



KENYA ELECTRICITY TRANSMISSION COMPANY

The Kenya Electricity System Improvement Project (KESIP)

FINAL RESETTLEMENT POLICY FRAMEWORK (RPF)

April 15, 2019

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LIST OF ACRONYMS AND ABBREVIATIONS

ARAPs	Abbreviated Resettlement Action Plans
ADR	Alternative Dispute Service
ATM	Automated Teller Machine
BoD	Board of Directors
CoK	Constitution of Kenya
CPS	Country Partnership Strategy
CS	Cabinet Secretary
CLO	Community Liaison Officer
CRC	Community Resettlement Committees
CEC	County Executive Committee
CEO	Chief Executive Officer
CSOs	Civil Society Organization
EMCA	Environmental Management and Coordination Act
ERB	Energy Regulatory Board
ERC	Energy Regulatory Commission
ESIA	Environmental and Social Impact Assessment
ESMP	Environmental and Social Management Plan
ESMF	Environmental and Social Management Framework
ESS	Environment and social specialists
ETF	Environmental Trust Fund
GMTS	General Manager Technical Services
GoK	Government of Kenya
GRM	Grievance Redress Mechanism
GDC	Geothermal Development Company
GIS	Geographic Information System
GMTSS	General Manager Technical Services
GRS	Grievance Redress Service
GPOBA	Global Partnership on Output Based Aid
ID	Identity card
IDA	International Development Association
IDPs	Internally displaced persons
IP	Indigenous People
IPPs	Independent Power Producers
IFC	International Finance Corporation
IVA	Independent Verification Agent
KCAA	Kenya Civil Aviation Authority
KETRACO	Kenya Electricity Transmission Company Limited
KESIP	Kenya Electricity System Improvement Project
KEEP	Kenya Electricity Expansion Project
KNES	Kenya National Electrification Strategy
KFS	Kenya Forestry Services
KPA	Kenya Ports Authority
KPC	Kenya Pipeline Company
KPLC	Kenya Power and Lighting Company
KV	KiloVolt

KWS	Kenya Wildlife Services
LCPDP	Least Cost Power Development Plan
LV	Low Voltage
LSA	Law of Succession Act
M&E	Monitoring and Evaluation
MCA	Member of County Assembly
MoE	Ministry of Energy
MV	Medium Voltage
NET	National Environment Tribunal
NEMA	National Environmental Management Authority
NEC	National Environmental Council
NGOs	Non-Governmental Organizations
NLC	National Land Commission
NSSF	National Social Security Fund
OP	Operational Policy
PAH	Projected affected households
PAPs	Project Affected Persons
PCC	Public Complaints Committee
PDO	Project Development Objective
PDP	Project displaced persons
PIU	Project Implementation Unit
PPP	Private Public Partnership
RAP	Resettlement Action Plan
REA	Rural Electrification Authority
RoW	Right of Way
RPF	Resettlement Policy Framework
PIU	Project Implementation Unit
SEP	Stakeholder Engagement Plan
T-Lines	Transmission lines
TORs	Terms of Reference
US	United States
VMG	Vulnerable and Marginalized Group
WB	World Bank

EXECUTIVE SUMMARY

Introduction

1. The development of this Resettlement Policy Framework (RPF) is following the World Bank's (WB) safeguard policy on Involuntary Resettlement (OP 4.12). This policy is triggered by projects that involve physical displacement through acquisition of land for project activities, economic displacement, or restricted access to natural resources and assets that lead to loss of income sources or means of livelihood. This RPF provides project stakeholders with the procedures to address the risks that may arise if successful implementation of a subproject requires economic or physical displacement of populations. It provides guidelines on how the projects will avoid, manage or mitigate all project related displacement risks.

Brief Description of Project

2. The GoK is seeking financial support of US\$370 million from the WB for the Kenya Electricity System Improvement Project (KESIP). This project is for a proposed implementation period of 5 years, from 2019 to 2024. The project aims to improve the power systems and electricity access and reliability in line with the Kenya Growth and Development Strategy. Under the Least Cost Power Development Plan (LCPDP) process and through feasibility studies, the Kenya Electricity Transmission Company Limited (KETRACO) and Kenya Power and Lighting Company (KPLC) have identified priority projects for implementation through WB financing.

3. Kenya's long-term development blueprint, the Vision 2030, aims at transforming the country into a globally competitive, newly industrialized, middle-income and prosperous country. Efficient, accessible and reliable infrastructure is identified as an enabler for achieving sustained economic growth, development and poverty reduction, by lowering the cost of doing business and improving the country's global competitiveness. During the design and implementation of KESIP, KETRACO and KPLC will draw from lessons learnt from implementing the Kenya Electricity Expansion Project (KEEP) between 2010 and 2017.

4. The Project Development Objective (PDO) of KESIP is to increase the capacity of the electricity transmission system and increase electricity access in Kenya.

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

Policies that have been triggered for KESIP

6. The project has triggered the following safeguards policies: Environmental Assessment OP/BP 4.01; Natural Habitats OP/BP 4.0; Forests OP/BP 4.36; Physical Cultural Resources OP/BP 4.11; Indigenous Peoples OP/BP 4.10; and Involuntary Resettlement OP/BP 4.12

7. OP/BP 4.10 has been triggered because it is likely that subproject under KESIP may be located in areas where IPs live or have collective attachment to. OP 4.12 has been triggered because it is highly likely that the project will involve land acquisition for substations and wayleave corridors.

8. **The Involuntary Resettlement Policy**

9. The WB's OP/BP 4.12 has been triggered for KESIP because the subprojects proposed by KETRACO may require the acquisition of land for Transmission Lines (T-Lines), wayleave corridors, construction of towers, construction and/or strengthening of substations and existing distribution lines, as well as the construction of additional feed-out lines. Under the Policy, RPF is prepared when the exact location/sites of subprojects are not known, and the impacts cannot therefore be clearly described at the time of project preparation.

10. The OP 4.12 contributes to the Bank's mission of poverty reduction and sustainable development by ensuring that the objectives of the policy are upheld in Bank financed projects. OP 4.12 requires that the RPF report be disclosed as a separate and stand-alone document by the GoK and the WB. The disclosure of the document in-country should be in visible locations where it can be accessed readily and easily by the general public and the project affected persons (PAPs). It should also be disclosed at the Bank's external website

The Resettlement Policy Framework

11. *Purpose of the RPF:* The aim of this RPF is to establish the resettlement and compensation principles, which include the process for undertaking socio-economic surveys and a census of the project affected persons (PAPs), a description of eligibility criteria for accessing compensation under the project, cut-off date for inclusion of PAPs in the Resettlement Action Plan or Abbreviated Resettlement Action Plan (RAP/ARAP), organizational arrangements for implementation of the RAP/ARAP (to be prepared in accordance with this RPF), and the design criteria to be applied to meet the needs of the people who may be affected by the various subprojects, whether or not PAPs have to physically move.

12. The scope and level of detail of the RAP (i.e. whether full or abbreviated) will be proportional to the magnitude of displacement and the complexity of the measures required in mitigating adverse social and economic impacts. This RPF has been prepared to ensure safeguards are in place to address and mitigate the potential impoverishment and other risks and impacts that result from physical and/or economic displacement. This RPF (as distinct from a RAP) will ensure a consistent approach to resettlement across KETRACO's transmission infrastructure development as it endeavors to build a world class national grid. Specific RAPs will be developed for each subproject, on the basis of the RPF principles defined herein.

13. An ARAP will be prepared for subproject that are likely to affect fewer than 200 people or more than 200 people but with minor land acquisition of land (10% or less) and no physical relocation. Where PAPs include IPs/VMGs or the context is otherwise unusually complex, a RAP will be prepared. This determination will be made at the time of subproject screening.

Potential project impacts

14. There is a likelihood of displacement of persons along the transmission corridors. It is expected that the properties/assets affected during wayleave acquisition for the construction of the T-Lines and the substations will be fairly and promptly compensated. The subprojects are likely to have two categories of effects: permanent; and temporary. Permanent effects will result in a complete loss of use of property, vegetation, or land by the PAPs as a result of the subproject activities. This is likely to occur where permanent installations are established. Temporary effects will result in an interruption in the current use of property or land by the affected persons as a result of the subproject activities. This is likely to occur during, excavations for tower foundations construction of the substations, repeater stations, access and safety zones.

15. The potential positive social impacts from KESIP will include increased opportunities for employment and wealth creation, upscaling of electricity access to the poor, improved standard of living and increased revenues for the PAPs, host communities and the country at large. Attention will be paid to the vulnerable and marginalized groups (VMGs) to ensure that they accrue direct benefits from the project. Concerning employment creation, KETRACO is an equal opportunity employer. Technical skills will be subjected to fair and competitive government employment regulations and procedures. For non-skilled labor, KETRACO will require the contractor to give priority to the affected communities, with preferential treatment given to PAPs from vulnerable households. Effective engagement and selection procedures will be shared for full participation of PAPs in all project activities, including employment.

16. Criteria for the selection of vulnerable households will also be agreed with the PAPs to avoid any complaints or feelings of favoritism. Similarly, depending on the nature of approved materials for construction, the contractor will be required to maximize opportunities for locally available materials without compromising on the standards of works so as to enable the local communities benefit from this income opportunity. It is to be noted however that employment and material provision are only temporary sources of income that will run for the duration of the construction process. As indicated in section 4.4, livelihood restoration opportunities will be considered for vulnerable PAPs.

17. The potential negative environmental and social impacts from the project include loss of assets (land and/or crops from land/right of way acquisition), impacts on natural vegetation and biodiversity, risk of sparks/fire from live conductors; occupational safety and health hazards, and noise during construction. The project will put in place measures to mitigate these negative effects to ensure reduced harm to the PAPs, host communities and people involved in any aspect of the subprojects.

18. *Legal framework:* Resettlement of PAPs will be carried out in compliance with: (i) laws, regulations and guidelines for Resettlement/Land Acquisition Policy Framework of the GoK; and (ii) the WB's OP 4.12. A comparison matrix between the applicable Kenyan laws and WB provisions is appended to this framework (Annex 2). There are numerous national legal provisions that KETRACO will adhere to including the Constitution of Kenya, 2010, the National Land Policy, 2012, the Land Act, 2012, the Energy Act, 2006, among others.

Project implementation

19. There are two transmission components that will potentially impact on PAPs: substations and powerlines. Different sizes of substations will be constructed or upgraded through this project. The substations will require a minimum of 5 acres of land each. Equipment in the substation will include transformers, bus-bars, circuit breakers, isolators and switchgears. One of KETRACO's mandates is to construct high voltage transmission lines in the range of 132kV, 400kV and above with the following wayleave traces: 132 kV – requires 30m i.e. 15m on either side from the center line; 220 kV – requires 40m i.e. 20m on either side; 400 kV – requires 60m i.e. 30m on either side (500DC Line); and 500HVDC – required 60m, i.e., 30m on either side.

20. *Land Acquisition for Substations:* For the construction of substations, KETRACO will buy land on a willing-seller-willing-buyer basis. To enable transparency and to accord all potential sellers the opportunity to negotiate fair rates for themselves, Ketraco will identify potential sites and advertise the land size requirements in the local dailies to enable willing sellers to come forward. Interested registered private or customary landowners will respond to the tender and undergo an evaluation. Advertisement in the local dailies ensures transparency of the acquisition process while the tendering process ensures that only willing sellers will come forward, thereby eliminating any fear of expropriation. Further, a scoping exercise will be carried out by Ketraco to determine the best alternatives where several options will be considered. Ownership of such sites will be authenticated through verification of legal documents (for private or public titled land) and through County Physical Planning Documents (PDPs) for unregistered community land held in trust for the community by the concerned County government, or for land that has been set aside by the County Government for future development but is yet to be adjudicated. Only land without any encumbrances will be purchased for substation construction under the project.

21. In case of unregistered community land, including land in IP/VMG areas, stakeholder identification will be undertaken through transparent traditional methods whereby community elders will be asked to identify all communities or clans with claims to the land. This will be followed by public consultations in line with the free, prior and informed consultations (FPIC) principles, to ensure that all claimants, including seasonal users (if applicable) are consulted and their views taken on board, and to ensure the broad community support for the use of their land for the purpose of the project. For such consultations to be effective and meaningful, adequate notice of the intended public consultations (with clear objectives for the consultations) will be given - at least two weeks in advance - through appropriate channels such as local administrators, traditional community leaders and places of worship to enable all interested stakeholders to participate.

