES

ANNEX 1: HOUSEHOLD SOCIO-ECONOMIC QUESTIONNAIRE

UNIQUE CODE

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SECTION A: INTRODUCTION

Hello. My name is [.....]. I am working with Kenya Electricity Transmission Company Limited (KETRACO). We are carrying out a Social Impact Assessment for The result of this exercise will inform how the project will be implemented.

Village	Name of Household Head	
Sub-location	Household Head ID No.	
Location	Household Head Contact	
Division	Name of Respondent (If not HH Head)	
District	Respondent Contact (If not HH Head)	
Interviewer	Supervisor	

Section B: Demographic Data

B1	B2	B3	B4	B5	B6
Gender of respondent? 1. Male 2. Female	Relationship to Household head? 1. Head 2. Spouse 3. Son/Daughter 4. Brother/Sister 5. Parent 6. Other Relative	What is your age? 1. < 18 yrs 2. 18 – 25 yrs 3. 26 – 35 yrs 4. 36 – 45 yrs 5. 46 – 60 yrs 6. Above 60 yrs	What is your marital status? 1. Married (No. of Spouses) 2. Widowed 3. Divorced 4. Separated 5. Single 6. Other	Number of Dependants	What is the highest level of education you attained? 1. Primary 2. Secondary 3. Post-Secondary 4. Never Attended

B7	B8	B9	B10	B11	B12
Where were you born?	Are your parents alive? 1. Yes >> B9 2. No >> B10	If yes, which? 1. Both parents 2. Mother 3. Father	Do/Did your parents live here? 1. Yes >> B12 2. No >> B11	If no, where do/did your parents live?	Why did they move to here?

Section C: Health and Vulnerability

<i>C1</i>	<i>C2</i>			<i>C3</i>	<i>C4</i>	<i>C5</i>
Are there physically challenged people in the HH? 1. Yes >> C2 2. No	What is the nature of the challenge? 1. Lame leg 2. Blind 3. Deaf 4. Dump 5. Crippled 6. Crossed eyes 7. Other (Specify)			Has any member of your household been ill within the last for months? 1. Yes 2. No	If yes, what was the nature of illness? 1. Malaria 2. Flu/Cough 3. Stomach disorders 4. Diarrhoea 5. Cholera 6. Headaches 7. Chronic Illness 8. Other (Specify)	Where did they get medical attention? 1. Home 2. Hospital 3. Dispensary 4. Clinic
	Name	Disability	Type of Care			

NB:Chronic illnesses include Ulcers, Sickle Cells, Cancer, Diabetes, Asthma, High Blood Pressure, Tuberculosis, HIV /AIDS.

Section D: Source of Income

<i>D1</i>	<i>D2</i>	<i>D3</i>
What do you do for a living? 1. Farming 2. Livestock Rearing 3. Business 4. Formal employment 5. Casual employment	Other Sources of Incomes for the past one year 1. Farming 2. Business 3. Employment 4. Remittance 5. Others (Specify)	What is the average income for the Household per month (KSH) 1. Less than 500 2. 501 – 2,000 3. 2,001 – 5,000 4. 5,001 – 10,000 5. 10, 001 – 20,000 6. 20,001 – 50,000 7. Above 50,000

Section E: Assets

<i>E1</i>	<i>E2</i>	<i>E3</i>	<i>E4</i>	<i>E5</i>
Which of your assets are affected? 1. None 2. Land >> E2	For the affected plot do you have proof of ownership? 1. Yes>> E3	If yes in E3, which one? 1. Title deed 2. Allotment letter 3. Other, Specify	If affected, can you relocate within your land (if settlement land) or outside the way leave trace. ³	If No, give reason (s)

³ Since T-Line subprojects are linear by nature, most affected PAPs relocate within their land because only small parcels of land are affected. However, those whose land parcels are totally affected by the wayleave corridor – because they had very small parcels in the first place - relocate outside their land parcels, which means they would be resettled outside the way leave corridor. Such people are permanently displaced and are given support to relocate in addition to full compensation at current replacement cost for their land, structures and any other assets

3. Structure (s) 4. Crops/Trees 5. Grave/Cultural site	2. No		1. Yes 2. No >> E5	

F5	F6	F7	F8	F9
Do you or any of the affected families on this plot have other land holding nearby or elsewhere? 1. Yes >>F2 2. No	If yes, where?	Estimated total size (Acres)	Land Type 1. Settlement 2. Trust	Nature occupancy 1. Land owner 2. Tenant 3. Co-owner 4. Co-tenant 5. Licensee 6. Renter 7. Squatter

Section F: Land Ownership

F1	F2	F3	F4
Which type of ownership is your land under? 1. Leasehold 2. Freehold 3. Trust land 4. Squatter	In which year did you acquire this land?	How did you acquire this property? 1. Buying 2. Inherited 3. Gift 4. Rented	How do you use your land? 1. Crop Farming 2. Livestock Keeping 3. Sanctuary 4. Other Uses (specify)

Section G: Social Structures

G1	G2	G3
Which of these Public facilities are you close to? 1. Primary School 2. Secondary School 3. Health Centre 4. Road 5. Water Source/Point 6. Historical Sites 7. Others (Specify)	Distance to public facility? 1. < 500m 2. 501m to 1 km 3. 1-2 km 4. 2-3 km 5. 3-5 km 6. More than 5 km	Description

NOTES

THANK YOU**

ANNEX 2: IPS/VMGS IN KENYA AS PER CONSTITUTION OF KENYA AND WORLD BANK CLASSIFICATION

The IPs/VMGs groups in Kenya as per the CoK and based on the WB classification are described below in summary.

(i) Sengwer

The Sengwer live in the three administrative sub-counties of Marakwet, West Pokot and Trans Nzoia and along Cherangany Hills. They are estimated to be 60,000 (40,000 of them live in their traditional territories and another 20,000 in the diaspora). They lived by hunting and bee-keeping. In his evidence before the 1932 Kenyan Land Commission, Mr. C.H. Kirk, stated how they used to go over Cherangany shooting and the only people with whom they came into contact along Cherangany Hills were the Cherangany Dorobo, a small tribe of Dorobo (Sengwer). Similar to other ethnic minorities, the Sengwer were considered by the British to be served best if they were forced to assimilate with their dominant neighbours. Hence, their traditional structure was not recognized and integrated as an independent ethnic group in the system of indirect rule, but as a sub-structure of their neighbours.

