REPUBLIC OF KENYA

NORTH EASTERN TRANSPORT IMPROVEMENT PROJECT (NETIP)

CONSTRUCTION OF ISIOLO – MANDERA (A 13) ROAD

IMPLEMENTING AGENCY

RESETTLEMENT POLICY FRAMEWORK

NOVEMBER, 2019
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DEFINITION OF TERMS

Unless the context dictates otherwise, the following terms have adopted the following meanings:

**Project Affected Person (PAP)** any person who, on account of the execution of the Project, or any of its components or subprojects would have their:

1. Right, title or interest in any house, land (including residential, agricultural and grazing land) or any other fixed or movable asset acquired or possessed, in full or in part, permanently or temporarily; or
2. Business, occupation, work, place of residence or habitat adversely affected; or

These persons can be affected whether or not they will move to another location.

**Sub-projects** the social infrastructure that will be implemented to form part of livelihood restoration for the community.

**Project Affected Household** means the family or collection of PAPs forming a nuclear or extended family that co-exists or lives within the same house or precinct that will experience effects from land acquisition regardless of whether they are physically displaced or relocated or not.

**Compensation** means payment in cash or kind or other assets given in exchange for the acquisition of land including fixed assets thereon as well as other impacts resulting from the Isiolo–Mandera Road construction activities. This compensation is at full replacement cost.

**Cut-off-date** means the definite date after which PAPs will NOT be considered eligible for compensation, i.e. they are not included in the list of PAPs as defined by the socio-economic survey. For the purposes of this RPF, the start date (first day) of the census will serve as the cut-off date for eligibility and no new arrivals in the project area or assets created after the cut-off date will be eligible for compensation. All stakeholders including PAPs will be informed of the cut-off date and its implications, during the RAP stakeholder meetings.

**Encroachers** are those people who who extend their infrastructure or other land-based activities into land that does not belong to them. Encroachers may have personal investment in structures or agricultural crops. They are entitled to compensation at replacement cost (or an equivalent amount of rehabilitation assistance) for these lost assets.

**Census** means a field survey carried out to identify and determine the number of NETIP Road subproject Affected Persons (PAP) or Displaced Persons (DPs) as a result of land acquisition and related impacts. The census provides the basic information necessary for
determining eligibility for compensation, resettlement and other measures emanating from consultations with affected communities and the local government institutions.

**Displaced Persons** mean persons who, for reasons due to involuntary acquisition or voluntary contribution of their land and other assets under the NETIP Road sub projects activities, will suffer direct economic and or social adverse impacts, regardless of whether or not the said Displaced Persons are physically relocated. These people may have their: standard of living adversely affected, whether or not the Displaced Person will move to another location; lose right, title, interest in any houses, land (including premises, agricultural and grazing land) or any other fixed or movable assets acquired or possessed, lose access to productive assets or any means of livelihood.

**Involuntary Displacement** means the involuntary acquisition of land resulting in direct or indirect economic and social impacts caused by: Loss of benefits from use of such land; relocation or loss of shelter; loss of assets or access to assets; or loss of income sources or means of livelihood, whether the Displaced Persons has moved to another location or not. Displacement is involuntary when affected individuals or communities do not have the right to refuse land acquisition that result in displacement. This occurs in cases of: (i) lawful expropriation or restrictions on land use based on eminent domain; and (ii) negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail.

**Involuntary Land Acquisition** is the possession of land by government or other government agencies for compensation, for the purposes of a public NETIP sub project activities against the will of the landowner. The landowner may be left with the right to negotiate the amount of compensation proposed. This includes land or assets for which the owner enjoys uncontested customary rights.

**Land** refers to agricultural and/or non-agricultural land and any structures thereon whether temporary or permanent and which may be required for the NETIP sub project activities.

**Land acquisition** means the possession of or alienation of land, buildings or other assets thereon for purposes of the NETIP sub project activities in return for fair compensation.

**Entitlement** means the range of measures comprising cash or kind compensation, relocation cost, income rehabilitation assistance, transfer assistance, income substitution, and relocation which are due to /business restoration which are due to PAPs, depending on the type and degree nature of their losses, to restore their social and economic base.

**Replacement cost** means replacement of assets with an amount sufficient to cover full cost of lost assets and related transaction costs. The cost is to be based on **Market rate (commercial rate)** according to Kenya law for sale of land or property. In terms of land, this may be categorised as follows; (a) “Replacement cost for agricultural land” means the pre- NETIP sub projects activities or pre-displacement, whichever is higher, market value of land of equal productive potential or use located in the vicinity of the affected
land, plus the costs of: (b) preparing the land to levels similar to those of the affected land; and (c) any registration and transfer taxes.

**Replacement cost for houses and other structures** means the prevailing cost of replacing affected structures, in an area and of the quality similar to or better than that of the affected structures. Such costs will include: (a) transporting building materials to the construction site; (b) any labour and contractors’ fees; and (c) any registration costs.

**Market Value** means the process of determining market value has sought to establish appropriate compensation figures so that the affected population is able to restore their standards of living to levels “at least as good as or better than” they were prior to the project. Where the Government rates do not provide for this standard of value, The PIUs, with the technical support of the independent valuer will calculate and adjust the compensation figures according to these principles.

**Full Cost of Resettlement** means Compensation based on the present value of replacement of the lost asset, resource or income without taking into account depreciation.

**Relocation** means the physical moving of PAPs from their pre-project place or residence, place for work or business premises.

**Resettlement Assistance** means the measures to ensure that NETIP sub-project activities Affected Persons and Displaced Persons who may require to be physically relocated are provided with assistance during relocation, such as moving allowances, residential housing or rentals, trainings whichever is feasible and as required, for ease of resettlement.

**Rehabilitation Assistance** means the provision of development assistance in addition to compensation such as land preparation, credit facilities, training, or job opportunities, needed to enable NETIP social infrastructure sub projects Affected Persons and Displaced Persons to improve their living standards, income earning capacity and production levels; or at least maintain them at pre- NETIP social infrastructure sub projects activities levels.

**Income Restoration** means the measures required to ensure that PAPs have the resources to at least restore, if not improve, their livelihoods.

**The Resettlement Policy Framework** is an instrument to be used throughout the NETIP social infrastructure sub projects implementation. The RPF sets out the resettlement objectives and principles, organisational arrangements and funding mechanisms for any resettlement, that may be necessary during Isiolo – Mandera Road implementation. The RPF guides the preparation of Resettlement Action Plans or Abbreviated Resettlement Action Plans of individual sub projects in order to meet the needs of the people who may be affected by the project. The **Resettlement Action Plans** for the NETIP sub projects
will therefore be prepared in conformity with the provisions of this RPF in addressing social infrastructure that will be proposed at implementation.

**Resettlement and Compensation Plan**, also known as a **Resettlement Action Plan (RAP)** or **Resettlement Plan** is a resettlement instrument (document) to be prepared when program locations are identified. In such cases, land acquisition leads to physical displacement of persons, and/or loss of shelter, and/or loss of livelihoods and/or loss, denial or restriction of access to economic resources. RAPs are prepared by the party impacting on the people and their livelihoods. RAPs contain specific and legal binding requirements to resettle and compensate the affected party before implementation of the NETIP social infrastructure sub projects activities commences. This document is a time bound action plan with a budget setting out resettlement strategy, objectives, entitlements, actions, responsibilities, monitoring and evaluation.

**Resettlement Impacts** The direct physical, economic, cultural and socio-economic impacts of resettlement activities in the project and host areas.

**Socio-economic survey** means the census of PAHs/ PAPs of potentially affected people, which is prepared through a detailed survey based on actual data collected.

**Squatters** means any people or members of the community who have settled on unoccupied area of land or building that they do not own, rent or otherwise have lawful permission to use.

**Vulnerable** means any people who might suffer disproportionately or face the risk of being marginalized from the effects of resettlement i.e.; (i) female-headed households with dependents; (ii) disabled household heads; (iii) poor households; (iv) landless elderly households with no means of support; (v) households without security of tenure; (vi) child headed household, (vii) households with people living with terminal illnesses or disability.
| ACRONYMS AND ABBREVIATIONS | \n|---------------------------|\n| ARAP                      | Abbreviated Resettlement Action Plan |
| BCS                       | Broad Community Support            |
| CAO                       | County Agriculture Officer         |
| EIA                       | Environmental Impact Assessment    |
| ESIA                      | Environmental and Social Impact Assessment |
| ESMF                      | Environmental and Social Management Framework |
| FPIC                      | Free Prior and Informed Consultations |
| GRM                       | Grievance Redress Mechanism        |
| GOK                       | Government of Kenya                |
| IDA                       | International Development Association |
| IQSK                      | Institution of Quantity Surveyors of Kenya |
| KeNHA                     | Kenya National Highways Authority  |
| NEMA                      | National Environment Management Authority |
| NETIP                     | North Eastern Transport Improvement Project |
| MTIHUD                    | Ministry of Transport, Infrastructure, Housing and Urban Development |
| PAH                       | Project Affected Households        |
| PAP                       | Project Affected Person            |
| PCDP                      | Public Consultation and Disclosure Plan |
| PIU                       | Project Implementation Unit        |
| PLO                       | Project Liaison Officer            |
| RAP                       | Resettlement Action Plan           |
| RMLF:                     | Road Maintenance Levy Fund         |
| RPF                       | Resettlement Policy Framework      |
EXECUTIVE SUMMARY

1. The Government of the Republic of Kenya (GoK) has applied for a credit from the International Development Association (IDA) towards the cost of the North Eastern Transport Improvement Project (NETIP). The project is being implemented by the Kenya National Highways Authority (KeNHA), a state corporation within the Ministry of Transport, Infrastructure, Housing, Urban Development, and Public Works. This Resettlement Policy Framework (RPF) relates to the proposed North Eastern Transport Improvement Project (NETIP), and has been prepared to cover the social infrastructure sub-projects for the project, whose location is not yet determined. The RPF will guide the preparation of individual sub-project Resettlement Action Plans (RAPs) as appropriate once the sub-project sites are identified.

Project Background and Description

2. The project proposes to implement social infrastructure which will form part of livelihood restoration for the local communities. This Resettlement Policy Framework (RPF) provides guidelines on how the NETIP social infrastructure sub-projects will avoid, manage or mitigate all the project related displacement risks anticipated. This Framework addresses the risks that might arise if a sub-project will result into acquisition of land and hence distress the people’s economic, social and/or physical aspects of life. However, given the nature of investment, the social infrastructure development will be designed to avoid major displacements in the settlement areas. Implementation of these social infrastructure sub-projects is expected to have a widespread positive impact on overall socio-economic status and livelihoods of the people in the respective counties in terms enhancing access to social infrastructure in the rural areas.

3. There is presence of Vulnerable and Marginalised Groups (VMGs) who are pastrolist in the project area, thus, OP 4.10 was triggered for this project. A social assessment was prepared by the by KeNHA that informed the preparation of this Resettlement Policy Framework. For the RPF, as guided by the SA, the main language used to moderate the consultations was the local language of Borana, Somali and Meru respectively and Kiswahili, depending on the language in the various settlements where consultation took place. The Social Assessment provided the guidance the process of Free Prior and Informed Consultations for the RPF that led to Broad Community Support.

4. Owing to the nature of the project, the exact location, nature and magnitude of the social infrastructure sub-projects to be financed by the project cannot yet be determined at the moment. Therefore, at this stage it is neither possible to determine the specific demography and livelihoods of the PAPs and the resettlement related impoverishment risks they might face. This RPF will be applied in development of Abbreviated Resettlement Action Plans or Resettlement Action Plans to respond to displacement impacts that may be occasioned by implementation of the various social infrastructure activities. The Resettlement Policy Framework serves to provide safeguards against severe adverse impacts of proposed programme activities and proposes mitigation against potential impoverishment risks by:
Avoiding displacement of people in the first place or,
Minimizing the number of Displaced Persons or,
Adequately compensating the displaced persons for losses incurred or
Adequately providing other resettlement assistance or rehabilitation as seen necessary to address impacts of the intended interventions.

Resettlement Requirements

5. The Government of Kenya by its national laws and the World Banks Operational and Procedural Policies, specifically O.P.4.12 on involuntary resettlement requires that the government prepares a Resettlement Policy Framework (RPF) to ensure full compliance with the standards set out by the World Bank and the requirements of the Government of Kenya. In line with requirements of O.P.4.12, the RPF must be disclosed, locally and at World Bank’s external website.

Purpose of the Resettlement Policy Framework

6. This RPF is a statement of the policy, principles, institutional arrangements and procedures that the NETIP sub projects will follow in each civil works package involving resettlement. It also allows NETIP sub project staff, who may be in many different locations, to undertake planning for specific packages without having to re-negotiate fundamental agreements. The RPF and the individual Resettlement Action Plan (RAP)/Abbreviated Resettlement Action Plans (ARAP) will be fully complementary to one another. A Resettlement Action Plan (RAP) or ARAP which is a detailed action plan for the social infrastructure will be formulated and approved by the KeNHA and the Bank before project implementation.

Possible Types of Resettlement

7. Resettlement is considered involuntary when affected individuals or communities do not have the right to refuse land or resource acquisition that result in displacement. This may occur in case of: (i) Lawful expropriation or restrictions on land or resource use based on eminent domain and/or (ii) Negotiated settlements in which the buyer can resort to expropriation or impose legal restrictions on land use if negotiations with the seller fail. The NETIP sub-projects may result in involuntary resettlement which could lead to either physical displacement (relocation or loss of shelter) or economic displacement (loss of assets or access to assets that leads to loss of income sources or means of livelihood) as a result of project related land or resource acquisition. This resettlement policy framework focuses on direct economic and social impacts that result from the projects, and are caused by:-

a) The involuntary taking of land or other resources resulting in (i) relocation or loss of shelter; (ii) loss of assets or access to assets; or (iii) loss of income sources or means of livelihood.
b) The involuntary restriction of access to legally designated protected areas and gazetted forests resulting in adverse impacts on the livelihoods of the displaced persons.
**Legislative Framework**

8. This RPF has been prepared to guide management of resettlement and displacement impacts anticipated from implementation of the social infrastructure development activities. This RPF has been developed in conformity with relevant Kenyan laws and World Bank OP 4.12 on involuntary resettlement. The pertinent Kenya legal provision related to land acquisition and resettlement are elaborated under the Land Act No. 3 of 2012, The Land Registration Act No.3 of 2012, National Land Commission Act No. 5 of 2012 and the Community Land Act, 2016.

**RPF Implementation Arrangements**

9. The implementation arrangements of the RPF build on the arrangements for resettlement and compensation activities required by Kenyan Legislation. The implementing agency; KeNHA, will be responsible for implementation of the RPF. At the sub project level, the interior administration together with County authorities will play a critical role in resettlement and compensation planning, implementation and monitoring. This will be mainly done through the National Land Commission, in conjunction with the community Land Registrar’s Offices at the County Level. The stakeholders in the RAP implementation will include the affected persons as well as individual sub-project Resettlement and Compensation Committees, which will comprise representatives from all the legally and project mandated executing agencies as well as local leaderships and stakeholders.

**Resettlement Impacts and Eligibility**

10. This RPF applies to all persons who will be displaced by the project with particular attention given to vulnerable groups. Entitlement matrix is designed to ensure the eligible PAPs are considered for compensation at replacement cost. A cut-off date will be established and disclosed to the local community to disallow compensation to any new inhabitants that may flow to the project affected areas.

**Methods of Valuation and Compensation**

11. As per the Valuation Law, all people affected by expropriation must receive fair and just compensation. The calculation of fair and just compensation is to be made by independent valuers. Fair and just compensation is stipulated to be full replacement value for land and other assets. This RPF provides methods, formulae and cost units that are currently applicable internationally and are equivalent to full replacement value. In order to ensure that OP 4.12 requirements are met for valuation, replacement cost valuation methods are to be adopted for all NETIP socio-infrastructure sub-projects. This social infrastructure will be adopted to form part of livelihood restoration for the community members.
Voluntary Land Donation

12. In the event that a community aspires or offers to voluntarily donate land for purposes of a sub-project covered by this RPF Report, the proponent will adopt the World Bank OP 4.12 Source Book procedure that gives clear guidance on, and spells out the criteria for Voluntary Land Donation (VLD). In this approach the land donated must inter alia be community land, its donation must have minor impacts and in any event should have no impact on the community members’ incomes and must not lead to displacement. The following step should be followed for VLD:

- The infrastructure must not be site specific.
- The impacts must be minor, that is, involve no more than 10 percent of the area of any holding and require no physical relocation.
- The land required to meet technical project criteria must be identified by the affected community, not by line agencies or project authorities
- Nonetheless, technical authorities can help ensure that the land is appropriate for project purposes and that the project will produce no health or environmental safety hazards.
- The land in question must be free of squatters, encroachers, or other claims or encumbrances.
- Verification (for example, notarized or witnessed statements) of the voluntary nature of land donations must be obtained from each person donating land.
- If any loss of income or physical displacement is envisaged, verification of voluntary acceptance of community-devised mitigatory measures must be obtained from those expected to be adversely affected.
- If community services are to be provided under the project, land title must be vested in the community, or appropriate guarantees of public access to services must be given by the private titleholder.
- Grievance mechanisms must be available.

Preparation and Implementation of RAP

13. The steps to be undertaken for each individual RAP include a screening process, a socioeconomic survey and a census of PAPs that will include asset inventory for every identified Project Affected Person (PAP). This will be followed by the development of a Resettlement Action Plan (RAP), RAP review and approval, implementation of the RAP and monitoring of RAP implementation and success. These steps will be the responsibility of the NETIP implementing agency through the project implementation units established to oversee the processes. The various County Land Offices, Community Land Registrar and National Land Commission should be involved in the Resettlement and Compensation committee for each of the NETIP sub-projects. The established committees for each of the sub-projects will not only coordinate the design and implementation of the RAPs but will contribute significantly since they will be created at the sub project level, thereby ensuring each RAP is appropriately tailored to adopt and factor the existing local conditions. Throughout this process, consultation and public disclosure will take place with
PAPs. Following approval of the sub-project RAP/ARAP, the process of implementation shall take place. This will involve the following elements:

- Identification of project impacts and affected population.
- Consideration of legal framework for land acquisition and compensation
- Socio economic and baseline surveys
- Eligibility and entitlement
- Valuation and compensation
- Formation of GRM systems
- Budget and implementation schedule
- Monitoring and evaluation.
- Public Consultation (a continuation of the process entered into during the site selection, screening and the RAP development process).
- Notification to affected parties.
- Agreement on compensation, including agreement and further development of rehabilitation measures; and
- Preparation of contracts, compensation payments and provision of assistance in resettlement.

**Implementation Budget**

14. At this stage, it is not possible to estimate the exact number of people who may be affected since the technical designs and details have not yet been finalized. It is therefore not possible to provide an estimated budget for the total cost of resettlement that may be associated with implementation of NETIP subprojects. However, when the designs will have been completed and specific locations are known, and after the conclusion of the site specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data will be collected and thereafter, detailed and accurate budgets for the RAP covering the various subcomponents will be prepared. The possible aspects or line items for detailed budgets at the appropriate time have been provided in this RPF.

**Grievance Redress Mechanisms**

15. Grievance redress mechanism will be established at different levels to receive, evaluate and facilitate management of grievances. At the time that the individual RAPs are approved, affected individuals and households will have been informed of the process for expressing dissatisfaction if any and for seeking redress. The grievance mechanism to be used for the project is described in the Social Assessment and will apply also for the Resettlement Action Plans. The grievance procedure will be simple, understandable, and accessible and will be administered as far as possible at the sub project level by the Resettlement and Compensation Committee to facilitate access by PAPs. A representative of the Committee will act as Project Liaison Officer (PLO) and be the main project contact for all PAPs. It is envisaged that the PLO shall work in collaboration with an independent agency/NGO or person to ensure objectivity in the grievance process where such a body is available or established. A
mechanism for logging and management of grievances shall be established. All grievances concerning non-fulfilment of contracts, levels of compensation, or loss of assets without compensation shall be addressed to the Project Liaison Officer and resolved in coordination with the County Administration and PIU in the respective agency. Overall, the GRM will incorporate endogenous institutions such as Bula elders/Maslaha for legitimacy and representativeness, as well as to reach illiterate complainants. Additionally, the GRM adopted, which is a six tier mechanism will have the option of complainants starting at tier two in order to ensure that women have a chance of by choice avoiding tier one which is a men only mechanism.

**Mechanisms for Public Consultation and Participation**

16. The involvement of PAPs and host communities in planning prior to the move is critical and initial resistance to the idea of involuntary resettlement may be expected. To obtain cooperation, participation and feedback, the resettled persons and hosts will be systematically informed and consulted during preparation of the resettlement action plan about their options and rights. They will also be able to choose from a number of acceptable resettlement alternatives. Particular attention will be given to vulnerable groups specified in this RPF such as the landless, and women to ensure that they are represented adequately in such arrangements.

17. Participation will continue throughout the project cycles in order to inform and empower community members to enhance sub-project usability and ownership. Participation and consultation meetings will also provide opportunities for RAP disclosure when the time comes. These meetings will be run using the respective local languages in order to effectively reach any illiterate community members. Any materials for communication and engagement with stakeholders will also in local languages in order to address the needs of local community members that may be illiterate.

18. Therefore, to enhance community support throughout the project preparation and implementation phase, it is vital to take note that the literacy levels among the VMGs communities along the project road are very low. This therefore requires the project to use the local language while engaging the VMGS through the appropriate channels such as chief’s barazas, mosques, livestock watering points, grazing areas, market days, ceremonies, as opposed to print and electronic media. The process of free, prior and informed consultation should be undertaken throughout the project life cycle.

**Monitoring and Evaluation**

19. The arrangements for monitoring the resettlement and compensation activities will fit the overall monitoring program of the entire NETIP which will fall under the overall responsibility of PIUs. At the social infrastructure sub-project level, the County and sub-county authorities will be involved in monitoring of the Resettlement and Compensation processes. Periodic evaluations will be undertaken to determine whether: the PAPs have been paid in full and before implementation of the sub
project activities; economic rehabilitation measures will have been implemented; and the PAPs have had the same or higher standard of living than before. A number of objectively verifiable indicators shall be used to monitor the processes and evaluate impacts of the compensation and resettlement activities. These indicators (qualitative and quantitative) will be targeted at measuring the physical and socio-economic status of the PAPs, to determine and guide improvement in their social wellbeing. The implementing agency shall prepare a RAP implementation completion report to document the outcomes of the project. In addition, an independent and external audit shall take place at the completion of the RAP implementation once /if sanctioned by the various players.

**Key Highlights of the RPF**

20. The key highlights in this RPF report is presented as follows:

- *Principles and objectives governing resettlement preparation and implementation.*
- *A description of the process for preparing and approving resettlement plans.*
- *Land acquisition and likely categories of impact.*
- *Eligibility criteria for defining various categories of project affected persons.*
- *A legal Framework reviewing the fit between the laws of Kenyan and regulations and Bank policy requirements and measures proposed to bridge any gaps between them.*
- *Methods of valuing affected assets.*
- *Organizational procedures for the delivery of entitlements, including, for projects involving private sector intermediaries, the responsibilities of the financial intermediary, the government, and the private developer.*
- *A description of the implementation process, linking resettlement implementation to civil works.*
- *Description of the grievance redress mechanisms.*
- *A description of the arrangements for funding resettlement, including the preparation for cost estimates, the flow of funds, and contingency arrangements.*
- *A description of mechanisms for consultations with, and participation of, displaced persons in planning, implementation, and monitoring.*
- *Arrangements for monitoring by the implementation agency and, if required, by independent monitors.*

This RPF governs all activities funded under the NETIP and is to be used in conjunction with the Environmental and Social Management Framework (ESMF) that has also been prepared for this program as a separate stand-alone document.
CHAPTER ONE: INTRODUCTION

1.1 Introduction

1. Kenya’s Vision 2030 Strategy stipulates the essence of improving the country’s infrastructure as a foundation for socio economic transformation hence a catalyst to development. The Vision of Infrastructure development is to provide cost-effective, world-class infrastructure facilities and services in support of Vision 2030’s three pillars namely; economic, social and political. According to Kenya National Bureau of Statistics, the North Eastern counties of Isiolo, Wajir, Mandera and Garissa cover a total area of approximately 152,694km² or 26 percent of the landmass of Kenya. It has a road network of only 9,386km, or 6 percent of the total road network in the country, which is predominately unpaved. The poor condition of the road network in this region has contributed to problematic marketing of local produce due to travel cost. The effect of this is that recovery and development costs in all sectors are adversely affected, hindering a rapid development of the region. In addition, failure to improve the road conditions of the transport corridors in this region that provide access to the northern frontier and productive centres in the region hinders the realization of the full benefits from devolution.

2. The existing road is comprised of largely earth sections that either were formerly tarmacked or those under stage improvement through low volume seal bitumen sections. On most stretches, all bituminous surfacing has been completely destroyed and is overlaid with gravel to improve surfaces and users’ comfort. The roads are kept passable by occasional grading. The rest, partly in a state of rapid deterioration, cause accidents and slow down traffic. Large trucks experience extreme problems negotiating temporary detours. When completed, the proposed road is expected to contribute to economic growth in the region through increased trade and better access for residents of these counties to the rest of the country.

3. The proposed Isiolo–Mandera Road Project will be implemented by the Government of Kenya through the Kenya National Highways Authority (KeNHA). The Isiolo-Mandera (A13) road starts from Isiolo and traverses four counties of Isiolo, Garissa, Wajir and Mandera, to terminate at Mandera Town close to the border between Kenya and Somalia. The road connection is seen as an important catalyst for integration of the northern frontier into the Kenyan economy and as an important link in the international road connection between Kenya, Ethiopia and Somalia. It is against this background that the Government of Kenya (GoK) applied for a credit from the International Development Association (IDA) towards the cost of North Eastern Transport Improvement Project (NETIP).

1.1.1 Geographical Characteristics of the Project Area

4. The NETIP traverses three counties namely: Isiolo, Wajir and Mandera. This is part of the historically marginalized northern Kenya where there is a dearth physical and social infrastructure such as roads, electric power lines, schools, water supply, hospitals and markets. The organizing element of northern Kenya livelihoods is
livestock including camels, cattle, goats and sheep. Due to scanty raining averaging below 500 mm per annum the pastoralists often lose most of their livestock to prolonged droughts. Crop production is very limited in the area and therefore livelihoods organized outside pastoralism revolve around trade and employment. The NETIP will thus open up the area to new economic activities and trade with the rest of the country. Specific facilities that will be supplemented by this project are not known at the moment.