22. *Identification of substation sites:* On Ketraco's part, the identification of substation sites will be undertaken by a multi-disciplinary team that will be appointed to conduct scoping. This team will include social specialists, environmental specialists, surveyors, engineers and land valuers. The team will give a scoping report which will form the basis for acquisition, using existing Kenyan procurement laws that guide the Willing Buyer Willing Seller process. In all cases, the private or community land owners will have equal opportunity to negotiate fair prices for their land parcels. *Third party impacts:* ESIA's will be conducted for acquired sites through which environmental and social impacts will be identified and documented, with the final report capturing both the stakeholder engagement process and outcomes, and mitigation measures for the identified impacts, thus ensuring that any third-party impacts are taken care of. During implementation, a GRM will be developed in consultation with potential PAPs and groups with a

view to resolving complaints. Similarly, a monitoring mechanism will be put in place to ensure full implementation of the agreed mitigating measures.

23. *Wayleave acquisition:* For the construction of transmission lines, KETRACO's policy is to avoid interfering with existing structures and to minimize acquisition of land to the extent possible. With this premise, it is assumed that the majority of land-take will amount to a wayleave encumbrance which will be registered on the land title deed. The encumbrances will include restricted access and prohibition on construction of buildings and farming, especially certain cadres of trees. Compensation for restrictions and prohibitions will be undertaken as discussed in paragraph 28 below.

24. *Preparation for wayleave acquisition:* Once the wayleave route has been confirmed, KETRACO's wayleave department will undertake title searches at the various land registry offices to enable identification and verification of the affected parcels of land that are held under the registered titles. Parcels of land which are unregistered, sub-divided, trust land and/or wayleave corridors in existence or defined for future development, as well as natural sensitive habitats, will be identified through the government/county administrative authorities. Ketraco will use clan elders, village elders or chiefs and public notifications to inform the PAPs occupying the land that the proposed transmission line will traverse their property, and in the interest of the public development, request access and entry into their land parcels for survey and valuation.

25. PAPs under this project are people who will be directly affected both socially and/or economically by the proposed T-Lines and associated subprojects, as a result of the involuntary taking of land and other assets. The impacts on such PAPs, could include (i) physical relocation due to loss of housing and/or shelter; (ii) restriction of access to assets; or (iii) loss of income or means of livelihood irrespective of the need for physical relocation. Such impacts will be mitigated according to provisions of the RAP that will be prepared for the project.

26. *RAP preparation:* In accordance with this framework, the RAP preparation will be triggered when a wayleave encumbrance and/or land acquisition necessitates involuntary resettlement. This will be necessary when a physical piece of land is required for the substation/wayleave and people are likely to be affected because they cultivate the land, have residential or economic purpose structures on the land, use the land for water and grazing of animals or otherwise use the land for economic, spiritual or for any other reason which may not be possible during the development or after the project is implemented.

27. RAP preparation process will entail a socio-economic survey, a detailed census and assets inventory. The purpose will be to identify PAPs, including those who own land communally and squatters, to determine levels of asset loss (i.e. land, structures or crops/trees), assign economic values to these assets based on the full replacement cost¹ principles (see Foot Note 1), and to

¹ Footnote 1 of OP 4.12 Annex A defines Full Replacement Cost for land and structures. For land, this includes the pre-project 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 cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes. For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the

determine the PAPs eligibility for compensation, resettlement assistance² and other support as will be agreed with the concerned PAPs to cushion them against transitional related hardships, especially if they have to relocate from their primary residences. Such support should cover transitional losses as a result of delayed compensation payments or specific losses during the transition period. Such PAPs, including PAPs who own land communally and squatters, may be provided with temporary support to avoid hardships, such as rental land or premises, or other appropriate transitional support as agreed with them, if they have to relocate as a result of project activities.

28. Community land is land that has neither been adjudicated nor titled. Generally, it is owned and used communally by those who claim ownership of it traditionally through ancestry or based on clannism or other such traditional claims. Currently, all community land in Kenya is unregistered and is held in trust by the respective county governments. To be able to transact on communally owned land, including donation or sale, the Community Land Act, 2016, requires that claimants over such land should register themselves as the bonafide owners of the land claimed. The Act clearly describes the requirements for registration, including the requisite community structures that must be in place, and the criteria for transacting on registered community land. The Act further states that the respective County Government “*shall not sell, dispose, transfer or convert for private purpose or in any way dispose of unregistered community land that it is holding in trust on behalf of the community for which it held*”. Despite prohibiting the county governments from transacting on community land, the Act empowers the county governments to “*hold in trust on behalf of a community any monies payable as compensation for compulsory acquisition of any unregistered community land*”

29. For unregistered community land, that may be acquired under KESIP, Ketraco will undertake free, prior and informed consultations with the affected communities, including VMGs, both to make them aware of the need for their land and to secure their broad support for the project. In addition, they will be sensitized on the provisions of the Community Land Act, 2016, which states that cash compensation for unregistered community land will be placed in an interest earning account held on behalf of the community by the County Government until the community has registered. After sensitization, the community will be provided with the opportunity to choose between in-kind compensation as encouraged by the World Bank’s OP 4.12 or the escrow account held for them by the County Government until they register their land. As Ketraco has no control on when national and county governments will put in place all the required mechanisms to enable PAPs register their land, Ketraco will outline the potential challenges involved in opting for cash compensation.

30. *Eligibility criteria:* PAPs may be classified as follows: (i) those who have formal legal rights to land or other affected assets, including customary and traditional rights recognized under the laws of Kenya; (ii) those who do not have formal legal rights to land at the time the census

value of benefits to be derived from the project deducted from the valuation of an affected asset. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement measures to be provided under other clauses in [OP 4.12](#).

² According to OP 4.12, Resettlement Assistance (and other support) could take the form of short-term jobs, subsistence support, salary maintenance or similar arrangements.

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 an identified process (this category includes unregistered community land); and, (iii) those who have no recognizable legal right or claim to the land they are occupying. These include squatters on titled land and public land including road/railway reserves etc., squatters on community land held in trust³ by County Governments but who have no recognizable claim to such land, as well as any squatters on Community Group ranches without recognizable membership claim to the ranches.

31. Each category of PAPs, including unregistered community land and squatters, will be eligible for compensation at full replacement cost (see footnote 1) under the project in accordance with the provisions of the World Bank's OP 4.12. In this regard, PAPs in categories (i) and (ii) will be offered compensation for land and other assets including structures, crops and trees. For compensation for land, including where community land is involved, PAPs will be given the option to decide on the mode of compensation, whether land for land, in-kind compensation in the form of community projects that are acceptable to all PAPs as encouraged by OP 4.12, or cash compensation. All PAPs will be compensated for their lost assets, especially land, prior to start of construction activities. In addition, where relocation is involved, PAPs in categories (i) and (ii) of the eligibility criteria will be offered assistance such as moving allowance or other necessary support in line with the requirements of OP 4.12. Similarly, PAPs in category (iii) of the eligibility criteria will be provided resettlement assistance in lieu of compensation for the land they occupy, and other assistance as necessary, based on the provisions of OP 4.12, to cushion them against transitional hardships.

32. Under KESIP, resettlement assistance will be provided to PAPs in all categories who will lose primary residence and livelihoods including land/housing as needed to restore livelihood and address vulnerability. Table 5 makes further provisions for addressing the needs of vulnerable PAPs who will be affected by the project.

33. *Valuation of assets:* This will cater for the valuation of land, structures and crops/trees. Under KESIP, land will be valued in accordance with the Land Value Index Laws (Amendment) Act, 2018, or, if the Act shall not be operational at the time of KESIP, then the valuation will be based on the methods that shall have been set by the Director of Land Valuation (formerly known as the Chief Government Valuer) in the Ministry of Lands and Physical planning for the various zones in the country. Currently, it is the responsibility of the Director of Land Valuation to determine fair market rents and values, and to ensure that all revenue due to Government is collected and public property is disposed of or acquired in a manner that protects the monetary interests of the Government of Kenya. For this reason, the Director of Land Valuation (Chief Government Valuer) is the Principal Advisor to national and county governments on all valuation matters of land valuation. Whichever valuation method is used, Ketraco will ensure that it complies with the full replacement cost valuation method of OP 4.12. (See footnote 1 for definition of full replacement cost, and section 4.1.1 for details on land valuation).

³This is in accordance with the community Land Act, 2016, article 27 of and the Community land regulations of 2017 Laws of Kenya where the rights are recognised.

34. Vegetation damage shall be compensated at full replacement cost as required by OP 4.12 on the basis of prevailing current market value⁴ rates for crops and trees, and as revised from time to time. In this regard, Ketraco is currently undertaking a review of valuation methods and rates for crops and trees under the guidance of the Ministry of Agriculture and county governments to ensure they are in conformity with open market valuation requirements. Under KESIP current market value for trees and crops as set by the KFS, , MoA and Ketraco through the ongoing review, will be augmented by the full replacement cost principles required by OP 4.12.

35. *Compensation for land for substations and wayleave corridor:* KETRACO will totally acquire substation land and pay compensation based on current market value (see footnote 2 4 for definition of current market value as used by Ketraco) or full replacement cost as defined by the World Bank's OP 4.12, whichever is higher. Land owners on the wayleave corridor will be compensated for limited loss of use of land since ownership of the land will remain with the owners. In all cases, compensation for land, structures, crops/trees or other assets will be made to PAPs prior to start of construction works. Compensation for land will be accorded to PAPs with recognized legal documents and recognizable customary ownership including unregistered community land held in trust by county governments. During consultations with PAPs in preparation for the compensation process, Ketraco will disclose to PAPs their entitlements to land-for-land compensation, in kind compensation and cash compensation.

36. Concerning cash compensation for wayleave in unregistered community/VMG land, Ketraco will employ the free, prior and informed consultations principles to engage with the community/VMGs to educate them on the objectives of the project, why their land may be required, and to secure their support for the project. Unregistered community/VMGs will also be sensitized on the provisions of the Community Land Act 2016, which guide transactions on such land. Part II of the Community Land Act, 2016, article 6 states that: *6(2) The respective County Government shall hold in trust for a community any monies payable as compensation for compulsory acquisition of any unregistered community land; 6(3) Upon registration of community land, the respective county government shall promptly release to the community all such monies payable for compulsory acquisition; 6(4) All such monies shall be deposited in a special interest earning account by the county government; 6(5) The respective county government shall transfer the money and the interest earned to the communities as may be prescribed.*

37. Despite the provisions of the Community Land Act as stated above, Ketraco has no control over when such registration would happen and can also not guarantee that the money and interest earned would eventually be handed over to the registered community because, as yet, there is no precedence. Therefore, Ketraco will sensitize PAPs in community owned land to consider in-kind compensation in the form of community projects that are beneficial to all PAPs in leu of cash compensation as encouraged by the World Bank under OP 4.12 or land-for-land. .

⁴ Current Market Value, as used by KETRACO, is in reference to the value of land, structures, trees, crops or other assets in a given area at the time of acquisition at non-depreciated rates, and without consideration for the value of salvaged material. It is calculated at the highest price at which the asset can change hands in the area, without duress. In undertaking the current market valuation of an asset, e.g. land, or structures, the value of all other fixed assets are also calculated. In addition to the current market value of an asset, where relocation is involved, the affected persons are given 15% of the current market value as transitional assistance as per the practice of KETRACO. For the purpose of KESIP though, the principles of OP4.12 will be followed for all compensation including transitional assistance.

38. As an in-kind benefit, KETRACO will, where the affected parcel of land is too small making it uneconomically viable and/or that existing residence(s) and structures are unable to be relocated within the unaffected area of the parcel, the compensation to PAP(s) will be -current market value or full replacement cost (including all transactional costs) whichever is higher, for loss of use of the land to enable them to purchase alternative land of a similar nature and size. On the other hand, all squatters are eligible for compensation whether in private or public land, and will be compensated for their assets including structures, trees and crops but not for land. They are also entitled to resettlement assistance in accordance with the provisions of OP 4.12.

39. *Compensation for structures*, including residential housing, businesses, public service facilities, etc. within wayleave trace will be provided at full replacement cost of all such structures affected by the wayleave trace as established by an independent valuer. Full replacement cost of a structure includes labor, transportation and other transaction costs such as any taxes that may be levied (see footnote 1 for definition). The valuer will provide a figure for labor and other transaction costs in his/her assessment. As for trees and crops, KETRACO will allow enough time for harvesting of seasonal crops nearing maturity to be done before initiating project activities. Should there be a need to remove crops or trees prior to maturity/harvesting, the replacement cost to be paid will be in accordance with the guidelines set by the respective state agencies – Ministry of Agriculture and the Kenya Forest Service (KFS) respectively – that are mandated with this responsibility.

The provisions of paras 26 to 32 above notwithstanding, the legal provisions for valuation of assets will be supplemented by the provisions of OP 4.12 to ensure all compensations are paid at full replacement cost (including all transaction costs). Nevertheless, should there be PAPs who will feel dissatisfied by the results of the valuation methods applied by KESIP, including the provisions of OP 4.12, then they will be free to access the services of independent valuers to ensure that they are compensated according to the current market value at full replacement for their assets.