Since the Sengwer's land is in the plains of Trans Nzoia, which turned out to be the best area for agricultural production in Kenya, they were displaced entirely from there to make way for white farmers. A minority stayed behind as farm workers, but the majority went up into the forests of the Cherangany hills. Since they were not considered as independent group, they were not invited to join the settlement schemes in which the independent Kenya redistributed the white farms to the farm workers and the dominant ethnic groups of the area. While most Sengwer are officially landless, a few, especially those in the northern parts of the Cherangany hills received some land, but even this land is contested.

Livelihood: Before the colonial time, Sengwer used to be hunters and honey-gatherers. Following their contacts with the Arabs and the Maasai some adopted small-scale agriculture (shifting cultivation) and/or livestock rearing, but it is said that hunting remained their main source of livelihood until the 1920s. The elders reported collective as well as individual hunting techniques. Gathering of fruits and other non-timber-forest-products is mostly done by women, while honey collection from beehives as well as from natural places such as holes in trees etc. is traditionally a male activity. It has - besides being eaten - a variety of uses: Honey is mixed with water as a daily drink (breakfast), and used to brew beer; Honey plays a major role in marriages and other ceremonies. Before marriage, honey is given to the mother of the bride as part of the dowry. Honey has also medical use. People apply it to their body to drive away mosquitoes and against muscle pains. Another smelly mixture is spread around the compounds to keep wildlife at distance. Millet and Sorghum are the "traditional" crops, which were inherited from the Arab traders and mostly planted in the lowlands.

The current status of indigenous sengwer: The sengwer have increasingly been restricted to areas with home 'bases' involving agriculture and livestock rearing and outlying areas where some honey gathering is still practiced. The sengwer continue to experience expropriation of their land and restrictions on access to natural resources especially forests and water- which have further increased their sedentarization, marginalization, social discrimination, and impoverishment. Even though they are considered, from the formal legal point of view, as citizens equal to all other Kenyans, they do not have the same access to land and other resources, protection against cattle rustlers, social and political influence, legal status and/or organizational, technical or economic capacities as other Kenyan citizens.

(ii) Ogiek

The Ogiek (Ogiot - sing.) ethnic group consists of 20-30 groups of former hunters and honey gatherers, mostly living in forested highlands in western Kenya. In 2000, the ethnic Ogiek population was estimated to number 36,869, though the number of those speaking the Akiek Language was as low as 500.

Local groups have more specific names, e.g., Kaplelach, Kipsang'any, Kapchepkendi etc. Ogiek, a Kalenjin language of the Southern Nilotic group, is the mother tongue of most Ogiek people, but several groups now speak Maasai as their first language. Traditionally the Ogiek had occupied most of the forests in the extreme west and south of Western Kenya, but today their main area of living is in and around the Mau forest, which is not part of the operational areas. Nevertheless, some Ogiek groups are found in the Upper Yala catchment near the villages Serengoni, Senghalo (Nandi South), in the Kipkurere forest (Nandi South) and some live scattered in the Uasin Gishu Sub-County.

Livelihood: Traditionally the Ogiek divided land into lineage-owned tracts stretching along the escarpment slope. Tracts transacted four or five ecological zones, giving families access to honey and game during each season. Residence groups were small extended families, patrilineal cores that might be joined by affine and matrilineal relatives. Six to ten adjacent lineages constituted a named local group, i.e. a significant unit of cultural identity and history. Unlike many other hunter-gatherers, beside of honey, Ogiek collect hardly any plants, fruits or non-timber-forest-products from the forest. Honey is eaten, stored for future use, brewed into beer and traded. It is said to have been the main product for the barter with their agricultural and/or pastoralist neighbours. Starting in the 1920s the Ogiek started to cultivate small millet and maize gardens due to reduced production from the forest. This led to a more sedentary lifestyle in mid altitude forest and – in turn - a further increase of agriculture and/or pastoralism.

Today, agriculture is the main source of subsistence and income, which is supported through some livestock rearing, hunting (which is illegal) and bee-keeping. Honey gathering is still a key activity and carried out the traditional way, with few Ogiek using modern bee-hives and/or processing the honey for regional markets. Blackburn concludes: "without honey and condition of getting it, Ogiek life would be entirely different. This explains why the Ogiek live in the forest" (Blackburn 1974:151). Their access to land varies very much from village to village. Before independence most Ogiek lived on state or trust land (i.e. in the forests) with all usufructuary rights, but no letters of allotment. Following independence, the land reform and the general land demarcation in 1969 usufructuary rights were out-ruled. Legal access to land is now channelled through individual and titles and - in the Maasai-dominated Sub-Countys – group ranches. Group-ranch demarcation began in the 1970s, crossing lineage land boundaries, incorporating non-Ogiek into some groups, and registering significant parts of Ogiek land to non-Ogiek. During the same time, the Ogiek were evicted from the forest reserves. As they were not provided with any land or compensation most had to go back and live illegally in the forests until the next eviction-team would show up. The regular evictions, arrests and loss of property, crops and even lives further increased the poverty of the Ogiek, underlined their social discrimination and cemented their marginalization.

(iii) Turkana

The Turkana people are the second largest of the pastoral people of Kenya with a population of 1,034,000. They occupy the far northwest corner of the nation, an area of about 67,000 square kilometers. This nomadic community moved to Kenya from Karamojong in eastern Uganda. The Turkana tribe occupies the semi Desert Turkana Sub-County in the Rift valley province of Kenya. Around 1700, the Turkana emigrated from the Uganda area over a period of years. They took over the area, which is the Turkana Sub-County today by simply displacing the existing people of the area. Turkana warriors today still take pride in their reputation as the most fearless fighters in East Africa. Adherence to the traditional religion is weak and seems almost nonchalant among the Turkana. Location in the Country - Rift Valley Province, Turkana, Samburu, Trans-Nzoia, Laikipia, Isiolo Sub county, west and south of Lake Turkana; Turkwel and Kerio rivers.