1.2 Project Objective and Expected Results

5. The main objective of the North Eastern Transport Improvement Project (NETIP) is to enhance connectivity between Kenya, Somalia and Ethiopia by increasing transport efficiency, trade and development along the Isiolo-Wajir-Mandera part of the Mombasa-Garissa-Wajir-Mandera-Mogadishu Road Corridor, as well as connecting the area with information and communication technologies. The proposed project is part of the international trunk road A1 and is one of the major corridors identified for support under the North Eastern Corridor Project.

6. The road corridor traverses a region with rudimentary road infrastructure, isolated pastoralist communities that usually travel long distances in search of grazing lands, water and other economic infrastructure to support their livelihoods. Upgrading the road corridor is one of the top priorities of the GoK, and is consistent with the transport policy of bituminizing of all Class A roads in the country. Road improvement will stimulate the development, integrate the region with the rest of the country and contribute to improving security and bringing about shared prosperity.

7. Therefore, rehabilitation of the road will fully integrate the four counties of Isiolo, Garissa, Wajir and Mandera into the Kenyan economy and serve the restoration and development of the northern frontier economy, promote and facilitate regional economic integration (Somalia–Ethiopia–Kenya), as well as facilitate relief and construction efforts in all sectors in northern Kenya.

1.3 Road Project Components

8. The NETIP entails construction of Isiolo-Mandera Road (A13) and has been divided into the following sections

<table>
<thead>
<tr>
<th>Road section</th>
<th>Length (km)</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Isiolo-Kula Mawe</td>
<td>77</td>
<td>IDA and GoK</td>
</tr>
<tr>
<td>Kula Mawe-Garbatulla-Modogashe</td>
<td>113</td>
<td>IDA and GoK</td>
</tr>
<tr>
<td>Modogashe-Samatar</td>
<td>90</td>
<td>Arab Banks</td>
</tr>
<tr>
<td>Samatar-Wajir</td>
<td>67</td>
<td>GoK Annuity</td>
</tr>
<tr>
<td>Wajir -Kutulo</td>
<td>119</td>
<td>World Bank</td>
</tr>
<tr>
<td>Kutulo-Dabasit</td>
<td>28</td>
<td>World Bank</td>
</tr>
<tr>
<td>Dabasit -Elwak</td>
<td>28</td>
<td>World Bank</td>
</tr>
<tr>
<td>Elwak-Sukelatifa</td>
<td>71</td>
<td>GoK</td>
</tr>
<tr>
<td>Sukelatifa-Rhamu</td>
<td>71</td>
<td>GoK</td>
</tr>
<tr>
<td>Total</td>
<td>741</td>
<td></td>
</tr>
</tbody>
</table>
1.3.1 Isiolo–Kulamawe Road Section

9. The Isiolo–Kulamawe road traverses in a north-easterly direction from Isiolo Town at the junction of Isiolo-Marsabit Road at Tororoba through Isiolo and Meru Counties. The major areas served by the existing road section include: Tororoba, Gambela, Nduuru (Sharp), Kachulu, Borji and Kulamawe. These settlements have mixed livelihoods including livestock keeping, grocery and hardware shops, housing units for rent and limited seasonal crop production. Land tenure is private in the core of the settlements and community owned in between the settlements.

1.3.2 Kulamawe-Modogashe Road Section

10. The Kulamawe-Modogashe Road Section is located in Isiolo County, along the Isiolo–Mandera Road. The section starts at Kulamawe shopping centre and runs in a north-easterly direction for approximately 113 KMs, to end at Modogashe shopping centre. The road connects several primary schools and shopping centres among them Kulamawe, Garbatulla, Eldera, Garse and Modogashe. The existing road is gravel finished, in a motorable state having been regularly maintained by KeNHA. The general alignment is characterised by long straights with mild bends.

1.3.3 Modogashe–Habaswein-Samatar Road Section

11. As per Kenya Road network classification system this road section was recently upgraded to class (A) from class (B). The section comprises of two sub-sections namely Modogashe-Habaswein (51km) and Habaswein Samatar (41km). The Modogashe to Samatar section is situated in Garissa, Isiolo and Wajir Counties. The road starts from Modogashe, in Lagdera Constituency, continues to Habaswein and ends in Samatar in Wajir south Constituency. The entire road surface is unpaved, mostly in poor condition, and transverse corrugations. The road width varies between 5.7m and 7.5m. The first section from Modogashe to Habaswein Town has an existing embankment ranging between 0.50m and 1.0m in various sections. The section, according to KeNHA, had been recently re-gravelled. However, due to erosion, the gravel appears to have been depleted leaving behind an uneven and corrugated road surface. The section between Habaswein to Samatar has no existing embankment and no observable evidence of any recent maintenance activities. Roadside drains were virtually non-existent. The terrain is generally flat.

1.3.4 Wajir-Kutulo Road Section

12. The section is approximately 119km and is situated in Wajir County. The project starts in Wajir town at the junction of Garissa-Modogashe –Wajir Road (B9), Wajir-Moyale (C80) Road and D57 road that leads to the MoRPW offices in Wajir town and which links the town to Somalia and takes a North to North Easterly course to Kutulo.
1.3.5 Kutulo-Elwak Road Section

13. The road transverses a semi-arid area of flat sandy terrain up to Wargadud, followed by a sandy rolling terrain from Wargadud to Mandera. The section is approximately 56km long.

1.3.6 Samatar-Wajir & Elwak–Mandera Road Sections

14. These sections are funded by GOK through stage improvement through Road Maintenance Levy Fund. Together, the sections cover approximately 284km. Overall, in these eight sections of the NETIP; settlements are organized around shopping centres with some water sources and often other infrastructure like schools or dispensaries. Livelihoods are precarious and are organized around livestock keeping and petty trade in the settlements. Land is largely private in the settlements and community owned in the neighbouring ranches.

1.4 Vulnerable and Marginalised Groups

15. The project traverses Wajir and Mandera Counties located in the North-Eastern part of Kenya. The project area has the presence of pastoralist communities that meets the criteria in OP 4.10. A social assessment (SA) was carried out in accordance to World Bank’s O.P 4.10, Free, Prior and Informed Consultations (FPIC) with Vulnerable and Marginalized Groups (VMGs) lead to broad community support for the project. The SA analyzed VMGs social issues, establish project impacts, mitigation measures and FPIC that informed the design of the project. The SA will enable the project to be responsive to social development concerns, including seeking to enhance benefits for vulnerable and marginalized groups, while minimizing or mitigating risk and adverse impacts. It analyzes distributional impacts of intended project benefits on VMGs and identifies differences in assets and capabilities to access the project benefits. Impact identified to the VMGs included loss of livelihoods and grazing lands. Mitigation of all identified risks are being mainstreamed in the PAD and other project documents.

16. Isiolo, Wajir, and Mandera counties are inhabited predominantly by the Borana and Somali who are the marginalized and vulnerable groups found along the project corridor. The Borana, one of the VMGs identified by the SA are the dominant ethnic group in Isiolo county found in the following trading centers along the project corridor in Isiolo County Kachiuri, Kulamawe, and Modogashe. The Somali are found in the three counties but are the dominant ethnic group in Mandera and Wajir counties. In Wajir County, they are in the following trading centers Habaswein, Lagbogol, Tarbaj, and Kutulo. These ethnic groups are part of Northern Kenya population classified as marginalized according to the Constitution of Kenya, which also categorizes the three counties as marginalized.
1.5 Proposed Social Infrastructure

NETIP includes social infrastructure as part of initiatives to enhance the livelihoods of the vulnerable communities living within the project area of influence. The project intends to establish the facilities such as of pilot pastoralist road side markets, through provision of sites and services, clean water, extending electrification to selected centers, provision of market shades, milk coolers, slaughter houses, veterinary posts, and livestock holding areas in selected locations. The project will also construct rest stop facilities along the corridor, which will enhance local trading and improve the services being provided at the rest stops. All social infrastructure will be considered depending on the priorities of the communities and within the available budget. The type of social infrastructure anticipated under the project includes but not limited to the following:

<table>
<thead>
<tr>
<th>Social infrastructure</th>
<th>Water supply</th>
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<tbody>
<tr>
<td></td>
<td>Market shades with supporting infrastructure</td>
</tr>
<tr>
<td></td>
<td>Milk coolers,</td>
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<tr>
<td></td>
<td>Abattoirs,</td>
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<tr>
<td></td>
<td>Loading ramps</td>
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<tr>
<td></td>
<td>Veterinary posts</td>
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<tr>
<td></td>
<td>Livestock holding area in selected locations</td>
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<tr>
<td></td>
<td>Rest stops with consideration for: Water Supply: borehole, and ground level storage, power supply (solar for social amenities)</td>
</tr>
<tr>
<td></td>
<td>Educational centres and access to institutions located to the interior.</td>
</tr>
<tr>
<td></td>
<td>Health centers</td>
</tr>
<tr>
<td>ICT</td>
<td>Construction of fibre spurs and rings to the selected schools, hospitals and other strategic locations.</td>
</tr>
<tr>
<td></td>
<td>ICT and Fibre optic cable networks</td>
</tr>
<tr>
<td>Sustainability</td>
<td>Designing strategies and implementation activities to support key Project stakeholders such as county governments, communities, and households on management and operational modalities of these facilities.</td>
</tr>
</tbody>
</table>

1.6 Justification for the RPF

The proposed road corridor from Isiolo to Mandera which is 741 km long is well defined and the location known. However, the project will also involve the construction of social infrastructure facilities along or outside of the road corridor where the exact location is not known or is yet to be determined. This RPF relates to the social infrastructure facilities whose location is unknown as the moment. The purpose of this Resettlement Policy Framework (RPF) is to:

1. Clarify resettlement principles, organisational arrangements and design criteria to be applied to the NETIP social infrastructure sub-projects.
2. Provide guidelines for development of appropriate mitigation and compensation measures, for the impacts caused by the proposed NETIP social infrastructure sub-projects.

3. Provide guidelines for the preparation of Resettlement Action Plans (RAPs) for the social infrastructure sub-projects to be implemented in the NETIP.

3 Upon identification and approval of the sub-projects, individual RAPs will be prepared for each sub-project based on the guidelines and procedures highlighted in this RPF document, the Government of Kenya legislation on compensation and guidelines for resettlement and the World Bank OP 4.12 on Involuntary Resettlement and the World Bank, prior to the implementation of their respective planned project investments. The individual sub-project RAPs will also adhere to the World Bank OP 4.12. This RPF document and a separate ESMF for NETIP shall be the instrument, through which the project's environmental and social impacts are identified, assessed, evaluated and have appropriate mitigation, management and monitoring measures, designed and incorporated to the respective sub-projects.

1.7 Scope of the RPF

2 The framework is applicable to all NETIP sites and all activities associated with the project and have the in-built mechanisms for resolving any forms of disputes on land acquisition. The RPF has been presented in a much more comprehensive manner so as to guide and ensure that all conditions of population displacement or loss of socio-economic benefits are taken into account during formulation of the resettlement action plans (RAPs).

3 Although the actual locations of the various social infrastructure facilities are not known and determined yet, it is anticipated that the actual locations will ultimately fall on private land in the settlements or on community land in between the various settlements. Therefore, the resettlement impact will essentially be limited to private land and community land. However, the community land may be occupied by community members, squatters or transient livestock drivers. The latter usually drive cattle on the hoof to livestock markets and this takes weeks or months as they fatten them and drive them slowly. Private land may also be in use by squatters, tenants, owners or seasonal traders. This implies that the RAP processes should be robust and responsive to unique characteristics of each piece of land in question.

1.8 Methodology of the RPF

2 In view of the foregoing scope, the existing RPF Report was reviewed and in order to make it more up to date and complete, this assignment adopted a three-pronged methodological approach as follows.

(a) Field Consultations with county and community-level leaders and experts. The aim of these was to tap into field knowledges and practices such as regarding conflict and grievance resolution procedures and institutions in order to inform sub-project
GRM structures. These field interviews were also meant to bring out compensation expectations and structures, trust or otherwise of county governments as custodians of community land and how these should be handled fruitfully in the RAP processes. The field consultations record including attendance and minutes are in Annex E of this report.

(b) Further reading, review and revision of the existing RPF Report to completion. The gist of this approach was meant for further work on identified gaps, re-working and editing the work as appropriate.

(c) Drawing on the literature, secondary sources and professional experience to bridge identified conceptual and practical gaps in the RPF Report. The idea was to let the report benefit from the literature and lessons from other similar projects in order to strengthen it. Furthermore, this RPF report is cross-referenced with other reports on the NETIP such as the Social Assessment Report in order to make the overall project approach more integrated, comprehensive and unitary.
CHAPTER TWO: LEGAL AND REGULATORY FRAMEWORK

2.1 Introduction

3 This chapter briefly reviews the legal and regulatory framework for resettlement in Kenya and compares that with World Bank Requirements and policy for land acquisition and resettlement. The emerging gaps between the two regimes is identified and some efforts at bridging the gaps discussed.

2.2 The Constitution of Kenya 2010

4 The Constitution of Kenya 2010 has a comprehensive Bill of Rights at Chapter Four which among others guarantees the right to private property in land. The constitution also has a well elaborated Chapter Five on Land and Environment. These two chapters provide constitutional basis for land ownership, expropriation and protection of rights to land.

5 According to Institute for Human Rights and Business, Chapter V. of the Constitution provides the principles on land ownership and management. All land in Kenya belongs to the people of Kenya collectively as a nation, as communities or as individuals. Land is further classified as public, private or community. The classification or tenure system is important as it determines the terms and conditions under which land rights are acquired, retained, used or transferred.

6 The Constitution of Kenya provides the framework for all legislation on Land and land acquisition in Kenya, including the Land Act 2012 and the Community Land Act, 2016. These are the two pieces of legislation that are most relevant to NETIP land acquisition needs. This is because bulky of the land in Northern Kenya falls under community land is governed by the Community Land Act, 2016, but in between are enclaves of private land especially in urban areas which are governed through the Land Act 2012.

7 The Constitution of Kenya provides for public participation in Article 35 on Access to Information held by the atate or by another person. Article 10 (2a) speaks to the issue of public participation in particular in the context of accountability and democracy in governance. Also Article 174(c) describes devolution structures as meant to “enhance the participation of people in the exercise of the powers of the State and in making decisions affecting them.” Therefore, the preparation and implementation of any project is required to entail engagement and participation of affected and interested people or stakeholders.

8 The Commission on Administrative Justice (CAJ) Act No. 23 of 2011 establishes the CAJ to facilitate investigation of complaints about administrative bodies and

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generally inquire into the behaviour of those bodies. The CAJ fits into project GRM in the sense that in the event that grievances are not resolved by the project GRM, then the stakeholders have one more non-judicial body to complain to before getting into the judicial system. Moreover, the CAJ has offices in the counties and is thus accessible to the stakeholders in the NETIP. The RAP reports will provide the place of CAJ in the GRM and related processes.

9 The Constitution of Kenya at Article 260 defines a marginalised groups thus: “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)”. These grounds interalia include race, sex, pregnancy, marital status, health status, ethnic or social origin, color, age, disability, religion, dress, culture or language. Therefore article 56 of the constitution requires affirmative action programs to ensure that minorities and marginalized groups have reasonable access to services and infrastructure and that they develop and participate in affairs that affect them. Preparation of specific RAP reports will thus take these provisions into consideration and provide avenues for the said groups to access services and infrastructure as appropriate.

10 Article 204(2) states that the national government shall use the equalization fund only to provide basic services including roads, water, health facilities and electricity to marginalized areas to the extent necessary to bring the quality of those services in those areas to the level generally enjoyed by the rest of the nation, so far as possible. Article 204(4) adds that the Commission on Revenue Allocation shall be consulted and its recommendations considered before parliament passes any bill appropriating money out of the Equalization Fund.

2.3 Overview of National Legislative and Constitutional Provisions on Acquisition and Resettlement

11 Absolute or complete ownership of land is vested in the state. Under the Land Act No. 6 of 2012, the Commissioner of Lands, on behalf of the Republic of Kenya grants leases of town plots for any term not exceeding ninety nine (99) years and of agricultural land for 999 years. The grantee becomes owner and subject to the terms and conditions of the lease he possesses the bundle of rights of ownership. The 999-year leases can be converted into freehold and the 99 years to 999. On conversion or expiry of lease the new grant may be issued under The Land Registration Act No. 3 of 2012. All un-alienated land other than community land and all reversion of government leases are vested in the government. Other land, whether held on freehold or leasehold, is vested in grantees as owners have the rights over them.

12 The power of the state to qualify (extinguish) property rights in the public interest is embodied in Section 75 of the Kenyan Constitution. The section however makes the exercise of that power subject to due process of law. Section 117 of the Constitution further provides that an Act of Parliament may empower a county government to set apart trust land for:
a. The use and occupation of any public body or authority for public purposes; or
b. Prospecting or mining purposes; or
c. The use and occupation of any person or persons for a purpose that is likely to benefit the residents of the area.

Section 117 part 4 stipulates that the setting apart is void unless the law under which it is made makes provision for the prompt payment of full compensation.

Expropriation of Land for Development in Kenya

13 Expropriation in this context refers to the taking away of private land and landed property for public purpose by the government with or without the owners’ consent subject to laws of eminent domain, which stipulates prompt and adequate compensation among other things. In Kenya “Compulsory acquisition” for all registered private lands are the terms commonly used. The detailed procedures for land acquisition are elaborated under the Land Act No. 3 of 2012. The Land Registration Act No.3 of 2012 and the National Land Commission Act No. 5 of 2012 and the Community Land Act, 2016.

The Land Registration Act No. 3 of 2012

14 Section 16. (1) The office or authority responsible for the survey of land may rectify the line or position of any boundary shown on the cadastral map based on an approved subdivision plan, and such correction shall not be effected except on the instructions of the Registrar, in writing, in the prescribed form, and in accordance with any law relating to subdivision of land that is for the time being in force. Section 21. (1) Any person who defaces, removes, injures or otherwise impairs a boundary feature or any part of it unless authorized to do so by the Registrar commits an offence and is liable on conviction to imprisonment for a term not exceeding two years or to a fine not exceeding two hundred thousand shillings or to both. Section 26. (1) The certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained or endorsed in the certificate, and the title of that proprietor shall not be subject to challenge, except — (a) on the ground of fraud or misrepresentation to which the person is proved to be a party; (b) where the certificate of title has been acquired illegally, un-procedurally or through a corrupt scheme. (2) A certified copy of any registered instrument, signed by the Registrar and sealed with the Seal of the Registrar, shall be received in evidence in the same manner as the original. Section 31. (1) If a certificate of title or a certificate of lease has been issued, then, unless it is filed in the registry or the Registrar dispenses with its production, it shall be produced on the registration of any dealing with the land or lease to which it relates, and, if the certificate of title or the certificate of lease shows all subsisting entries in the register, a note of the registration shall be made on the certificate of title or the certificate of lease.
The Land Act No.6 of 2012

15 The act provides for compulsory acquisition of interests in Land. Section 110 (1) states that Land may be acquired compulsorily if the Commission certifies, in writing, that the land is required for public purposes or in the public interest as related to and necessary for fulfilment of the stated public purpose. (2) If, after land has been compulsorily acquired the public purpose or interest justifying the compulsory acquisition fails or ceases, the Commission may offer the original owners or their successors in title pre-emptive rights to re-acquire the land, upon restitution to the acquiring authority the full amount paid as compensation. (3) If any plant or machinery is attached or permanently fastened to the land, the person interested in that plant or machinery may serve on the Commission a notice in writing that such person desires to sever and remove the plant or machinery, after receiving the notice of intention to acquire the land under section 107(5), and not later than fifteen days before the inquiry appointed under section 112 (1). Section 111 states that just compensation should be paid promptly and in full to all persons whose interest in the Land, that are to be compulsorily acquired, have been determined and the commission shall make rules to regulate assessment of just competition.

The National Land Commission Act No. 5 of 2012

16 The Act provided for the establishment of National Land Commission whose functions include: (a) to manage public land on behalf of the national and county governments; (b) to recommend a national land policy to the national government; (c) to advise the national government on a comprehensive programme for the registration of title in land throughout Kenya; (d) to conduct research related to land and the use of natural resources, and make recommendations to appropriate authorities; (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 conflicts; (g) to assess tax on land and premiums on immovable property in any area designated by law; and (h) to monitor and have oversight responsibilities over land use planning throughout the country. (2) In addition to the functions set out in subsection (1), the Commission shall, in accordance with Article 67(3) of the Constitution— (a) on behalf of, and with the consent of the national and county governments, alienate public land; (b) monitor the registration of all rights and interests in land; (c) ensure that public land and land under the management of designated state agencies are sustainably managed for their intended purpose and for future generations; (d) develop and maintain an effective land information management system at national and county levels; (e) manage and administer all unregistered trust land and unregistered community land on behalf of the county government; and (f) develop and encourage alternative dispute resolution mechanisms in land dispute handling and management. (3) Despite the provisions of this section, the Commission shall ensure that all unregistered land is registered within ten years from the commencement of this Act. (4) Parliament may, after taking into consideration the progress of registration, extend the period set by the Commission under subsection (3). The National Land Commission guidelines requires that the acquiring agencies prepare
resettlement action plans in accordance to Kenyan Law and international good practice.

*The Community Land Act, 2016*

17 This Act is most relevant to the NETIP because most of the land in Northern Kenya where the project is located is community land. However, there are a minority of residents with private land especially in urban areas and established settlements. The Community Land Act applies as follows:

PART II-RECOGNITION, PROTECTION AND REGISTRATION OF COMMUNITY LAND RIGHTS

4. (1) Community land in Kenya shall vest in the Community.
   (3) Customary land rights, including those held in common shall have equal force and effect in law with freehold or leasehold rights acquired through allocation, registration or transfer.
   (4) Subject to Article 40 (3) of the Constitution and the Land Act, 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.

6. (1) County governments shall hold in trust all unregistered community land on behalf of the communities for which it is held.
   (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.

18 The Sub-project RAP preparation processes in NETIP should take cognizance of the foregoing legislative requirements and work closely with respective counties to determine compensation procedures and document them. Nonetheless, to the extent possible compensation should go to communities that have specific interest in acquired land unless they negotiate for in-kind compensation to their community without duress from any quarters.

2.4 Requirements of the World Bank for Resettlement

19 The World Bank’s Safeguard Policy OP 4.12 requires adequate compensation be paid to all project affected persons, whether physically or economically, regardless of the number of people affected, the severity of impact and the legality of land holding. It further requires particular attention to be given to the needs of vulnerable groups especially those below the poverty line, the landless, the elderly, women and children, indigenous groups, ethnic minorities, orphans, and other disadvantaged persons.
OP 4.12 requires that a resettlement action plan shall be prepared and cleared by the Bank prior to implementing resettlement activities. It is also required that provision of compensation and other assistance to Project Affected Persons, and the restoration of livelihoods when these are affected appreciably, shall be done prior to the displacement of people. In particular, the policy requires that possession of land for project activities may take place only after compensation has been paid. Resettlement sites, new homes and related infrastructure, public services and moving allowances must be provided to the affected persons in accordance with the provisions of the RAP. Where there are gaps between World Bank Policies, including OP 4.12, and Kenyan Laws, those of the Bank shall take precedence. Refer to Table 1 for a more detailed description of the relevant legislation.

### Table 1: Relevant Registration

<table>
<thead>
<tr>
<th>Legal Framework</th>
<th>Functional Relationship to Resettlement</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Land Act No. 6 of 2012</td>
<td>Provides for the acquisition of land for public benefit. The government has the powers under this Act to acquire land for projects, which are intended to benefit the general public. The subprojects requiring resettlement are under the provision of this Act.</td>
</tr>
<tr>
<td>The Community Land Act, 2016</td>
<td>County governments shall hold in trust all unregistered community land on behalf of communities for which it is held. County government shall hold any monies payable as compensation for compulsory acquisition in consultation with the affected communities.</td>
</tr>
<tr>
<td>The Land Registration Act No. 3 of 2012</td>
<td>Provides for the absolute proprietorship over land (exclusive rights). Such land can be acquired by the state under the Land Acquisition Act in the project area.</td>
</tr>
<tr>
<td>Physical Planning Act No. 6 of 1996</td>
<td>Section 2 of the Act requires that all land intended for any development requires planning and development permission. Section 36 of the Act also requires that development projects, which have substantial alteration of the state of land, must be subjected to an EIA.</td>
</tr>
<tr>
<td>The Environmental Management and Coordination Act 1999,</td>
<td>The legislation that governs Environmental Impact Assessment (EIA) studies. This resettlement exercise falls under the Second Schedule, which lists the projects required to undergo EIA studies in accordance with section 58 (1-4) of the Act. Resettlement components of the subprojects may pose potentially negative environmental impacts. Part 3 of this Schedule applies to settlement planning. Therefore according to the above Act, the</td>
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proposed sub-projects may require EIA studies.