40. *Consultations*: Effective resettlement planning requires regular consultation with a wide range of project stakeholders. KETRACO will identify the relevant stakeholders for the RAP/ARAP early on in the resettlement planning process. These will include: local people and businesses affected by the project; County Government officials; village leaders; and local community organizations. The Project Implementation Unit (PIU) will develop a stakeholder engagement plan (SEP), as part of the RAP, as a first step towards informing the community and other stakeholders about the project, its impacts and the entitlement framework, in accordance with this RPF. The SEP will be prepared in consultation with the PAPs and will include agreements on ongoing consultations at every stage of the project as well as accessible locations for such consultations and the issues to be consulted on.

Grievance redress mechanisms

41. The implementation of KESIP will require an effective grievance redress mechanism (GRM). Grievances may arise from members of the affected communities who are dissatisfied with the consultation, eligibility criteria, PAP categorization, valuation of assets, crop rates, option packages offered, prohibitions, community planning measures, or actual implementation. During the initial stages of the socio-economic survey, stakeholders will form part of the group that will help in coming up with the GRM. Different methods of grievance redress will be used and adopted during the initial socio-economic surveys. The adopted GRM will then be made available and awareness created on the same both during sensitization and during project implementation. The general format and process of grievance redress will start with registration of the grievances with

Community Grievance Committee (CGC) as outlined in the grievance redress procedures. The whole process will be explained to PAPs during stakeholder engagement, through consultations, and a more defined and tailor-made GRM suitable for each community will be developed and agreed upon with the PAPs.⁵

Budgets and funding arrangements

42. A tentative budget and budget lines items are outlined in Chapter 7. All costs associated with the resettlement process will be borne by the GoK through the MoE. KETRACO will, on behalf of MoE, manage both the financial inputs as well as the additional managerial and technical expertise required to complete the T-Lines RAP/wayleaves acquisition process or outsource the services as necessary. The budget for the resettlement and compensation will be determined through a preliminary valuation and baseline socio-economic study. Information on specific impacts, individual and household incomes and a census of PAPs and their assets, and other demographic data will be used to facilitate the preparation of a detailed RAP, with a more accurate budget for resettlement and compensation prepared following review and assessment of the socio-economic data.

Monitoring and evaluation

43. This will be a key component in the implementation of the RAP. The specific objectives of monitoring will be to determine: (i) if PAPs are satisfied with the actual resettlement process; (ii) if PAPs have been paid in full and before implementation of any subproject that is causing resettlement; (iii) if affected individuals, households, and communities have been able to maintain their pre-project standard of living, and even improve on it; and (iv) if information was disseminated prior to the subproject implementation.

44. RAP monitoring will be done at three levels: during the regular monitoring of the project at the implementation stage by the implementing agency (KETRACO); independent RAP Audit Consultant; and financiers (WB) during the WB supervision Missions.

45. *Consultations on this framework:* a meeting was held in Nairobi on February 22, 2018 that brought together stakeholders representing the potential beneficiaries and partner agencies. The meeting participants reviewed the draft RPF and gave inputs that have been used to refine this Framework. A matrix of the discussions is presented in Annex 5 together with the list of participants.

46. *Public Disclosure:* all comments from stakeholders, including those from the WB team, have been incorporated in this Framework. The final RPF will be reviewed and cleared by both GoK and WB both in-country. The Framework will be placed on the project/e-government sites and official media and disclosed on the WB external website prior to project appraisal.

1.0 INTRODUCTION

1.1 Background

1. Kenya's long-term development blueprint, the Vision 2030, aims to transform the country into a globally competitive, newly industrialized, middle-income and prosperous country.

⁵KETRACO will have its own GRM independent from KPLC.

Efficient, accessible and reliable infrastructure is identified as an enabler for achieving sustained economic growth, development and poverty reduction, by lowering cost of doing business and improving the country's global competitiveness. To align the energy sector plans with the Vision 2030 targets, the electricity sub-sector has adopted a coordinated planning approach. The Energy Regulatory Commission (ERC), as mandated by the Energy Act of 2006, coordinates a stakeholders' committee to develop and review the electricity subsector plan, the Least Cost Power Development Plan (LCPDP).

2. The Government of Kenya (GoK) is committed to universal access to modern forms of energy by year 2030. Through the intervention of the GoK and its development partners, a total of 1.25 million new clients were connected to the national grid in the year ended 30th June 2016. Access to electricity is 75% through both grid and off-grid options. Kenya National Electrification Strategy (KNES) adopted by the Government in December 2018 aims to achieve universal access to electricity by the year 2022. To attain these goals, policy and regulatory frameworks have been articulated for the energy sector through the Energy Policy - Sessional Paper No.4 of 2004, and the Energy Act of 2006. The Energy Policy and Act have been reviewed to align them with the Kenya Vision 2030, the Constitution of Kenya (2010) and global trends.

3. The national government, with support from development partners, has allocated substantial resources for development of energy infrastructure including exploitation of renewable energy resources. These efforts provide opportunities for collaboration with the private sector in renewable energy development and national electrification.

4. The Kenya Electricity Expansion Project (KEEP), financed through the International Development Association (IDA) credit was implemented from 2010 to 2017 by the Kenya Power and Lighting Company (KPLC), Rural Electrification Authority (REA), Kenya Electricity Generating Company Limited (KETRACO) and Kenya Electricity Generation Company Limited (KenGen). By connecting new typically poor consumers living in informal settlements, the project has provided grid access to energy and created conditions for productive activities. KPLC and KETRACO will draw from lessons learnt through implementing KEEP to develop and implement KESIP.

1.2 The Kenya Electricity System Improvement Project

5. The GoK is seeking financial support of US\$370 million from the WB for KESIP, for a proposed implementation period of 5 years, from 2019 to 2024. The project's aim is to enhance capacity of the transmission system and increase access to electricity, in line with the Kenya Growth and Development Strategy. Under the LCPDP process and through feasibility studies, KETRACO has identified priority projects for implementation through WB financing.

6. The development of KESIP is driven by the imperative to dramatically improve reliability of electricity supply to underpin economic activity and to sustain electrification. Electricity service interruptions in recent years have been due to a number of factors that include: congestion in the transmission infrastructure that constrains power transfers from where there is surplus generation capacity to regions where there is a deficit; scheduled interruptions for line work and unscheduled interruptions due to a weak network; inadequate preventive maintenance; vandalism; and inadequate automation, etc.

7. KESIP is designed to address the transmission and distribution aspects to expand transmission and distribution capacity necessary to enhance electrification initiatives, reduce technical losses in areas currently served by long medium voltage lines and improve reliability of supply.

1.3 Proposed Project Development Objective(s)

8. The PDO for KESIP is to increase the capacity of the transmission system and increase electricity access in Kenya.

1.4 Project components⁶

The proposed project aims to address system bottlenecks in the medium voltage (MV) network to reduce technical losses and create capacity to support last mile electrification. The proposed project will directly support connecting 100,000 new consumers in urban, peri-urban and rural areas and another 20,000 new consumers in slums and informal settlements. The proposed project is also expected to support high-voltage transmission network, sector studies, including a detailed feasibility study to be carried out by KETRACO to determine the technical, legal, environmental and social feasibility of implementing some identified transmission lines under PPP arrangements. As part of the PPP feasibility study, the preparation of the relevant feasibility-stage safeguard instruments (ESIA RAP, Social Assessment and Vulnerable and Marginalized Groups Plans, as appropriate) will also be supported under the Project.

9. Finally, the proposed project is expected to support technical assistance and capacity building support to KPLC and KETRACO, the two implementing agencies and other sector agencies.

10. There are three components: (i) Access expansion and distribution network strengthening; (ii) Transmission network expansion and strengthening; and (iii) technical assistance and capacity building, needed for among others, PPP feasibility studies to be implemented by Ketraco; sector development and strengthening and sustaining the policy, institutional, and regulatory environment; and enhancing institutional, governance, management, technical and operational capacity of the sector agencies.

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

⁶Details on the project components are contained in the approved PAD.

12. Component 1, which will be implemented by KPLC, has three sub-components: (i) new medium and low voltage infrastructure to help address system bottlenecks for reducing losses, improving reliability, and creating capacity to support last mile electrification (US\$85 million); ii) connections of new consumers through Last Mile electrification (US\$130 million); and (iii) slum electrification to connect consumers living in informal settlements (US\$20 million). The component will be implemented by KPLC and will also finance the consultants needed to support KPLC to implement the activities.

13. ***Component 2: Transmission network expansion and strengthening (Approximately US\$120 million equivalent)***: This component will be implemented by Ketraco. It is expected to introduce high voltage network to areas that have been serviced by long medium voltage lines to reduce technical losses and reinforce the existing medium voltage networks. The component will also increase transmission adequacy for interconnecting different regions of the country and improve reliability of power transmission and ensure compliance with N-1 contingency criteria. KETRACO has identified 6 sub-projects involving 132 kV and 220 kV transmission lines and associated substations and construction of three new 400/220kV substations estimated at US\$298 million. The exact lines and substations that can be supported within the funding allocation for this category under the proposed project will be determined later based on priority, readiness, and environmental and social screening and assessment.

14. The component is also expected to support an owner's engineer (firm), which will help KETRACO with preparation of design, bidding documents, bid evaluation, and project supervision during implementation phase. The funding requirement for the 6 transmission lines and three substations is around US\$298 million. With the funding allocation available, only 2 or 3 lines and 1 or 2 substations can be supported under the proposed project. The environment and social screening and assessment following IDA guidelines is being conducted for all the lines and substations in the long list.

15. ***Component 3: Technical assistance and capacity building (Approximately US\$15 million equivalent)***: The component will support KETRACO to carry out a comprehensive feasibility study in accordance with the PPP law to determine technical, financial, legal, social and environmental feasibility of piloting development of some identified transmission lines under PPP arrangements, including establishing the value for money for PPP. The initial phase of the study will start soon with support from an on-going IDA credit (Eastern Electricity Highway Project, P126579), while the second phase will be supported under KESIP. Should the feasibility study confirm that there are T-Lines that can potentially be implemented under PPP arrangements, implementation of the PPP pilot will be supported by Africa50 and IFC Advisory who are currently in discussion with KETRACO on this. The feasibility study will be supervised by IFC on behalf of KETRACO and closely coordinated with Africa50 to ensure a consistent approach for all the lines included in the pilot PPP feasibility study.

16. As part of the comprehensive feasibility study, the project will also support the preparation of the relevant feasibility-stage safeguard instruments (ESIA, RAP, Social Assessment and Vulnerable and Marginalized Groups Plans [VMGP]). The ToRs for the preparation of ESIA, RAPs, Social Assessment and VMGPs will be prepared in accordance with the WB Performance Standards applicable to PPP transactions (in line with OP 4.03) and will be submitted to the Bank for clearance before being adopted.

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

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

1.5 Objectives, Purpose and Justification for the RPF

1.5.1 Objectives of the RPF

19. The objective of this RPF is to establish the principles, procedures, entitlements and eligibility criteria, organizational arrangements, and provisions for monitoring and evaluation (M&E), the framework for stakeholder and PAPs participation, as well as the mechanisms for addressing grievances which will be applied to all KETRACO KESIP transmission subprojects.

20. In view of the potential subprojects, the WB's Involuntary Resettlement (IR) Policy, OP 4.12, has been triggered for KESIP because the subprojects will include the acquisition of land for T-Lines wayleave corridors, construction of towers, construction and/or strengthening of substations and existing distribution lines, as well as the construction of additional feed out lines.

21. The OP 4.12 contributes to the WB's mission of poverty reduction and sustainable development by ensuring that the objectives of the policy are upheld in all its financed projects. The objectives of OP 4.12 are:

- i. To prevent or minimize involuntary displacement whenever possible;
- ii. To design and implement resettlement as a sustainable development program;
- iii. To pay for lost assets at replacement cost;
- iv. To restore people's capacity to earn a living and their community ties;
- v. Components necessary to realize project objectives are covered regardless of the source of financing; and
- vi. Resettlement costs are considered as part of project costs.

1.5.2 Purpose of the RPF

22. RPFs are prepared when a proposed project design is not yet finalized and the location of subprojects and their exact impacts on project affected persons (PAPs) are not yet known. The RPF is the instrument used by the Government – once subproject sites/locations and their social and economic impacts are known - to guide the preparation of Resettlement Action Plans (RAPs)

if PAPs in any subproject selected for Bank financing are more than 200, or Abbreviated Resettlement Action Plans (ARAPs) if the PAPs are less than 200.