Livelihood: Like the Maasai and tribes, Turkana people keeps herds of cattle, goats and camel. Livestock is a very important part of the Turkana people. Their animals are the main source of income and food. Turkana's have also pursued other non-pastoral income-earning activity in both urban and rural environments. This includes various forms of wholesale and retail trade (e.g. selling livestock, milk, hides and skins, honey, and artisan goods etc.), traditional rental property ownership and sales, waged employment (local and non-local, including working as a hired herder, farm worker, and migrant laborer), farming (subsistence and commercial), and the gathering and selling of wild products (e.g. gum Arabic, firewood, or medicinal plants). Fishing in Lake Turkana is another, long standing form of diversification. Fishermen along Lake Turkana migrate to follow the patterns of fish movement. The pastoralists also supplement their livelihoods by selling the fish. Many of them have also taken up weaving mats and baskets particularly near the lake where weaving material is readily available from the Doum Palm. Other natural resource-based livelihood diversification activities have included the collection and sale of aloe, gum Arabic, honey, wild fruits, firewood, and the production and sale of charcoal and alcohol.

(iv) Rendile

The Rendile are a Cushitic tribe that inhabits the climatically harsh region between Marsabit hills and Lake Turkana in Northern Kenya where they neighbor the Borana, Gabbra, Samburu and Turkana tribes. They (Rendile) consist of nine clans and seven sub clans. They are culturally similar to the Gabbra, having adopted some Borana customs and being related to the Somali people to the east. Rendile are semi-nomadic pastoralists whose most important animal is the camel. The original home of the Rendile people was in Ethiopia. They were forced to migrate southwards into Kenya due to frequent conflicts with the Oromo tribe over pasture and water for their animals. Being pastoralists, the lifestyle of the Rendile revolves around their livestock. In the northerly areas, camels are their main source of livelihood. This is because camels are best adapted to the desert conditions that prevail in the northern Kenya. The camels are an important source of milk and meat for the Rendille people. There are about eight or nine sub clans including the Urowen, Dispahai, Rongumo, Lukumai (Nahgan), Tupsha, Garteilan, Matarbah, Otol, and Saale with an estimated population of 72,000. The Rendile are located in Eastern Province, Marsabit Sub-County, between Lake Turkana and Marsabit Mt. The primary towns include Marsabet, Laisamis, Merille, Logologo, Loyangalani, Korr, Kamboi, Ngurunit, and Kargi.

Livelihood: The Rendile people are traditionally pastoralists keeping goats, sheep, cattle, donkeys, and camels. Their nomadic lifestyle is become more prominent in the areas exposed to little urbanization and modernization. In the recent past though, their livelihood has experienced constant competing interests from the Samburu's and Gabras leading them to constant conflict over land and water resources particularly at the borderline of the boundary Sub-Countys. In the most cases, the raids and conflicts have had the objective to replenish their herds depleted by severe droughts, diseases, raiding or other calamities.

(v) Gabra

The Gabra are an Oromo people who live as camel-herding nomads, mainly in the Chalbi desert of northern Kenya and the highlands of southern Ethiopia. They are closely associated with other Oromo, especially their non-nomadic neighbors, the Borana. The Gabra speak the Borana dialect of Oromo, which belongs to the Cushitic branch of the Afro-Asiatic language family and have a population estimated to be close to 70,000. They are located in Samburu Sub-County, Lake Baringo south and east shores; and in Rift Valley Province (Chamus), Baringo Sub-County.

Livelihood: Gabra are pastoralists who keep and depend on cattle, sheep, goats, donkey, and camels. They solely rely on access to water and pastures for the survival of their livestock. Typical Gabra household keeps 5-10 cattle; 20-25 goats; 15-20 sheep; and 0-5 camels. Cattle provide the majority of income from livestock production followed by goats, sheep, and camels. Majority of the grain consumed by Gabra household in this zone is purchased. This includes maize, rice, and sugar. Households also rely on the wild food including fruits and berries, honey, roots, and tubers. Climate change has had an impact on new

weather patterns and prolonged drought pushing the Gabra community to frequent water shortages. They have a conglomerate of peoples living north of the Tana River in Kenya, the area around Lake Turkana and the highlands of southern Ethiopia.

(vi) Ajuran

The Ajuran are ethnically Somalis. They were a kingdom that ruled Somalia before the advent of Europeans into Africa. When the rest of the Somalis got fed up with their rule they took up arms against them in war popularly known as Eji iyo Ajuran meaning the rest of Somalis vs. the Ajuran. The wars that ensued deposed the kingdom and drove some of the Ajuran as far as where they live today in the North Eastern Kenya and Eastern part of Ethiopia. Some of those who settled in present day Kenya eventually adopted the language and customs of their neighbors and hosts, the Borana. The Ajuran are best known in Somali history for establishing the Gareen dynasty based in Qalaafo (now part of Ethiopia). The Green dynasty ruled parts of East Africa from the 16th to the 20th century. Among the Kenyan Ajuran people, the majority speak the Borana language as their first language while others speak the Somali language as their first language especially those from Wajir North Sub-County in the areas of Wakhe and Garren. It is vital to note that since Somali is the language of wider communication in North-eastern Province, even the Ajuran who speak Borana as their first language learn the language. The link between the Garreh and Ajuran is their primary language, which is Borana and not Somali. Population: 59,000. Location in the Country: Eastern Province, Marsabit, Isiolo and Moyale SubCountys, Wajir North.