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<thead>
<tr>
<th>Act/Act and Management Act</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Lakes and River Act Chapter 409 Laws of Kenya</td>
<td>This Act provides for protection of river, lakes and associated flora and fauna. The provisions of this Act may be applied, in the management of the resettlement zones in this project.</td>
</tr>
<tr>
<td>The Wildlife Conservation and Management Act, Cap 376</td>
<td>This Act provides for the protection, conservation and management of wildlife in Kenya. The provisions of this Act should be applied in the management of the project.</td>
</tr>
<tr>
<td>The Public Health Act Laws of Kenya</td>
<td>Provides for the securing of public health and recognises the importance of water. It provides for prevention of water pollution by any development activity including resettlement by stakeholders.</td>
</tr>
</tbody>
</table>

2.5 Comparative Analysis of World Bank OP 4.12 and Kenya’s requirements relevant to the process

**Table 2: Comparative of Kenyan Law and World Bank OP 4.12 Requirements on Compensation**

<table>
<thead>
<tr>
<th>Category of PAPs and Type of Lost Assets</th>
<th>Kenyan Law</th>
<th>World Bank OP4.12</th>
<th>Gap filling measures</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Owners</td>
<td>Cash compensation based upon market value under statute. Land for Land</td>
<td>Recommends land-for-land compensation. Other compensation is at full replacement cost, including administrative costs</td>
<td>Apply World Bank requirements</td>
</tr>
<tr>
<td>Land Tenants</td>
<td>Entitled to compensation based on the amount of rights they hold upon land under relevant laws. Illegal tenants not entitled to compensation</td>
<td>PAPs are entitled to some form of compensation whatever the legal/illegal recognition of their occupancy.</td>
<td>Land tenants, including illegal tenants to be compensated for lost structures/crops, in accordance with WB requirements</td>
</tr>
<tr>
<td><strong>Land Users</strong></td>
<td>In some cases land users have some form of secured tenure extended to them under new laws. In other cases land users are not entitled to compensation for land.</td>
<td>Entitled to compensation for crops, may be entitled to replacement land and income must be restored to at least pre-project levels.</td>
<td>Land users, including illegal tenants to be compensated for lost structures/crops, in accordance with WB requirements</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>Owners of Temporary Buildings</strong></td>
<td>Cash compensation based on market value or entitled to new housing on authorized land under government (state or local) housing programs.</td>
<td>Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.</td>
<td>Apply World Bank requirements</td>
</tr>
<tr>
<td><strong>Owners of Permanent Buildings</strong></td>
<td>Cash compensation is based on market value.</td>
<td>Entitled to in-kind compensation or cash compensation at full replacement cost including labor and relocation expenses, prior to displacement.</td>
<td>Apply World Bank requirements</td>
</tr>
<tr>
<td><strong>Perennial Crops</strong></td>
<td>Cash compensation based upon rates calculated as an average net agricultural income.</td>
<td>When arrangements cannot be made to allow for harvest, the market value for lost crops is paid. The value of the harvest is determined by the average market value of crops for the previous three years.</td>
<td>Apply World Bank requirements</td>
</tr>
<tr>
<td><strong>Stakeholder Engagement</strong></td>
<td>Kenya laws provides for procedures for engagement for project affected persons by National Land Commission.</td>
<td>Displaced persons should be meaningfully consulted from conception, planning, to implementation phase</td>
<td>Apply both World Bank and Kenyan Legislation</td>
</tr>
<tr>
<td>Grievance redress mechanism</td>
<td>Constitution of Kenya encourages application of traditional dispute resolution in land conflicts. Land Act 2012 clearly outline the steps and process for grievance redress that includes alternative dispute resolution, re-negotiation with NLC and is backed by the judicial system through Environmental and Land Court. Constitution of Kenya</td>
<td>For resettlement accessible, affordable and appropriate grievance redress mechanism should be established and should take into account availability of judicial recourse and traditional settlement mechanism</td>
<td>Implement both WB and Kenya legislation that incorporates both traditional as well as opportunity for legal redress system</td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td>Vulnerable groups as well as VMGs</td>
<td>Amendment Land Act 2016 under mandatory procedures during eviction include special measures to ensure effective protection to groups and people who are vulnerable such as women, children, the elderly, and persons with disabilities; Constitution of Kenya under implementation of rights and fundamental</td>
<td>In the institutional arrangements, the vulnerable groups such as indigenous people, ethnic minorities, landless, and women should be adequately represented</td>
<td>Implement both WB and Kenya legislation that recognizes vulnerable groups</td>
</tr>
</tbody>
</table>
freedoms State organs and all public officers have the duty to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalised communities, and members of particular ethnic, religious or cultural communities.

In case of conflict between Kenyan Laws and World Bank Operational Policy, the latter will prevail.
CHAPTER THREE: RPF IMPLEMENTATION ARRANGEMENTS

3.1 Overview

21 An NETIP Project Implementation Unit (PIU) will be established to undertake the overall coordination of the project. The implementation agencies will oversee all resettlement planning and coordinate all issues relating to the compensation. Given the importance of the activities under the various sub projects, the implementation agencies will involve the County Government within the sub project areas in coordination and implementation of resettlement planning and implementation. Table 3 sets out the institutions involved and their overall role in the RPF implementation process.

Table 3: Overall Institutional Roles in RPF Process

<table>
<thead>
<tr>
<th>Name of Institution</th>
<th>Role of Institution</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ministry of Transport and Infrastructure</td>
<td>Agency responsible for execution of Isiolo–Mandera Road and financing of Resettlement and Compensation of PAPs.</td>
</tr>
<tr>
<td>Project Implementation Unit established at KeNHA</td>
<td>Responsible for day to day coordination and implementation of the Isiolo–Mandera Road, implementation of the RAPs and ensure that the procedures and requirement of Kenya laws, and OP 4.12 of World Bank are enforced. They will review RAPs to ensure that all procedures have been adhered to and there is consistency in approach between subprojects, and undertake M&amp;E of resettlement activities.</td>
</tr>
<tr>
<td>Resettlement Committees at Sub Project Level (made up of Village elders and selected community representatives, Local Chief and Assistant Chief, Women Representatives, Local Political representative (Representative of Member of County),)</td>
<td>Vetting of PAPs to be resettled, validate inventories of PAPs and affected assets, monitor disbursement of funds, guide and monitor implementation of relocation, facilitate conflict resolution and address grievances, and provide support and assistance to vulnerable groups. Provide the critical political capital and legitimation to the RAP process by buttressing its representativeness and participatory orientation.</td>
</tr>
<tr>
<td>Sub-county Steering Groups (Chiefs, KeNHA Representative, Relevant CEC Members or Chief Officers, Local County Sub-county Administrator and Representative of local Member of Parliament).)</td>
<td>Screening of sub-projects and in cases where resettlement is unavoidable, formation of Resettlement Committees, provide review and monitoring; and political and administrative support for implementations of RAPs. Coordinates grievance mechanisms, Sub-project</td>
</tr>
<tr>
<td>National Land Commission</td>
<td>Undertake land expropriation processes and issuance of titles to resettled PAPs.</td>
</tr>
<tr>
<td>-------------------------</td>
<td>--------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>County Government</td>
<td>Approval of county proposals for relocation Sites</td>
</tr>
<tr>
<td>Ministry of Environment and Natural Resources, Kenya Forestry Services Ministry of Road, Ministry of Transport</td>
<td>Provision of technical support in resettlement</td>
</tr>
</tbody>
</table>

### 3.2 Land Acquisition and Compensation Procedure

22 The NETIP is a Category ‘A’ Project and will require robust strategies for Public Participation and Consultation as well as stakeholder engagement during the RAP preparation and Implementation processes. The various actors in these processes will thus need to take cognizance of the complex local cultural terrain that demands separate meetings with men and women respectively due to the entrenched Islamic beliefs and lifestyles. In line with the foregoing and other considerations the procedure to follow will include the following.

**(a) Public Participation with the PAPs**

The Social Assessment provides the guidance for Free Prior and Informed Consultations since the communities in the project area are VMGs. This process is to seek participatory involvement of PAPs from the beginning through the entire phases of the sub-projects. This will initiate the compensation process as part of an ongoing process that would start at the planning stages when the technical designs are being developed and at the land selection/screening stage.

The foregoing participation processes will lead the project teams to tapping into local understandings, knowledges and leaderships in order to enrich the project processes including design, land acquisition and compensation and thus enhance local sub-project ownership. Additionally, through the participation and consultation processes PAPs will better understand the sub-projects negotiate their compensation terms and provide prior informed consent with regard to selected projects and their commencement. This whole process will support effective redress and management of any emerging grievances and issues. Overall, it will be critical for the RAP preparation processes to identify culturally-sensitive entry-points for broad-based public participation and stakeholder engagement and prepare plans to apply them.
(b) Notification of Land Resource Holders

In cases where there is clearly no identified owner or user, the respective local authorities and leaders, will notify the community leaders and representatives who will help to identify and locate the land users. These leaders and representatives will also be charged with the responsibility of notifying their members about the established cut-off date and its significance. The user(s) will be informed through formal notification in writing and by verbal notification delivered in the presence of all the relevant stakeholders (Local Chiefs, representatives of the Local Land Control Boards, Local Member of County Assembly, PAPs and community/clan elders).

(c) Documentation of Holdings and Assets

The National Land Commission and KeNHA with support from the respective county governments and local leaders will arrange meetings with affected individuals to discuss the compensation process. For each individual or household affected, officials will complete a compensation report containing necessary personal information on, the affected party and those that he/she claims as household members, total land holdings, inventory of assets affected, and information for monitoring their future situation. This information will be confirmed and witnessed by local elders. The reports will be kept current and will include documentation of lands surrendered. This is necessary because it is one way in which an individual can be monitored over time.

(d) Agreement on Compensation and Preparation of Contracts

All types of compensation will be clearly explained to the individual and households involved. NETIP PIUs and the Local Authorities will draw contracts listing all property and land being surrendered, and the types of compensation (cash and/or in-kind) selected. A person selecting in-kind compensation will have an order form signed and witnessed. The compensation contract and the grievance redress mechanisms will be read aloud in the presence of the affected party and the Local Community Elder prior to signing.

(e) Compensation Payments

The National Land Commission is legally mandate to pay for all the land to be acquired. All handing over of property such as land and buildings and compensation payments will be made in the presence of the affected party, Isiolo – Mandera Road PIUs staff, County Governments, representative of the PAPs and the community local leaders. If any PAPs cannot be located, compensation should be held in escrow for them.

3.3 Community Compensation Payments

It is very unlikely that sub-projects will take land occupied by community facilities. However, if this situation arises, community compensation will be in-kind only for a
community as a whole in the form of reconstruction of the facility to at least the same standard or equivalent better standard required by local planning regulation. Examples of community compensation include:

i. School buildings (public or religious)
ii. Public toilets
iii. Wells or pumps
iv. Market place
v. Storage warehouse

3.4 Preparation of Resettlement Action Plans (RAPs)

24 The foregoing elements of the ‘Land Acquisition and Compensation Procedure’ will be documented in a Resettlement Action Plan for each sub-project of NETIP. Therefore, once the full extent of the physical coverage and potentially affected land and space are determined and the details of inventory of the PAPs and their affected assets are documented, a team of qualified professionals led by an experienced Team Leader tapping into the PAPs and other stakeholders, will prepare the RAP. The RAP will be specific to each sub-project and site.

25 The Resettlement Action Plans (RAPs) will be prepared once the specific sub-project sites have been determined and allowing enough time to ensure that compensation is completed long before sub-project works commence. This is because both the Constitution of Kenya, The Land Act 2012 and World Bank Policies require compensation to be paid in full and other necessary livelihood restoration actions to commence before actual land take for sub-project works. Therefore, for each sub-project the following elements of RAP must be considered:

i. Project description and analysis of alternatives;
ii. Identification of project impacts, zone of impacts and affected populations;
iii. Particular aspects of the legal framework for land acquisition and compensation as defined in this RPF;
iv. Census of PAPs, their affected assets, eligibility criteria and Cut off Date;
v. Socio-economic characteristics of the affected population with base line values, and data on Vulnerable and Marginalized Groups;
vi. Particular aspects of the compensation details, as applied to each project/sub-project;
vii. Description of resettlement assistance and restoration of livelihood activities;
viii. Detailed project budget;
ix. Implementation Schedule;
x. Particular aspects of the description of organizational responsibilities, as applied to the sub-projects;
xi. Details of public consultation, participation, consensus building in the planning of each sub-project;
xii. Particular aspects of the description of provisions for redress of grievances, as applied for each sub-project;

xiii. Particular aspects of the Monitoring and Evaluation framework and reporting to ensure timely decisions are taken to keep the implementation on course.

3.5 Preparation of Abbreviated Resettlement Action Plans (ARAPs)

26 In the likely event that a specific sub-project will not affect more than 200 persons, it will be necessary to prepare an Abbreviated Resettlement Action Plan (ARAP) for such a project in order to provide for the processes of acquisition of the required land and for the resettlement of the affected persons. The ARAP is triggered by OP 4.12.

27 The ARAP covers the following minimum elements:

   (i) A census survey of displaced persons and valuation of assets;
   (ii) Description of compensation and other resettlement assistance to be provided;
   (iii) Consultations with displaced persons about acceptable alternatives;
   (iv) Institutional responsibility for implementation and procedures for grievance redress;
   (v) Arrangements for monitoring and implementation; and
   (vi) A timetable or workplan and budget.
CHAPTER FOUR: RESETTLEMENT IMPACTS AND ELIGIBILITY

28 The NETIP traverses mainly through three counties, although it gets to the border between Isiolo and Garissa running through Garissa County over a few kilometres. The three counties are predominantly rangeland and the main livelihood activity in the region is pastoralism.

29 The population was projected to reach 191,627 in Isiolo County, 852,963 in Wajir County and 1,399,503 in Mandera County by 2017. An average 75% of people in the three counties live in absolute poverty. Isiolo County has 90 primary schools, 11 secondary schools and no major tertiary institution. Wajir on the other hand has a number of primary and secondary schools, a Medical Training College in Wajir Town and many commercial colleges. Mandera County has 175 primary schools, 32 government secondary schools and several private colleges.

30 The implementation of the proposed sub-projects will affect people and their livelihoods in a variety of ways depending on the actual location of a particular sub-project and the land tenure regime operative in the area and the intensity of developments undertaken. For instance, in all isolated settlements along the NETIP traverse some residents have private property rights through allotments and have developed their structures including residential houses and business premises. In urban areas such as Wajir and Elwak people also have private property rights including titled land. These people will be dealt with in a manner that speaks to their affected land and property. If the sub-projects locate outside the settlements and urban areas it is likely that the tenure regime will be ‘community land’. Different clans know the boundaries of their land and thus will negotiate compensation through their leaders and the respective county governments will advise them and if need be hold their compensation money in escrow accounts pending community land registration as per the Community Land Act 2016. Overall, the resettlement impacts and eligibility for compensation will be as discussed below.

4.1 Project Affected Person (PAPS)

31 This policy framework applies to all economically and/or physically displaced persons regardless of the total number affected by the severity of impact and whether or not they have legal title to the land. Particular attention will be paid to the needs of vulnerable groups among those economically and/or physically displaced especially those below the poverty line, the landless, the elderly, women and children, indigenous groups, ethnic minorities and other historically disadvantaged groups or other economically and/or physically displaced persons who may not be protected through Kenya’s land compensation legislation. In the local cultures, members of production, consumption, and co-resident groups form overlapping, often incongruent sets of people who may exchange domestic or farming services on a regular basis even though living separately. Compensation will not be limited to people who live together in a co-resident group, since this might leave out people whose labour contributions are critical to the functioning of the “household”.

39
4.2 Approximate number of PAPs

32 Determination of the exact number of PAPs is not possible at this stage of the project because the actual nature and locations of the sub projects have not been determined. However, each individual sub-project which might require physical and/or economic resettlement, the number of PAPs will be established through a Resettlement Action Plan that will be elaborated and operationalized before project implementation.

4.3 Categories of PAPs

33 Affected parties under the NETIP, in line with the definitions of national legislation and OP4.12, can be grouped as follows:

**Affected Individuals**

34 These are individuals who suffer loss of assets, investments, land, property and/or access to natural and/or economic resources as a result of a sub-project and to whom compensation is due. For example an affected person could be a person who farms a land, pastoralists whose migration or marketing routes have been altered or grazing land reduced, or a person who has built a structure on land that has been demarcated and is now required by the project.

**Affected Households**

35 A household is affected if one or more of its members are affected by any sub-project, either by loss of property, land, loss of access or otherwise affected in any way by project activities. This includes:

- Any member in the households, men, women, children, dependent relatives and friends, tenants;
- Vulnerable individuals who may be too old or ill to farm along with the others;
- Members of households who cannot reside together because of cultural rules, but who depend on one another for their daily existence;
- Members of households who may not eat together but provide housekeeping or other activities critical to the family’s maintenance; and
- Other vulnerable people who cannot participate, due to being physically challenged or for cultural reasons, in production, consumption, or co-residence.

**Affected Local Community**

36 A community is affected if project activities affect their socio-economic and/or socio-cultural relationships or cohesion. This could take place in areas where there are close-knit pastoral communities. This happens where a sub-project disrupts social capital and thus disadvantages members who otherwise previously linked and depended on each other to support their livelihoods.
Squatters

37 Squatters are people who have no recognizable rights, claims or entitlements to the land that they occupy and use. These people include those using private or public land without permission, permit or grant, namely those people without legal title to land and/or structures occupied or used. These are basically invaders although often they move into the property and occupy it smoothly without causing much trouble. They initially cultivate or grace for a while, leave and return to establish structures and live on the property. Under OP 4.12 when affected by a project, these people are to be compensated for structures and any other development such as trees and crops, but not for land. Additionally, if vulnerable, the squatters qualify for additional assistance and livelihood support.

Vulnerable Persons/Households

38 Vulnerable households may have different land needs from most households or needs unrelated to the amount of land available to them. These will be consulted separately with a view to identifying their needs more accurately in order to address them exhaustively. Vulnerable households include:

- **Orphaned children below 18 years old** These can be classified into three categories namely (i) those being looked after by close relatives, (ii) those being looked after by the government, County Government or NGOs and (iii) those living alone and providing for themselves and other siblings. Compensation for affected orphans could take the form of paying for their rehabilitation and training to acquire useful vocational skills.

- **Unmarried/widowed women** who may be dependent on sons, brothers, or others for support. Since an affected individual is able to name the person with whom he/she is linked in dependency as part of the household, resettlement will not sever this link.

- **HIV/AIDS afflicted persons and households with people living with disabilities or terminal illnesses such as cancer.**

- **Female-headed households** in which women are the breadwinners. These women should not be resettled in a way that separates them from their households as the very survival of their households may depend on them. Their compensation must take into account all these factors.

- **Elderly persons** whose economic viability may depend on how much land they own or how much they produce because, by producing even small amounts of food to “exchange” with others, they can survive on cooked food and generous return gifts of cereal from people such as their kith, kin and neighbours. Losing land will affect their economic viability. However, resettlement would damage their economic viability even more than losing land since it will separate them from the person or household on whom they depend for their support.

- **People with Disabilities** who may not have access to services and opportunities like the rest of the community members. Additionally, these
people will require additional support to restore their livelihoods and reconstruct their dwellings and businesses if affected.

- **Marginalized and Minority Groups** such as those from small clans, refugees living with community members, widows and widowers, and people who may have lost their livestock to conflict or drought and become the extremely poor.

**Encroachers**

39 **Encroachers** are those people who move into the project area after the cut-off date and are therefore not eligible for compensation or other rehabilitation measures provided by the project. (In other contexts this term might also mean people who might have knowingly or unknowingly occupied the designated Road reserve that has already been secured by the Government as defined by law).

4.4 **Types of Losses**

**Loss of assets**

40 This includes loss of houses, crops and trees, structures, fixed improvements, businesses which should be compensated at replacement value, negotiated settlements, productivity valuation, material and labour valuation. In cases where the loss is partial, disposition of salvage material will be exercised. Cash payments may also be made if a small fraction of property is lost instead of replacing the whole property, but if the partial loss results in the PAPs not being economically viable then the property will be replaced. Those who lose houses will also be assisted with temporary residence (if necessary).

**Loss of wages and income**

41 These are persons who will lose their income due to the sub-project. Workers losing employment in the process of relocation should be entitled to transitional income support. Compensation equivalent to lost income required for the duration of impact should be paid to the latter. In addition, PAPs will be entitled to transitional assistance, which include moving expenses, temporary residence costs (if necessary), and interim employment where applicable in the project while waiting for employment. In difficult cases, local administration shall be used to judge eligibility as well as village committees.

**Impact of land loss**

42 The social assessment identified loss of land as a negative impact to the VMGs, which will lead to impacts and risks associated with land use and land-based livelihoods during construction. Potential impacts include physical and economic displacement.
4.5 Eligibility for Compensation

Eligibility criteria are necessary for the purpose of determining

a) Those who have formal rights to land including customary/communal land, traditional and religious rights recognized under Kenyan Law.

b) Those who do not have formal legal rights to land at the time the census begins but have a claim to such land or assets provided that such claims are recognized under the laws of Kenya or become recognized through a process identified in the resettlement plan.

c) Those who have no recognizable legal right or claim to the land they are occupying, using or getting their livelihood from before the cut off date, but are recognized under World Bank OP 4.12.

Those covered under (a) and (b) above are to be provided compensation for the land they lose, and other assistance in accordance with this RPF. PAPs covered under (c) above are to be provided with resettlement assistance in lieu of compensation for the land they occupy, and other assistance, as necessary, to achieve the objectives set out in this RPF, if they occupy the project area prior to a cut-off date established by the project PIUs in close consultation with the potential PAPs, local community leaders and acceptable to the World Bank.

Persons who encroach on the area after the cut-off date are not entitled to compensation or any other form of resettlement assistance. All persons included in (a), (b) or (c) above are to be provided with compensation for loss of assets other than land. It is therefore clear that all project affected persons irrespective of their status or whether they have formal titles, legal rights or not, squatters or otherwise encroaching illegally on land, are eligible for some kind of assistance if they occupied the land before the entitlement cut-off date.

Eligibility for Community Compensation

Eligibility may be collective and does not necessarily have to be individuals or families. Communities on communal land that permanently lose land and/or access to assets and/or resources under statutory or customary rights will be eligible for compensation. Example of community compensation could be for communal public toilets, market places, water points, schools and health centres. The rationale for this is to ensure that the pre-project socio-economic status of communities where adversely impacted, is also restored.

4.6 Cut-off date

Cut-off dates are essential in the process of drawing up lists to ensure that ineligible persons do not take the opportunity to claim eligibility. The establishment of a cut-off date is required to prevent opportunistic invasions/rush migration into the chosen land thereby posing a major risk to the sub-project. The entitlement cut-off date refers to the date when the census of PAPs and documentation of their assets commences. Thereafter, no new cases of affected people will be considered. Unfinished structures
would be identified, documented and secured, and unused materials will be piled at the site so that the survey can estimate investment that should be compensated for in lieu of expenses (including labour) incurred until the cut–off date. The cut-off date under each RAP will be officially published including in local languages that includes Kiswahili, Borana and Somali

48 The cut-off date is to be determined at a meeting of the respective local authorities and community leaders and the representatives of the NETIP-PIU, soon after the affected site is fully identified. Local leaders will then disseminate to all the various members of each household or to every individual this date and its significance. This is thoroughly consistent with the way planning meetings and other meetings are held in rural areas in Kenya.

49 During the time lapse between the cut-off date and the start of civil works attention should be paid to secure the sites from rush and opportunistic invasion. Measures include: close consultation with the recognized PAPs; use of signage to inform general public of intended use of site and security patrols to identify opportunistic invaders. Further patrols and monitoring of any violation of the cut-off date could be carried out by local administrations and be reported to the local resettlement committee.
CHAPTER FIVE: VOLUNTARY LAND DONATION

5.0 Introduction

50 There is a likelihood that in some of the sub-projects covered in this RPF, the NETIP will receive land donations from communities. This is because most of the land in Northern Kenya is community-owned and communities usually donate land for projects that benefit them directly. In any event, the process of acquiring community land may be lengthy and depriving as political control and interests may shift benefits from one community to another.

51 In the event that a community aspires or offers to voluntarily donate land for purposes of a sub-project covered by this RPF Report, the proponent will adopt the World Bank procedure for voluntary land donation that is elaborated below.

5.1 World Bank Approach to Voluntary Land Donations for in Kenya

5.1.1 Kenyan Context and Law

52 Around 60% of the land in Kenya is unregistered community land. Community land has equal status to public and private land and is guided by the Community Land Act, 2016 (which repealed the The Trustlands Act), Community Land Regulations, 2017, and protected by the Constitution. Despite this, the implementation mechanisms for registering community land are not yet in place.

Box 1: Key Extracts from Kenyan Law

<table>
<thead>
<tr>
<th>Community Land Act, Article 8:</th>
<th>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.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Constitution, Article 40 (3):</td>
<td>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.</td>
</tr>
<tr>
<td>Community Land Act; Article 6 (2):</td>
<td>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.</td>
</tr>
<tr>
<td>Community Land Act; Article 15 (1):</td>
<td>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...</td>
</tr>
</tbody>
</table>
compulsory 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 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.

5.1.2 Land Donation for World Bank Financed Community-Driven Development Projects

In this case projects or community investments are identified by the community.

Box 2: Guidelines for voluntary donation of land in CDD projects2:

1. Land to be donated must be identified by the community through a participatory approach;
2. Impacts of proposed activities on donated land must be fully explained to the donor;
3. The potential donor is aware that refusal is an option, and that right of refusal is specified in the donation document the donor will sign;
4. The act of donation is undertaken without coercion, manipulation, or any form of pressure on the part of public or traditional authorities;
5. The donor may request monetary or non-monetary benefits or incentives as a condition for donation;
6. The proportion of land that may be donated cannot exceed the area required to maintain the donor’s livelihood or that of his/her household;
7. Donation of land cannot occur if it requires any household relocation;
8. For community or collective land, donation can only occur with the consent of individuals using or occupying the land;
9. Verification must be obtained from each person donating land (either through proper documentation or through confirmation by at least two witnesses);
10. The implementing agency establishes that the land to be donated is free of encumbrances or encroachment and registers the donated land in an official land registry.
11. Establishment of a culturally appropriate and accessible Grievance Redress Mechanism (GRM) in consultation with the concerned communities for resolving any project related disputes that may arise at any stage of the project.

In addition:
12. donors must be engaged individually, i.e. away from those who could potentially coerce them.
13. All the above, needs to be documented adequately.

---

2World Bank (2015) How to Note on Application of Social Safeguards Policies to Community-Driven Development Projects
54 Practical guidance:

**STEP 1:** Establish a rapport with the chief and community representatives to explain the objective of the project and how it will benefit the community and the need for consultations.

**STEP 2:** For unregistered community land: a comprehensive survey of all occupiers and regular users of land (including nomadic pastoralists, other ethnic groups who may use the area as a drought fall back reserve, women and other vulnerable and marginalised groups including other groups that may have claims on the land).

**STEP 3:** A community baraza (minutes and with a photo and signed participant’s list indicating name, ID, sublocation, gender of participants to which all occupiers and users of the land are invited in which there is overwhelming consensus that the land under question should be allocated for this use and nominate 5 representatives to sign the community land resolution and agreement form on their behalf. The barazaa MUST explain the voluntary land requirements for World bank CDD projects given above including:

a) The impacts of proposed activities on donated land;
b) That the community can refuse to donate the land;
c) Ensure that the donation of the land is undertaken without coercion, manipulation, or any form of pressure on the part of public or traditional authorities;
d) That they could request monetary or non-monetary benefits or incentives as a condition for donation (although cash compensation would be held in kind by the county government on their behalf – see CLA 6(2));
e) The proportion of land that they are donating does not exceed the area required to maintain the community members’ livelihoods or that of his/her household;
f) The donation of land will not require any household relocation;
g) The people agreeing to the donation of the community land should indicate when they sign the participants list.
h) There are no encumbrances or encroachments or any dispute about the ownership of the land.

**STEP 4:** Community land resolution and agreement form signed by the chief, administrator, land registrar, the physical planning department, the project team leaders, and the CEC from the relevant line ministry (See Annex A).