23. The purpose of a RPF is to establish the resettlement and compensation principles, which include the process for undertaking socio-economic surveys and PAPs census, a description of eligibility criteria for accessing compensation under the project, cut-off date for inclusion of PAPs in the RAP/ARAP, organizational arrangements for implementation of the RAP/ARAP (to be prepared in accordance with the RPF), and the design criteria to be applied to meet the needs of the people who may be affected by the various subprojects to be implemented under the project, whether or not PAPs have to physically move.

1.5.3 Justification for the RPF

24. Involuntary resettlement, if unmitigated, often gives rise to severe economic, social and environmental risks. It may lead to production systems being dismantled, people being impoverished when their productive assets or income sources are lost, people being relocated to environments where productive skills may be less applicable and the competition for resources greater, weakened community institutions and social networks, kin groups dispersed, and diminished or lost cultural identity, traditional authority and the potential for mutual help.

25. This RPF has been prepared to ensure safeguards are in place to address and mitigate the impoverishment and the other risks and impacts identified above that may result from physical and/or economic displacement. This RPF (as distinct from a RAP) will ensure a consistent approach to resettlement across KETRACO's transmission infrastructure development as it endeavors to build a world class national grid. Specific RAPs will then be developed for each subproject, on the basis of the RPF principles defined herein. The scope and level of detail of the RAP (i.e. whether detailed or abbreviated) will be dependent on the magnitude of displacement and the complexity of the measures required in mitigating adverse social and economic impacts.

26. This RPF, while anchored under the Constitution of Kenya (CoK) 2010 and requisite laws of the land, also takes cognizance of OP 4.12. In addition, it contributes to the WB's mission of poverty reduction and sustainable development by ensuring that the objectives of the policy are upheld in all financed projects.

27. The objectives of the requisite legislation and the policies are that resettlement should be avoided or minimized where possible, and viable alternatives explored. Hence, at the project design phase, all efforts must be deployed to minimize the need for resettlement. Where it is not possible to avoid resettlement, resettlement and compensation principles, organizational arrangements and design criteria should be conceived and executed as sustainable development programs, providing sufficient investment to those people displaced by the project and giving them opportunities to share the benefits of the project. The aim is to improve or sustain the livelihoods and living conditions of the PAPs to the same level to or better than prior to project operations and/or resettlement.

28. In relation to OP 4.12, subprojects under the Transmission Component - the construction of substations and transmission power lines, may lead to some involuntary resettlement, specifically related to land and wayleaves acquisition. Minimal adverse social risks are anticipated under this project component and minimal resettlements are expected.

29. *Ancillary facilities:* Transmission Component will have ancillary facilities including worker camps, borrow pits and waste disposal during the construction phase of the subprojects. Guidance on addressing all these ancillary facilities have been covered in the Environment and Social Management Framework (ESMF), which will guide the Environmental and Social Impact Assessment (ESIA). The findings of the ESIA will be summarized into the Environment and Social Management Plan (ESMP), which will describe the measures that are required to mitigate impacts from ancillary facilities. As mitigation of impacts from ancillary facilities will be the responsibility of the contractor, the ESMP will be annexed into the contractors contract and will be part of the deliverables by the Contractor. Ketraco will supervise the implementation of the ESMP by the contractor and will include progress of the same in the quarterly progress reports to be shared with the Bank.

30. In case ancillary facilities are located within VMG areas, the guiding principles of the VGMP shall also apply to the contractor activities, in addition to the provisions of the respective RAP and the VGMP that will be implemented by Ketraco. The guiding principles include:

- a. Land for ancillary facilities will be acquired by the contractor on a willing seller-willing buyer basis, while ensuring that the full replacement cost principles of OP 4.12 are adhered to, or the current market value, whichever is higher.
- b. As proof of the willing seller-willing buyer approach which has embraced the full replacement cost requirements, the contractor will document and submit to Ketraco a report detailing the process of the land acquisition for ancillary facilities.
- c. In spite of the willing seller-willing buyer principle, the contractor will take care to ensure that the ancillary facilities do not cause harm to any neighboring households or communities living within the vicinity of the ancillary facility site. In this regard, the contractor will be required to prepare a RAP/ARAP as a mitigation measure for compensating any individuals, households or communities who may be harmed by the activities at the ancillary facilities site. In addition, the RAP/ARAP will spell out measures to be taken by the contractor to restore the ancillary site, especially borrow pits, waste disposal sites as well as workers camps.
- d. In case ancillary facilities are located within the VMG areas, these guiding principles will apply to the contractor activities in additions to the provisions of the RAP and the Vulnerable and Marginalized Group Plan (VMGP) that will be implemented by Ketraco.
- e. Ketraco will ensure that these guiding principles are adhered to by the contractor, and, as part of the contractual agreement the contractor will be bound to the requirements of this RPF.

2.0 LEGAL AND INSTITUTIONAL FRAMEWORK

31. Resettlement of PAPs will be carried out in harmony with: (i) the requirements of the World Bank’s OP 4.12 or the laws, regulations and guidelines for resettlement/land acquisition policy framework of the GoK, whichever is higher in ensuring that PAPs get compensation at full replacement cost (as defined in footnote 1). A comparison matrix between the applicable Kenyan laws and WB provisions is presented in Annex 1, while a summary of applicable Kenyan legislation is presented below.

2.1 Relevant National Legislative Framework

32. In the performance of its mandate, KETRACO shall adhere to the following legislation, rules, regulations, guiding principles and policies:

- i. The Constitution of Kenya, 2010;
- ii. The Energy Act, No. 12 of 2006;
- iii. The Prevention, Protection and Assistance to Internally Displaced Persons (IDPs) and Affected Communities Act, 2012;
- iv. The Land Act, No. 6 of 2012;
- v. The Environment and Land Court Act, 2012;
- vi. The Matrimonial Property Act, 2013;
- vii. The Physical Planning Act, Cap 286;
- viii. The Valuers Act, Cap 532;
- ix. The Environmental Management and Coordination Act (EMCA) revised 2015;
- x. The Local Authorities Act, Cap 265 Laws of Kenya;
- xi. The National Land policy, 2012;
- xii. National Land Commission Act, No.5 of 2012;
- xiii. The Land Registration Act, No.3 of 2012; and
- xiv. Law of Succession Act, Chapter 160.

2.1.1 The Constitution of Kenya

33. The CoK provisionally allows dispossession of a person’s property or of any interest therein, where:

- i. Deprivation is for a public purpose or where land is needed for a public interest;
- ii. The acquisition is carried out in accordance with the provisions of the Constitution and any Act of Parliament; and provided;
 - a. The persons affected receive “prompt payment in full, of just compensation” for loss of their interests in the property acquired; and
 - b. The persons affected by the loss of their property have unhindered right of access to a court of law [Article 40 Clause (3)]

34. The Constitution provides a discretionary right for “prompt payment in full, of just compensation” to “occupants in good faith of land compulsorily acquired under clause (3) of Article 40” who hold no title to the land. Clause (6) of Article 40, however, expressly curtails payment of compensation for any property that has been found to have been unlawfully acquired. Nevertheless, for KESIP, Ketraco will pay compensation at full replacement cost as defined by OP 4.12 (see footnote 1) prior to the start of construction activities, since the Constitution has not defined the “just compensation” or the duration within which “prompt payment in full” must be

made. In addition, all PAPs, including squatters, are eligible for compensation payment at full replacement cost of affected assets, plus transitional allowance as appropriate. Squatters are however not eligible for compensation payment for land, even under OP 4.12 (but may be entitled to housing or subsistence plots as part of resettlement assistance).

2.1.2 The Energy Act No. 12 of 2016

35. This Act laid the foundation for separation of generation from transmission and distribution of power in the electricity subsector and liberalization of procurement, distribution and pricing of oil products. In relation to acquisition of land, Section 54 enumerates the process KETRACO is to follow as a licensee with regards to compulsory acquisition of land:

- i. Where a licensee requires the compulsory acquisition of land for any of the purposes of a license, the licensee may apply to the Minister to acquire the land on his behalf;
- ii. Where the Minister, in consultation with the Commission, is satisfied that it is in the public interest to do so, he may acquire the land in accordance with the relevant laws; and;
- iii. Where land is acquired on behalf of the licensee under subsection (2), the licensee shall bear all the costs in relation thereto.

2.1.3 The Prevention, Protection and Assistance to Internally Displaced Persons and Affected Communities Act, 2012

36. The provisions of this Act are guided by the Bill of Rights under the CoK (2010). Section 5 of the Act lists development projects among the displacing factors and outlines involvement of the affected persons through awareness, sensitization, training and education on causes, impact, consequences and prevention measures. Section 6 of the Act provides that displacements and relocation from land required for a development project will only be justified by a compelling and overriding public interest.

37. The procedures to follow during relocation are listed under section 22 and include:
- i. Justification as to why the displacement is unavoidable and that there is no other feasible alternative;
 - ii. Seeking free and informed consent from the affected persons;
 - iii. Holding public hearing on project planning;
 - iv. Giving reasonable notice to allow the affected persons review and react to the displacement conditions; and
 - v. Displacement process should reflect respect to human rights.

38. Relocation of the affected persons should, according to section 22 of the Act, be guided by the following factors:

- i. Full information on the affected persons and ensuring their participation;
- ii. Identification of safe, adequate and habitable alternatives;
- iii. Availability of safety, nutrition, health and hygiene, as well as protection at the new location; and
- iv. Acceptability by the host communities in the new location where relocation is implemented.

2.1.4 The Land Act (No. 6 of 2012)

39. The Act provides the company with guidance on notification and due procedure for the actions mainly: (i) Acquisition of land with respect to wayleave (Section 144), power of the

Registrar in acquiring public right of way (Section 147); and (iii) Negotiations with landowners and compensation evaluation.

Acquisition of Land

40. The Act states that:

- (i) The creation of a wayleave in this Act shall be made by any State department, or the county government, or public authority or corporate body, to the Land Commission. The applicant (KETRACO) shall serve a notice to the Commission on:
 - a) All persons occupying land over which the proposed wayleave is to be created, including persons occupying land in accordance with customary pastoral rights;
 - b) The county government in whose area of jurisdiction land over which the proposed wayleave is to be created is located;
 - c) All persons in actual occupation of land in an urban and peri-urban area over which the proposed wayleave is to be created; and
 - d) Any other interested person.
- (ii) The Commission shall then publish the application along the route of the proposed wayleave calculated to bring the application clearly and in a comprehensible manner to the notice of all persons using land over which the proposed wayleave is likely to be created.
- (iii) The Commission shall after at least 90 days from the date of the serving of notices, consider all the information so received and all representations and objections made by any person served with a notice as indicated above and recommend to the Cabinet Secretary (CS) whether to:
 - a. appoint a public inquiry to give further consideration to the representations, and
 - b. refer the application to the county government for its opinion on whether to approve the application; or
 - c. initiate and facilitate negotiations between those persons who have made representations on the application and the applicant with a view to reaching a consensus on that application.
- (iv) If the Commission has proposed the creation of a public right of way of its own motion and representations have been made on that proposal, which are concerned with the matters other than the compensation payable for the use of the land for that public right of way, the Commission shall recommend to the CS, only that the CS exercises the powers to:
 - a. appoint a public inquiry to give further consideration to the representations; and
 - b. refer the application to the County Government for its opinion on whether to approve the application.
- (v) The CS shall then determine whether to create right of way after the outcome of:
 - a. the recommendations of the Commission;
 - b. the advice of the county government; or
 - c. the outcome of any negotiations initiated by the Commission.

41. The CS may, by order in the Gazette, create a public right of way under this section subject to any amendments, limitations and conditions, including conditions as to the costs of constructing and maintaining a public right of way, publicize in any manner which is calculated to bring it to the attention of people occupying and using land along the wayleave corridor. After gazettelement the information could further be transmitted to the public and/or the affected by way of public pronouncements, I.e. through radio, newspapers and public notices.

Power of the Registrar with respect to public right of way

42. When the CS has made an order to create a public right of way, the National Land Commission (NLC) shall cause all the necessary documents, plans, demarcations, surveys and compensation in respect of public right of way - subject to communal right of way of the route of that public right of way, to be delivered to the Registrar to enable him/her to exercise the powers under this section. On receipt of this information the Registrar, after the expiry of the time allowed to appeal against the order of the CS, shall take any necessary, desirable or prescribed action which the Registrar may consider necessary and desirable or which may be prescribed:

(a) to cause to be recorded, in such forms as may be prescribed, the route of the public right of way on any certificate of occupancy or other document of title held in any office of the land registry having reference to land over which the public right of way has been created; and

(b) to cause to be delivered to the Registrar all certificates of occupancy having reference to land over which the public right of way has been created and held by;

- persons occupying such land under such right of occupying; or
- by any lender of money secured by a charge or lien who is holding that certificate of occupancy as part of the security for that loan, so as to amend that certificate of occupancy by recording the route of the public right of way on that certificate of occupancy.