Livelihood: The Ajurans, like the rest other Somali tribes of Northern Kenya have traditionally lived a nomadic life. This way of life is dictated by the climate, which is semi-arid with two seasonal rains. They follow water and pasture for the animals they keep such as cattle, camels, goats, sheep, donkeys and mules that provide them their livelihood. Where the land is good for farming there are settled populations growing corn, millet, sorghum and some fruits and vegetables. The Ajuran live in an area with relatively high rainfall and good pasture for their animals. However, this blessing has on many occasions become troublesome to them in terms of marauding neighbors in need of the same resources. The intrusion by others has periodically resulted in clashes. Today, the Ajuran allow others to live and pasture their animals in their communal land. Some of the main causes of their vulnerability include the following: erosion of assets due to armed conflict during intermittent inter/intra-clan conflict, resulting in poverty; protracted conflict and insecurity; Systematic marginalization and discrimination based on ethnicity and caste; poor access to economic/employment opportunities. Notably, their right and ability of the transhumant pastoralists to eventually return to their homes characterizes this type of seasonal movement and gives rise to certain analyses.

(vii) Maasai

Kenya's most well-known ethnic tribe, the Maasai (or Masai) are semi-nomadic people located primarily in Kenya and northern Tanzania. They are considered to be part of the Nilotic family of African tribal groups, just as the Scilluk from Sudan and the Acholi from Uganda. The Maasai probably migrated from the Nile valley in Ethiopia and Sudan to Maasai land (central and southwestern Kenya and northern Tanzania) sometime around 1600 AD, along the route of lakes Chew Bahir and Turkana (ex Rudolph), bringing their domesticated cattle with them. Once considered fierce warriors, feared by all tribes in the zone, the Maasai lost most of their power during the late XIX century, as a consequence of a string of natural and historic calamities. They were hit by drought, smallpox, and cattle pest, and contemporarily had to mourn the departure of Laibon Mbatiani, their respected and much-admired leader, direct descendant of the mythical OIMasinta, founder of the tribe. The Maasai speak the Maasai language, an Eastern Nilotic language closely related to Samburu (or Sampur), the language of the Samburu people of central Kenya, and to Camus spoken south and southeast of Lake Baringo. Maasai's population is about 684,000 and is located in the Rift Valley Province, Kajiado and Narok Sub-county.

Livelihood: The Maasai are cattle and goat herders, their economy almost exclusively based on their animal stock, from which they take most of their food: meat, milk, and even blood, as certain sacred rituals involve the drinking of cow blood. Moreover, the huts of the Maasai are built from dried cattle dung.

(viii) Ilchamus

They are originally a pastoralist people who used to live on the mainland but due to clashes they have been forced to migrate to an island in Lake Baringo. It is a very traditional and culturally bound society, hierarchical and male-dominated. They live from fishing in small boats made of balsam tree that dates back maybe a thousand years. They also do some souvenirs and they have some livestock. Many are uneducated and illiterate. They are eager to learn new things, participating and seemingly eager to create a better life. They communicate mainly in their local language. They have a population of 34,000 and are located in Southeast and south shore of Lake Baringo, and southwest shore as far north as Kampi ya Samaki.

Livelihood: The majority of the Ilchamus practice both livestock rearing and agriculture, but on the islands in Lake Baringo there are about 800 Ilchamus who live nearly entirely from fishing. The mainland Ilchamus are semi-pastoralists with a long history of small-scale agriculture. The main types of livestock owned by the Ilchamus are cattle (zebus), sheep (red Maasai and dopper cross) and goats (small east African), but their herds are significantly smaller than those of their neighbors. The key problems here are the insufficient security against aggressions from their neighbors, access to water and pressure of other people on their land due to the non-existence of land titles. The nearest markets are at Marigat and Kiserian.

(ix) Aweer/Boni

The Aweer are a remnant hunter-gatherer group living along the Kenyan coast in Lamu Sub-County on the mainland. In the last 30 years, the Aweer have faced very difficult times. In 1967, their homeland became a battlefield in the war between Kenya and Somalia. In Kenya today, they are a vulnerable group, struggling to survive, in search of a new identity. Traditionally they depend on their elders for leadership and do not normally meet for village discussion. There are some men who have more than one wife, and each wife has her own house in which she lives with her children. The husband does not have his own home but lives with each wife periodically. The Aweer have a population of 8,000 and are located in the Coast Province, in Lamu, and Tana River Counties in forests. These figures are quoted from the 2009 Kenya Population and Household Census KNBS.

Livelihood: Hunters and Gatherers. They are indigenous hunter/gatherers famous for their longbows and poison arrows. The Aweer are often referred to - and even sometimes refer to themselves - as the "Boni". Considered by some as pejorative, Boni is based on the Swahili word "kubuni" which means 'to move', in reference to their proclivity, historically, to move around in pursuit of their livelihoods, rather than settle in one place. The lives of the Aweer were drastically changed when the Kenyan government curtailed their traditional way of life as a response to the insecurity of the region after the Shifta War (1963–1967), forcing them to settle in villages along the Hindi-Kiunga Road on Government Land between the Boni National Reserve and the Dodori National Reserve while adopting slash and burn agriculture.

(x) Pokot

They speak Pökoot, language of the Southern Nilotic language family, which is close to the Marakwet, Nandi, Tuken and other members of the Kalenjin grouping. Kenya's 2009 census puts the total number of Pokot speakers at about 620,000 in Kenya. They have once considered part of the Kalenjin people who were highland Nilotic people who originated in southern Ethiopia and migrated southward into Kenya as early as 2,000 years ago. Though the Pokot consider themselves to be one people, they are basically divided into two sub-groups based on livelihood. Population: 662,000. The Pokot are located in the Rift Valley Province, Baringo and West Pokot Sub-Counties.

Livelihood: It is usually claimed that from the earliest time of the original Pokot, they were agriculturalist, they did not have many cattle, and the few they had were taken by wild animals abounding the area. They have been hunters and gatherer living in caves. Currently, Pokot are semi-nomadic, semi-pastoralists who live in the lowlands west and north of Kapenguria and throughout Kacheliba Division and Nginyang Division, Baringo Sub-County. These people herd cattle, sheep, and goats and live off the products of their stock. The other half of the Pokot are agriculturalists who live anywhere conditions allow farming. Mixed farming is practiced in the areas of Kapenguria, Lelan and parts of Chepararia. These areas have recorded rainfall between 120mm to 160mm while pastoral areas include Kiwawa, Kasei, Alale and parts of Sigor receiving 80mm and 120mm. The livelihood of Pokot has led to constant conflict between them and other pastoral communities – the Turkana, Matheniko and the Pokot of Uganda. This clash has been sustained by semi-arid savannah and wooded grassland terrain that cuts along the habitation area. Resources such as land, pasture, water points are communally owned, and they are no specific individual rights.