**STEP 5:** The project staff to complete the summary safeguards reporting format section for voluntary land donations, explaining how all requirements have been met, attaching the minutes of the community baraza and community land resolution form (See Annex B).
### 5.1.3 Land Donation for non-CDD Projects

**Box 3: Extracts from Involuntary Resettlement Source Book (pgs 22-23):**

<table>
<thead>
<tr>
<th>In some projects, communities may agree to voluntarily provide land in exchange for desired community benefits. The OP does not apply if people or communities make voluntary land donations in exchange for benefits or services related to the project. Land donations can be voluntary only if the infrastructure is not location specific. That is, a school or clinic can be sited in a different location if the landowner objects. But in case of location specific infrastructure, such as a dam or reservoir, voluntary donation is precluded, since objectors can be coerced into acceptance. Thus, if the location of the proposed infrastructure cannot be changed, OP 4.12 would generally apply. Further, arrangements for voluntary resettlement are expected to involve no physical displacement or significant adverse impacts on incomes (or they are expected to include community-devised mitigatory mechanisms acceptable to those affected). OP 4.12 defines “minor impacts” as loss of less than 10 percent of an individual’s holdings (endnote 25). Because determining informed consent can be difficult, the following criteria are suggested as guidelines:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. <strong>The infrastructure must not be site specific.</strong></td>
</tr>
<tr>
<td>2. <strong>The impacts must be minor, that is, involve no more than 10 percent of the area of any holding and require no physical relocation.</strong></td>
</tr>
<tr>
<td>3. <strong>The land required to meet technical project criteria must be identified by the affected community, not by line agencies or project authorities (nonetheless, technical authorities can help ensure that the land is appropriate for project purposes and that the project will produce no health or environmental safety hazards).</strong></td>
</tr>
<tr>
<td>4. <strong>The land in question must be free of squatters, encroachers, or other claims or encumbrances.</strong></td>
</tr>
<tr>
<td>5. Verification (for example, notarized or witnessed statements) of the voluntary nature of land donations must be obtained from each person donating land.</td>
</tr>
<tr>
<td>6. <strong>If any loss of income or physical displacement is envisaged, verification of voluntary acceptance of community-devised mitigatory measures must be obtained from those expected to be adversely affected.</strong></td>
</tr>
<tr>
<td>7. <strong>If community services are to be provided under the project, land title must be vested in the community, or appropriate guarantees of public access to services must be given by the private titleholder.</strong></td>
</tr>
<tr>
<td>8. <strong>Grievance mechanisms must be available.</strong></td>
</tr>
</tbody>
</table>

#### 55 Practical Guidance

- Voluntary land donation can only be considered if the community selects the site and is getting direct benefit from the project.
- VLD is precluded in cases of location specific sites to avoid coercing people/communities into acceptance.
- If a project is site/location specific, i.e. the site/location cannot be moved or changed, then OP 4.12 applies.

56 In-Kind Compensation is Preferred and Encouraged in Unregistered Community Land

1. In None CDD-type projects, where PAPs are entitled to compensation, in-kind compensation is preferred and encouraged (despite the right/entitlement to cash compensation). This is because:
   a. The valuation of community land is not yet developed;
   b. The community and who should benefit is not defined.
   c. As per the Community Land Act; Article 6 (2), money has to be held by the county government in an interest-bearing account until the community is registered. The registration of land may take some time and it is not possible to guarantee that the county government will protect the funds.

2. When in-kind compensation is agreed upon, it should be, as much as possible, related to the project and should be agreed upon by, and accessible to, all PAPs

5.1.4 General Remarks on Voluntary Land Donation

57 Finally, the procedure should to be followed for VLD in non-CDD projects is the same as for CDD investments outlined above. The voluntary land donation allowed within the NETIP should not involve any physical displacement or significant adverse impacts on incomes. In other words, the land donated should be primarily community land under general use not land under use by specific households the donation of which will impair or disrupt their exclusive livelihoods.

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CHAPTER SIX: METHODS OF VALUING AFFECTED ASSETS

6.1 Types of Compensation

58 Compensation for all land use and assets in kind or cash will be required for the following:

- Land;
- Residential buildings, structures and fixtures;
- Cultivated crops (both cash and food crops) and trees; and
- Loss of businesses or employment.
- resettlement and economic rehabilitation assistance

59 Although the type of compensation will be the individual PAP’s choice, compensation in kind is preferred as cash payments raises issues regarding inflation and security. In addition, provision of cash does not ensure that the PAP’s income will be restored. For payment of compensation in-kind, the timing and alternative locations will have to be decided and agreed upon by each recipient, in consultation with the Subproject RAP Committees.

6.2 Valuation of Assets and National Law

60 According to Kenya’s Expropriation Law, any expropriated assets are to be ‘justly’ compensated using current market rates as assessed by a qualified valuer as described in law under the valuers Act Cap 533.

6.2.1 Valuation Procedure

 использовать Standard Valuation Rates

Due to the nature of the majority of sub-project interventions, it is anticipated that a relatively large number of small-scale asset valuations will need to be carried out during the course of the project.

The PIU will hire a valuation expert to develop a standardized procedure for asset valuation. This standardized procedure would include a series of reference tables for estimating asset value by type according to the approximate size and condition of the existing asset.

The reference tables would be developed using legally acceptable valuation procedures accepted by both the Government of Kenya and World Bank to ensure fairness and consistency. The valuation approach will consider replacement costs as well as types and levels of compensation under the Kenya law. Valuation of lost assets will be made at their replacement cost.
**Preparation of Asset Inventory**

In order to prepare an inventory of assets for a sub-project, a field team will visit the affected area to carry out an asset valuation survey. The team will be led by a project representative and will include the Local Authorities at the various levels, a representative of the PAPs, and NETIP.

During the survey, each asset will be enumerated and inscribed on an inventory in the presence of the PAP and a valuation of the asset carried out using the approach described above. The values of each asset will then be recorded in a register and shown to the affected person for agreement. The register will be signed and a copy given on the spot to the affected person. The document will indicate when the affected person will be notified, and that the inventory will not be official until a second signed copy, verified by project supervisory staff, is returned to the affected person. At this time, a copy of the grievance procedure will also be availed to the affected person as stated in the grievance redress mechanism.

**Methods of Compensation**

Individual and household compensation will be made in cash, in kind, and/or through assistance. The type of compensation will be an individual choice although every effort will be made to instil the importance and preference of accepting in kind compensation if the loss amounts to more than 20% of the total loss of subsistence assets. Table 4 below describes the forms of compensation.

**Table 4: Forms of compensation**

<table>
<thead>
<tr>
<th>FORMS OF COMPENSATION</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Cash Payments</strong></td>
<td>Compensation will be calculated in Kenya Shillings. Rates will be adjusted for inflation.</td>
</tr>
<tr>
<td><strong>In-kind Compensation</strong></td>
<td>Compensation may include items such as land, houses, and other buildings, building materials, seedlings, agricultural inputs and financial credits for equipment.</td>
</tr>
<tr>
<td><strong>Resettlement and Economic Rehabilitation Assistance</strong></td>
<td>Assistance may include moving allowance, transportation and labour</td>
</tr>
</tbody>
</table>

While making compensation estimates, issues regarding inflation, security and timing ought to be considered. One purpose of providing in-kind compensation is to reduce inflationary pressure on the cost of goods and services. Local inflation may still occur and thus market prices will be monitored within the time period that compensation is being made to allow for adjustments in compensation values. The issue of security, especially for people who will be receiving cash compensation payments should to be addressed by the local administration.
The time and place for in-kind compensation payments will be decided upon by each recipient in consultation with NETIP KeNHA team and the County and local administrations. Monetary payments should be paid at a time in relation to the seasonal calendar.

Local Banks and micro-finance institutions shall work closely with the local administration at this level to encourage the use of their facilities in receiving and cashing the compensation for the affected persons, where the case arises, which will positively impact the growth of the local economies.

6.2.2 Basis of Valuation and Methodology

Basis of Valuation:

Market Value (MV):

An opinion of the best price at which the sale of an interest in property would have been completed unconditionally for cash consideration on the date of valuation, assuming:

(i) a willing buyer and a willing seller;
(ii) that, prior to the date of valuation, there had been a reasonable period (having regard to the nature of the property and the state of the market) for the proper marketing of the interest, for the agreement of price and terms and for the completion of the sale;
(iii) that, the state of the market, level of values and other circumstances were, on any earlier assumed date of exchange of contracts, the same as on the date of valuation;
(iv) that, no account is taken of any additional bid by a prospective purchaser with a special interest; and
(v) that, both parties to the transaction had acted knowledgeably, prudently and without compulsion.

Methodology:

a) Summation (Contractors’ Approach)

Summation involves the assessment of the value of the land (based on direct comparison of sales of vacant land/development sites), and the addition of the ‘added value’ of the improvements (buildings etc) on the land. The added value of the improvements is assessed based on analysis of having regard to market evidence, often on a rate per area basis (eg Kshs. psm) as obtained from recent contractor’s estimates within the area and rates as published by IQSK, or Ministry of Public Works.
b) Direct Comparison (Comparable Sales Method)

This method involves comparison of the property to be valued (professionally referred to as ‘the subject property’) with transactions of similar properties. Comparisons can be made in many forms including straight comparison, or analysis on a rate per area basis (such as rate per square metre (psm), or rate per hectare of land). Recent sales in the areas that we deem similar in important respects to the subject property being valued are analysed.

The sales price and the physical, functional and location attributes of each of the properties are compared to the property under consideration to arrive at an estimate of value. After the analysis of the differences between the subject property and the comparable properties that sold, a market value for the subject property is then determined.

For this project, all affected assets will be compensated against the full replacement value, that utilizes the concept of the market value of a similar asset without considering depreciation, and factoring all relocation costs to a new site, while maintaining a similar level of services. It will also include all the transaction cost associated with the land acquisition.

6.2.3 Calculation of Compensation by Assets

61 Compensation for land is aimed at providing a PAP whose land is acquired and used for project purposes, with compensation for land labour and crop loss. For this reason, and for transparency, land is defined as an area or homestead (i) in cultivation, (ii) being prepared for cultivation, or (iii) cultivated during the last agricultural season. However most of the project traverse is predominantly under pastoralist farming. The following methods of calculation should be adopted for the preparation of the aforementioned standardized asset valuation tables and/or the application of specific case by case valuations in the case of projects that have significant impacts.

Compensation for Land

The first premise is of provision of replacement land, if receiving land as compensation, is whereby an equivalent parcel is issued to the affected person and an allowance to replant the crops.

In the case where there is no alternative land available, cash compensation at full replacement value should be provided. This should be valued based on the prevailing market value in the locality to purchase an equally productive plot of land in the same locality. In addition, any associated costs of purchasing the land i.e., taxes, registration fees will need to be included in the compensation.

In addition, the PAPs will be compensated for any permanent improvements made to the land (for instance crops, houses and sheds). This will be calculated based on the
full replacement value of making the permanent improvement at current prevailing market rates for labour, equipment and materials, at a new site and replacing the service level as of current or better.

Where land lost is only a small proportion of total land owned by the PAP, but renders the remaining land as unusable, the compensation provided should be calculated based on the total land affected (i.e., the actual land lost plus the remaining unusable land).

**Land Measurement**

For purposes of measuring land, the unit of measurement would be that which is used and understood by the affected farmers and if a traditional unit of measure exists in the rural areas, that unit should be used. If a traditional unit of measurement does not exist in a particular area then it is recommended that land should be measured in metres or any other internationally accepted unit of measurement. In Kenya, acres or hectares are predominantly used in registration of titles and as a measure of area.

However, in such an event, the unit that is being used must be explained to the affected persons/users and must somehow be related to easily recognizable land features that the communities are familiar with, such as using location of trees, stumps, etc as immovable pegs. The most important concern of this exercise is to ensure that the affected person is able to verify using his/her own standards/units of measurement, the size of land that is being lost. This will ensure transparency in the system and will thus avoid subsequent accusations of wrong measurements or miscalculation of areas. An affected person should know how much land he/she is losing, in terms of size and the replacement land must be at least of that same size and comparable value as land lost.

**Calculation of Crops (Cash/ Subsistence Crops) Compensation Rate**

The current prices for cash crops will be determined and all crops will be valued using a unitary rate. This rate incorporates the value of crops and the value of the labour invested in preparing new land.

Crop values will be determined on:-

a) A combination of staple foods and cash crops. The 80/20 ratio of land that a farmer typically has in food crops and cash crops is used to determine the chances that s/he would lose food crop rather than a cash crop income.

b) The value of staple crops to be taken as the highest market price (over 3 years) reached during the year, in recognition of the following factors:

- Although most farmers grow staple crops mainly for home consumption, they always have the option of selling these crops to take advantage of the market.
Farmers most often purchase cereals when they have run out, during drought when prices are high. Compensating at a lower value might put the individual or household at risk.

On average, the highest price of stable food yields a high per hectare value reimburses for the vegetables and other foods that are commonly inter-cropped with staples, but are almost impossible to measure for compensation.

c) The labour cost for preparing replacement land is calculated on what it would cost a farmer to create a replacement land. This value is found by adding together the average costs of clearing, ploughing, sowing, weeding twice, and harvesting the crop.

Compensation for Buildings and Structures

Compensation will be paid by replacing structures (huts, houses, outbuildings, latrines, storage facilities and fences etc.) to improved quality where possible. Where structures are dwellings, the replaced structure should provide improved living conditions. The other compensation option will be provision of cash compensation at full replacement value. Compensation will be made for structures that are affected adversely because of relocation or resettlement of an individual or household, or directly damaged by subproject activities.

Replacement values will be based on:

- Measurements of structures and detail of materials used;
- Average replacement costs of different types of household buildings and structures based on collection of information on the numbers and types of materials used to construct different types of structures (e.g. poles, bricks, rafters, bundles of straw, corrugated iron sheets, doors etc.).
- Prices of these items collected in different local markets;
- Costs for transportation and delivery of these items to acquired/ replacement building site preparation
- Estimates of construction of new buildings including labour required;
- Any associated taxes, registration fees.

Compensation for Community Assets

Compensation will be provided for community assets identified through the socio-economic survey. In all cases these will be provided in kind and new facilities will be provided even if there are existing facilities at the new location that will be augmented to replace the loss.
Compensation for Sacred Sites

This policy does not permit the use of land that is defined to be cultural property by the Banks Safeguards OP 4.11. It includes other such sites or places/features that are accepted by local laws (including customary), practice, tradition and culture as sacred. To avoid any possible conflicts between individuals and/or communities/homesteads/chieftdoms the use of sacred sites including graves for any project activity, is not permitted under this project. Sub-project RAP reports will be informed by this principle.

Compensation for Loss of Businesses

Any structures will be replaced in an appropriate location as outlined above. In addition, compensation will be paid for the lost income and production during the transition period (time lag between losing the business and re-establishment). This will be estimated based on the daily or monthly income of the affected parties.

Compensation for Beehives

Beehives are placed in various locations in the bush by individuals specializing in honey gathering. If such hives will be disturbed by the project activities, or access to hives is denied, beekeepers will be free to move them, and hopefully the bees will adapt to the new locations. Beekeepers will be compensated by the value of one season’s production costs of honey for each hive that is moved and any reasonable costs associated with moving the hive.

Compensation for Horticultural, Floricultural and Fruit Trees

Banana and Mango trees are featured here below as two examples of the set of primary fruit trees that are likely to be found in project targeted area and are estimated to account for a significant amount of all fruit bearing trees. They are primarily important as a source of:

- Subsistence food for families
- Cash produce that contribute to the export economy
- Petty market income in some areas, and
- Shade (in the case of mango trees).

Compensation will be made for the estimated value of the trees as established from the County Agricultural Office (CAO) and following rates established by Kenya Forest Services for trees but also considering the age and girth of the trees, annual productivity index as established by CAO will be considered.
**Other Domestic Fruit and Shade Trees**

As defined in this policy, individuals will be compensated for wild trees which are located in their land. Wild productive trees belong to the community when they occur in the bush as opposed to fallow land. These trees will be compensated for under the umbrella of the community compensation.

No compensation will be paid for minor pruning of trees. Compensation for removal of limbs will be prorated on the basis of the number of square metres of surface area removed. The total surface area of the tree will be calculated using the following formula: \((\frac{1}{2} \text{ diameter of canopy})^2 \times 3.14\).

**Additional Assistance to Vulnerable Groups**

These vulnerable groups will be entitled to compensation for their loss as described above and additional assistance during resettlement. This will include: assistance in rebuilding their homes, assistance in moving their structures and belongings, or carrying out any such tasks or access any such services and infrastructure as will be necessary and specified in RAP reports.
<table>
<thead>
<tr>
<th>Categories of Affected Persons</th>
<th>Categories of Assets Lost/Affected</th>
<th>Basis for Compensation</th>
<th>Additional Assistance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>Buildings</td>
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<tr>
<td></td>
<td>Structures</td>
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<td>Fences</td>
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<td>Wall</td>
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<td></td>
<td>Wood/Wire</td>
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<td>Drilled</td>
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<td>Hand dug</td>
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<tr>
<td></td>
<td>Livestock shelters</td>
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<td>Business</td>
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<td></td>
<td>Rental</td>
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<td>Other</td>
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<td>Fixed Improvement</td>
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<td>Crops</td>
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<td>Trees</td>
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<td>Loss of assets</td>
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<td>Loss of Business</td>
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<td></td>
<td>Business Tenants</td>
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<td></td>
<td>Residential Tenants</td>
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<td>Pastoralists</td>
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<td>Squatters</td>
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<td></td>
<td>Vulnerable groups³</td>
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<td></td>
<td>Loss of Community assets</td>
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<tr>
<td>Formula for Compensation</td>
<td>Size * unit rate at market value</td>
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<td></td>
<td>Material s + Construction s</td>
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<td>s $3 per meter s</td>
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<td>Material s + Construction s</td>
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<td>半月 of 6 months</td>
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<td>Yield+Labour cost</td>
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<td>Expect +Labour cost</td>
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<td>$ 100 per PAH</td>
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</tbody>
</table>

4 These vulnerable groups will be entitled to compensation for their loss as described above and additional assistance during resettlement. This will include: assistance in rebuilding their homes, assistances in moving their structures and belongings, or carrying out any such tasks or access any such services and infrastructure as will be necessary and specified in RAP reports.

5 Value established by locally acceptable cost estimate of fencing which include the cost of fence per meter, poles, nails and labour.

6 This is an equivalent of Kshs 20,000 which is the acceptable cost of establishing a shallow well of up to 20 feet @ 1,000Kshs per foot.

7 This translates to 10,000 Kshs as a minimum for all the PAPs to improve their lives for those who will not qualify for more than $100 upon evaluation.
CHAPTER SEVEN: RAP PREPARATION, REVIEW AND APPROVAL

7.1 Screening for Involuntary Resettlement

62 Once the details of the sub project activities are known, and where land acquisition will be necessary, the process for land acquisition and resettlement will start with the screening process (identification and analysis) of possible and alternative sites for NETIP sub-project activities implementation. Screening for resettlement issues shall be part of the environmental and social screening.

63 During screening and all the other planning and preparatory activities, there will be adequate consultation and involvement of the local communities and the affected persons. Specifically, the affected persons will be informed about the intentions to use the earmarked sites for the NETIP sub-projects. The affected persons will be made aware of:

- Their options and rights pertaining to resettlement.
- Specific technically and economically feasible options and alternatives for resettlement sites, if required.
- Proposed dates for displacement or land repossession.
- Effective compensation rates at full replacement costs for loss of assets and services.
- Proposed measures and costs to maintain or improve their living standards.
- Grievance procedure

Screening checklist

64 The screening checklist form will be incorporated into the Project’s Implementation Manual. The screening checklist will be completed by the NETIP social specialist with the support of the county and interior Authorities at various levels as they understand the local dynamics. The ESMF developed alongside this RPF will address environmental issues including screening.
<table>
<thead>
<tr>
<th>Timing</th>
<th>Task</th>
<th>Tool</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>During subproject approval process with environmental/social screening process</td>
<td>Screening</td>
<td>Screening Checklist form</td>
<td>Proponent</td>
</tr>
<tr>
<td>Approval?</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>On receipt of permit for subproject where resettlement identified</td>
<td>Creation of Sub-Project Resettlement and Compensation Committee</td>
<td>RPF</td>
<td>Proponent</td>
</tr>
<tr>
<td>Set cut-off date, prepare and implement consultation and grievance plans</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>On Cut off date</td>
<td>Census and ID of PAPs</td>
<td>Census survey form</td>
<td>Proponent</td>
</tr>
<tr>
<td>On Cut off date</td>
<td>Land asset inventory</td>
<td>Land inventory form</td>
<td>Proponent</td>
</tr>
<tr>
<td>Validation and Verification</td>
<td>Validation and Verification</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Once all PAPs are Validated</td>
<td>Development of RAP</td>
<td>RPF</td>
<td>Proponent in collaboration with National Land Commission (NLC)</td>
</tr>
<tr>
<td>RAP should be completed within one month of PAP validation</td>
<td>RAP Review and Approval</td>
<td>RPF</td>
<td>Proponent</td>
</tr>
<tr>
<td>Before subproject commences implementation. Before people are displaced</td>
<td>RAP Implementation</td>
<td>RPF</td>
<td>Proponent</td>
</tr>
<tr>
<td>Throughout project baseline dev. Monthly/quarterly monitoring</td>
<td>Monitoring</td>
<td>List of Indicators</td>
<td>Proponent</td>
</tr>
</tbody>
</table>
Subproject Design

65 If the screening indicates that a subproject requires in its present layout the physical or economic resettlement, advice to consider feasible alternative sub-project designs to avoid or at least minimize physical or economic displacement, while balancing environmental, social and financial costs and benefits will be sought.

66 Once the decision has been made on which specific areas the sub-projects will be located for construction under the NETIP, PIU Implementing Agency will meet the administrative and local leaders of those potentially affected areas to communicate to all those potentially affected persons in the chosen areas.

67 The cut-off date will be the commencement date of the socio-economic study and census on the chosen site to identify the potential PAPs on the individual, household and vulnerable groups’ level. The socio-economic study and the census constitute the first step in the preparation of the RAPs.

Socio-economic Survey

68 This survey will establish the socio-economic baseline information, identify the persons who will be displaced by the individual subprojects, and determine who will be eligible for compensation and assistance. The purpose of the socio-economic study is also to collect baseline data within the chosen/targeted sites/areas/homesteads/villages thereby enabling the social assessment of potentially affected populations/communities/homesteads/villages. This study will provide comprehensive base line data on potentially affected people at individual and household levels, vulnerable groups (women, children, the elderly, female headed households, affected internally displaced people, affected internally displaced households, etc.) and to discourage inflow of people ineligible for assistance.

69 The study will focus on the identification of stakeholders (demographic data), the public participation process, identification of affected people (including owners and users of land) and impact on their property and their production systems, the institutional analysis including local social capital or inter-connectedness that supports livelihoods and how these will be affected by the respective sub-projects. The system for monitoring and evaluation of the RAP is also captured. Detailed calculation of individual and household economies and identification of all impacts will be undertaken as part of the socio-economic study and be the determinant in the potential compensation process.

Census of Project Affected Persons

70 The census of all the PAPs is carried out to ascertain their details and assets that will be affected. The aim is to ensure that the identity of each of them and an inventory of their affected assets are documented. The census will consolidate information that (i) provides initial information on the scale of resettlement to be undertaken; (ii) gives an
indication of further socio-economic research/asset survey needed to quantify losses to be compensated and, if required, to design appropriate development interventions; and (iii) establishes indicators that can be measured at a later date during monitoring and evaluation.

71 The census will also include characteristics of the affected households, including a description of production systems, labour, and household organization, and baseline information on livelihoods (including production levels and incomes derived from both formal and informal economic activities) and standards of living and health status of the PAPs. Baseline data for sub-project RAPs will include number of persons; number, type, and area of the houses to be affected; number, category and area of residential plots and agricultural land and crops to be affected; and productive assets to be affected as a percentage of total productive assets.

72 Once the census is completed and compiled together with the valuation figures of affected assets for every PAP, this will be validated in a local workshop bringing together representatives of affected persons, VMGs, women, youth, religious leaders and local administration including chiefs and their assistants. The aim of this validation process is to ensure that the census data are owned locally and thus that the RAP report will be implemented smoothly when the time comes.

**RAP Report Review and Approval Processes**

73 Upon completion of the socio-economic study and the census, site specific resettlement action plans (RAPs) will be prepared. Where the impacts on the entire displaced population are minor (i.e. if affected people are not physically displaced and less than 10% of their productive assets are lost) or fewer than 200 people are displaced (economically or physically) for the entire project, and then the Bank will approve the preparation of an Abbreviated Resettlement Action Plan (ARAP). If more than 200 persons will be displaced, a complete resettlement action plan (RAP) will be prepared. The contents of the ARAP and RAP are presented in the Annex D.

7.2 Preparation of a Sub-Project RAP

74 A RAP shall be prepared by the NETIP implementing agency through their Technical Consultants in consultation with the local authorities and community leaders for sub-projects that have been determined to result in potential involuntary resettlement and/or land acquisition and project affected people to cater for each of the sub-projects. The resettlement and compensation plans would then be forwarded for review and approval process to be undertaken by the World Bank. The approved RAP or ARAP will then be forwarded to National Land Commission to effect compensation of the project affected persons. Upon completion of the NETIP sub-project design drawings and information on the site location and land use requirements are available, for cases where resettlement and compensation issues arise, the consultative and participatory process with local communities must begin by sensitizing the respective local/traditional administration and leaders about the
tentative land needs of the expansion exercise. The respective local/traditional leaders in consistent with their local practices, will meet with all the respective leaders of the homesteads/villages involved. It is at this first meeting of the local community leaders and administration and homesteads/villages that the cut – off- date is to be decided for each affected land/area and communicated to all the homesteads/villages in the potentially affected areas.

75 Once the respective RAP reports are approved each will initially be disclosed in KeNHA and World Bank websites for general knowledge of the citizens and in compliance with the law on the right to access information. Once, the time for implementation of the respective RAP reports each will be disclosed locally in the form of posters and summaries in the language the people understand. As implementation proceeds disclosure will be done in public meetings at the sub-project sites and in the local languages. This process will entail engagement with various stakeholders on a continuous basis.

7.3 Public Consultation

76 Public Consultation for public projects is enshrined in the Constitution of Kenya 2010, whereby disclosure of the specific RAPs will be undertaken through the project communication channels prior to approvals. Disclosed documents will be translated into Kiswahili and local languages in order to effectively reach all shades of stakeholders especially VMGs. This will enhance informed participation of affected persons and communities, including host communities, in decision making processes related to resettlement. KeNHA in conjunction with other implementing agencies will ensure that consultation will continue during the implementation, monitoring, and evaluation of compensation payment and resettlement to ensure that the living conditions of the PAPs are enhanced or at least restored. Public participation will ensure Free Prior and Informed Consultation (FPIC) guidance are observed as described in the Social Assessment (SA). This will ensure that the project gains Broad Community Support (BCS).

7.4 Implementation Budget

77 The Government of Kenya, through the Ministry of Transport, Infrastructure, Housing and Urban Development (MTIHUD), will finance the resettlement activities. The estimate of the overall cost of resettlement and compensation would be determined during the socio-economic study. The cost estimate of the NETIP sub-projects with costs covering the entire project activities including resettlement has not been determined. However, the total cost of resettlement will depend on the number of sub projects that might vary individually.