43. It is with regard to this section that KETRACO requires the PAPs along the affected route to produce all the necessary title documents and any pertinent accompanying documents required. This is to facilitate their onward transmission to the registrar for the registration of the wayleave trace.

Negotiations with landowners

44. This will occur under the following conditions.

- (i) If an agreement has been reached between the parties to any negotiations initiated by the Commission's recommendation and if the CS intends to create a public or right of way but not to accept any amendment, limitation or condition of that agreement, the CS shall refer the matter back to the parties for reconsideration and take no decision on the creation of that right of way until at least 30 days have elapsed from the date of the referral of the matter back to the parties or the parties have resubmitted their agreement, with or without amendments, to the CS whichever is the shorter period.
- (ii) Any person who makes any representation or objection to an application to create a public right of way, within six weeks after the order has been made, may appeal to the Court on a point of law against an order made by the CS but apart from such an appeal, an order of the CS shall not be questioned by way of judicial review or otherwise in any court.

- (iii) If the person entitled to compensation under this provision is unable to agree on the amount or method of payment of that compensation or if the person entitled to compensation is dissatisfied with the time taken to pay compensation, to make, negotiate or process an offer of compensation, that person may apply to the Court to determine the amount and method of payment of compensation and the Court in making any award may, make any additional costs and inconvenience incurred by the person entitled to compensation.
- (iv) Jurisdiction of Environment and Land Court: this court, which was established in the Environment and Land Court Act, is vested with exclusive jurisdiction to hear and determine disputes, actions and proceedings concerning land.

45. Compensation evaluation

- (i) Compensation is payable to any person for the use of land, of which the person is in lawful or actual occupation, with respect to a wayleave, in addition to any compensation for the use of land for any damage suffered in respect of trees, crops and buildings as shall, in cases of private land, be based on the value of the land as determined by a qualified valuer.
- (ii) Compensation relating to a wayleave shall not be paid to a public body unless there is a demonstrable interference of the use of the land by that public body.
- (iii) Damage caused as a result of the creation of a wayleave shall include any preliminary work undertaken in connection with surveying or determining the route of that wayleave, and whether the trees, crops or buildings so damaged were included in the route of the wayleave.
- (iv) The duty to pay compensation payable shall lie with KETRACO and shall be complied with promptly.
- (v) If the person entitled to compensation is unable to agree on the amount or method of payment of that compensation or if the person entitled to compensation is dissatisfied with the time taken to pay compensation, to make, negotiate or process an offer of compensation, that person may apply to the Court to determine the amount and method of payment of compensation and the Court in making any award may, make any additional costs and inconvenience incurred by the person entitled to compensation .
- (vi) Criteria to be applied in the payment of compensation is in accordance with KETRACO's Institutional framework.

2.1.5 The Environment and Land Court Act, 2012

46. The Act enacts Article 162(2) (b) of the CoK (2010); to establish a superior court to hear and determine disputes relating to the environment and the use and occupation of, and title to land, and to make provisions for its jurisdiction, functions and powers, and for connected purposes. The Court has power to hear and determine disputes relating to:

- (i) Environmental planning and protection, climate issues, land use planning, title, tenure, boundaries, rates, rents, valuations, mining, minerals and other natural resources;
- (ii) Compulsory acquisition of land;
- (iii) Land administration and management;
- (iv) Public, private and community land and contracts, choices in action or other instruments granting any enforceable interests in land; land administration and management; and any other dispute relating to the environment and land.

47. The Court shall be an important institution in case of grievances with regard to resettlement that cannot be solved through the proposed RAP grievance redress system.

2.1.6 The Valuers Act (Cap 532)

48. This Act provides for the registration of valuers and the regulation of the valuation profession and practice in Kenya. Clause 21 of Cap 532 prohibits any person who is not a registered valuer and whose name does not appear in the register to prepare and submit a valuation report. The importance of these provisions is that a valuation report prepared by a person or firm not registered under the provisions of Clause 21 is invalid and cannot be used for the basis of compensation.

2.1.7 The Matrimonial Property Act, 2013

49. The Act identifies the joint ownership of matrimonial property. Section 4 gives instances when a woman has the same right as a man with regard to property. Despite any other law, a married woman has the same rights as a married man. It provides for the equal status of spouses:

- (i) to acquire, administer, hold, control, use and dispose of property whether movable or immovable;
- (ii) to enter into a contract; and
- (iii) to sue and be sued in her own name.

50. Part III of the Act defines the meaning of matrimonial property. This Act will be applicable in developing the RAP/ARAP. Section 12 (2) of the Act makes special provisions relating to polygamous marriage as follows: “*A spouse in a monogamous marriage, or in the case of a polygamous marriage, the man and any of the man’s wives, have an interest in matrimonial property capable of protection by caveat, caution or otherwise under any law for the time being in force relating to the registration of title to land or of deeds*”. This law is also relevant because of the shared property rights by traders and cases of joint ownership that will be encountered during project planning and implementation.

2.1.8 Environmental Management and Coordination Act (Cap 387)

51. The EMCA is the only legislation that contains the broadest system of environmental and social risk management in Kenya. It has the main purpose of coordination and supervision of a wide range of environmental issues, which are contained in the regulations and guidelines. Section 3 of the Act highlights the General Principles (23) that guide its implementation. Every person in Kenya is entitled to a clean and healthy environment and has the duty to safeguard and enhance it. The Act is implemented through an institutional set up that includes the National Environment Council (NEC), National Environmental Management Authority (NEMA), Public Complaints Committee (PCC), National Environment Tribunal (NET) and the Board of Trustees for the Environment Trust Fund (ETF), among others. This is a key legislation in the undertaking of the RAP/ARAP for KESIP.

2.1.9 The Physical Planning Act, cap 286

52. Section 29 of this Act empowers the County Governments to reserve and maintain all land planned for open spaces, parks, markets, urban forests and green belts. It also allows for prohibition or control of the use and development of an area without proper cause.

53. Section 30 states that any person who carries out development without permission will be required to restore the land to its original condition. It also states that no other licensing authority

shall grant license for commercial or industrial use or occupation of any building without development permission granted by the respective County Authority.

2.1.10 The National Land Policy, 2012

54. The National Land Policy designates all land in Kenya as public, private (freehold or leasehold tenure), or community/trust land that is held, managed and used by a specific community. This land policy has thus been formulated to address the critical issues of land administration, access to land, land use planning, restitution of historical injustices, environmental degradation, conflicts.

2.1.11 The Land Registration Act NO.3 of 2012

55. This Act provides for the establishment of a land registry and for the appointment of a Chief Registrar of land and for the effect of registration an interest in land. All titles acquired by KETRACO are delivered to the specific land registries for registration of the wayleave interest that KETRACO acquires before being returned to the title owners. The Act provides for elaborate transfer and registration procedures of interests in land, including:

- i. The transfer documents to be presented at registration which include; copy of national identity card, PIN certificate, passport photos and, where applicable, a marriage certificate. These documents form part of KETRACO's documentation requirements for PAPs to facilitate the registration of the Grant of Easement/wayleave interest.
- ii. The process of execution of transfer documents stipulates that the documents must be executed and witnessed. The person executing the documents must be examined by the Chief Registrar of land unless where the Chief Registrar dispenses with such examination. The easement agreements drawn in KETRACO also require the above to be adhered to.
- iii. This Act, in respect to the RPF, also recognizes the jurisdiction of the Environment and Land Court established by the Environment and Land Court Act, 2011 No. 19 of 2011, on matters emanating from the Act, such as fraud or land disputes, among others.

2.1.12 The National Land Commission Act 2012

56. The purpose of the Act is to make further provisions as to the functions and powers of the NLC, qualifications and procedures for appointments to the Commission; to give effect to the objects and principles of devolved government in land management and administration. KETRACO adheres to the provisions of this Act.

2.1.13 The Law of Succession Act Chapter 160

57. Each community or society has its own set of rules although inheritance is a universal concept. In Kenya, the Law of Succession Act (LSA) is of general application, but other laws also apply, such as Islamic law and customary law, which have been exempted by the Act. Although the Hindu law has not been exempted by the Act, it still applies informally in practice. A uniform law has not been achieved because of the diversity of Kenyans. KETRACO adheres to this Act when dealing with unique instances of land inheritance. Every inimitable position with respect to land inheritance that KETRACO faces during the wayleave acquisition is guided by the numerous provisions of this Act.

2.2 Organisational and Implementation Arrangements

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

59. Component 2, which involves T-Line and substations subprojects to which this RPF applies will be under the administrative authority of the MoE, with KETRACO as the implementing agent. County governments in the respective project regions will also be involved.

60. In addition to being the implementing agency for Component 2, Ketraco will also be responsible for the implementation of the PPP feasibility study subcomponent of component 3 to be supported under the project. In preparing social instruments for the PPP subcomponent, Ketraco will be required to clearly describe the division of roles and responsibilities between the public sector and the potential private concessionaire under the PPP arrangements. The ToRs for the preparation of ESIA, RAPs, Social Assessment and VMGPs will be prepared in accordance with the WB Performance Standards applicable to PPP transactions (in line with OP 4.03) and will be submitted to the Bank for clearance before being adopted

61. KPLC will be responsible for implementation of Component 1 (access expansion and distribution network strengthening) and associated technical assistance activities under component 3.

62. The full list of stakeholders will be identified when subproject sites and impacts are known, and it is only then that roles will be clearly defined. Nevertheless, below is the tentative list of government stakeholders who will be involved in subproject implementation with regard to policy direction.

- i. Ministry of Finance;
- ii. Ministry of Environment and Natural Resources;
- iii. Ministry of Lands and Settlement (Physical Planning Department);
- iv. Ministry of Roads, Public Works and Housing;
- v. Ministry of Agriculture;
- vi. Ministry of Local Government; and
- vii. Provincial Administration.

63. The MoE is responsible for procuring resources from the National Treasury and other developmental partners for the overall project implementation. The Ministry is also responsible for coordinating the actions of the implementing agencies to ensure they are geared towards meeting the PDO. In this regard, KETRACO will look to the Ministry to provide oversight to ensure that the overall approach related to IP/VMG issues between KETRACO and KPLC is well coordinated.

64. Each transmission RAP will require that a detailed implementation process is put in place for the delivery of the entitlement package to ensure compliance with this RPF and to meet the objectives of OP 4.12 as set out in the RAP that will be prepared on the basis of this RPF. The strategy of implementing the RAP would include the delineation of roles and responsibilities of

organizations/institutions, as well as community groups, the procedures to be followed along with the support facilities available, and a timeframe for implementation of each of the activities.

65. Overall responsibility for KESIP implementation will be undertaken by the multi-expertise KESIP PIU at both the central and subproject levels. At the central level, the PIU will be headed the PIU Coordinator, who will be the link between the PIU and the Ketraco Management through the General Manager, Technical Services. The PIU Coordinator will be supported at the central level by the Social Safeguards Coordinator, the Environmental Safeguards Coordinator, the Land Survey Coordinator and the Project Engineer. At the central level, each of these positions will act as the Focal points for their respective dockets. This will the PIU decision-making team. This level of project implementation will further be supported by the staff responsible for communications, Accounts, legal and procurement.

66. With regard to the social aspects of RAP implementation, the Social Safeguards Coordinator, working under the supervision of the KESIP PIU Coordinator, will be supported at the central level by an overall Socio-Economist, and an overall Land Valuer, both of whom are critical for land/wayleave acquisition and who will be responsible for the social aspects of RAP implementation for all subprojects.

67. At the subproject level, Assistant Socio-Economist and Assistant Land Valuer will be deployed to each sub-project and will be responsible the social aspects of RAP implementation for their respective dockets.

68. At the community level, Community Liaison Officers and the Wayleave Assistants will be the links between Ketraco and the communities concerned. These positions will be filled by staff hired from the communities in which subprojects will be implemented. In particular, the Community Liaison Officer will be the link between Ketraco and the Community Resettlement Committee (CRC).

69. The implementation arrangements described above, and in Fig 1 below, is based on the anticipated need for the long list of sub-projects that include a number of substations and transmission lines. The actual staffing needs will be assessed based on the number of lines and substations that will ultimately be implemented under KESIP. A staffing plan with adequate resources for safeguards capacity will be agreed to with the Bank prior to implementation (this is a disbursement condition for the transmission component). Such a plan will include the concise number of additional positions/staff required for the efficient implementation of KESIP. The additional staffing will be supported under the technical assistance (component 3) of the project. In summary, the actual size of the PIU, its formation, its functions and terms of reference will be dependent on the extent of the land acquisition, challenges, the mix of T-Line and substations under the project, and whether or not subproject implementation will be in IP/VMG areas. .