(xi) Endorois

The Endorois community is a minority community that was living adjacent to Lake Bogoria and has a population of about 60,000. However, the Government of Kenya forcibly removed the Endorois from their ancestral lands around the Lake Bogoria area of the Baringo and Koibatek Administrative Sub Counties, as well as in the Nakuru and Laikipia Administrative Sub-Counties within the Rift Valley Province in Kenya, without proper prior consultations, adequate and effective compensation. Endorois are a community of approximately 60,000 people who, for centuries, have lived in the Lake Bogoria area. They claim that prior to the dispossession of Endorois land through the creation of the Lake Hannington Game Reserve in 1973, and a subsequent re-gazetting of the Lake Bogoria Game Reserve in 1978 by the Government of Kenya, the Endorois had established, and, for centuries, practiced a sustainable way of life which was inextricably linked to their ancestral land. However, since 1978 the Endorois have been denied access to their land, neighboring tribes as bona fide owners of the land and that they continued to occupy and enjoy undisturbed use of the land under the British colonial administration, although the British claimed title to the land in the name of the British Crown. At independence in 1963, the British Crown's claim to Endorois land was passed on to the respective County Councils. However, under Section 115 of the Kenyan Constitution, the Country Councils held this land in trust, on behalf of the Endorois community, who remained on the land and continued to hold, use and enjoy it.

The Endorois' customary rights over the Lake Bogoria region were not challenged until the 1973 gazetting of the land by the Government of Kenya. The act of gazetting and, therefore, dispossession of the land is central to the present to their current predicament. The area surrounding Lake Bogoria is fertile land, providing green pasture and medicinal salt licks, which help raise healthy cattle. Lake Bogoria is central to the Endorois religious and traditional practices. The community's historical prayer sites, places for circumcision rituals, and other cultural ceremonies are around Lake Bogoria. These sites were used on a weekly or monthly basis for smaller local ceremonies, and on an annual basis for cultural festivities involving Endorois from the whole region. The Complainants claim that the Endorois believe that the spirits of all Endorois, no matter where they are buried, live on in the Lake, with annual festivals taking place at the Lake. They believe that the Monchongoi forest is considered the birthplace of the Endorois and the settlement of the first Endorois community.

Despite the lack of understanding of the Endorois community regarding what had been decided by the Kenya Wildlife Service (hereinafter KWS) informed certain Endorois elders shortly after the creation of the Game Reserve that 400 Endorois families would be compensated with plots of "fertile land." The undertaking also specified, according to the Complainants, that the community would receive 25% of the tourist revenue from the Game Reserve and 85% of the employment generated, and that cattle dips and fresh water dams would be constructed by the State. To date, the Endorois community has not received

adequate compensation for this eviction, nor have they benefited from the proceeds of the reserve. Because they no longer have free accesses to the lake or land, their property rights have been violated and their spiritual, cultural and economic ties to the land severed. Once able to migrate with the seasons between Lake Bogoria and the Mochongoi forest, the Endorois are now forced to live on a strip of semi-arid land between their two traditional sites with no access to sustain their former cattle rearing and beekeeping livelihood. The eviction of the Endorois people by the Kenyan government and the gazetting (or public declaration of state ownership) of their land began in 1973 and continued until 1986.

Livelihood: Dependent on land and fishing from Lake Bogoria. Critically, land for the Endorois is held in very high esteem, since tribal land, in addition to securing subsistence and livelihood, is seen as sacred, being inextricably linked to the cultural integrity of the community and its traditional way of life.

(xii) Watha

The Watha people are mostly found in the rural arid and semi-arid lands of the country. A minority of them live in thick forests scattered all over the country. The people are traditionally hunters and gatherers. In Malindi Sub-County a Watha community is found in four divisions (i.e. Malindi, Langobaya, Marafa and Magarini). In Tana River Sub-County, the Watha are found in Sombo and Laza divisions while in Mandera the Watha are found in Central division. The population of Watha community in the Sub-Counties is estimated at approximately 30,000 persons. This is only 2.7% of the entire Malindi, Mandera and Tana River Sub-County population.

The Watha people are traditionally hunters and gatherers. However, since the government abolished unlicensed hunting of game and wild animals, the Watha people now live in permanent settlements, some of them along the river and where there are forests, mainly in the mixed farming and livestock farming zones. The forests afford them an opportunity to practice bee keeping while those along the river practice crop production. The land tenure system in the Sub-County is communal ownership. Most of the land in the three Sub counties of Malindi, Mandera and Tana River are currently under trust land by the County councils. Few influential people in the Sub-County have however managed to acquire title deeds from the land offices in Nairobi. However, most of this trust lands are controlled by the majority tribes and becomes a point of conflict if the smaller tribes and outsiders get involved. This is what has pushed the small and marginalized tribes like Watha deep into the forests.