78 At this stage, it is not possible to estimate the exact number of people who may be affected since the technical designs and details have not yet been developed. It is therefore, not possible to provide an estimated budget for the total cost of resettlement that may be associated with implementation of NETIP. However, when the designs
will have been completed and specific locations are known, and after the conclusion of the site specific socio-economic study, information on specific impacts, individual and household incomes and numbers of affected people and other demographic data will be available, detailed and accurate budgets for individual RAPs will be prepared. Each RAP will include a detailed budget, using the template on Table 6 (a) and (b). The Government will prepare the resettlement budget and will finance this budget. This budget will be subject to the approval of the World Bank. At this stage all that can be reasonably and meaningfully prepared is a budget format highlighting key features that the individual sub-project RAP budgets must contain, inter alia, as follows;

**Table 6 (a): Illustrative Budget Template for the RAP**

<table>
<thead>
<tr>
<th>Asset acquisition</th>
<th>Identity</th>
<th>Number</th>
<th>Total estimated cost</th>
<th>Agency responsible</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Structure</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>crops and economic tress</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community infrastructure</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Land Acquisition and Preparation</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Land, structure,</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Crops areas and others</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Community infrastructure</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Relocations</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transfer of possessions</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Installation costs</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Economic Rehabilitation</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Training</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Capital Investments</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Technical Assistance</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Monitoring</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Contingency</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Administration &amp; Implementation</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>RAP Disclosure</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>GRM Costs</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Public Consultations</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Capacity Building</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Table 6(b): Types of Compensation in Respective Sub-projects

<table>
<thead>
<tr>
<th>No.</th>
<th>Item</th>
<th>Costs (in KSHS)*</th>
<th>Assumptions</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Compensation for loss of Land /hectare</td>
<td></td>
<td>For land acquisition purposes, based on cost realized in projects involving similar issues in Kenya.</td>
</tr>
<tr>
<td>2</td>
<td>Compensation for loss of Crops /hectare of farm lost</td>
<td></td>
<td>Includes costs of labor invested and average of highest price of staple food crops as per methods described in this RPF.</td>
</tr>
<tr>
<td>3</td>
<td>Compensation for loss of access to assets</td>
<td></td>
<td>Those affected would be provided with shared access, or alternate routes (decision agreed through consultation and participation of all)</td>
</tr>
<tr>
<td>5</td>
<td>Compensation for Buildings and Structures</td>
<td></td>
<td>This compensation would be in-kind. These new buildings would be built and then given to those affected. Cost based on basic housing needs for a family of ten, including house with four bedrooms, ventilated pit latrines, outside kitchen and storage.</td>
</tr>
<tr>
<td>6</td>
<td>Compensation for Trees /year/tree</td>
<td></td>
<td>Based on methods described in this RPF for compensation for trees.</td>
</tr>
<tr>
<td>7</td>
<td>Cost of Relocation Assistance/Expenses /household</td>
<td></td>
<td>This cost is to facilitate transportation, etc.</td>
</tr>
<tr>
<td>8</td>
<td>Cost of Restoration of Individual Income Say</td>
<td></td>
<td>Assumed to be higher than the GDP/capita.</td>
</tr>
<tr>
<td>9</td>
<td>Cost of supporting vulnerable PAPs /household</td>
<td></td>
<td>Additional support to transport, construct, settle, improve and so on for the elderly, disabled and other vulnerable people.</td>
</tr>
<tr>
<td>10</td>
<td>Cost of Restoration of Household Income Say</td>
<td></td>
<td>Through employment in Program Activities.</td>
</tr>
<tr>
<td>11</td>
<td>Cost of Training PAPs</td>
<td></td>
<td>This is a mitigation measure which seeks to involve those affected by the project activities. This figure represents a costs of around Kshs/person</td>
</tr>
</tbody>
</table>

The PIUs will manage and monitor the resettlement budget and will finance it through the administrative and financial management rules and manuals as for any other activity eligible for payment under NETIP.
7.5 Final Approval of Resettlement Action Plans

80 The RAPs developed for subprojects will be reviewed by the PIU and the World Bank. The RAPs prepared for the subcomponents forms part of the documentation submitted to NEMA to document the land acquisition process to support approval for the NEMA EIA licence. It is a requirement that RAPs prepared for subprojects be submitted to the World Bank for review and clearance to ensure that the RAPs meet the requirement of OP 4.12.

81 After clearance by the World Bank, the RAPs will be disclosed to the VMGs in local languages and copies of the translated versions will be made available to the public in an accessible manner. Electronic versions will be disclosed by KeNHA and World Bank on their respective websites. The NETIP PIU will oversee RAP implementation before funds can be disbursed for civil works under the subprojects.
Figure 1: The Overall RAP Process

- RFP
  - Present Approval submitted for sub-project
  - Screening process
  - Land Acquisition Resulting in physical or economic displacement identified
  - Create Sub-Project Resettlement and Compensation Committee
  - Yes
  - Develop RAP
  - RAP Process
    - Census
    - Inventory & Valuation
    - Agree Resettlement Measures
    - Consultation
    - Grievance
    - Monitoring
  - No Action Required
  - No
  - Implementation
CHAPTER EIGHT: GRIEVANCE REDRESS MECHANISM

8.0 Introduction

82 Grievances comprise any complaints or issues raised by PAPs or other stakeholders concerning any aspect of the project in question. Expression of grievances or issues is not a nuisance to the project, it helps the project management team better appreciate their environment, remedy their processes, better respond to needs and thus improve the quality of project delivery. It is for the foregoing reasons among others that good project management teams aspire for transparent, accessible, responsive and effective Grievance Redress Mechanisms for their projects.

83 Field data from Northern Kenya indicate that there were local conflict resolution institutions that were hierarchical. This starts at the lowest level with Bula Elders, then Clan Elders in the second level and Local Chiefs and their Assistants in the third level. The sub-project grievance redress mechanisms (GRM) should benefit from this trusted local structures in order to avoid litigation that may slow down project implementation. This should thus be borne in mind by experts that will prepare RAPs for the various sub-projects.

General Principles of Grievance Redress in North Eastern Kenya

84 Consultations with residents and other stakeholders in the NETIP Traverse has revealed some endogenous processes of conflict resolution that throw up a number of tentative principles to consider while setting GRMs for the NETIP sub-projects. The key principles that have emerged so far are as follows:

- Equity – PAPs and other stakeholders will have a chance to be heard even in situations that require them to write their complaints when some cannot write. The project will put in place mechanisms to allow proxies draft complaints for stakeholders who cannot write.
- Transparency – grievances or complaints will be dealt with openly before elders or other formal institutions with facts being disclosed as and when required without favour.
- Language – the language of discussion in the process of handling grievances shall be that that is used by the affected persons namely, Somali. When complainants shall not read or write in this language they will be assisted by the project to grasp what is written that affects them.
- Participation – complainants and their representatives will be allowed to understand matters under discussion and to help actors in disputes understand where community members stand with regard to disputes being discussed. This approach will allow implications of disputes and grievances for project progress will be disclosed to local communities.
- Options – parties to any dispute or any person with a grievance will be given options openly to follow customary procedures or formal procedures. If they begin with customary procedures and are not happy with outcomes they will
be allowed to proceed to formal processes. These options and courses of action will be made known to them beforehand.

- Monitoring – grievances and complaints will be monitored with a view to having them settled within the shortest possible time. The project will to the extent possible facilitate speedy resolution of grievances.

8.1 Overview

85 Greevances may arise from members of communities who are dissatisfied with the eligibility criteria, community planning measures, or actual implementation. The grievance redress mechanism is required to ensure that PAPs and any other complainants are able to lodge complaints or concerns, without cost, and with the assurance of a timely and satisfactory resolution of the issue. The grievance redress mechanism is also meant to ensure that the entitlements are effectively transferred to the intended beneficiaries. In this case the development and implementation of grievance redress mechanism is therefore a key element of resettlement. Grievance redress mechanism will be established at different levels to receive, evaluate and facilitate management of grievances. Grievances will be actively managed and tracked to ensure that appropriate resolution and actions are taken. A clear time schedule will be defined for resolving grievances, ensuring that they are addressed in an appropriate and timely manner, with corrective actions being implemented if appropriate and the complainant being promptly informed of the outcome. The grievance procedure will be simple and will be administered as far as possible, at the subproject level by the Resettlement and Compensation Committee, to facilitate access by PAPs. Stakeholders will be informed of the grievance redress mechanism established at the time that each RAP preparation is finalized. This chapter sets out the measures to be used to manage grievances. The GRM will aim to provide a responsive, confidential, simple, independent and fair, time-bound and transparent system.

86 Any grievances that relates to GBV will be channelled to the CSO contracted by KeNHA to manage this risk. The ESMF provides the guidance on the management of GBV issues.

87 The grievance procedure does not replace existing legal processes. Based on consensus, the procedures will seek to resolve issues quickly in order to expedite the receipt of entitlements, without resorting to expensive and time-consuming legal actions. If the grievance procedure fails to provide a result, complainants can still seek legal redress. The overall process of grievance is as follows:-

- During the initial stages of the valuation process, the affected persons will be given copies of grievance procedures as a guide on how to handle the grievances.
- The process of grievance redress will start with registration of the grievances to be addressed for reference, and to enable progress updates of the cases.
The project will use a local mechanism, which includes resettlement committees, peers and local leaders of the affected people. These will ensure equity across cases, eliminate nuisance claims and satisfy legitimate claimants at low cost.

The response time will depend on the issue to be addressed but it should be addressed with efficiency.

Compensation will be paid to individual PAPs only after a written consent of the PAPs, including both husband and wife.

88 Should a PAP refuse the compensation suggested, he/she could appeal to the NETIP PIUs and the National Land Commission (NLC) Office. In case of failure to agree on compensation, the individual PAP has the right to take his/her case to the civil court for litigation as a point of last resort.

8.2 Grievance Redress Process

89 The Social Assessment established that the VMGs in the project area resolve their conflicts through a Grievance Resolution Mechanism (GRM) outside the legal system called maslaha and the Kadhi courts run by Muslim magistrate. The maslaha system works closely with the local chief’s office from which it derives its legitimacy. In most cases, a settlement is through compensation while the Kadhi courts have the power of adjudicating civil disputes according to Islamic law, otherwise referred to as Shariah law. The kadhi court’s jurisdiction is limited to the determination of questions of Muslim law relating to personal status, marriage, divorce or inheritance proceedings in which all parties are Muslims.

90 Although the ordinary courts were available to VMGs, they were not very popular. Most VMGs expressed little confidence in the government judicial system, they perceived them as highly compromised and an expensive process, others claimed that the court process was extremely lengthy and time-consuming. The SA proposed the following a five-tier GRM, which this RPF adopts with modifications.

a) First Level Option 1: Maslaha

The Maslaha is a body comprising of village elders (excluding women) that plays a significant role among the local communities and is respected. They have the mandate to resolve conflicts including land-related conflicts; natural resources related conflict, e.g. pasture; interclan conflicts; among others. Grievances not resolved by the Maslaha which largely deals with Muslim religion will be taken to the second level.

b) First Level Option 2: Village Grievance Redress Committee

Grievances that are not resolved by the Maslaha and those where the parties are either non-muslim or have shown a preference for an alternative mechanism may be taken to the second level. This committee will have representation from affected persons, women, youth, people living with disabilities and local administration. It is possible for this to be the entry point
for muslim complainants who do not prefer maslaha. This is critical because Maslaha is males only mechanism that may be prejudiced against women and thus the latter may prefer to complain at this second level in the first instance.

c) Second Level: Sub County Grievance Redress and Resettlement Committee

There will be a mediation committee at the Sub County level to handle grievances that cannot be resolved by the village level committees. The sub-county commissioners will chair this committee which will have representation from the affected persons, women, youth, sub-county level ministries, departments, agencies (MDAs) and local administration.

d) Third Level: County Grievance Redress and Resettlement Committee

There will be a mediation committee at the County level to handle grievances that cannot be resolved by the sub-county level committee. The County Commissioner will chair the committee and it will have representation from affected persons, women, youth, county level ministries, departments and agencies, (MDAs), local administration and the implementing agency.

e) Fourth Level: National Steering Committee

At this level, issues that cannot be resolved will be escalated to the National Steering committee which comprises of KeNHA, NLC, and subject matter institutions like Power, water, education, health, livestock, NEMA, DOSH, among others at the ministerial level.

f) Fifth Level: Formal systems of dispute resolution

This entails using the courts of Kenya (Environment and Land Court-which is a high court) to litigate the dispute or any other like the Ombudsman.

91 The GRM process will be elaborated further in the respective RAP Reports. After the respective RAP reports are approved and at the commencement of each project the implementing agency will link up existing GRM structures such as Maslaha to the project and sensitize PAPs and other stakeholders appropriately. Additionally, the implementing agency will cause the formation of village grievance redress committees, sub-county grievance redress committees and county level grievance redress committees as appropriate and sensitize PAPs and other stakeholders on their existence. In the course of sensitization stakeholders will be made aware that formal systems of dispute resolution will be open for their use.

92 At the time that the individual resettlement plans are approved and individual compensation contracts are signed, affected individuals and homesteads will have been informed of the process for expressing dissatisfaction and seeking redress. The grievance procedure will be simple and administered as far as possible at the local levels to facilitate accessibility, flexibility and to ensure transparency.
93 All the grievances will be channelled to the existing structures in Kenya for handling grievances beginning with the traditional institutions and NETIP GRM Structures as the first step before resorting to the Kenyan Courts of Law as the last resort. A grievance log will be established by the project and copies of the records kept with all the relevant land authorities at the county and village level and will be used in the monitoring of complaints.

94 The grievance redress mechanisms is designed with the objective of solving disputes at the earliest possible time which will be in the interest of all parties concerned and therefore implicitly discourages referring such matters to the law courts for resolution which would otherwise take a considerably longer time. All attempts would be made to settle grievances. Those seeking redress and wishing to state grievances would do so by notifying their local leaders or the appropriate municipal/county authority, which will in turn inform and consult with NETIP PIUs, NLC, PAPs representatives and leaders to determine claims validity. If valid, the local leader or the appropriate county authority will notify the complainant and s/he will be settled.

95 If a complaint pattern emerges, NETIP KeNHA Team, the county and regional administrations, with the local leaders will discuss possible remediation. The local leaders will be required to give advice concerning the need for revisions to procedures. Once they agree on necessary and appropriate changes, then a written description of the changed process will be made. The PIUs, the county and regional administrations and the traditional leaders and representatives will be responsible for communicating any changes to future potential PAPs when the consultation process with them begins.

**Process**

96 The procedure for managing grievances will be structured as follows:

a) The affected person should file his/her grievance, relating to any issue associated with the resettlement process or compensation, verbally or in writing to the subproject Resettlement and Compensation Committee. The committee will necessarily include Bula Elders and Chiefs to gain the confidence of local people. The grievance note should be signed and dated by the aggrieved person. A selected member of the Committee will act as the Project Liaison Officer (PLO) who will be the direct liaison with PAPs.

b) The PLO shall be working in collaboration with an independent agency/NGO person ensure objectivity in the grievance process. Where the affected person is unable to write, the local Project Liaison Officer will write the note on the aggrieved person’s behalf. Any informal grievances will also be documented by the Project Liaison officer. The note should be embossed with aggrieved person’s thumbprint. A sample grievance form is provided in Annex C. A copy of this completed form should be submitted by the Project Liaison Officer to PIU.
1) The Project Liaison Officer and the sub-project Resettlement and Compensation Committee will consult to determine the validity of claims. If valid, the Committee will notify the complainant and s/he will be assisted.

2) The sub-project Resettlement and Compensation Committee will respond within 14 days during which time any meetings and discussions to be held with the aggrieved person will be conducted. If the grievance relates to valuation of assets, a second or even a third valuation will be undertaken, until it is accepted by both parties. These should be undertaken by separate independent valuers than the person who carried out the initial valuation. The more valuations that are required to achieve an agreement by both parties, the longer the process will take. In this case, the aggrieved person must be notified by the Project Liaison Officer that his/her complaint is being considered.

3) If the complainant’s claim is rejected by the Committee, the Project Liaison Officer will assist the aggrieved person to take the matter to the County Land Adjudication Committee, legally responsible for resolving formally lodged grievances.

OR

4) If the aggrieved person does not receive a response or is not satisfied with the outcome within the agreed time, s/he may lodge his/her grievance to the County Land Office, also mandated to help resolve such matters). If requested, or deemed necessary by the sub-project Committee, the Project Liaison Officer will assist the aggrieved person in this matter.

5) Where matters cannot be resolved through local routes, the grievance will be referred to higher authorities. The subproject Resettlement and Compensation Committee will provide assistance at all stages to the aggrieved person to facilitate resolution of their complaint and ensure that the matter is addressed in the optimal way possible.

**Grievance Log**

97 The Project Liaison officer will ensure that each complaint has an individual reference number, and is appropriately tracked and recorded actions are completed. Grievances will be delivered *inter alia* through grievance forms, a sample of which is provided in Annex C. The log also contains a record of the person responsible for an individual complaint, and records dates for the following events:

- Date the complaint was reported;
- Date the grievance log was uploaded onto the project database;
• Date information on proposed corrective action sent to complainant (if appropriate);
• The date the complaint was closed out; and
• Date response was sent to complainant.

**Monitoring Complaints**

98 The Project Liaison Officer will be responsible for:

• Providing the sub-project Resettlement and Compensation Committee with a weekly report detailing the number and status of complaints;
• Any outstanding issues to be addressed; and
• Monthly reports, including analysis of the type of complaints, levels of complaints, and actions to reduce complaints.
CHAPTER NINE: MECHANISMS FOR CONSULTATIONS AND PARTICIPATION OF PAPs AND STAKEHOLDERS

9.1 Overview

99 The involvement of PAPs and host communities in planning prior to the move is critical and initial resistance to the idea of involuntary resettlement may be expected. To obtain cooperation, participation and feedback, the resettled persons and hosts will be systematically informed and consulted during preparation of the resettlement action plan about their options and rights. They will also be able to choose from a number of acceptable resettlement alternatives. Particular attention will be given to vulnerable groups specified in this RPF such as the landless, and women to ensure that they are represented adequately in such arrangements. For the resettlement action plan to address and mitigate the resettlement’s impact on PAPs and host populations, this population should be informed and meaningfully consulted.

100 Public consultation and participation are essential because they provide potential PAPs the opportunity to contribute to both the design and implementation of the project activities and reduce the likelihood for conflicts between and among PAPs and the project. In Kenya today, the land administration process has long standing traditional and cultural practices that makes public consultation with the communities, indispensable. Effective and close consultation with PAPs is a prerequisite for the success of this project. In recognition of this, particular attention would be paid to public consultation with potentially affected individuals/households/homesteads when resettlement and compensation concerns are involved.

101 Public consultation will take place at the inception of the planning stages when the potential land areas are being considered. The participation strategy would evolve around the provision of a full opportunity for involvement. Therefore, as a matter of strategy, public consultation would be an on-going activity taking place throughout the entire project cycle. For example, public consultation would also occur during the preparation of the (i) the socio-economic study, (ii) the preparation of resettlement and compensation plan (iv) the environmental and social impact assessment and (v) during the drafting and reading of the compensation contract.

102 Public participation and consultation would take place through meetings, radio programs, request for written proposals/comments, filling in of questionnaires/application forms, public readings and explanations of project ideas and requirements, making public documents available at the national, local and homestead levels at suitable locations like the official residences/offices of local chiefs/elders. Consultation strategies to be proposed in the RAP reports will take cognizance of the vulnerable such as women, elderly, persons with disabilities, members of different ethnic, religious and cultural groups, illiterate PAPs and ensure that such categories are represented and thus respond to their needs accordingly. For any changes to these safeguards instruments, the same clearance and disclosure protocols will be followed.
Notwithstanding, the best guarantor for public interest are the traditional and other local leaders who are responsible members of their local communities and can inadvertently be part of the potentially displaced (economically or physically) individuals/households either in part or in whole.

Monitoring of this process would be through the traditional leaders as part of the individual resettlement and compensation plans and overall the monitoring and evaluation mechanism of the entire project. This requirement is line with the Bank policy on disclosure.

**Summary of Stakeholder Mapping**

In view of the variety of sub-projects and sites falling in at least four counties including Isiolo, Garissa, Wajir and Mandera, there will be need for thorough stakeholder mapping and engagement planning to support consultation and participation. The initial stakeholder mapping shows the followings stakeholder categories:

- National Government
- County Governments
- Non-governmental Organisations (NGOs)
- Politicians and opinion leaders at County and National Level
- Local administration including chiefs and village elders
- Project Affected Persons (PAPs)
- Host Community members
- VMGs and VMG Organizations
- Women and Women’s Organizations
- Children, Youth and Disabled People
- Community-based Organizations
- Muslim Leaders and Clergy

The list of stakeholders above shows that the key players may be politicians, chiefs, clan elders, county government and Muslim leaders. The project team will thus need to engage with them on project design, progress, contracting, employment opportunities, implementation timelines, beneficiaries, and other emerging issues on the project on a continuous basis in order to safeguard the project from controversy and political backlash. The rest of the stakeholders will also need information and satisfaction with the project process in order that they do not become hostile due to lack of information or misinformation by disgruntled sections of the key players.

**9.2 Data Collecting Phase**

After familiarizing themselves with the project area through reading and consultations with the NETIP PIUs, the consultants will design appropriate questionnaires intended for data collection at sub-project location levels. The levels
will vary from households to community groups, based on the Terms of Reference (TOR). The consultant will design questionnaires for data collection from various households, organizations and institutions such as women groups, primary and/or secondary schools, health centres depending on the nature of information source.

108 All the actors will constitute the main taskforce in the data collecting phase and PAPs will be consulted to participate in the process by providing socio-economic information about their livelihoods. This could be done through use of forms, questionnaires and interviews. Persons or groups of persons at the project sites, location, village levels, or household levels to be interviewed will also be identified and selected through stratified random sampling.

109 Those to be interviewed will include those directly affected by physical works and a scientifically accepted number of respondent households for each sub-project location. The PAPs will be consulted through meetings to share information about the project, discuss social impacts of project operations and the mitigation measures suggested. The contribution of the PAPs will be integrated into the subproject implementation process, from planning to evaluation. Furthermore, data about socio-impacts of the subprojects and the mitigation measures suggested will be publicly disclosed. The public disclosure process will enhance confidentiality of individual PAPs. This data will also serve as instruments for the monitoring of the social mitigation measures.

9.3 Implementation Operation

110 During implementation, the PAPs will be informed about their rights and options, at which point they will air their views. Cash compensation amount and size of land offered for compensation will be presented to each eligible PAPs for consideration and endorsement before cash payment or land compensation can be effected.

9.4 Monitoring and Evaluation Phase

111 The PAPs representatives will participate in the project completion workshops, to give their evaluation of the impacts of the project. They will also suggest corrective measures, which may be used to improve implementation of other NETIP subprojects and/or future projects of similar nature. After completion of all expropriation/compensation operations, the PAPs will be consulted in a household survey to be undertaken as a monitoring and evaluation exercise.
CHAPTER TEN: ARRANGEMENTS FOR MONITORING AND EVALUATION

112 This chapter sets out requirements for the monitoring of the implementation of the RAP/ARAP Reports which will be prepared following guidelines stipulated in this RPF, for the specific project subcomponents that have a displacement effect. In addition, monitoring of social indicators will be mainstreamed into the overall monitoring and evaluation system for both projects.

10.1 Overview

113 The arrangements for monitoring will fit the overall monitoring plan of the entire NETIP, which will be through the Ministry of Roads and Ministry of Transport. All RAPs and/or ARAPs will set major socio-economic goals that will be used to evaluate impacts. This will include documenting impacts on affected individuals, households, and communities. This will also evaluate whether the PAPs and communities are able to maintain their pre-project standard of living, and even improve on it, whether the local communities have remained supportive of the project and the absence or prevalence of conflicts. In order to assess whether these goals are met, individual RAPs will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities. The PIUs will institute an administrative reporting system that will:-

- Provide timely information about all resettlement arising as a result of project activities;
- Identify any grievances that have not been resolved at a local level and require resolution through the involvement of the PIU;
- Document the timely completion of project resettlement obligations for all permanent and temporary losses;
- Evaluate whether all PAPs have been compensated in accordance with the requirements of this RPF and that PAPs have improved living standards in comparison to their living standards before physical or economic displacement.
- Alerts project authorities to the necessity for land acquisition in planned sub project activities.

Consistent with the Environmental and Social Management Framework, the NETIP implementing agencies will be responsible for overall monitoring of the implementation process.

10.2 Indicators to Determine Status of Affected People

114 A number of verifiable indicators for monitoring and evaluation will be used to determine the status of affected people (land being used compared to before, standard of house compared to before, level of participation in project activities compared to before, how many kids in school compared to before and health standards. The resettlement and compensation plans will focus on two major socio-economic goals by which to evaluate its success:
- Affected individuals, households, and communities are able to maintain their pre-project standard of living, and even improve on it.
- The local communities remain supportive of the project.
- Specific indicators may include the following, which would indicate a change in:
  - number of people employed
  - number of people with agricultural plots
  - number of ‘vulnerable’ people
  - source of income
  - level of income
  - expenditure patterns (food, travel etc)

Most of the information for these indicators will be gathered through appropriate structures or collated through survey. The information for these indicators should be collated at regular intervals (e.g., quarterly or half yearly depending on circumstances) and compared over time. The pre-project Census information should provide the required information to set a baseline against which performance can be tracked.

10.3 Indicators to Measure RAP Performance

In order to access whether these goals are met, the resettlement and compensation plans will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities. The following provides a list of potential indicators for monitoring, which assess the change in the following for those who have been resettled:

- Percentage of individuals selecting cash or a combination of cash and in-kind compensation;
- The number of contentious cases as a percentage of the total cases;
- The number of grievances and time and quality of resolution;
- The ability of individuals and families to re-establish their pre-displacement activities, or other alternative incomes;
- Nature of production of new lands e.g. agricultural productivity;
- Number of impacted locals employed by the civil works contractors;
- General relations between the project and the local communities.

These will be determined through the following activities:
- Questionnaire data will be entered into a database for comparative analysis;
- Each individual will have a compensation profile recording his or her initial situation, all subsequent project use of assets/improvements, and compensation agreed upon and received;
The PIUs will maintain a complete database on every individual impacted by the sub-project land use requirements including relocation/resettlement and compensation, land impacts or damages;

The PIUs will prepare Resettlement Completion Reports for each RAP, in addition to other regular monitoring reports.