70. This RPF has also made provisions for use of consultants to strengthen Ketraco's RAP implementation capacity should it be found that it is not necessary to hire additional full time staff under the project.

71. During implementation, the community through the offices of the National Government at the grassroots level (chiefs and assistant chiefs, supported by Village Elders) will be involved in

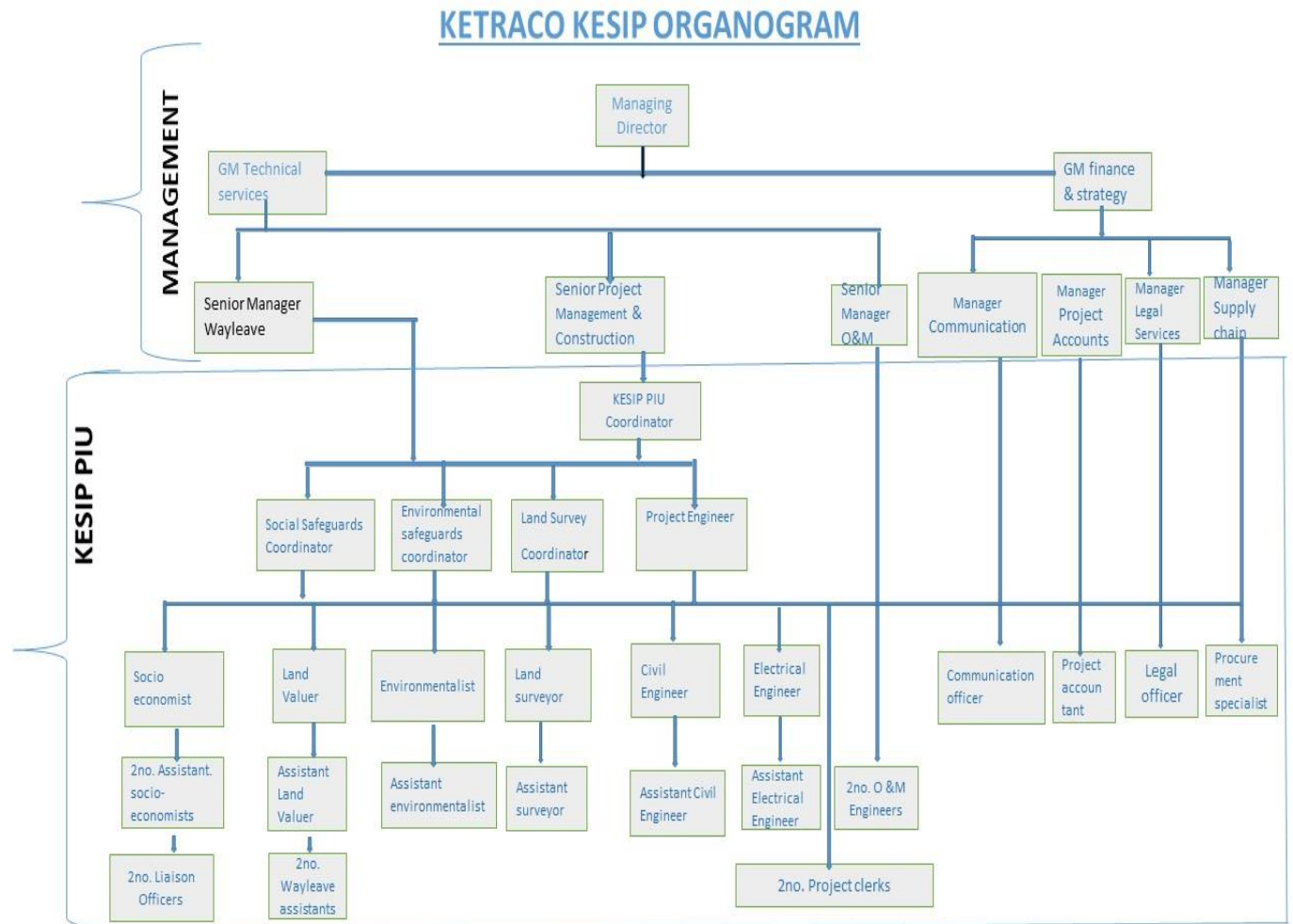
RAP implementation, especially in management of grievances. In this regard, Ketraco will sensitize and facilitate them to establish Community Resettlement Committees (CRCs).

2.2.1 KESIP PIU Organigram and Linkage to Ketraco Management

72.

The lower section of the organigram below shows the PIU staffing positions described above, that will be responsible for the implementation of KESIP. It also shows the linkage between the PIU to Management and reporting lines for the various PIU staff. The PIU staff responsible for social, environmental and land survey, Social Safeguards Coordinator, the Environmental Safeguards Coordinator and Land Survey Coordinator and who are in turn responsible for the day to day RAP implementation activities, all report to the PIU Coordinator, and functionally/technically to the Senior Manager, Wayleaves, who has the corporate responsibility for wayleaves acquisition. On his part, the PIU Coordinator reports to Senior Project Management and Construction. Both the Senior Manager Wayleave, and the Senior Project Management and Construction report to the General Manager, Technical Services.

Fig 1: RAP PIU Organigram and Linkage to Ketraco Management



73. The MoE will provide oversight and procure the necessary financial resources from the National Treasury that are adequate for the project implementation. The Board of Directors (BoD) will be responsible for policy approval while the Chief Executive Officer (CEO) will approve the finances and operations, and provide overall direction for the project. The KESIP PIU will be responsible for the day today project implementation activities. The roles of the technical staff involved in KESIP implementation are summarized in Table 1.

Table 1: Roles and responsibilities for KESIP implementation	
Coordination and Policy Roles	
MoE	-Provide adequate financing for RAP implementation through budgetary allocation -Overall project coordination and oversight through regular meetings with KETRACO and KPLC - Consolidation of progress reports from KETRACO & KPLC -Reporting to the World Bank
Ketraco Board of Directors	-Policy approval
Management and Decision-Making Roles and Responsibilities	

Ketraco CEO	<ul style="list-style-type: none"> -Approve finances and operations and ensure liaises with the MoE to ensure adequate budgetary allocation by the National Treasury for project activities -provides overall corporate oversight to ensure effective, efficient and timely implementation of all activities under the project
General Manager, Technical Services	<ul style="list-style-type: none"> -Supervise technical designs and operations -Approve technical works -Approval of social and environmental instruments (RPF/RAPs, VMGF/VMGP, ESMF/ESIA/ESMP) -Administration of technical staff -Bridge between the management and the technical team
General Manager, Finance	<ul style="list-style-type: none"> -Company's chief accounting officer -Authorize payments -Supervise accounting systems
Manager, Supply Chain	<ul style="list-style-type: none"> -Preparation of RFP documents for consultancy works -Key member of the tender committee -Supervise procurement procedures -Issue contracts
Senior Manager Legal services	<ul style="list-style-type: none"> -In charge of company's legal services -Supervise wayleave and land acquisition -Facilitate transfer of alternative land acquired for vulnerable project displaced persons (PDPs) -Draft contracts for outsourced RAP services and monitor the contract implementation -Promote amicable settlement of any disputes that may arise during the resettlement process -Facilitate the transfer of substation land to KETRACO -Register easements -Custodian of the company seal -Secretary to the board of directors
Manager Internal Auditor	<ul style="list-style-type: none"> -Audit company operations and systems -Implement the company's anti-corruption policy
PIU Roles and Responsibilities	
Procurement officer	In charge of procurement processes for the project
Project Engineer	<p>Has overall responsibility for the project, including:</p> <ul style="list-style-type: none"> -Ensuring timely preparation and implementation of the RAP prior to start of civil works <p>Prepare project progress reports</p> <ul style="list-style-type: none"> -Coordinate work during construction -Supervise contractors -Handle re-routings -Disseminate information to contractor
Project Accountant	<ul style="list-style-type: none"> -Process payments to consultants -Process payments to PAPs -Verify compensation details -Make the actual payments
Land Surveyors	<ul style="list-style-type: none"> -Draw mutations for land transfers -Ground trothing -Rerouting the line -Scaling of the trace for valuation -Supervise contracted surveyors

Land Economist	<ul style="list-style-type: none"> -Wayleaves acquisition -Valuation and Compensation -Resolving land related disputes -Negotiations over compensation
Socio-economist (assisted by two Assistant Socio-economists and two Community Liaison Officers) ⁷	<p>Responsible for all social safeguard activities of the project, including:</p> <ul style="list-style-type: none"> -Link between the PAPs and KETRACO Contact local administration (county and national government) and plans for sensitization meetings -Hold sensitization meetings and sensitize communities on the project -Handle the social component of the project -Prepare RFPs, RPFs and TOR for RAP -Prepare RAP for the project -Supervise RAP Consultants -Responsible for supporting the project Engineer in ensuring timely implementation of the RAP -Carry out a socio-economic survey of the project area -Oversee Resettlement.
Engineers	-In-charge of various engineering works – civil, electrical and mechanical
Environmental experts	<ul style="list-style-type: none"> -Preparation of EIAs -Acquisition of ESIA licenses -Implementation of Environmental Social Management Plans (ESMP) -Supervise consultants
Engineers, surveyors, land economist, socio-economist, environmental expert	Have joint responsibility for screening of projects
Support staff	-Support the project implementation process
Consultants	-Provide professional services - survey work, construction, valuation, design, wayleave acquisition, ESIA, RAP, among others
Liaison Officer	<ul style="list-style-type: none"> -Liases with the community -Acts as the link through Communication (in the local language) between KETRACO and the Community
Communication Officer	<ul style="list-style-type: none"> -Develops and coordinates the Corporate communication between KETRACO and the community -Coordinates Corporate Social Responsibilities -Coordinates Project notices and publications -In charge of complaints channeled through official corporate channels
Project Clerk	-Collates and Manages all data of the projects

⁷Currently, KETRACO has in-house trained staff who can undertake this work. However, due to the magnitude of work under KESIP, subject to the needs (which depends on the combination of lines and substations ultimately supported), an additional social safeguard specialist and two additional socio-economists will be procured under the project within the first six months of project effectiveness, if this will be necessary after subproject types, number and locations are known. If not, then the current internal capacity will be supported by consultants who will be sourced by the project to augment the team..

74. For each of the subprojects, Ketraco will put in place a system for ensuring that activities are developed and approved as needed, and expeditiously. Table 2 presents the decision-making responsibilities flow matrix that will be improved upon as the instruments requirements become clearer.

Table 2: Decision-Making Responsibilities for Specific Instruments

Activities	Who is responsible	Who approves
Appointment of PIU	General Manager Technical Services	General Manager Technical Services
Screening	Project Engineer	General Manager Technical Services
Subprojects	Project Implementation Team	General Manager Technical Services
Determination and development of screening tools and approval	Project Implementation Team (ESS Specialist)	General Manager Technical Services
Approval of budget and funding	Project Engineer	General Manager Technical Services
Obtaining World Bank, No Objection	Project Engineer	World Bank
Reporting to the world Bank	Project Engineer	General Manager Technical Services

2.3 Linking Implementation to Civil works

75. PAPs will need to be compensated in accordance with this RPF and the subproject-specific RAP(s) before project civil works begin. For activities involving land acquisition, loss of land, loss of access to land or restriction of access to resources, provisions will be made for compensation and for other resettlement assistance required for relocation and resettlement assistance to cushion PAPs against transitional hardships, prior to displacement as stipulated in this RPF. Assistance for transitional losses, or for PAPs who experience delayed payment for their assets, may be in the form of rental land or premises, or other appropriate transitional support as will be agreed between Ketraco and the PAP. Where applicable, transitional assistance may also include the provision and preparation of host resettlement sites with similar facilities available or made available in proximity to the affected area/plot.

76. Provisions for compensation include the following activities: disclosure of the general principles of compensation to the various affected communities where initial feedback will be received as to the general compensation principles as outlined in this RPF. This will be followed by PAP individual compensation option/package(s)' disclosure meetings, whereby letters of offer (offer agreements) will be given to PAPs for review and initial feedback as to acceptance of the various option/packages being offered and assistance to be provided. Afterwards, a date will be arranged for signing the letters of offer with each of the PAPs, and where cash compensation has been agreed, a cheque for 70% of the value will be awarded.

77. The letters of offer will provide details of the individual compensation amounts for land, structures and crops including disturbance allowance and uplift where appropriate. The additional support to be provided by KETRACO or its designate depending upon the criteria of the PAP and the package will also be agreed upon. Where cash is the main compensation package agreed, a 90 days' notice of access will be issued to the PAPs during which time the PAPs, depending upon the

PAP categorization and compensation package paid, must have vacated the wayleave trace/plot, removed all structures/material, etc. so that access for clearance and construction can commence.