ANNEX 3: SOCIAL SCREENING FORM

To be filled by KESIP PIU Team⁴

SOCIAL SCREENING FORM FOR KESIP ACTIVITIES	
A. BACKGROUND INFORMATION	
A1. Type/description/justification of proposed activity	
A 2. Location of activity: Area coordinates and map	
A3. Duration of activity	
A 4. Focal point and person for activity	
B. EXPECTED BENEFITS	
B1. Benefits for local people	
B2. Benefits to Vulnerable and Marginalized Groups (VMGs) (Well documented, evidence of benefits)	
B3. Total Number of expected beneficiaries	
B4. Total Number of expected Vulnerable and Marginalized Peoples beneficiaries	
B5. Ratio of B3 and B4; Are benefits distributed equitably?	<input type="checkbox"/> YES <input type="checkbox"/> NO If NO state remedial measures
C. POTENTIAL ADVERSE SOCIAL IMPACTS	
C1. Will activity entail restriction of access of VMP to lands and related natural resources	<input type="checkbox"/> YES <input type="checkbox"/> NO If yes exclude/mitigate from project (total area affected? If minor seek FPIC/agreement)
C2. Will activity entail commercial development of natural and cultural resources critical to VMGs	<input type="checkbox"/> YES <input type="checkbox"/> NO If yes exclude from project
C3. Will activity entail physical relocation of Vulnerable and Marginalized Peoples <input type="checkbox"/> YES <input type="checkbox"/> NO If yes exclude from project	<input type="checkbox"/> YES <input type="checkbox"/> NO If yes (more than a handful of households or no land available within community) exclude from project. For minor impacts seek FPIC/agreement
D. CONSULTATION WITH IP	
D1. Has VMP orientation to project been done for this group?	<input type="checkbox"/> YES <input type="checkbox"/> NO
D2. Has PRA/RRA been done in this area?	<input type="checkbox"/> YES <input type="checkbox"/> NO
D3. Did the VMP give broad support for project	<input type="checkbox"/> YES <input type="checkbox"/> NO If not exclude form Project

Prepared by: _____ Verified by: _____

Date: _____ Date: _____

Note: Attach sketch maps, PRA/RRA results and other relevant documents.

⁴Note that this form will be updated in consultation with the local communities once the sites are determined.

ANNEX 4: CONTENTS OF A VMGP

VMGs Development Plan

Prerequisites

Prerequisites of a successful development plan for indigenous peoples are as follows:

- (a) The key step in project design is the preparation of a culturally appropriate development plan based on full consideration of the options preferred by the indigenous people affected by the project.
- (b) Studies should make all efforts to *anticipate adverse trends* likely to be induced by the project and develop the means to avoid or mitigate harm.
- (c) The institutions responsible for government interaction with indigenous peoples should possess the social, technical, and legal skills needed for carrying out the proposed development activities. Implementation arrangements should be kept simple. They should normally involve appropriate existing institutions, local organizations, and nongovernmental organizations (NGOs) with expertise in matters relating to indigenous peoples.
- (d) Local patterns of social organization, religious beliefs, and resource use should be taken into account in the plan's design.
- (e) Development activities should support production systems that are well adapted to the needs and environment of indigenous peoples, and should help production systems under stress to attain sustainable levels.
- (f) The plan should avoid creating or aggravating the dependency of indigenous people on project entities. Planning should encourage early handover of project management to local people. As needed, the plan should include general education and training in management skills for indigenous people from the onset of the project.
- (g) Successful planning for indigenous peoples frequently requires long lead times, as well as arrangements for extended follow-up. Remote or neglected areas where little previous experience is available often require additional research and pilot programs to fine-tune development proposals.
- (h) Where effective programs are already functioning, Bank support can take the form of incremental funding to strengthen them rather than the development of entirely new programs.

Contents of VMGP

The development plan should be prepared in tandem with the preparation of the main investment. In many cases, proper protection of the rights of indigenous people will require the implementation of special project components that may lie outside the primary project's objectives. These components can include activities related to health and nutrition, productive infrastructure, linguistic and cultural preservation, entitlement to natural resources, and

education. The project component for indigenous people's development should include the following elements, as needed:

a. *Legal Framework.* The plan should contain an assessment of (i) the legal status of the groups covered by this VMGP, as reflected in the country's constitution, legislation, and subsidiary legislation (regulations, administrative orders, etc.); and (ii) the ability of such groups to obtain access to and effectively use the legal system to defend their rights. Particular attention should be given to the rights of indigenous peoples to use and develop the lands that they occupy, to be protected against illegal intruders, and to have access to natural resources (such as forests, wildlife, and) vital to their subsistence and reproduction.

b. *Baseline Data.* Baseline data should include (i) accurate, up-to-date maps and aerial photographs of the area of project influence and the areas inhabited by indigenous peoples; (ii) analysis of the social structure and income sources of the population; (iii) inventories of the resources that indigenous people use and technical data on their production systems; and (iv) the relationship of indigenous peoples to other local and national groups. It is particularly important that baseline studies capture the full range of production and marketing activities in which indigenous people are engaged. Site visits by qualified social and technical experts should verify and update secondary sources.

c. *Land Tenure.* When local legislation needs strengthening, the Bank should offer to advise and assist the borrower in establishing legal recognition of the customary or traditional land tenure systems of indigenous peoples. Where the traditional lands of indigenous peoples have been brought by law into the domain of the state and where it is inappropriate to convert traditional rights into those of legal ownership, alternative arrangements should be implemented to grant long-term, renewable rights of custodianship and use to indigenous peoples. These steps should be taken before the initiation of other planning steps that may be contingent on recognized land titles.

d. *Strategy for Local Participation.* Mechanisms should be devised and maintained for participation by indigenous people in decision making throughout project planning, implementation, and evaluation. Many of the larger groups of indigenous people have their own representative organizations that provide effective channels for communicating local preferences. Traditional leaders occupy pivotal positions for mobilizing people and should be brought into the planning process, with due concern for ensuring genuine representation of the indigenous population. No foolproof methods exist, however, to guarantee full local-level participation. Sociological and technical advice provided through the regional environment divisions (REDs) is often needed to develop mechanisms appropriate for the project area.

e. *Technical Identification of Development or Mitigation Activities.* Technical proposals should proceed from on-site research by qualified professionals acceptable to the Bank. Detailed descriptions should be prepared and appraised for such proposed services as education, training, health, credit, and legal assistance. Technical descriptions should be included for the planned investments in productive infrastructure. Plans that draw upon indigenous knowledge are often more successful than those introducing entirely new principles and institutions. For example, the

potential contribution of traditional health providers should be considered in planning delivery systems for health care.

f. *Institutional Capacity.* The government institutions assigned responsibility for indigenous peoples are often weak. Assessing the track record, capabilities, and needs of those institutions is a fundamental requirement. Organizational issues that need to be addressed through Bank assistance are the (i) availability of funds for investments and field operations; (ii) adequacy of experienced professional staff; (iii) ability of Indigenous Peoples' own organizations, local administration authorities, and local NGOs to interact with specialized government institutions; (iv) ability of the executing agency (EA) to mobilize other agencies involved in the plan's implementation; and (v) adequacy of field presence.