It is the responsibility of the PIUs to document information integrated into existing databases. PIUs will need to design a robust reporting system at the beginning of the project to ensure that these data are collated at appropriate intervals and in sufficient quantity and quality. The subproject Resettlement and Compensation Committee will facilitate coordination of information collation activities (such as surveys, supervising documentation) in accordance with procedures put in place. To ensure that this happens, provision for training, technical support and funding will be needed.

In order to assess whether these goals are met, the resettlement action plans will indicate parameters to be monitored, institute monitoring milestones and provide resources necessary to carry out the monitoring activities. The following parameters and verifiable indicators will be used to measure the resettlement and compensation plans performance:

- Questionnaire data will be entered into a database for comparative analysis,
- Each individual will have a compensation signed profile recording his or her initial situation, all subsequent program use of assets/improvements, and compensation agreed upon and received.
- NETIP PIUs will maintain a complete database on every individual impacted by the project land use requirements including relocation/resettlement and compensation, land impacts or damages
- Percentage of individuals selecting cash or a combination of cash and in-kind compensation,
- Proposed use of payments,
- The number of contention cases out of the total cases,
- The number of grievances and time and quality of resolution,
- Ability of individuals and families to re-establish their pre-displacement activities, land and crops or other alternative incomes
- Nature of production of the of new lands,
- Number of impacted locals employed by the NETIP’s civil works contractors,
- General relations between the project, NETIP and the local communities,

Table 7: Indicative Monitoring Indicators

<table>
<thead>
<tr>
<th>Subject</th>
<th>Indicator</th>
<th>Variable</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land</td>
<td>Acquisition of land</td>
<td>- Area of private, public land acquired for NETIP developments</td>
</tr>
<tr>
<td></td>
<td></td>
<td>- Area of communal land acquired for NETIP developments</td>
</tr>
<tr>
<td>Subject</td>
<td>Indicator</td>
<td>Variable</td>
</tr>
<tr>
<td>---------------------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>-----------------------------------------------------------------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Buildings/Structures</td>
<td>Acquisition of buildings</td>
<td>• Number, type and size of private buildings acquired&lt;br&gt;• Number, type and size of community buildings acquired&lt;br&gt;• Number, type and size of government buildings acquired</td>
</tr>
<tr>
<td></td>
<td>Acquisition of other structures</td>
<td>• Number, type and size of other private structures acquired&lt;br&gt;• Number, type and size of other community structures acquired</td>
</tr>
<tr>
<td>Trees and Crops</td>
<td>Acquisition of trees</td>
<td>• Number and type of trees cut</td>
</tr>
<tr>
<td></td>
<td>Destruction of crops</td>
<td>• Crops destroyed by area, type and ownership</td>
</tr>
<tr>
<td>Compensation, Re-establishment and</td>
<td>Compensation and re-establishment of affected owners/individuals</td>
<td>• Number of homesteads affected (buildings, land, trees, crops)&lt;br&gt;• Number of owners compensated by type of loss&lt;br&gt;• Amount compensated by type and owner&lt;br&gt;• Number of replacement houses constructed&lt;br&gt;• Size, construction, durability and environmental suitability of replacement houses&lt;br&gt;• Possession of latrines&lt;br&gt;• Water supply access&lt;br&gt;• Number of replacement businesses constructed</td>
</tr>
<tr>
<td>Rehabilitation</td>
<td>Re-establishment of community resources</td>
<td>• Number of community buildings replaced&lt;br&gt;• Number, type of plants lost&lt;br&gt;• Number of seedlings supplied by type&lt;br&gt;• Number of trees planted</td>
</tr>
<tr>
<td>Hazards and Disturbances</td>
<td>Introduction of nuisance factors</td>
<td>• Number of homesteads affected by hazards and disturbances from construction (noise levels, blasting, increased traffic levels)</td>
</tr>
<tr>
<td>Social/Demographic</td>
<td>Changes to homestead structure</td>
<td>• Homestead size (births, deaths, migration in and out)&lt;br&gt;• Age distribution&lt;br&gt;• Gender distribution&lt;br&gt;• Marital status&lt;br&gt;• Relationship to homestead head&lt;br&gt;• Status of “vulnerable” homesteads</td>
</tr>
<tr>
<td></td>
<td>Population migration</td>
<td>• Residential status of homestead members&lt;br&gt;• Movement in and out of the homestead (place and residence of homestead members)</td>
</tr>
<tr>
<td></td>
<td>Changes to access</td>
<td>• Distance/travel time to nearest school, health centre, church, shop, village</td>
</tr>
<tr>
<td>Subject</td>
<td>Indicator</td>
<td></td>
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<tr>
<td>--------------------------------</td>
<td>---------------------------------------------------------------------------</td>
<td></td>
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<tr>
<td>Changes to health status</td>
<td>• Nutritional status of resettled homestead members</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Number of people with disease, by type (STIs, diarrhoea, malaria, ARI, immunizable disease)</td>
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<tr>
<td></td>
<td>• Mortality rates</td>
<td></td>
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<tr>
<td></td>
<td>• Access to health care services (distance to nearest facility, cost of services, quality of services)</td>
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<tr>
<td></td>
<td>• Utilization of health care services</td>
<td></td>
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<tr>
<td></td>
<td>• Disease prevention strategies</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Extent of educational programmes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Latrine provision at schools (school child population per VIP on site)</td>
<td></td>
</tr>
<tr>
<td>Changes to educational status</td>
<td>• Literacy and educational attainment of homestead members</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• School attendance rates (age, gender)</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Number, type of educational establishments</td>
<td></td>
</tr>
<tr>
<td>Changes to status of women</td>
<td>• Participation in training programmes</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Use of credit facilities</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Landholding status</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Participation in NETIP related activities and enterprises</td>
<td></td>
</tr>
<tr>
<td>Changes in social organisation</td>
<td>• Organisational membership of homestead members</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Leadership positions held by homestead members</td>
<td></td>
</tr>
<tr>
<td>Population influx</td>
<td>• Growth in number and size of settlements, formal and informal</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Growth in market areas</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Changes in behavioural patterns</td>
<td></td>
</tr>
<tr>
<td>Subject</td>
<td>Indicator</td>
<td>Variable</td>
</tr>
<tr>
<td>-------------------------</td>
<td>--------------------------------------------</td>
<td>--------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Homestead earning capacity</td>
<td>• Ownership of capital assets</td>
<td>• Ownership of equipment and machinery</td>
</tr>
<tr>
<td></td>
<td>• Landholding size, area cultivated and production volume/value, by crop (cash and subsistence crops)</td>
<td>• Landholding status (tenure)</td>
</tr>
<tr>
<td></td>
<td>• Redistribution of cultivation land</td>
<td>• Changes to livestock ownership: pre- and post disturbance</td>
</tr>
<tr>
<td></td>
<td>• Value of livestock sales, and imputed value of barter transactions</td>
<td>• Consumption of own livestock production</td>
</tr>
<tr>
<td></td>
<td>• Employment status of economically active members</td>
<td>• Skills of homestead members</td>
</tr>
<tr>
<td></td>
<td>• Landholding status (tenure)</td>
<td>• Earnings/income by source, separating compensation payments</td>
</tr>
<tr>
<td></td>
<td>• Redistribution of cultivation land</td>
<td>• Changes to income-earning activities (agriculture) – pre- and post disturbance</td>
</tr>
<tr>
<td></td>
<td>• Changes to income-earning activities (off-farm) – pre- and post disturbance</td>
<td>• Amount and balance of income and expenditure</td>
</tr>
<tr>
<td></td>
<td>• Changes to income-earning activities (off-farm) – pre- and post disturbance</td>
<td>• Possession of consumer durables</td>
</tr>
<tr>
<td></td>
<td>• Amount and balance of income and expenditure</td>
<td>• Realisation of homestead income restoration plans (components implemented, net income achieved)</td>
</tr>
<tr>
<td></td>
<td>• Possession of consumer durables</td>
<td>• Possession of bank and savings accounts</td>
</tr>
<tr>
<td></td>
<td>• Realisation of homestead income restoration plans (components implemented, net income achieved)</td>
<td>• Access to income-generating natural resource base (wood, grass, sand, stones)</td>
</tr>
<tr>
<td>Consultation</td>
<td>Consultation programme operation</td>
<td>• Number of local committees established</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Number and dates of local committee meetings</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Type of issues raised at local committees meetings</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Involvement of local committees in KPLC development planning</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Number of participating NGOs</td>
</tr>
<tr>
<td>Information dissemination</td>
<td></td>
<td>• Number, position, staffing of Information Centres</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Staffing, equipment, documentation of Information Centres</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Activities of Information Centres</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Number of people accessing Information Centres</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Information requests, issues raised at Information Centres</td>
</tr>
<tr>
<td>Grievances resolved</td>
<td></td>
<td>• Number of grievances registered, by type</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Number of grievances resolved</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Number of cases referred to court</td>
</tr>
<tr>
<td>Training</td>
<td>Operation of</td>
<td>• Number of local committee members trained</td>
</tr>
</tbody>
</table>
### Table 8: Verifiable indicators

<table>
<thead>
<tr>
<th>Monitoring</th>
<th>Evaluation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Outstanding compensation contracts not completed before next agricultural season (for farm lands to be acquired)</td>
<td>Outstanding individual compensation or resettlement contracts</td>
</tr>
<tr>
<td>Subprojects unable to settle compensation</td>
<td>Outstanding compensation contracts</td>
</tr>
</tbody>
</table>

10.4 Monitoring of RAP/ARAP Implementation

120 County Governments will assist the PIUs in compiling basic information on all physical or economic displacement arising from the project. This will be undertaken on a quarterly basis. The data that will be compiled will include:

- Number of sub-projects requiring preparation of a RAP;
- Number of households and individuals physically or economically displaced by each sub-project;
- Length of time from sub-project identification to payment of compensation to PAPs;
- Timing of compensation in relation to commencement of physical works;
- Amount of compensation paid to each PAP household (if in cash), or the nature of compensation (if in kind);
- Number of people raising grievances in relation to each sub-project;
- Number of unresolved grievances.

121 The individual PIUs in each of the implementing agencies will scrutinize these statistics in order to determine whether the resettlement planning arrangements as set out in this RPF are being adhered to. The PIUs will directly monitor compensation and loss of wages. Financial records will be maintained by the subprojects and the PIUs, to permit calculation of the final cost of resettlement and compensation per individual or household. The statistics will also be provided to an external independent Monitoring and Evaluation consultant that will be contracted on an annual basis. The following indicators will be used to monitor implementation of the RPF.
Grievances recognised as legitimate out of all complaints lodged
Pre project production and income (year before land used) versus present production and income of resettled persons, off farm-income trainees, and users of improved agricultural techniques
Pre project production versus present production (crops for crops, land for land)

<table>
<thead>
<tr>
<th>After two years</th>
<th>All legitimate grievances rectified</th>
</tr>
</thead>
<tbody>
<tr>
<td>Affected individuals and/or households compensated pre resettled in first year who have maintained their previous standard of living at final evaluation</td>
<td></td>
</tr>
<tr>
<td>Equal or improved production per affected household/homestead</td>
<td></td>
</tr>
</tbody>
</table>

**Storage of PAPs Details**

122 Each PAP household will be provided with a signed report recording his or her initial situation, all subsequent project use of assets and compensation agreed upon and received. The Local Authority and PIUs will maintain a complete database on every individual impacted by the project land use requirements including relocation, resettlement and compensation, land impacts or damages.

123 Each PIUs will have a record containing individual bio-data, number of household dependents and amount of land available to the individual or household when the report is opened. Additional information to be acquired for individuals eligible for resettlement and/or compensation include the level of income and of production, inventory of material assets and improvements in land and debts.

124 Each time land is used by a sub-project; the report will be updated to determine if the individual or household is being affected to the point of economic non-viability and eligibility for compensation or its alternatives. These reports will provide the foundation for monitoring and evaluation, as well as documentation of compensation agreed to, received, and signed for.

125 It is normal that some compensation procedures and rates may require revision at some time during the project/program cycle. NETIP KeNHA Team, the NLC, the County and Regional Administrations and MoR/MoT, will implement changes through the Change Management Process in the Monitoring and Evaluation manuals of the project (PIM or Project Implementation Manual).

126 Indicators monitored by the local regional governments to determine whether goals are being met, and a grievance procedure for the local community to express dissatisfaction about implementation of compensation and resettlement. This framework suggests that the PIUs integrates an M&E component of the project and include an external independent monitoring of implementation of the resettlement and compensation plans periodically during the project cycle. The external and independent monitoring reports will be part of the official documents of the NETIP project.
**Annual Audit**

127 The annual audit of RAP/ARAP implementation will include:-
- A summary of the performance of each sub-project vis-à-vis the RAP.
- A summary of compliance and progress in implementation of the RAP process.
- A presentation of compliance and progress in the implementation of the RAP/ARAP.

128 The audit will verify results of internal monitoring and assess whether resettlement objectives have been met irrespective of whether livelihood and living standards have been restored or enhanced. The audit will also assess the resettlement efficiency, effectiveness, impact and sustainability, drawing lessons for future resettlement activities and recommending corrections in the implementation. Finally, the audit will ascertain whether the resettlement entitlements were appropriate to meeting the objectives and whether the objectives were suited to PAPs conditions. Annual audit reports will be submitted for scrutiny to the World Bank.

**10.5 Socio-economic Monitoring**

129 The purpose of socio-economic monitoring is to ensure that PAPs are compensated and are recovering on time. During implementation of each sub-project RAP, an assessment will be undertaken on payment of compensation, restoration of income delivery of resettlement objectives. Monitoring of living standards will continue following resettlement. A number of indicators will be used to determine the status of affected people and appropriate parameters and verifiable indicators will be used to measure the resettlement and compensation plans performance. For each sub-project with adverse social impacts, a monitoring and evaluation plan of the mitigation measures will be established. As part of the preparation of each RAP, a household survey will be conducted of all PAPs, prior to physical or economic displacement, and this will provide baseline data against which to monitor the performance of the RAP.
ANNEXES
ANNEX A: SAMPLE RESETTLEMENT SCREENING FORM

Sub-project name:

Subproject Location
(Include map/sketch): (e.g. County, Sub county, County, Division, Location, Village, etc).

Type of activity: (e.g. new construction, rehabilitation, periodic maintenance)

Estimated Cost: (Kenyan Shillings)

Proposed Date of Commencement of Work:

Technical Drawing/Specifications Reviewed: (circle answer): Yes No

This report is to be kept short and concise.

1. Site Selection:
When considering the location of a subproject, rate the sensitivity of the proposed site in the following table according to the given criteria. Higher ratings do not necessarily mean that a site is unsuitable. They do indicate a real risk of causing undesirable adverse environmental and social effects, and that more substantial environmental and/or social planning may be required to adequately avoid, mitigate or manage potential effects.

<table>
<thead>
<tr>
<th>Issues</th>
<th>Site Sensitivity</th>
<th>Rating</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Low Medium High</td>
<td>Low Medium High</td>
</tr>
<tr>
<td>Involuntary resettlement</td>
<td>Low population density; dispersed population; legal tenure is well-defined.</td>
<td>Medium population density; mixed ownership and land tenure.</td>
</tr>
</tbody>
</table>
2. Checklist questions:

<table>
<thead>
<tr>
<th>Physical data:</th>
<th>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site area in ha</td>
<td></td>
</tr>
<tr>
<td>Extension of or changes to existing alignment</td>
<td></td>
</tr>
<tr>
<td>Any existing property to transfer to sub-project</td>
<td></td>
</tr>
<tr>
<td>Any plans for new construction</td>
<td></td>
</tr>
</tbody>
</table>

Refer to project application for this information.

<table>
<thead>
<tr>
<th>Land and resettlement:</th>
<th>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Will the subproject involve loss of land and other resources?</td>
<td></td>
</tr>
<tr>
<td>Will the project result into temporary or permanent loss of crops, household infrastructure like shelter, granaries or latrines?</td>
<td></td>
</tr>
<tr>
<td>What is the likelihood of land purchase for the subproject?</td>
<td></td>
</tr>
<tr>
<td>How will the proponent go about land purchase?</td>
<td></td>
</tr>
<tr>
<td>What level or type of compensation is planned?</td>
<td></td>
</tr>
<tr>
<td>Who will monitor actual payments?</td>
<td></td>
</tr>
</tbody>
</table>

Refer to the Resettlement Policy Framework.

<table>
<thead>
<tr>
<th>Actions:</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>List outstanding actions to be cleared before sub-project appraisal.</td>
<td></td>
</tr>
<tr>
<td>Approval/rejection</td>
<td>Yes/No answers and bullet lists preferred except where descriptive detail is essential.</td>
</tr>
</tbody>
</table>

Recommendations:

- Requires a RAP to be submitted on date: _________________________________
- Does not require further studies

Reviewer: ________________________________________________________________
Name: _________________________________________________________________
Signature: _______________________________________________________________
Date: __________________________________________________________________

89
ANNEX B: CENSUS AND LAND ASSET INVENTORY FORM

**Socio-economic Household Datasheet of PAPs**

<table>
<thead>
<tr>
<th>Name of Interviewer</th>
<th>ID Code</th>
<th>Signature</th>
</tr>
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<tbody>
<tr>
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<td></td>
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</table>

<table>
<thead>
<tr>
<th>Name of Supervisor</th>
<th>ID Code</th>
<th>(after verification of interview)</th>
</tr>
</thead>
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<tr>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Cell Name</th>
<th>ID Code</th>
<th>Number of Concession in Village (GPS Coordinates)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</table>

Date: ..........................................
Day Month Year

Name of Head of Extended Family:

Number of Nuclear Families in Extended Residential Group (including household of head of extended family)


**Household Interview**

<table>
<thead>
<tr>
<th>Name and Surname</th>
<th>Relationship to Head of Family</th>
<th>Sex</th>
<th>Place of Birth</th>
<th>Age</th>
<th>Marital Status</th>
<th>Residency Tenure</th>
<th>Ethnic Group</th>
<th>Religion</th>
<th>Educational Level</th>
<th>Income Earner</th>
<th>Economic Activities</th>
</tr>
</thead>
<tbody>
<tr>
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<td>7.</td>
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<td></td>
</tr>
</tbody>
</table>

Relation to Head of Family: 1 HoH; 2 Spouse of HoH; 3 Child of HoH; 4 Spouse of child of HoH; 5 Grandchild of HoH; 6 Parent of HoH; 7; 8 9 Other (specify); 0 No Answer.

Marital Status: 1 Married; 2 Widowed; 3 Divorced; 4 Unmarried; 0 No Answer.

Residential Status: 1 PRP (Permanent Resident); 2 RA (Resident absent); 3 Member of non-resident HH; 4 Visitor; 9 Other (specify); 0 No Answer.

Occupations:
- Principle Occupation: 1 Farmer; 2 Shepherd; 3 Household; 4 Merchant; 5 Religious leader, teacher; 6 Artisan; 7 Transport; 8 Unemployed; 9 Other (specify); 0 No Answer Secondary Occupations: idem.

Educational Level: 1 Illiterate; 2 Three years or less; 3 Primary School; 4 Secondary School; 5 Technical School; 6 Religious School; 0 No Answer.

Religion: 1 Christian (specify denomination); 2 Muslim; 9 Other (specify); 0 No Answer.

Land asset inventory for Project Affected People

| Village: _______________________________________________ | Date: ____________________ |
| Cell: ________________________________________________ |

<table>
<thead>
<tr>
<th>Survey no.</th>
<th>Name of Head of Household</th>
<th>No. of Persons in Household</th>
<th>Total land holding</th>
<th>Land to be acquired</th>
<th>Land Use Type</th>
<th>Loss of % total</th>
<th>Loss of assets</th>
<th>Loss of crops</th>
<th>Loss of other assets</th>
<th>Other losses</th>
</tr>
</thead>
</table>

91
<table>
<thead>
<tr>
<th>Household of Hhold (m²)</th>
<th>Structures Permanent (m²)</th>
<th>Structures temporary (m²)</th>
<th>Area of residential land lost (m²)</th>
<th>Fruit trees lost type and number</th>
<th>Agricultural land lost (m²)</th>
<th>Other (specify)</th>
<th>e.g. graveyards, wells, etc. (type and no.)</th>
<th>Residence (rented)</th>
<th>Business lost</th>
<th>Income loss</th>
</tr>
</thead>
</table>

* Land types are as follows (please fill in the types of land for Kenya)
1. 
2. 
3. 
4. 
## Entitlements of Project Affected People

**Location:** __________________________________________

**Village:** __________________________________________

**Date:** ____________________________________________

<table>
<thead>
<tr>
<th>Survey no.</th>
<th>Name of Head of Household</th>
<th>Compensation for Land</th>
<th>Compensation for structures</th>
<th>Compensation for crops and trees</th>
<th>Compensation for other assets and losses (e.g., graveyards, wells, businesses, etc)</th>
<th>Total (Ksh)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Quantity (m²)</td>
<td>Unit price (Ksh) per M</td>
<td>Entitlement (Ksh)</td>
<td>Quantity (m²)</td>
<td>Unit price (Ksh) per m Entitlement (Ksh)</td>
<td></td>
</tr>
</tbody>
</table>

**Compensation for Land**

**Compensation for structures**

**Compensation for crops and trees**

**Compensation for other assets and losses (e.g., graveyards, wells, businesses, etc)**
## ANNEX C: SAMPLE GRIEVANCE REDRESS FORM

<table>
<thead>
<tr>
<th>Grievance Form</th>
<th>Copies to forward to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grievance Number</td>
<td>(Original)-Receiver Party</td>
</tr>
<tr>
<td>Name of the Recorder</td>
<td></td>
</tr>
<tr>
<td>County/ Sector/ Cell</td>
<td>(Copy)-Responsible Party</td>
</tr>
<tr>
<td>Date</td>
<td></td>
</tr>
</tbody>
</table>

### INFORMATION ABOUT GRIEVANCE

#### Define The Grievance:

### INFORMATION ABOUT THE COMPLAINANT

<table>
<thead>
<tr>
<th>Name-Surname</th>
<th>Forms of Receive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Telephone Number</td>
<td>□ Phone Line</td>
</tr>
<tr>
<td>Address</td>
<td>□ Community/ Information Meetings</td>
</tr>
<tr>
<td>Village</td>
<td>□ Mail</td>
</tr>
<tr>
<td>County</td>
<td>□ Informal</td>
</tr>
<tr>
<td>Signature of Complainant</td>
<td>□ Other</td>
</tr>
</tbody>
</table>

### DETAILS OF GRIEVANCE

<table>
<thead>
<tr>
<th>1. Access to Land and Resources</th>
<th>2. Damage to</th>
<th>3. Damage to Infrastructure or Community Assets</th>
<th>4. Decrease or Loss of Livelihood</th>
<th>5. Traffic Accident</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Fishing grounds</td>
<td>a) House</td>
<td>a) Road/Railway</td>
<td>a) Agriculture</td>
<td>a) Injury</td>
</tr>
<tr>
<td>b) Lands</td>
<td>b) Land</td>
<td>b) Bridge/Passageways</td>
<td>b) Animal husbandry</td>
<td>b) Damage to property</td>
</tr>
<tr>
<td>c) Pasturelands</td>
<td>c) Livestock</td>
<td>c) Power/Telephone Lines</td>
<td>c) Beekeeping</td>
<td>c) Damage to livestock</td>
</tr>
<tr>
<td>d) House</td>
<td>d) Means of livelihood</td>
<td>d) Water sources, canals and water infrastructure for irrigation and animals</td>
<td>d) Small scale trade</td>
<td>d) Other</td>
</tr>
<tr>
<td>e) Commercial site</td>
<td>e) Other</td>
<td>e) Drinking water</td>
<td>e) Other</td>
<td></td>
</tr>
<tr>
<td>f) Other</td>
<td></td>
<td>f) Severage System</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Nuisance from dust</td>
<td>a) Nuisance from noise</td>
<td>a) Vibrations due to explosions</td>
<td>a) Misconduct of the project personal/worker</td>
<td></td>
</tr>
<tr>
<td>b) Nuisance from noise</td>
<td>c) Vibrations due to explosions</td>
<td>d) Misconduct of the project personal/worker</td>
<td>e) Complaint follow up</td>
<td></td>
</tr>
<tr>
<td>c) Vibrations due to explosions</td>
<td>d) Misconduct of the project personal/worker</td>
<td>e) Complaint follow up</td>
<td>f) Other</td>
<td></td>
</tr>
</tbody>
</table>
ANNEX D: SAMPLE CONTENTS OF ARAP AND RAP

- Description of the project
- Potential Impacts
- Objectives
- Socioeconomic Studies
- Legal Framework
- Institutional Framework
- Eligibility
- Valuation of and compensation for losses
- Resettlement measures
- Site selection, site preparation, and relocation
- Housing, infrastructure, and social services
- Environmental protection and management
- Community participation
- Integration with host populations
- Grievance procedures
- Organizational responsibilities
- Implementation schedule
- Cost and budget
- Monitoring and evaluation
ANNEX E: SOME STAKEHOLDER CONSULTATION AND PARTICIPATION RECORDS

CHECKLIST OF QUESTIONS FOR THE RPF CONSULTATIONS FOR THE ISIOLO – RHAMU ROAD OF NETIP

This is part of the consultation process to reach out to stakeholders of the Roadside Amenities to support improved access to the road project being developed. The stakeholders are being involved to provide input to the development process in order to ultimately make it more sustainable and useable to community members.

1. List of participants involved (if a group is involved provide a list, otherwise for individual stakeholders provide name and official stamp at the end).

MUSSA Gedi Abdiile

2. Who owns land in this area/settlement/sub-county/county? Describe the various categories of land ownership/control.

Land owners

Tenant

3. If this project had to provide social amenities such as slaughter houses, market stalls etc., who would need to be consulted about land acquisition? How can they be reached? What are their stakes in land?

They are people responsible that will be consulted

*Dispensary for the nurse and School for the Headteacher*

*The Community market stalls for the Assistant Chief*

4. What kind of compensation would be paid out to the various categories of land owners?

Money

---

1 | Page
5. How is that compensation to be negotiated? What would be the compensation process like?

As it was said by the KENWA, they agreed with the society that they finance their compensation before 6 months and hence there is livelihood breakdown. They should compensate with allowances.

6. How are grievances handled in this community? Who are the main arbiters in the community?

1) To provide water in the area since there is no water.
2) There should be peace to avoid conflict. Therefore, the arbiters are the government and the community.

7. How are these arbiters organized? How do you suggest these arbiters can be involved in the resolution of grievances/disputes around the NETIP?

1) To avoid controversial issues, there is an association between the visitor and the society.
2) To mobilize on the effects of early marriages with the youth and the community as a whole.
3) To empower and discourage the youth on unprotected sex that may lead to unwanted pregnancies and chronic diseases like HIV/AIDS.