78. A resettlement assistance will be offered in line with the World bank's OP 4.12 to cater for the transitional needs of the PAPs. Those PAPs who need assistance or opt for land-for-land package, access to their land and assets may be only gained after compensation has been promptly paid and resettlement sites and relocation assistance has been provided. KETRACO will provide to each PAP 70% of their allotted cash payment upfront to enable the PAP to make the necessary arrangements for relocating structures and/or vacating the plot. The final 30% of compensation will be paid once it is confirmed that the PAP has vacated the land and/or removed or relocated all structures. Special care will be taken by KETRACO to ensure vulnerable PAPs who need special assistance are identified and supported as appropriate. In this respect, PAPs who will be moving from their primary residences will be assessed with a view to identifying anyone among them who may need additional support as described in section 4.4.

79. Specific details on resettlement and compensation activities will be provided in the implementation schedule of the RAP and will include target dates for start and completion of each activity and how they interact with civil works (with cognizance of the 90-day notice). Dates when access and/or possession of the affected land, as per the offer agreement, and showing links between the activities comprising the RAP and those comprising the implementation of the project will be coordinated. Scheduling and co-ordination of the RAP activities taking cognizance of the civil works program will ensure that the PAPs are not economically or physically displaced before compensation is paid and before project land clearance, pegging or civil activity can begin. For example, with regard to agricultural land, it is not only essential that replacement land is provided before construction can begin, but care should also be given to making it available before the start of the planting season where feasible. However, in case of a missed crop cycle, the PAP will receive a compensation value.

3.0 PROJECT IMPLEMENTATION

80. The proposed project is aligned with the WB's Kenya Country Partnership Strategy (CPS) FY2014-2018, whose overarching goal is sustainable reduction in poverty and increased shared prosperity. It will directly contribute to the creation of an enabling environment for competitiveness and sustainability through development of power infrastructure needed for expansion of electricity access for households, and supply of reliable and efficient power supply, all of which are vital for promoting and sustaining economic growth and reducing poverty. By expanding the capacity of the transmission and distribution network and improving the quality of electricity supply to several counties of Kenya, the project will contribute to building consistency and equity, which is part of Kenya's devolution agenda.

3.1 Transmission Component

3.1.1 Substations

81. Different sizes of substations will be constructed or upgraded through this project. The substations will require a minimum of 5 acres of land each. Equipment in the substations will include transformers, bus-bars, circuit breakers, isolators and switchgears. Civil works for new substations will include the removal of the topsoil and filling with material before preparing the transformer plinth and the foundation for equipment bases. Other works will include the construction of foundations for support structures, earthworks and ground levelling, access and internal road works and drainage for storm and pool water. Fencing of the area, both temporary and permanent, often occurs to secure the compound prior to the commencement of the construction works and when completed. KETRACO will acquire land on a willing-seller-willing-buyer basis – whether such land is privately or communally owned - or lease land from other government agencies for substation development depending on the circumstances and ownership of the land. Substation land is outrightly purchased, including all the developments on the purchased land, in case there are assets within the parcel from which the community derives some benefits, for example, cultural center, roads, etc. KETRACO will accommodate such in the project design where possible, if not alternative sites will be provided to the community to re-establish such facilities. Detailed description of land acquisition for substations is in section 3.2.1

3.1.2 Power Lines

82. One of KETRACO's mandates is to construct high voltage transmission lines in the range 132kV to 400kV and above with the following wayleave traces:

- (i) 132 kV – requires 30m i.e. 15m on either side from the center line;
- (ii) 220 kV – requires 40m i.e. 20m on either side;
- (iii) 400 kV – requires 60m i.e. 30m on either side (500DC Line); and
- (iv) 500HVDC – required 60m i.e. 30m on either side.

3.2 Route Design and Acquisition Overview

3.2.1 Substations

83. KETRACO will identify the potential sites and advertise their land size requirements in the local dailies. Interested registered individuals or customary landowners will tender and undergo an evaluation. Advertisement in the local dailies ensures transparency of the acquisition process while the tendering process ensures that only willing sellers come forward, thereby eliminating

any fear of expropriation. Further, a scoping exercise will be carried out to determine the best alternatives during which several options will be considered. Individuals whose land is selected will be approached and negotiations for purchase will then occur based on the current market values or full replacement cost as outlined in OP 4.12, whichever is higher. There will be due diligence done to determine ownership of such sites and to affirm that there are no other rights-holders and users of the same. The due diligence will include verification of legal documents (for private or public titled land) and through County Physical Development Plans (PDPs) for unregistered community land held in trust for the community by County Government, or for land that has been set aside by the County Government for future development but is yet to be adjudicated. In addition, there will be interviews with family members and consultations with the local administrators. Only land without any encumbrances will be purchased for substation construction under the project.

84. If the plot belongs to the county government, KETRACO will make a formal request to them. Upon approval, the county government will provide the allotment letter while the national government will grant the land through the Commissioner of Lands, as the case may be. In case of unregistered community land, including IP/VMG land, stakeholder identification to affirm ownership will be undertaken through transparent traditional methods whereby community elders will be asked to identify all communities or clans with claims to the land. This will be followed by public consultations using the free, prior and informed consultations principles to ensure that all claimants, including seasonal users (if applicable) are consulted and their views taken on board. For such consultations to be effective and meaningful, adequate notice - of at least two weeks – for the intended public consultations will be given through appropriate channels such as local administrators, traditional community leaders and places of worship to enable all interested stakeholders to participate. For VMGs the consultation process will be in accordance with the VMGF.

85. Community land is land that has neither been adjudicated nor titled. Generally, it is owned and used communally by those who claim ownership of it traditionally through ancestry or based on clannism or other such traditional claims. In Kenya, such lands are generally overwhelmingly occupied by pastoralist communities who qualify as IPs under the OP 4.10 criteria. (a VMGF has been prepared to cater for the OP 4.10 requirements). Currently, all community land in Kenya is unregistered and is held in trust by the respective county governments. To be able to transact on communally owned land, including donation and or sale, the Community Land Act, 2016, requires that claimants over such land should register themselves as the bonafide owners of the land claimed. The Act clearly describes the requirements for registration, including the requisite community structures that must be in place, and the criteria for transacting on such land. The Act further states that the respective County Government “*shall not sell, dispose, transfer or convert for private purpose or in any way dispose of unregistered community land that it is holding in trust on behalf of the community for which it held*”. Despite prohibiting the county government from undertaking transactions on community land, the Act empowers the county governments to “*hold in trust on behalf of a community any monies payable as compensation for compulsory acquisition of any unregistered community land*”; and, “*...to promptly release to the community all such monies payable for compulsory acquisition of unregistered community land*” upon the registration of the community.

86. For acquisition of community/VMGs land for substations, Ketraco will undertake free, prior and informed consultations with the owners of the unregistered community land with a view

to obtaining their broad support for the purchase of their land for purposes of constructing a substation. They will also be sensitized on the provisions of the Community Land Act 2016 which stipulates that cash compensation for such land will be paid to the County Government, which will in turn hold it on behalf of the community in an interest bearing account until such a time that the community land is registered, after which the County Government will remit all the money and interest earned to the registered community land owners. Following the sensitization, Ketraco will invite the community to choose between cash compensation as per the Community Land Act 2016, or in-kind compensation for community projects of their choice that is acceptable to all affected community members, as encouraged by the World Bank under OP 4.12. Like private (titled land), community land for substations will be purchased according to current market value or full replacement cost, whichever is higher, on a willing-buyer-willing-seller basis, except that in the case of unregistered community land, if the affected community chooses cash compensation, the full replacement cost amount will be deposited in an interest earning account held for them by the county government. The community will be made aware of the fact that Ketraco has no control over such an account, or the duration it might take for the community to initiate the registration process for their land since this depends on when the national and county governments are able to put in place the apparatus for such registration.

87. In case of land belonging to other government agencies, KETRACO will approach its sister companies/agencies/parastatals for land where feasible. This will only be done on a willing seller, willing buyer basis, basis through which the government agency will be compensated for any assets on the land that Ketraco wishes to have for a substation. Likewise, any tenants or even squatters will be compensated in line with this framework. KETRACO, through its internal resources following survey and valuation assessment procedures, will present a proposal to the land owner(s) based on the guiding principles and compensation entitlements as defined in this framework.

88. *Identification of substation sites:* On Ketraco's part, the identification of substation sites will be undertaken by a multi-disciplinary team that will be appointed to conduct scoping. This team will include social specialists, environmental specialists, surveyors, engineers and land valuers. The team will give a scoping report which will form the basis for acquisition, using existing Kenyan procurement laws that guide the Willing Buyer Willing Seller process. In all cases, the private or community land owners will have equal opportunity to negotiate fair prices for their land parcels.

89. *Documentation of the substation land acquisition process:* In the first place, the technical team responsible for substation site identification prepares a scoping report that is presented to the management for consideration. After management approval is received, the PIU initiates the acquisition process through the advertisement and tendering that has been described in para 72 above followed by a due diligence report on each potential site before the willing-seller willing-buyer negotiations can be initiated. Once negotiations are complete, a purchase agreement is prepared by the legal department, which includes all conditions of transferring the parcel to Ketraco.

90. *Third party impacts:* ESIA's will be conducted for acquired sites through which environmental and social impacts will be identified and documented, with the final report capturing both the stakeholder engagement process and outcomes, and mitigation measures for the

identified impacts, thus ensuring that any third-party impacts are taken care of. During implementation, a GRM will be developed in consultation with potential PAPs and groups with a view to resolving complaints. Similarly, a monitoring mechanism will be put in place to ensure full implementation of the agreed mitigating measures.

91. *Grievance redress in relation to substation site acquisition:* Any parties that may feel aggrieved by Ketraco's decision to either purchase or not purchase a given piece of land after the necessary due diligence is entitled to seek redress either from the Land and Environment Courts or the other legal justice systems that are available in the country. While Ketraco will purchase substation sites on a willing-seller-willing-buyer basis, potential sellers whose land may not have been purchased by Ketraco for whatever reason may feel aggrieved by such a decision. On the other hand, a party may feel aggrieved for whatever reason by Ketraco's decision to purchase a given parcel after the necessary due diligence. In both cases, such parties are entitled to legal or administrative redress.

92. For unregistered community/VMG land, Ketraco will purchase land for substations only after express agreement with the concerned community/VMGs. Such an agreement will be arrived at through the free prior and informed consultations with the concerned communities/VMGs. Without full agreement of the VMGs, Ketraco will not purchase such land, but will look for alternative land elsewhere, even if still within the VMGs area. In addition, Ketraco and the VMGs will work together through the free, prior and informed consultations process to establish a culturally appropriate mechanism for resolving all land and other project related disputes.

3.2.2 Wayleave acquisition

93. For the construction of transmission lines, KETRACO's policy is to avoid interfering with existing structures and to minimize acquisition of land to the extent possible. With this premise, it is assumed that the majority of land-take will amount to a wayleave encumbrance which will be registered on the land title deed. The encumbrances will include restricted access and prohibition on construction of buildings and farming, especially certain cadres of trees. Compensation for restrictions and prohibitions will be undertaken as discussed in paragraph 28 below.

3.2.3 Power lines

94. It is KETRACO's policy to avoid interfering with existing structures and minimize acquisition of land to the extent possible. With this premise, it is assumed that the majority of land-take will amount to a wayleave encumbrance which will be registered on the land title deed. The encumbrance will include right of way and restricted access along with building and farming prohibitions.

95. A route reconnaissance survey would first be undertaken, by KETRACO or commissioned consultants, to identify the shortest and most cost-effective route(s) taking cognizance of the social and environmental impacts. Following assessment of the identified alternative wayleave route alignments, an optimum route will be established in accordance with the policy and procedures contained herein for further development.

96. The development feasibility process will entail consultative meetings between KETRACO staff, local communities and local administration. During these meetings, KETRACO will

formally request for permission to survey the area of land and plots falling within the wayleave trace. Once this is agreed upon, a land survey will be commissioned, and the surveyor will move along the route taking detailed topographical profiles of the land and placing pegs where the angle towers are to be located as well as soil sampling for foundation design. The surveyor will then prepare a cadastral map of the route showing the plot numbers, ownership, parcel size and affected area of the individual parcels, as well as the position of the towers.