g. *Implementation Schedule.* Components should include an implementation schedule with benchmarks by which progress can be measured at appropriate intervals. Pilot programs are often needed to provide planning information for phasing the project component for indigenous peoples with the main investment. The plan should pursue the long-term sustainability of project activities subsequent to completion of disbursement.

h. *Monitoring and Evaluation.* Independent monitoring capacities are usually needed when the institutions responsible for indigenous populations have weak management histories. Monitoring by representatives of Indigenous Peoples' own organizations can be an efficient way for the project management to absorb the perspectives of indigenous beneficiaries and is encouraged by the Bank. Monitoring units should be staffed by experienced social science professionals, and reporting formats and schedules appropriate to the project's needs should be established. Monitoring and evaluation reports should be reviewed jointly by the senior management of the implementing agency and by the Bank. The evaluation reports should be made available to the public.

i. *Cost Estimates and Financing Plan.* The plan should include detailed cost estimates for planned activities and investments. The estimates should be broken down into unit costs by project year and linked to a financing plan. Such programs as revolving credit funds that provide indigenous people with investment pools should indicate their accounting procedures and mechanisms for financial transfer and replenishment. It is usually helpful to have as high a share as possible of direct financial participation by the Bank in project components dealing with indigenous peoples.

ANNEX 5: THREE POINT RANK ORDER SYSTEM FOR VMGPS (SAMPLE)

To be filled by KESIP PIU Team and World Bank as part of review and monitoring

Criterion	Points	Explanation
Screening		
1. Have all IP groups in project area been identified (is screening adequate)?	0	Not stated
	0.5	The names of some groups have been mentioned; baseline survey has been proposed; Aggregates all groups together
	1	Detailed description of all indigenous groups is given
Social Assessment		
2. Has a social assessment been done (Is baseline data given)?	0	Not stated
	0.5	Proposed to collect all relevant data - no specifics; data briefly stated; or not updated, data not disaggregated
	1	Disaggregated population data of IP; relevant socio-economic indicators have been stated; data that needs to be collected are listed;
3. Has legal framework been described?	0	Not stated
	0.5	Brief mention of framework given
	1	Constitutional provisions, legal statutes and government programs in relevant sectors related to indigenous peoples stated
Have benefits/ adverse impacts to IP groups been identified?	0	Not Discussed
	0.5	Potential impacts have been briefly discussed
	1	Potential positive and negative impacts identified and discussed
Consultation, Participation, Community Support		
Have IP been involved in free, prior and informed consultation at the project implementation stage? Are there any records of consultation?	0	Not determinable
	0.5	Brief mention that consultations have taken place; no details provided
	1	Detailed description of process given; appropriate methods used, interlocutors are representative
Does project have verifiable broad community support (and how has it dealt with the issue of community representation)?	0	Not stated
	0.5	States that IP groups will be involved in preparing village/community action plans; participation process briefly discussed
	1	Detailed description of participation strategy and action steps given
7. Is there a framework for consultation with IPs during the project implementation?	0	No
	0.5	Passing mention
	1	Detailed arrangements
Indigenous People Plan		
8. Is there a specific plan (implementation schedule)?	0	Not stated
	0.5	Flexible time frame (activities need to be proposed); given activity wise; year-wise distribution; mentioned but integrated into another project

		document (RAP, etc.); no separate treatment; combined with RAP;
	1	Detailed description given
9. Does the IPP/IPDP include activities that benefit IP	0	Not stated
	0.5	Activities stated but not detailed
	1	Activities clearly specify
10. Are activities culturally appropriate?	0	Not stated
	0.5	Cultural concerns noted but not explicit
	1	Activities support cultural norms
11. Have institutional arrangements for IPP been described?	0	Not stated
	0.5	Mentioned but integrated into another project document RAP, etc.); no separate treatment
	1	Detailed description of agencies involved in implementation of plan, including applicable IPO's or tribal organizations.
12. Is a separate budget earmarked for IPP?	0	Not stated
	0.5	Mentioned but integrated into another project document (RAP, etc.); not broken-down activity-wise
	1	Detailed description given
Are there specific monitoring indicators?	0	Not mentioned
	0.5	Proposed that monitoring indicators shall be designed later; Project outcomes that need to be monitored are stated
	1	Monitoring indicators disaggregated by ethnicity
Has a complaint/conflict resolution mechanism been outlined?	0	Not mentioned
	0.5	Passing mention of mechanism in document
	1	Detailed description and few concrete steps of mechanism given
Were the Indigenous Peoples Plan or Framework (IPP/IPPF) disclosed in Info shop and in Country in an appropriate language?	0	No
	0.5	Disclosed in Info shop
	1	Detailed Summary in appropriate form, manner and language
Special Considerations		
If applicable, what considerations have been given to the recognition of the rights to lands and natural resources of IPs?	0	None
	0.5	Passing mention
	1	Detailed considerations
17. If applicable, what considerations have been given to the IP sharing of benefits in the commercial development of natural and cultural resources?	0	None
	0.5	Passing mention
	1	Detailed considerations
18. Does the project involve the physical relocation of IPs (and have they formally agreed to it)?	0	No resettlement unless with their prior consent
	0.5	Only within traditional lands or territories
	1	Yes, physical relocation outside their traditional territories with no compensation or consent