8. Suggestions/comments on community/stakeholder engagement in the NETIP process.

- The community be provided with enough water.
- Be given labor when the laborer comes.
- Be visited to follow the trails of the society.
- Be given the compensation in time and the allowances as expected.
9. Affiliation Details:

<table>
<thead>
<tr>
<th>Name</th>
<th>MUSA BAJI ADOLLE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contacts</td>
<td>Cell: 0727462384</td>
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<tr>
<td>Organization</td>
<td></td>
</tr>
<tr>
<td>Designation</td>
<td>ASSISTANT CHIEF</td>
</tr>
<tr>
<td>Locality</td>
<td>HUNGAI</td>
</tr>
<tr>
<td>Date</td>
<td>2/6/2019</td>
</tr>
<tr>
<td>Signature</td>
<td></td>
</tr>
<tr>
<td>Official Stamp (if available)</td>
<td>2/2/2019</td>
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</table>
CHECKLIST OF QUESTIONS FOR THE RPF CONSULTATIONS FOR THE
ISIOLO – RHAMU ROAD OF NETIP

This is part of the consultation process to reach out to stakeholders of the
Roadside Amenities to support improved access to the road project being
developed. The stakeholders are being involved to provide input to the
development process in order to ultimately make it more sustainable and
useable to community members.

1. List of participants involved (if a group is involved provide a list, otherwise
   for individual stakeholders provide name and official stamp at the end).

2. Who owns land in this area/settlement/sub-county/county? Describe the
   various categories of land ownership/control.
   Community owns the land.
   
3. If this project had to provide social amenities such as slaughter houses,
   market stalls etc., who would need to be consulted about land acquisition?
   How can they be reached? What are their stakes in land?
   > Community is the biggest stakeholder.
   > Various leaders both government and political.
   > Local buyers representative
   
4. What kind of compensation would be paid out to the various categories of
   land owners?
   unless individual owned is affected, no
   Compensation is made on the project is
   being done in the interest of the
   community the government will
   the land in work. Compensation is
   only made when privately owned studies or
   land is involved.
5. How is that compensation to be negotiated? What would be the compensation process like?

Compensation should be negotiated legally. Through

government bodies like the Land Commission and

local government, as well as the mediator.

6. How are grievances handled in this community? Who are the main arbiters in the community?

Elders, religious leaders, and family heads like

chiefs.

7. How are these arbiters organized? How do you suggest these arbiters can be involved in the resolution of grievances/disputes around the NETIP?

The community structure, where elders are the

primary arbitrators, and significant land disputes

are handled by the land tribunal or the

secondary structures.

8. Suggestions/comments on community/stakeholder engagement in the NETIP process.

All relevant stakeholders should be

involved. There should be ample time to

the community and its leaders to engage

before the actual structure is opened. The

local media should be used to

announced creation, if possible, it should

be advertised in the national dailies

like Daily Nation, Standard, etc.
9. Affiliation Details:

<table>
<thead>
<tr>
<th>Name</th>
<th>IColy (Srvc. Fd)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contacts</td>
<td>Cell: 7072863998 Email:</td>
</tr>
<tr>
<td>Organization</td>
<td>Office of the President</td>
</tr>
<tr>
<td>Designation</td>
<td>Cencl of Srvc.</td>
</tr>
<tr>
<td>Locality</td>
<td>Hostgpgem Central Location</td>
</tr>
<tr>
<td>Date</td>
<td>26 February 2019</td>
</tr>
<tr>
<td>Signature</td>
<td></td>
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<tr>
<td>Official Stamp (if available)</td>
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</tbody>
</table>
CHECKLIST OF QUESTIONS FOR THE RPF CONSULTATIONS FOR THE ISIOLO – RHAMU ROAD OF NETIP

This is part of the consultation process to reach out to stakeholders of the Roadside Amenities to support improved access to the road project being developed. The stakeholders are being involved to provide input to the development process in order to ultimately make it more sustainable and useable to community members.

1. List of participants involved (if a group is involved provide a list, otherwise for individual stakeholders provide name and official stamp at the end).

2. Who owns land in this area/settlement/sub-county/county? Describe the various categories of land ownership/control.

3. If this project had to provide social amenities such as slaughter houses, market stalls etc., who would need to be consulted about land acquisition? How can they be reached? What are their stakes in land?

   a) NLC
   b) Community leaders / MCAs / MPs
   c) County Government

4. What kind of compensation would be paid out to the various categories of land owners?

   Monetary compensation. The land can be valued and a monetary compensation is justified. The owners of the land along the road are very well known. The County Department of Lands at times uses area Chief to identify true owners of land.
5. How is that compensation to be negotiated? What would be the compensation process like?

One can use the NLC guidelines for compensation such as relocation must be done by a registered valuer. It will involve other consultations with the area residents, elders, and political leaders.

6. How are grievances handled in this community? Who are the main arbiters in the community?

Elders are the main arbiters in the community. When it is clan conflict from different chiefs, different clan leaders are used.

The Department uses the Labour Tribunal to mediate disputes.

7. How are these arbiters organized? How do you suggest these arbiters can be involved in the resolution of grievances/disputes around the NETIP?

Mainly community elders (who speak on behalf of the community).

Community elders have authority to mete out punishment in case of conflicts such as blood compensation.

8. Suggestions/comments on community/stakeholder engagement in the NETIP process.

- Public participation can be done by mobilizing a target group such as elders & religious leaders for the process.
9. Affiliation Details:

<table>
<thead>
<tr>
<th>Name</th>
<th>Contacts</th>
<th>Cell:</th>
<th>Email:</th>
</tr>
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</tbody>
</table>

Organization

Designation: CECM Land

Locality: Want

Date: 6/7/2019

Signature

Official Stamp (if available)

P.O. Box 9-70200, WAHR
CHECKLIST OF QUESTIONS FOR THE RPF CONSULTATIONS FOR THE
ISIOLO – RHAMU ROAD OF NETIP

This is part of the consultation process to reach out to stakeholders of the Roadside Amenities to support improved access to the road project being developed. The stakeholders are being involved to provide input to the development process in order to ultimately make it more sustainable and useable to community members.

1. List of participants involved (if a group is involved provide a list, otherwise for individual stakeholders provide name and official stamp at the end).

   Member of County Assembly for Habasishin Ward-City of Samburu

2. Who owns land in this area/settlement/sub-county/county? Describe the various categories of land ownership/control.

   Community Land: Land in North Eastern Province is owned by respective community. The land is not registered for individuals. Larger land holdings are registered while a small percentage is registered.

3. If this project had to provide social amenities such as slaughter houses, market stalls, etc., who would need to be consulted about land acquisition? How can they be reached? What are their stakes in land?

   The following are the stakeholders:
   - Chief – Provincial Administration
   - Elders
   - Local Political Leadership – MPs
   - County and Lands Department
   - Religious Leaders
   - National Land Commission – County Coordinator
   - Individual land owners representing the community

4. What kind of compensation would be paid out to the various categories of land owners?

   - Monetary value of their land
   - Allocation of new land/household of a new plot of land
   - Compensation for the cost of the current buildings or the land
   - New land registration costs – compensate on the registration costs
5. How is that compensation to be negotiated? What would be the compensation process like?

Through the Local administration; chiefs, elders; religious leaders; the established land owners as well; political leadership involvement in the rest of it. The compensation is reached depending on the land & building movement.

6. How are grievances handled in this community? Who are the main arbiters in the community?

- Administered Administrators; National Land Commission Coordinator - county; Land Board of the county
- Religious Leaders; Elders & Local Leaders

- Grievances are handled through public meetings and visits.

7. How are these arbiters organized? How do you suggest these arbiters can be involved in the resolution of grievances/disputes around the NETIP?

- They should be engaged in the planning process for ownership of the projects.
- Through continuous feedback & consultations.
- Involve all affected land owners before reaching decisions.
- Engage representatives of the stakeholders during the process.

8. Suggestions/comments on community/stakeholder engagement in the NETIP process.

- Frequent visits & meetings for feedback.
- Document & open discussions outside meetings.
- Engaging community entry points proactively.
9. Affiliation Details:

<table>
<thead>
<tr>
<th>Name</th>
<th>Husein A. A.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contacts</td>
<td>Cell: 0725601416</td>
</tr>
<tr>
<td>Organization</td>
<td>Ujiji County Assembly</td>
</tr>
<tr>
<td>Designation</td>
<td>WCA Habarano - Ujiji District</td>
</tr>
<tr>
<td>Locality</td>
<td>Habarano Town</td>
</tr>
<tr>
<td>Date</td>
<td>14th Feb 2017</td>
</tr>
<tr>
<td>Signature</td>
<td></td>
</tr>
<tr>
<td>Official Stamp (if available)</td>
<td></td>
</tr>
</tbody>
</table>
CHECKLIST OF QUESTIONS FOR THE RPF CONSULTATIONS FOR THE ISIOLO – RHAMU ROAD OF NETIP

This is part of the consultation process to reach out to stakeholders of the Roadside Amenities to support improved access to the road project being developed. The stakeholders are being involved to provide input to the development process in order to ultimately make it more sustainable and useable to community members.

1. List of participants involved (if a group is involved provide a list, otherwise for individual stakeholders provide name and official stamp at the end).

2. Who owns land in this area/settlement/sub-county/county? Describe the various categories of land ownership/control.
   1. Individual title holders - major share of land 
   2. Group Land - Chief, Settlement Leader, etc. 
   3. Private land

3. If this project had to provide social amenities such as slaughter houses, market stalls etc., who would need to be consulted about land acquisition? How can they be reached? What are their stakes in land?
   1. The people residing in the area through the Chief.
   2. The chief in care of Public Land

4. What kind of compensation would be paid out to the various categories of land owners?
   1. Monetary compensation
   2. 
   3. 
   4. 
   5.
5. How is that compensation to be negotiated? What would be the compensation process like?

- The we they need to do unclear
- They negotiated
- Time how to be invoice & record

6. How are grievances handled in this community? Who are the main arbiters in the community?

- It is handled by elders in case of grievances
- Elders from Council would intervene for (and)
- Ms. Stahle (elder) chosen by their chief / opinion leaders

7. How are these arbiters organized? How do you suggest these arbiters can be involved in the resolution of grievances/disputes around the NETIP?

- Definitely yes
- No

8. Suggestions/comments on community/stakeholder engagement in the NETIP process.

- Use leaders from independent (民間) during process
- Hold forums for effective engagement
- Use a common language
9. Affiliation Details:

<table>
<thead>
<tr>
<th>Name</th>
<th>Abdullah M. Alhaidari</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contacts</td>
<td>Cell: 0730 309 14</td>
</tr>
<tr>
<td>Organization</td>
<td>Society for the Urban Migrant</td>
</tr>
<tr>
<td>Designation</td>
<td>Chairman</td>
</tr>
<tr>
<td>Locality</td>
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CHECKLIST OF QUESTIONS FOR THE RPF CONSULTATIONS FOR THE ISIOLO – RHAMU ROAD OF NETIP

This is part of the consultation process to reach out to stakeholders of the Roadside Amenities to support improved access to the road project being developed. The stakeholders are being involved to provide input to the development process in order to ultimately make it more sustainable and useable to community members.

1. List of participants involved [if a group is involved provide a list, otherwise for individual stakeholders provide name and official stamp at the end].

2. Who owns land in this area/settlement/sub-county/county? Describe the various categories of land ownership/control.

Most of the land in this area is owned by the community and its named community land. However, the government is prototyping against any land grabbing or division of the community land on behalf of the community.

3. If this project had to provide social amenities such as slaughter houses, market stalls etc., who would need to be consulted about land acquisition? How can they be reached? What are their stakes in land?

The following will be consulted:
- National Government
- [insert specific personnel or department]
- Community Leaders
- [insert specific personnel or department]

4. What kind of compensation would be paid out to the various categories of land owners?

Compensation will be through land valuation process and will only be paid to affected group or individual through rightful channel or with the help of county government lands department.
5. How is that compensation to be negotiated? What would be the compensation process like?

It will be negotiated through a base line data organized by legal valuation officers and National land commissioner with the help of County government.

6. How are grievances handled in this community? Who are the main arbiters in the community?

Through tribunal land committee with the help of National land commissioner office, Wiper and representative of the county government land department.

7. How are these arbiters organized? How do you suggest these arbiters can be involved in the resolution of grievances/disputes around the NETIP?

The arbiters are committee set up by the Governor to solve all land disputes and it is made up of 10 to top leaders who were officers in various departments of the past National government and business men. The chairman of the team was a former Clerk to Council leader and many other parts of Kenya.

8. Suggestions/comments on community/stakeholder engagement in the NETIP process.

Community can be involved through the land committee (tribunal land committee) with the help of National land commissioner county coordinator. The land department can also be engaged over the land issue since land is devolved.
9. Affiliation Details:

<table>
<thead>
<tr>
<th>Name</th>
<th>MAHMOUD  KASAI</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contacts</td>
<td>Cell: 07240469</td>
</tr>
<tr>
<td>Organization</td>
<td>NATIONAL LAND COMMISSION WEIY OFFICE</td>
</tr>
<tr>
<td>Designation</td>
<td>COUNTY COORDINATOR WAYS</td>
</tr>
<tr>
<td>Locality</td>
<td>NEAR ABUUJU CORE</td>
</tr>
<tr>
<td>Date</td>
<td>MAY 20XX</td>
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CHECKLIST OF QUESTIONS FOR THE RPF CONSULTATIONS FOR THE ISIOLO – RHAMU ROAD OF NETIP

This is part of the consultation process to reach out to stakeholders of the Roadside Amenities to support improved access to the road project being developed. The stakeholders are being involved to provide input to the development process in order to ultimately make it more sustainable and useable to community members.

1. List of participants involved (if a group is involved provide a list, otherwise for individual stakeholders provide name and official stamp at the end).

2. Who owns land in this area/settlement/sub-county/county? Describe the various categories of land ownership/control.
   1. Individuals
   2. Individuals Land-Hold
   3. Sub-county, Nce, Chief, County
   4. County - Birdmacy, etc.

3. If this project had to provide social amenities such as slaughter houses, market stalls etc., who would need to be consulted about land acquisition? How can they be reached? What are their stakes in land?
   a) Chiefs and elders + County representatives
   b)通过酋长

4. What kind of compensation would be paid out to the various categories of land owners?
   Subject to market value and agreement by the concerned part.

Page 114
5. How is that compensation to be negotiated? What would be the compensation process like?

by forming a committee of the locals

6. How are grievances handled in this community? Who are the main arbiters in the community?

through elders and chiefs — elders of all inclusive

7. How are these arbiters organized? How do you suggest these arbiters can be involved in the resolution of grievances/disputes around the NETIP?

mechanism was there for long time that must be neutral in their decision

8. Suggestions/comments on community/stakeholder engagement in the NETIP process.

very happy on the proposed work and suggests close process of on how to make all stakeholders be involved in the process
9. Affiliation Details:

<table>
<thead>
<tr>
<th>Name</th>
<th>Mohamed Ibrahim Abdullah</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contacts</td>
<td>Celi: 0781855585 Email: <a href="mailto:mohamed.94@gmail.com">mohamed.94@gmail.com</a></td>
</tr>
<tr>
<td>Organization</td>
<td>NSAC</td>
</tr>
<tr>
<td>Designation</td>
<td>Senior Chief</td>
</tr>
<tr>
<td>Locality</td>
<td>Leg-3000 N.5km</td>
</tr>
<tr>
<td>Date</td>
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## NETIP
### RESETTLEMENT POLICY FRAMEWORK REVIEW FOR ISIOLO-RHAMU ROAD

**Public Stakeholder Consultations Attendance**

<table>
<thead>
<tr>
<th>S/No</th>
<th>Name</th>
<th>Organisation/Department/Settlement</th>
<th>Designation</th>
<th>ID No</th>
<th>Telephone</th>
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<tbody>
<tr>
<td>1</td>
<td>Mohamed J. Abdullai</td>
<td>KNG AD</td>
<td>En Chief</td>
<td>6922341</td>
<td>0721831679</td>
<td><a href="mailto:mohamed.jabdullai@gmail.com">mohamed.jabdullai@gmail.com</a></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Mohamed A. Abdi</td>
<td></td>
<td>Elder</td>
<td>00527946</td>
<td>0712399882</td>
<td></td>
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<tr>
<td>3</td>
<td>Rachael Nahlen Ab</td>
<td></td>
<td>Elder</td>
<td>7746924</td>
<td>0712342386</td>
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<tr>
<td>4</td>
<td>Aden Abdii Adam</td>
<td></td>
<td>Clerk</td>
<td>1820726</td>
<td>0728830589</td>
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<tr>
<td>5</td>
<td>Seoin Mohamed Am</td>
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<td>3438407</td>
<td>0715848095</td>
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<tr>
<td>6</td>
<td>Luon Rwebuya Aden</td>
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<td>341783202</td>
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<td>7</td>
<td>Aden Abdulahi</td>
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<td>3453822</td>
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<tr>
<td>8</td>
<td>Mohamed A. Mohamed</td>
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<td>Elder</td>
<td>12655285</td>
<td>0724867531</td>
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<td>9</td>
<td>Keyston B. Omon</td>
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**Date:** 16/2/2019
Minutes of Consultative Meeting for the RPF for the Isiolo – Rhamu Road (NETIP)
Held on Saturday 16th February, 2019 at Lag Bogol Chiefs office at 9:13 A.M

Present

<table>
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<tr>
<th>No.</th>
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<tbody>
<tr>
<td>1.</td>
<td>Mohamed Ibrahim Abdullahi</td>
<td></td>
<td>Senior chief</td>
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<tr>
<td>2</td>
<td>Mohamed A. A bdi</td>
<td></td>
<td>Elder</td>
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<tr>
<td>3</td>
<td>Hassan Haji Ali</td>
<td></td>
<td>Elder</td>
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<td>4</td>
<td>Jamal Mohamed Abdi</td>
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<td>Elder</td>
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<td>5</td>
<td>Abdi Abdille Aden</td>
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<td>Clerk</td>
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<td>6</td>
<td>Daud Marsal Adan</td>
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<td>7</td>
<td>Adan Abdullahi</td>
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<td>8</td>
<td>Keynan B.Osman</td>
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<tr>
<td>9</td>
<td></td>
<td></td>
<td>Consultant</td>
</tr>
</tbody>
</table>

Agenda

1) Introduction
2) Presentation of the RPF for NETIP
3) Concerns and issues for consideration in the RPF
4) A.O.B
5) Adjournment

Minutes

1) The Meeting started at 9:13 A.M.
2) Introduction and framework brief
After introduction, the consultant gave a brief background information on the proposed project and its importance to the community. He explained that the community was being involved to provide input to the development process so as to include their aspirations into the policy framework that will be used to guide resettlement matters arising from project implementation and other associated activities in the near future.

3) Land ownership and various categories of land ownership in the area
There are various types. The main ones are:
- Individual plots
- Individual lands-large
- Sub-county facilities and offices, chiefs, security facility lands
- County – dispensary etc.

4) Consultation about land acquisition to build social amenities and their stake on the land
Chief and elders plus county representative
Through the chiefs

5) Compensation paid for various categories of land owners
• This can be in form of cash but Subject to market value and agreement by the concerned part.

6) **Compensation to be negotiation**
   This can be by forming a committee of the locals

7) **Grievances handled and main arbiters in the community**
   Elders and chiefs are the main players

8) **Suggestions on the way forward for NETIP**
   The elders are very happy and welcome the NETIP programme in the region
   It is important to think on how to involve all stakeholders in the entire process.

9) There being no other business, the meeting adjourned at 12:17 P: M.

**Confirmation:**
Minutes Prepared by: Date:
Minutes of Consultative Meeting for the RPF for the Isiolo – Rhamu Road (NETIP) Held on Monday 4th February, 2019 at Wajir County Headquarters’ offices at 8:25 A.M.

Present

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<tr>
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<tbody>
<tr>
<td>1.</td>
<td>Naema Ibrahim</td>
<td>Wajir county Government</td>
<td>CEC, Lands</td>
</tr>
<tr>
<td>2.</td>
<td>Mahamud Kasai</td>
<td>National Land Commission</td>
<td>Coordinator, Wajir County</td>
</tr>
<tr>
<td>3</td>
<td>Abdi Ibrahim A</td>
<td>Wajir County Government</td>
<td>Director, Lands</td>
</tr>
<tr>
<td>4</td>
<td>Abdullahi Abdilahi</td>
<td>Wajir County Government</td>
<td>Land Surveyor</td>
</tr>
</tbody>
</table>

Agenda

1) Introductions
2) Presentation of the RPF for NETIP
3) Concerns and issues for consideration in the RPF
4) A.O.B
5) Adjournment

Minutes

1) The Meeting started at 8:25 A.M.

2) Introduction and framework brief
The consultant provided a general background on the NETIP initiative and the need to gather views of relevant stakeholders in order to inform the process. He noted that the docket was key for consultation as it was responsible for land matters in the county.

3) Land ownership and various categories of land ownership in the area
The CEC noted that most of the land in Wajir county is owned communally and that land has not been adjudicated especially outside Wajir town (in the sub counties). The County surveyor observed that land in Wajir towns is surveyed and adjudicated – around 1,000 titles are being processed by survey of Kenya.

4) Consultation about land acquisition to build social amenities and their stake on the land
It was pointed out that the entities to be consulted on land acquisition are:
- NLC
- Community leaders/MCAs/MPs
- County Government

5) Compensation paid for various categories of land owners
It was noted that various ways can be used to compensate land owners. The Chief officer said that Monetary compensations can be effected in which case the land can be valued and a monetary compensation is justified. The surveyor mentioned that Owners of the piece of land along the road are well known. It was observed that the County department of lands at most times uses area chief to identify the owners of the land.

6) **Compensation to be negotiated through**

- One can use the NLC guidelines for compensation. Such valuation must be done by a registered valuer.
- It will involve a lot of consultation with the area residents, elders and political leaders.

7) **Grievance handling and main arbiters**

It was observed that the Elders are the main arbiters in the community. When its clan conflict from different clans, different clan leaders are used to solve the conflicts. The department uses the land tribunal to mediate disputes.

8) **Organization of arbiters and suggested involvement in the resolution of grievances/disputes around the NETIP**

- Mainly community elders (speak on behalf of the community).
- Community elders have authority to mete out punishment (in case of conflict such as blood compensation).

9) **Comments on community/stakeholder engagement in the NETIP process**

- Public participation can be done by mobilizing a target group such as elders and religious leaders for the process.

10) There being no other business, the meeting adjourned at 11:20 A: M.

**Confirmation:**

Minutes Prepared by: Date:
<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Email</th>
<th>Telephone</th>
<th>Division</th>
<th>Department</th>
<th>Organization</th>
</tr>
</thead>
<tbody>
<tr>
<td>John Doe</td>
<td>Manager</td>
<td><a href="mailto:jdoe@example.com">jdoe@example.com</a></td>
<td>1234567890</td>
<td>HR</td>
<td>Finance</td>
<td>Sales</td>
</tr>
<tr>
<td>Jane Smith</td>
<td>Analyst</td>
<td><a href="mailto:jsmith@example.com">jsmith@example.com</a></td>
<td>0987654321</td>
<td>IT</td>
<td>Engineering</td>
<td>Development</td>
</tr>
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Attendance:

- 4/2/2019

Isolo-Rhamu Road
<table>
<thead>
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<th>Name</th>
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<th>Telephone</th>
<th>Department</th>
<th>Position</th>
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</thead>
<tbody>
<tr>
<td>John Doe</td>
<td><a href="mailto:johndoe@email.com">johndoe@email.com</a></td>
<td>1234567890</td>
<td>HR</td>
<td>Manager</td>
</tr>
<tr>
<td>Jane Smith</td>
<td><a href="mailto:janesmith@email.com">janesmith@email.com</a></td>
<td>9876543210</td>
<td>Finance</td>
<td>Accountant</td>
</tr>
<tr>
<td>Mike Johnson</td>
<td><a href="mailto:mikejohnson@email.com">mikejohnson@email.com</a></td>
<td>0987654321</td>
<td>Sales</td>
<td>Salesman</td>
</tr>
</tbody>
</table>

Date: 2-2-2019

Signed: [Signature]
Minutes of Consultative Meeting for the RPF for the Isiolo – Rhamu Road (NETIP) Held on Saturday 16th February, 2019 at Habaswein Central Location Chiefs office at 02:15 P.M

Present

<table>
<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Organisation</th>
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<tbody>
<tr>
<td>1.</td>
<td>Khalif Swaf Farah</td>
<td>Chiefs office</td>
<td>Senior Chief</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Habaswein chiefs office</td>
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</table>

Agenda

1) Introductions
2) Presentation of the RPF for NETIP
3) Concerns and issues for consideration in the RPF
4) A.O.B
5) Adjournment

Minutes

1) The Meeting started at 2.15 A.M.

2) Introduction and framework brief
The consultant gave a brief background information on the proposed project and its importance to the community as well as the essence of these consultation to the various stakeholders. The stakeholders are being involved to provide input to the development process in order to ultimately make it more sustainable and usable to community members.

3) Land ownership and various categories of land owners
The land is owned by the community but some people have been registered as the owner of their lands with supportive documents

4) Consultation about land acquisition to build social amenities and their stake on the land
   • The community is the biggest stakeholder so community members through public participation to be consulted.
   • Various leaders both the national government, County government and political leaders to be consulted.
   • Land commission representatives to be consulted.

5) Compensation paid for various categories of land owners
Unless individually owned is affected, no compensation is viable. The project is being done in the community land and the government hold the land in trust. Compensation is only viable where personal property owned structures or land is affected

6) Compensation negotiation
Compensated should be negotiated legally through government structures like the land commission and law firms that takes core of the register of the client. Also, local land tribunal should be involved.
7) **Grievances handled and main arbiters in the community**
To be done through community elders, religion leaders, government functions like chiefs.

8) **Organization of arbiters and suggested involvement in the resolution of grievances/disputes around the NETIP**
The community structures like elders are the entry point. Chiefs are also critical, the land commission and land tribunal and the secondary structures.

9) **Comments on community/stakeholder engagement in the NETIP process**
All relevant stakeholders should be involved. There should be ample time to the community and its leaders to engage before the actual stakeholders’ engagement. The local media should be used for awareness creation. If possible, it should be advertised in the national dailies like Daily nation, standard paper etc.

10) There being no other business, the meeting adjourned at 3:20 P.M.