ANNEX 6: FEEDBACK DURING THE CONSULTATIONS HELD ON FEBRUARY 22, 2018 IN NAIROBI AND COMMITMENTS MADE BY KETRACO

Issue	Feedback Provider	Specific Feedback	KETRACO's Response/commitment to Feedback and How it Will Be Reflected in the Framework. If Not, Why Not?
Stakeholder Engagement	Martha Nzisa – Resource Planner KWS	Involvement of KWS during initial planning of the projects and route selection should be emphasized	Subproject sites/routes are not yet known, which is why KETRACO is preparing this VMGF. Once they become known, and should they traverse areas under KWS mandate, then KWS and other key government agencies will be consulted as early as possible.
Preservation of conservancies	Martha Nzisa – Resource Planner KWS	KWS urged KETRACO to ensure the protection of conservancies and wildlife and/or communities living in forests	KETRACO will work hand in hand with KWS to address any issues affecting protection of wildlife in the community conservancies and other sites, including any communities which may be living in the forest
Evaluations after project closure	Martha Nzisa – Resource Planner KWS	Will there be monitoring and evaluation after project closure to determine the effectiveness of mitigation measures?	Monitoring and evaluation takes place during and after the project implementation. In the course of implementation, remedial or corrective measures will be considered where necessary, on a needs basis. Participating VMGs are encouraged to be actively involved in the monitoring of implementation to ensure that the project is implemented according to plan
Mitigation measures	Elly Ochere – Development Economist Water Resources Management Authority (WARMA)	There is a need for mitigation measures for TLs passing through forests that pose danger to cultural sites of the vulnerable populations due to opening up of rivers which are sacred places of worship, risk of climate change and disruption of livelihood activities especially for hunter-gatherers	-KETRACO makes all efforts through design, to avoid or minimizes impacts on populations, cultural sites and natural resources when TLs pass through designated forest areas - In consultation with the affected VMGs community members, the RPF that has been prepared for KESIP will be used to determine eligibility and to guide compensation for any cultural sites such as shrines or graveyards in the event that these have to be moved, if avoidance is impossible -the participating communities will be invited during VMGP preparation to propose safeguards to be used to minimize project impacts on the people and environment

Special compensation for VMGs	Elly Ochere – WARMA	Will there be special compensation packages for vulnerable groups?	Consultation with stakeholders has only just began. During the compensation stage, KETRACO will involve IPs/VMGs in the process to get inputs on how they can be adequately compensated. All PAPs, including VMGs will be compensated for their lost assets, including land, structures, trees and crops. However, VMGs will be given preferential treatment in employment opportunities, especially for unskilled labor
Amendments to VMGF	Eunice Lepariyo - IDHRO	Amendments to be made in the VMGF document that states that the Ilchamus were forced out of the mainland and relocated to Lake Baringo. She clarified that although there are some Ilchamus in Lake Baringo, they are still inhibitors of the mainland	-Amendments have been made in this document
Classification of VMGs	Eunice Lepariyo - IDHRO	Will the other ethnic groups, e.g. the Luos and Kambas, living among the vulnerable communities be characterized as VMGs?	Mary Amuyunzu-Nyamongo (WB Consultant) clarified that the WB's OP 4.10 and the Constitution of Kenya, 2010, have clear criteria for identifying IPs/VMGs which are being applied to the KESIP project. However, if there are other ethnic communities living among the VMGs and their assets are affected by the project, they will be compensated for their affected assets. Should they also have legal proof of land ownership, then they would also be compensated for their affected land parcels. KETRACO will ensure that all PAPs are adequately compensated for their lost assets at full replacement cost as guided by the World Bank's OP 4.12.
Stakeholder engagement	Eunice Lepariyo - IDHRO	KETRACO should involve opinion leaders, women representatives and local administration in all the stages of the projects in order to ensure public support of the project and to effectively educate the VMGs who are highly influenced by their leaders	Free prior informed consultations will be undertaken throughout the project cycle. And participating VMGs will decide on the consultation methods and strategies that is culturally appropriate for them, but which ensures that all PAPs – men, women, people with disabilities, and vulnerable VMG households can be involved and their needs considered. Every voice should count.
Grievance management	Kambi Godana – VMGs Waata Kilifi	There are low literacy levels in Kilifi County and most educated people undermine and intimidate the less educated - their views	-Free, prior and informed consultations will be the guiding principle throughout the project stages.

		also overpower those of the less educated	Differentiated consultations, e.g. consulting the more vulnerable members such as women, people with disabilities, and vulnerable VMG members separately might be a good way involving all PAPs and circumventing elite capture of the consultation process
Grievance Management	Jumaa Barisa - VMGs Waata Kilifi	In Kilifi County, most local leaders are not residents of the area hence they do not understand the issues affecting the local community. Sometimes they withhold vital information from the community	-FPIC will be conducted throughout the project cycle -When forming committees for the projects, KETRACO will ensure that committee members represent all segments of the community -VMGs will be given opportunity to select their members who should represent them in such committee and who they must hold accountable -In the spirit of free, prior and informed consultations, PAPs, including VMGs, will be given adequate notice of meetings to enable them avail themselves from such meetings -Also, VMGs will be consulted in ways that is culturally appropriate to them, which would help to ensure their participation
Amendments to VMGF	Kipruto Kimosop – MCA from Baringo	Amendments to be made in the VMGF document that states that the Endorois community has a population of about 20,000. He clarified that KETRACO use the 2009 Census to get the right population size.	KETRACO will try to get the information from the Kenya National Bureau of statistics (KNBS) to enable the amendments to be made in the document.
Effective communication and dissemination of information.	Mercy Towett - KPLC	She requested the stakeholders who attended the forum to be good ambassadors when they go back to the grounds.	Go and become ambassadors of free, prior and informed consulta throughout the project stages between KETRACO and key stakeholders and stakeholders including VMGs
Additional references in the VGMF	Collins Nthuni - KWS	KETRACO to consider the National Spatial Plans and National Land Use Policy as additional supporting documents in the legal framework of the VMGF.	Documents to be read and considered for addition

ANNEX 7: STAKEHOLDER CONSULTATION ATTENDANCE REGISTER



RPF, ESMF & VMGF MEETING – REGISTRATION FORM

Venue: The Boma Hotel

Date: 22nd February, 2018

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RPF, ESMF & VMGF MEETING – REGISTRATION FORM

Venue: The Boma Hotel

Date: 22nd February, 2018

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Venue: The Boma Hotel

Date: 22nd February, 2018

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RPF, ESMF & VMGF MEETING – REGISTRATION FORM

Venue: The Boma Hotel

Date: 22nd February, 2018

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RPF, ESMF & VMGF MEETING – REGISTRATION FORM

Venue: The Boma Hotel

Date: 22nd February, 2018

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