**Confirmation:**
Minutes Prepared by: Date:
Minutes of Consultative Meeting for the RPF for the Isiolo – Rhamu Road (NETIP)
Held on Saturday 2nd February, 2019 at Hungai Chiefs office at 11:20 A.M

Present

<table>
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<tbody>
<tr>
<td>1.</td>
<td>Mussa Gedi Abdille</td>
<td>NGAO – Hungai Sublocation, Tarbaj sub County</td>
<td>Assistant Chief</td>
</tr>
</tbody>
</table>

**Agenda**

6) Introductions
7) Presentation of the RPF for NETIP
8) Concerns and issues for consideration in the RPF
9) A.O.B
10) Adjournment

**Minutes**

11) The Meeting started at 11:20 A.M.
12) **Introduction and framework brief**

After introduction, the consultant gave a brief background information on the proposed project and its importance to the community also the essence of these consultation to the various stakeholders. The stakeholders are being involved to provide input to the development process in order to ultimately make it more sustainable and usable to community members.

13) **Land ownership and various categories of land ownership in the area**

The land is owned by the community but some people have been registered as the owner of their lands with supportive documents.

14) **Consultation about land acquisition to build social amenities and their stake on the land**

There are people who are responsible for various social amenities in the area who will be consulted. If the project will provide the dispensary the nurse will be consulted, for the school the school head teacher to be consulted and for the market stalls the area assistant chief to be consulted.

15) **Compensation paid for various categories of land owners**

Those who will be affected by the proposed project they prefer to be compensated with money.

16) **Compensation to be negotiation**

As it was said by KeNHA, those who will be affected with proposed project will prefer to be compensated before 6 months and their disturbed livelihood also must be compensated with 6 months’ allowances.

17) **Personal suggestions on the way forward for NETIP**

- To avoid controversial in case there is association between the visitor and the society members.
- To mobilize on the effects of early marriages with youth and the community as whole.
• To empower and discourage the youth on unwanted sex that may lead to unwanted pregnancy and chronic diseases like HIV/AIDS.
• The community to be provided with enough water.
• Community members to be given first priority on labour works in proposed project when it kicks off.
• The visitors to follow the traits of the society.
• Those who will be affected with the proposed project to be compensated in time and the allowances on their livelihood activities as expected.

18) There being no other business, the meeting adjourned at 12:20 P.M.

Confirmation:
Minutes Prepared by: Date:
Minutes of Consultative Meeting for the RPF for the Isiolo – Rhamu Road (NETIP)
Held on Saturday 16th February, 2019 at Habaswein Central Location Chiefs office
at 02:15 P.M

Present (See Attendance Sheet)

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<tbody>
<tr>
<td>1.</td>
<td>Khalif Swaf Farah</td>
<td>Chiefs office - Habaswein chiefs office</td>
<td>Senior Chief</td>
</tr>
</tbody>
</table>

**Agenda**

1) Introductions  
2) Presentation of the RPF for NETIP  
3) Concerns and issues for consideration in the RPF  
4) A.O.B  
5) Adjournment

**Minutes**

1) The Meeting started at 2.15 A.M.
2) Introduction and framework brief
   The consultant gave a brief background information on the proposed project and its
   importance to the community as well as the essence of these consultation to the various
   stakeholders. The stakeholders are being involved to provide input to the development
   process in order to ultimately make it more sustainable and usable to community
   members.

3) Land ownership and various categories of land owners
   The land is owned by the community but some people have been registered as the owner
   of their lands with supportive documents

4) Consultation about land acquisition to build social amenities and their stake on the
   land
   - The community is the biggest stakeholder so community members through
     public participation to be consulted.
   - Various leaders both the national government, County government and
     political leaders to be consulted.
   - Land commission representatives to be consulted.

5) Compensation paid for various categories of land owners
   Unless individually owned is affected, no compensation is viable. The project is being
   done in the community land and the government hold the land in trust. Compensation is
   only viable where personal property owned structures or land is affected

6) Compensation negotiation
   Compensated should be negotiated legally through government structures like the land
   commission and law firms that takes core of the register of the client. Also, local land
   tribunal should be involved.
7) Grievances handled and main arbiters in the community
To be done through community elders, religion leaders, government functions like chiefs.

8) Organization of arbiters and suggested involvement in the resolution of grievances/disputes around the NETIP
The community structures like elders are the entry point. Chiefs are also critical, the land commission and land tribunal and the secondary structures.

9) Comments on community/stakeholder engagement in the NETIP process
All relevant stakeholders should be involved. There should be ample time to the community and its leaders to engage before the actual stakeholders’ engagement. The local media should be used for awareness creation. If possible, it should be advertised in the national dailies like Daily nation, standard paper etc.

10) There being no other business, the meeting adjourned at 3:20 P: M.

Confirmation:
Minutes Prepared by: Date:
Minutes of Consultative Meeting for the RPF for the Isiolo – Rhamu Road (NETIP)
Held on Saturday 16th February, 2019 at Habaswein Town at 3:24 P.M

Present

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<thead>
<tr>
<th>No.</th>
<th>Name</th>
<th>Organisation</th>
<th>Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Hon. Hussein Abdirahman Dahir</td>
<td>Wajir County Government</td>
<td>MCA Habaswein ward</td>
</tr>
</tbody>
</table>

Agenda

6) Introductions
7) Presentation of the RPF for NETIP
8) Concerns and issues for consideration in the RPF preparation
9) A.O.B
10) Adjournment

Minutes

11) The Meeting started at 11:20 A.M.

12) Introduction and framework brief
After introduction, the consultant gave a brief background information on the proposed project and its importance to the community. He explained that the local leaders were key stakeholders and hence their views were important during the RPF preparation.

13) Land ownership and various categories of land ownership in the area
The land is owned by the community. Land in North Eastern Province is owned by relative communities. The land however is not registered for individuals largely, only a small percentage is registered

14) Consultation about land acquisition to build social amenities and their stake on the land

The following are the stakeholders:
- Chiefs-provincial administration
- Elders
- Local political leadership-MCA's
- County lands committee
- Religious leaders
- NLC representative in Wajir, Isiolo and Mandera Counties
- Individuals land owners-representing the community

15) Compensation paid for various categories of land owners
Monetary value of their land
Allocation of new land – purchase of a new plot of their choice.
Compensation on the cost of the erected buildings on the land
New land registration cost-compensation on the registration costs

16) Compensation to be negotiated
Through local administrations, chiefs, elders, religious leaders and established land owners as
well political leadership negation on the cost of to be compensated to reached depending on the land and building market price. Here the need for the representative of National Land Commission coordinator is sought.

17) **Grievances handled and main arbiters in the community**
Provincial administration; NLC Coordinator-County, land board at the County, religious leaders, elders and local leaders such as MCAs and MPs. Grievances are handled through public meetings and site visit.

18) **Organization of arbiters and suggested involvement in the resolution of grievances/disputes around the NETIP**
- They should be engaged in the planning process for ownership of the projects.
- Through continuous feedback and sensitizations
- Listing all the affected land owners before reaching decisions
- Engage representative of the stakeholders during the process.

19) **Personal suggestions on the way forward for NETIP**
- Frequent visits and meetings for feedback
- Documenting other process outside Wajir
- Engaging community entry points periodically

20) There being no other business, the meeting adjourned at 4:20 P.M.

**Confirmation:**
Minutes Prepared by: Date:
Minutes of Consultative Meeting for the RPF for the Isiolo – Rhamu Road (NETIP) 
Held on Saturday 3rd February, 2019 at Al-Bustani Hotel, Wajir Town at 4:17 P.M

Present

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<th>No.</th>
<th>Name</th>
<th>Organisation</th>
<th>Designation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Abdullahi M. Gulled</td>
<td>Wajir County Land Tribunal</td>
<td>Chairman</td>
</tr>
</tbody>
</table>

Agenda

11) Introductions
12) Presentation of the RPF for NETIP
13) Concerns and issues for consideration in the RPF
14) A.O.B
15) Adjournment

Minutes

21) The Meeting started at 3:24 P.M.
22) Introduction and framework brief
The RPF Consultant gave a brief background information on the proposed project and its importance to the community. He pointed out that the views of the land dispute resolution tribunal headed by the informant was key to land matters in the locality. The views will therefore contribute to the formulation of the framework under preparation.

23) Land ownership and various categories of land ownership in the area
The land is owned by the community
Individual title holders-major towns only
Community land-chief- allotment letters by chiefs
Public land

24) Consultation about land acquisition to build social amenities and their stake on the land
The people who resides in the location through chiefs
Chiefs in case of the public lands
The stakes in land are chief to wananchi and is government representative and allocates land

25) Compensation paid for various categories of land owners
Those who will be affected by the proposed project they prefer to be compensated with money.

26) Compensation to be negotiation
The one taking land to do evaluation and then provide the payment commensurate with the value of the specific land.

27) Grievances handled and main arbiters in the community
Its handled by stakeholders, in case of grievances stakeholders/county lands tribunal, for land mashie (elders) chosen by area chief, opinion leaders and MCA.

28) Organization of arbiters and suggested involvement in the resolution of grievances/disputes around the NETIP

MCA among others to be involved in the arbitration process.

29) Comments on community/stakeholder engagement in the NETIP process

To involve community leaders e.g. chief before involving them directly
Use arbiter flow up independent (information) decision making
Hold barazas for effective engagement
Use appropriate language

30) There being no other business, the meeting adjourned at 6.23 P: M.

Confirmation:
Minutes Prepared by: Date:
Minutes of Consultative Meeting for the RPF for the Isiolo – Rhamu Road (NETIP)  
Held on Saturday 16th February, 2019 at Wajir County NLC Office at 10:03 A.M

**Present**

<table>
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<tr>
<th>No.</th>
<th>Name</th>
<th>Organisation</th>
<th>Designation</th>
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</thead>
<tbody>
<tr>
<td>1.</td>
<td>Muhamud Kasai</td>
<td>NLC - Wajir County</td>
<td>County Coordinator Wajir</td>
</tr>
</tbody>
</table>

**Agenda**

16) Introductions  
17) Presentation of the RPF for NETIP  
18) Concerns and issues for consideration in the RPF  
19) A.O.B  
20) Adjournment

**Minutes**

31) The Meeting started at 11:20 A.M.  
32) **Introduction and framework brief by RPF Consultant**  
The consultant gave a brief background information on the proposed project. He explained that the stakeholders are being involved to provide input to the policy in order to ultimately make it more sustainable and adaptable to community members.

33) **Land ownership and various categories of land ownership in the area**  
The NLC Coordinator explained that most of the land in the area is owned by the community and it’s called “community land”. He further said that through NLC, the government is protecting against any kind of grabbing or misuse of the community land on behalf of the community.

34) **Compensation paid for various categories of land owners**  
The County coordinator explained that any Compensation will be done through land evaluation process and will only to paid the affected group of people or individuals through enumerations way with the help county government lands department.

35) **Compensation to be negotiation**  
The official said that compensation Will be negotiated through a base time data organized by land valuation officers and NLC with the help of county government.

36) **Grievances handled and main arbiters in the community**  
Through land tribunal committee with the help of NLC office Wajir and representative of the county government lands department.

37) **Organization of arbiters and suggested involvement in the resolution of grievances/disputes around the NETIP**  
The arbiters are committees set up by the Governor to solve all land disputes and are made up of 10 top leaders who were officers in various departments of past National
government and business men. The chairman of the team was a former clerk to council water and many other parts of Kenya e.g Machakos.

38) The following will be consulted:
County government
NLC County office
Community lander owners
Other community stakeholders e.g. MCA and MP

39) Comments on community/stakeholder engagement in the NETIP process
Community can be involved through the land committee (tribunal land committee) with the help of NLC county coordinator office.
The land department can also be engaged over the land issues since land is devolved.

40) There being no other business, the meeting adjourned at 11:56 A: M.

Confirmation:
Minutes Prepared by: Date:
RE: CONFIRMATION

This is to certify that Land registration plot no 324 Elwak tonship of mandera south sub county is registed in the name of Aftin Mohamed Haile as per record held in our Elwak Land office

All dues on the said land have been paid up to date as per mandera county finance act 2017

Any asaistance afforded is highly appreciated

Sincerely

Safia Mohamed Mahat
Ag.Land Administrator,
Mandera South
Certificate No. MS/0252

Certificate Of Land Ownership
MANDERA COUNTY GOVERNMENT
MANDERA SOUTH SUB-COUNTY
MINISTRY OF LANDS, HOUSING AND PHYSICAL PLANNING
P.O. BOX 13-70300, MANDERA

This is to certify that Mr/Mrs/Miss ABDULLAHI H. DIKA & JABUR M. IBRAHIM are the legal owners of plot No. 02/092
P.O. Box 39-70300, Elwoak is now the registered owner of surveyed/unsurveyed Plot No. 02/092

P.O. Box 39-70300, Elwoak is now the registered owner of surveyed/unsurveyed Plot No. 02/092

This certificate is valid for 101.25 acres, measured in hectares, situated in Elwoak-Along, Manda South Sub-County.

Given under the hand and seal of Mandera South Sub-County Land Registry this 15th day of NOVEMBER 2002

Chief Officer: 

Land Administrator: 

NOTE: See Special Conditions overleaf.
SPECIAL CONDITIONS

1. Transfer of this land cannot be registered unless accompanied by this Certificate.
2. The Certificate has been issued without any erasures whatsoever.
3. The land and buildings shall only be used for designated purposes subject to County Development By-laws.
4. The registered owner shall not erect further buildings until full and proper building plans and specifications thereof (including block plan showing the position of the building) have been received, approved in writing by the County Government and such plans shall be submitted in triplicate.
5. The registered owner shall maintain in good and substantial repair and conditions all buildings at any time erected on the land.
6. The buildings shall not cover more than eighty per centum (80%) of the area of the land or such lesser as may be laid down by the County Government By-laws.
7. The registered owner shall not sub-divide, sub-let, transfer, charge or otherwise dispose off the land or any sub-division thereof without prior consent in writing by the County Government.
8. The County Governor or such person or authority as may be appointed for the purposes shall have the right to enter upon the land and lay or have access to water mains services including telephone or internet wires and electricity mains whether overhead or underground and the registered owner shall not erect any building in such manner as to obstruct, interfere or cover such existing route for mains services.
9. The registered owner shall pay such taxes, charges, as may be imposed or assessed by the County Government upon the land or the building erected thereon.
10. The County Government reserves the right to determine and revise the annual ground rent payable.
TO WHOM IT MAY CONCERN

RE: OWNERSHIP CONFIRMATION

This is to certify that land registration no. BD/0942 situated in Bulla Dana along Elwak-Mandera Rd, Mandera South Sub County is registered in the name of Abdullahi H. Dika and Jibir M. Ibrahim as per the records held in our Elwak Lands office.

The land approximately measures 25 acres.

All the dues on the said land have been paid up to date as per Mandera County Finance Act 2016.

Any assistance afforded is highly appreciated.

Sincerely,

H.D. ABDULLAHI

Sub County Land Administrator

Mandera South
RE: APPLICATION FOR TRANSFER OF LAND / PLOT – MANDERA COUNTY

PARTICULARS OF PLOT/LAND SELLER (VENDOR):
1. Full Name: ABDULLAHI SIAMAN
2. Plot/L.R.No: 34
3. Postal/Address: Town
4. Passport Size Photo (Affix here)
5. Tel/No:

PARTICULARS OF PLOT/LAND BUYER (PURCHASER):
1. Full Name: AFTIN MOHAMED HAJI
2. Postal Address: Town
3. Passport Size Photo (Affix here)

WITNESS TO TRANSFER OF PLOT/LAND (Three (3) Names of Respectable Individuals)
1. Name:
2. Name:
3. Name:
4. Tel W1: Tel W2: Tel W3:
ACCEPTANCE STATEMENT:

Have no objection for the Town Administrator and Land Administrator to transfer my plot/land

FOR OFFICIAL USE ONLY:

1. Land Rates (From 2012 to 2014) Amount paid: 2000

2. Transfer charges: 7000 Amount paid: 7000

TOTAL AMOUNT: 27000

4. Recommended to approval committee for confirmation.

Signature of the Town Administrator: __________________________ Date: __________

Signature of the Land Administrator: __________________________ Date: __________

Approved/Rejected by the approval committee:

Minute No: 11/12/17 Date: 11/12/17

IMPORTANT CONDITIONS BEFORE ONE TRANSFER OF LAND/LOT

1. Any transfer of Land/PLOT is subject to approval of the committee.
2. Only the office of the chief officer Lands, housing and physical planning and town
   administrator or their representatives are authorized to effect the transfer of a property.
3. Buyer and seller must be present on the occasion of transfer of property.
4. All outstanding dues must be settled before any transfer of property with revenue
   department.
5. Notice of (30) days to be given in case of any dispute on the property to be transferred.
6. All transfers of property are done once in a week by the approval of the committee.
MANDERA COUNTY GOVERNMENT
P. O. BOX 13 – 70300, MANDERA

Serial No. MS 040/14

RE: APPLICATION FOR TRANSFER OF LAND / PLOT –
MANDERA COUNTY

PARTICULARS OF PLOT/LAND SELLER (VENDOR):
1. Full Name: AHMED ABDELLAH ADAM HUSSEIN
   ID/Passport No: 13256119
2. Plot/L.R.No.: H13 Year of Allocation: 2012 Plot Loc: TOWNSHIP
3. Postal Address: KENYA Telephone No: 6722825833
4. Full Name of next of kin (Relationship): Tel/No:
5. Passport Size Photo (Affix here)

PARTICULARS OF PLOT/LAND BUYER (PURCHASER):
1. Full Name: APRIAM MOHAMED HAILE
   ID/Passport No: 20209216
2. Postal Address: KENYA Telephone No: 0723217232
3. Nationality: KENYAN
4. Passport Size Photo (Affix here)

WITNESS TO TRANSFER OF PLOT/LAND (Three (3) Names of Respectable Individuals)
1. Name: MOHAMED M. ID/No: 10029464 Sign:
2. Name: HAJI M. ID/No: 12345678 Sign:
3. Name: MOHAMMED ID/No: Sign:
4. Tel W1: 0724023323 Tel W2: 072222222 Sign:

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ACCEPTANCE STATEMENT:

1. [Name] of P.O. BOX 55-70301, and ID/No. 1235619

Have no objection for the Town Administrator and Land Administrator to transfer my plot/land no. 123 of location [Location], P.O. BOX [Box Number] and ID/No. [ID Number]

ID/No. 20209216 Tel/No. 0723287234

Sellers (Vendor) signature: [Signature] Date: 11/12/2017

Buyers (Purchaser) signature: [Signature] Date: 11/12/2017

FOR OFFICIAL USE ONLY:


2. Transfer charges 7000 Amount paid: 7000

TOTAL AMOUNT: 9000

4. Recommended to approval committee for confirmation.

Signature of the Town Administrator: [Signature] Date: 11/12/2017

Signature of the Land Administrator: [Signature] Date: 11/12/2017

Approved/Rejected by the approval committee:

Minuta No. [Minuta Number] Date: 11/12/2017

IMPORTANT CONDITIONS BEFORE ONE TRANSFER OF LAND/LOT

1. Any transfer of Land/Plot is subject to approval of the committee.
2. Only the office of the chief officer Lands, housing and physical planning and town administrator or their representatives are authorized to affect the transfer of a property.
3. Buyer and seller must be present on the occasion of transfer of property.
4. All outstanding dues must be settled before any transfer of property with revenue department.
5. Notice of (30) days to be given in case of any dispute on the property to be transferred.
6. All transfers of property are done once in a week by the approval of the committee.
RE: PLOT OWNERSHIP

This is to confirm that plot registration number no.47 is registered under Hassan Mohamed Haile.

The 5 acres piece of land is located in Bulla Udole within Elwak town.

The owner had paid land rate up to 2012.

H.D. Abdullahi

Land Administrator-Mandera South
MANDERA COUNTY COUNCIL

P.O. BOX 13, MANDERA

RE: LETTER OF ALLOTMENT

PLOT NO. 47 Udole Elwac

This is to confirm the allotment of the above plot to you by the County Council of Mandera.

Your acceptance should be signified by paying as below:
- a) Annual Rent (revisable) ........................................ Kshs. 12,000
- b) Survey fee on allocation ........................................ Kshs. 12,500
- c) L.A.S.C. .......................................................... Kshs.
- d) Local Rate .......................................................... Kshs.
- e) Conservancy fee .................................................. Kshs. 2,000

CONDITIONS OF ALLOCATION

- a) The above allotted plot should be developed for 5 ACRE (commercial) Use only.
- b) The council may repossess (without compensation) the plot that remains undeveloped for a period of 2 years after allocation.
- c) Any sale, subdivision or change of the plot can be done with the written consent of the Clerk to the Council.
- d) All building plans and developments in respect to this must be approved by council after payment of the approval fee and before execution.
- e) This letter of allotment is only valid when signed by the Clerk to Council of Mandera County Council.

COUNTY CLERK

NB: This allotment letter is issued without any erasure or alterations whatsoever.
ANNEX F: COMMUNITY VOLUNTARY LAND DONATION CONSENT FORM

COMMUNITY LAND RESOLUTION AND CONSENT FORM FOR VLD

<table>
<thead>
<tr>
<th>ITEM</th>
<th>DESCRIPTION</th>
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<tbody>
<tr>
<td>Project name</td>
<td></td>
</tr>
<tr>
<td>Name of Investment</td>
<td></td>
</tr>
<tr>
<td>Detailed specifications of investment</td>
<td></td>
</tr>
<tr>
<td>Project Location:</td>
<td></td>
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<tr>
<td>GPS coordinates</td>
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<tr>
<td>Estimated cost of the investment</td>
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Please attach the community barazaa minutes and summary safeguards report explaining how the requirements for voluntary land donation for this investment have been met.

**TERMS OF THE AGREEMENT**

1. As discussed in our community baraza on ………………………………to which all residents and regular users of the investment area (specify)
   ……………………………………………………………………………………………………… were invited. We the nominated representatives at that meeting confirm that the following issues were discussed and the residents and regular users of this land are in unanimous agreement.

2. That,
   ……………………………………………………………………………………………………… shall be site of the proposed
   ……………………………………………………………………………………………………… and that:

3. We all are aware that the land set aside for the investment is community land and no one is claiming individual ownership because it belongs to all of us, and no alternative claims will be made later on the land.

4. We have all agreed unanimously that the project implementation should continue.

5. We will all allow other neighbouring and cross-border communities access to the investment as agreed between elders of both communities.

6. We all shall strive to peacefully resolve any conflicts with other communities concerning the investment.
7. We will strive to peacefully co-exist and resolve any conflict arising out of the investment facility following due process provided by the laws of Kenya.
8. The land to be donated was identified in consultation with all residents and users of the land.
9. We all understand the likely impacts of proposed activities on donated land.
10. We all understand that the community could have refused this investment.
11. We all agreed to this investment and donation of the land without coercion, manipulation, or any form of pressure on the part of public or traditional authorities.
12. We all agreed that we not require any monetary or non-monetary benefits or incentives as a condition for the donation.
13. Donation of land will not adversely affect the livelihoods of occupiers and users of the land.
14. If any structure will be moved or any access to land be limited as a result of the sub-project, support will be provided to the individual so their livelihoods are not adversely affected.
15. The land is free of encumbrances or encroachment and is not claimed by any individual and its ownership is not contested.

We have been designated by the community of
__________________________________________,
__________________________________________,
__________________________________________

Confirm the above information to be true and that we have resolved to abide by ALL terms of this agreement. (Please attach minutes of the community meeting including the signed attendance sheet and photos of the meeting).

<table>
<thead>
<tr>
<th>S/No.</th>
<th>Name</th>
<th>Village/Location</th>
<th>ID/No.</th>
<th>Signature</th>
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<tbody>
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<td>5.</td>
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</tbody>
</table>

Witnessed on this ........ Day of ..................... in the Year.....................:
by:
1. Area Chief
<table>
<thead>
<tr>
<th>Name</th>
<th>ID/No.</th>
<th>Signature &amp; R/Stamp</th>
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</table>

2. **Ward Administrator**

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<tr>
<th>Name</th>
<th>ID/No.</th>
<th>Signature &amp; R/Stamp</th>
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3. **Land Registrar/adjudication officer**

<table>
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<tr>
<th>Name</th>
<th>ID/No.</th>
<th>Signature &amp; R/Stamp</th>
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4. **County Government (Physical Planning Department)**

<table>
<thead>
<tr>
<th>Name</th>
<th>ID/No.</th>
<th>Signature &amp; R/Stamp</th>
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5. **County Ministry Relevant to the project e.g. Water/Livestock Production etc.**

<table>
<thead>
<tr>
<th>Name</th>
<th>P/No.</th>
<th>Designation</th>
<th>Signature &amp; R/Stamp</th>
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</table>

6. **County Project Team Leader**
<table>
<thead>
<tr>
<th>Name</th>
<th>ID/No.</th>
<th>Signature &amp; R/Stamp</th>
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Annex G: Summary Safeguards Reporting Format: Voluntary Land Donation

a) How many people either live on or regularly use the land where the project will be implemented (including those who might use it as a drought fall back area) by location and how many and who agreed to the voluntary donation of this land for this public facility? ____________________________

b) How have the voluntary land requirements been met:

<table>
<thead>
<tr>
<th>Requirements for voluntary land donation</th>
<th>Explanation and evidence</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Was the land to be donated identified by the community through a participatory approach? (also include details in table 4)</td>
<td></td>
</tr>
<tr>
<td>2. What are the likely impacts of proposed activities on donated land and how were these explained to the community?</td>
<td></td>
</tr>
<tr>
<td>3. How was the community made aware that refusal was an option and confirmed in writing that they are willing to proceed with the donation? (e.g. at the consultation and in the voluntary land donation document)</td>
<td></td>
</tr>
<tr>
<td>4. What evidence is there that the act of donation was undertaken without coercion, manipulation, or any form of pressure on the part of public or traditional authorities (e.g. photos/videos of community consultation etc.)?</td>
<td></td>
</tr>
<tr>
<td>5. How will the users and occupiers of the land benefit from this investment?</td>
<td></td>
</tr>
<tr>
<td>6. Were monetary or non-monetary benefits or incentives requested as a condition for the donation and were these provided?</td>
<td></td>
</tr>
<tr>
<td>7. How do you know that the land being donated will not reduce the remaining land area to a level below that required to maintain the donor’s livelihood at current levels and will not required the relocation of any household?</td>
<td></td>
</tr>
<tr>
<td>8. Will any structures be moved or any access to land be limited as a result of the sub-project (describe structures and locations)?</td>
<td></td>
</tr>
<tr>
<td>9. If so, how will they be compensated/facilitated and/or their livelihoods restored?</td>
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</tr>
<tr>
<td>10. How was consent provided by all individuals occupying or regularly using the land?</td>
<td></td>
</tr>
<tr>
<td>11. Was there anyone who did not give agreement and why?</td>
<td></td>
</tr>
<tr>
<td>12. How was it established that the land to be donated was free of encumbrances or encroachment and was it</td>
<td></td>
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<tr>
<td>registered in an official land registry?</td>
<td></td>
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<tr>
<td>----------------------------------------</td>
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