97. KETRACO's legal department will prepare wayleave agreements of specific affected plots along the proposed route. In addition, the department will undertake title searches at the various land registry offices to enable identification and verification of those parcels of land held under the registered titles. Parcels of land which are unregistered, sub-divided, trust land and/or wayleave corridors in existence or defined for future development, as well as natural sensitive habitats, will be identified through the government/county administrative authorities, clan elders, village elders or chiefs and public notifications in order to inform the PAPs occupying the land that the proposed transmission line will traverse their property, and in the interest of the public development request access and entry to the land for survey and valuation. In addition, where land is unregistered or held in trust, all users, including seasonal users of such land are identified, impacts on them analyzed and compensation or other mitigation measures provided as appropriate.

98. The landowner, through this agreement and payment of compensation, will grant KETRACO and/or its designated assignees the Right of Way (RoW) to place towers on or string cables over/under his/her land and commit to adhere to the encumbrance requirements. These include not growing vegetation that could reach greater than 12 feet high within the wayleave trace. KETRACO will NOT acquire ownership of the land through this right of access/wayleave easement/agreement but will register an encumbrance upon the land.

99. KETRACO will also consult with other relevant institutions such as Telkom Kenya, county governments, Kenya Civil Aviation Authority (KCAA), Kenya Pipeline Company (KPC), Kenya Ports Authority (KPA), Department of Defense, Kenya Wildlife Service (KWS), Kenya Forestry Service (KFS) and Ministry of Public Works and Housing to ensure that the proposal is in accord with other existing and proposed developments.

3.3.4 Ancillary facilities

100. The transmission component of KESIP will have ancillary facilities such as worker camps, borrow pits and waste disposal during the construction phase of the subprojects. These will be necessary to facilitate the smooth implementation of the subprojects by the contractor. Guidance on addressing impacts related to these ancillary facilities have been covered in the ESMF, which will guide the Environmental and Social Impact Assessment. The findings of the ESIA will be summarized into the ESMP which will describe the measures that are required to mitigate impacts from ancillary facilities. As mitigation of impacts from ancillary facilities will be the responsibility of the contractor, the ESMP will be annexed into the contractors contract and will be part of the deliverables by the Contractor. Ketraco will supervise the implementation of the ESMP by the contractor and will include progress of the same in the quarterly progress reports to be shared with the Bank.

101. In case ancillary facilities are located within VMG areas, the guiding principles of the VGMP shall also apply to the contractor activities, in addition to the provisions of the respective RAP and the VGMP that will be implemented by Ketraco. These include the following:

- a. Land for ancillary facilities will be acquired by the contractor on a willing seller-willing buyer basis, while ensuring that the full replacement cost principles of OP4.12 are adhered to.
- b. As proof of the willing seller-willing buyer approach, which has embraced the full replacement cost requirements, the contractor will document and submit to Ketraco a report detailing the process of the land acquisition for ancillary facilities
- c. In spite of the willing seller-willing buyer principle, the contractor will take care to ensure that the ancillary facilities do not cause harm to any neighboring households or communities living within the vicinity of the ancillary facility site. In this regard, the contractor will be required to prepare a RAP/ARAP as a mitigation measure for compensating any individuals, households or communities who may be harmed by the activities at the ancillary facilities site. In addition, the RAP/ARAP will spell out measures to be taken by the contractor to restore the ancillary site, especially borrow pits, waste disposal sites as well as workers camps.
- d. In case ancillary facilities are located within the VMG areas, these guiding principles will apply to the contractor activities in additions to the provisions of the RAP and the VMGP that will be implemented by Ketraco.
- e. Ketraco will ensure that these principles are adhered to by the contractor, and as part of the contractual agreement, the contractor will be bound to the requirements of this RPF.

3.3 Resettlement of PAPs

3.3.1 Specific Objectives

102. The objectives of resettlement planning are to ensure that:

- i. Involuntary resettlement and land acquisition will be avoided where feasible, or minimized, exploring all viable alternatives to the design of the subprojects. Minimizing resettlement impacts is embedded in the project preparation processes right from project inception, design and implementation. In this regard, once a subproject is screened and it is noted that it might have adverse impacts on people, especially if it would result in involuntary land take leading to physical or economic displacement, the first option for Ketraco will be to explore an alternative wayleave route through which the physical and/or economic displacement can be avoided. The other course of action will be to design the project in such a manner as to either avoid or minimize involuntary resettlement;
- ii. Where involuntary resettlement and land acquisition is unavoidable, resettlement and compensation activities will be conceived and executed. This shall entail full compensation at current replacement value for loss of use of land, structures and crop/tree damage. The RAP that would be prepared for the project in accordance with this RPF would present an entitlement matrix which would describe the various PAPs categories and detail the compensation measures that are due to each category. Where the project impacts VMGs, a VMGP would be prepared in accordance with the VGMP that has been prepared for this project, in addition to the RAP, to ensure the VMGs receive culturally appropriate benefits under the

project. Proposals on management of specific social impacts and risks are – whether related to OP 4.12 or OP 4.10 are discussed at PIU level and mitigated in accordance with the provisions made in the RAP or VMGP as appropriate.

- iii. Displaced and compensated people will be assisted in their efforts to improve their livelihoods and standards of living where they are affected appreciably or at least to restore them, in real terms, to pre-displacement levels or to levels prevailing prior to the beginning of project implementation, whichever is higher.

3.3.2 Project Affected Persons

103. The PAPs comprise those people (land owners and/or non-owners) who will be directly or indirectly affected both socially and economically by the proposed T-Line, substations and other associated subproject activities, as a result of the involuntary taking of land and other assets where they are affected resulting in:

- i. Relocation or loss of housing and/or shelter;
- ii. Loss of assets or loss of full access to assets; or
- iii. Loss of income or means of livelihood irrespective of the need for physical relocation.

3.3.3 Project Implementation Unit (PIU)

104. The PIU will manage the RAP process. The resettlement process shall entail the following:

- i. Sensitization of all stakeholders and on-going community engagement;
- ii. Land survey;
- iii. Socio-economic survey of all PAPs (including census and asset inventory);
- iv. Establishment of eligibility for compensation;
- v. Issuance of cut-off date;
- vi. Valuation of loss of use of land, structures and crops/trees by an independent valuer, based on current market value or full replacement cost, including all transaction costs;
- vii. Offer compensation options – including cash and resettlement alternatives;
- viii. Land acquisition;
- ix. Delivery of prompt compensation/resettlement, including disturbance allowance for the affected persons and moving assistance for all PAPs; and
- x. Grievance mechanism to handle all emerging complaints and grievances through the project period, from inception to project closure; and
- xi. Monitoring and evaluation (M&E).

3.4 Principles, Procedures and Processes Governing RAP Preparation and Implementation

105. In accordance with this framework, the preparation of a project RAP will be triggered when a wayleave encumbrance and/or land acquisition necessitates involuntary resettlement, whereby a physical piece of land is required for the substation/wayleave and people may be affected because they are cultivating on that land, have structures on the land, use the land for water and grazing of animals or otherwise access the land economically, spiritually or any other way which may not be possible during and after the project is implemented.

106. Where involuntary resettlement is unavoidable, the development of a RAP will be required. The RAP will be prepared in accordance to this RPF and will entail the following processes:

- i. Identification of project social impacts and affected populations - detailed socio-economic survey and census will be conducted in order to identify eligible persons and their entitlements, key issues faced in terms of land acquisition and compensation, and options and strategies for minimizing impacts on current land use activities or cultural heritage;
- ii. An inventory and valuation of assets;
- iii. A legal framework for land acquisition and compensation;
- iv. A compensation framework that will outline the land acquisition procedures/encumbrance and compensation processes, options available, eligibility and entitlement;
- v. A description of resettlement assistance and restoration of livelihood activities where PAPs are affected
- vi. A detailed budget providing costs for each of the RAP activities and resources as well as specific rates for compensation of loss of assets and the methodology of how these values were derived;
- vii. A detailed implementation schedule including public consultation program, valuation and socio-economic surveys, cut-off date, group compensation options, disclosure, individual delivery of the entitlement compensation package, offer notice period and agreement finalization date, etc.;
- viii. A description of organizational roles and responsibilities;
- ix. A framework for public consultation, participation, and development planning including community engagement strategy;
- x. A description of provisions for redress of grievances; and
- xi. A framework for M&E and reporting.

3.4.1 Socio-Economic Survey

107. There would be need to conduct a census to identify the persons who will be affected by the project to determine who is eligible for assistance and benefits, determine levels of asset loss (i.e. land, structures or crops/trees) and assign economic values to them. To effectively do this, a socio-economic survey will be undertaken, which will coincide with an inventory of all assets for PAPs (see Annex 2 - Socio-Economic Survey Form).

108. The socio-economic survey process will involve a review of tenure documents owned by occupants, and interviews with individuals, households and groups in the affected area(s). Furthermore, KETRACO (or its designated consultant) will hold discussions with the county government, National Land Commission (NLC) and Ministry of Lands and Settlement, which are the agencies concerned with land ownership and management.

109. Resettlement plans would be based on recent information about the scale and impact of resettlement on the displaced population. In addition, to documenting standard household characteristics, the socio-economic survey will describe:

- i. The magnitude of displacement;
- ii. Information on the full resource base of the affected community;
- iii. Extent to which the groups will experience total or partial loss of assets;
- iv. Public infrastructure and social services that will be affected;
- v. Formal and informal institutions (such as community organizations, ritual groups, etc.) that could assist with designing and implementing the resettlement program; and

- vi. Patterns of group and individual livelihood strategies and how these would be affected by resettlement.

110. An electronic database will be developed to store all socio-economic data collected during the survey. Each PAP (rights holders, occupants and users) within the parcels of land to be acquired/encumbered for the project will be given a unique identification number that will grant eligibility to the various compensation options that will be developed. Photographs of PAPs, their national identification (ID) numbers, unique identifiers and a list of their assets will be documented to supplement identification and enable transparency with respect to material assets. GIS will be used to plot the land area on a map for ease of reference.

111. The principles of compensation/resettlement will be triggered wherever there will be land acquisition (or limitation of use) and adverse social impacts. For this project, should the socio-economic survey findings reveal that more than 200 PAPs are affected, a full RAP will be prepared whereas for fewer than 200 PAPs, an ARAP study will be undertaken unless vulnerability or other complexity factors are present, and a RAP is necessary.

3.4.2 PAPs Census and Asset Inventory

112. The process for conducting the census and collecting an asset inventory will include:
- i. Provision of the results of the census, PAP/project affected household (PAH) socio-demographic survey, assets inventories, natural resource assessments, and socio-economic surveys;
 - ii. Identification of all categories of impacts and people affected;
 - iii. A summary document on the consultations on the results of the various surveys with PAPs; and
 - iv. Description of the need for updates of census, assets inventories, resource assessments, and socio-economic surveys, if necessary, as part of RAP implementation and M&E.

3.4.3 Eligibility Criteria for PAPs and Assets Valuation Approaches

113. Eligible PAPs may be classified as follows:
- i. Those who have formal legal rights to land or other affected assets, including customary and traditional rights recognized under the laws of Kenya;
 - ii. 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, (for instance unregistered community land held in trust for them by the county governments and registered group ranches) provided that such claims are recognized under the laws of Kenya or become recognized through an identified process, identified in (and supported by) the resettlement plan; and
 - iii. Those who have no recognizable legal right or claim to the land they are occupying. These include squatters on titled private land or on public land including road/railway reserves, etc. as well as squatters on community land held in trust by the county governments but who have no recognizable claim to such land, as well as any squatters on group ranches without recognizable membership to the ranches.

114. All PAPs who are eligible for compensation under any of the three eligibility criteria, including unregistered community lands and squatters, will be compensated for all their eligibility entitlements, especially land, prior to start of works in accordance with the provisions of this RPF

and the RAP that will be prepared for the project on the basis of this RPF. In this regard, persons covered in (i) and (ii) above will be provided compensation for the land lost and other assets, including trees and crops at full replacement cost in line with the provisions of OP 4.12. In addition, a resettlement assistance based on the provisions of OP 4.12 will be provided to cushion them against any transitional shocks. Other transitional assistance, e.g. to vulnerable PAPs, will be considered on a case by case basis depending on the nature of impact and level of vulnerability. PAPs covered under (iii) will be compensated for assets lost and offered equal resettlement assistance as other PAPs to cushion them against transitional hardships, but they will not be compensated for land. The scope of transitional assistance, including for squatters as defined by OP 4.12, may consist of land, other assets, cash, employment, and so on, as appropriate.

115. In the case of unregistered community land held in trust for the community by the County Government, the community will be given the option between in-kind compensation as provided under OP 4.12 or cash compensation as provided under the Community Land Act, 2016. Should they choose cash compensation, then the provisions of the Community Land Act, 2016, will apply and the community will be compensated for the affected parcel in accordance with the Act. In this regard, Ketraco will undertake free, prior and informed consultations with the concerned community/VMGs who own the unregistered community land both to make them aware of the need for their land under the project – whether for substations or wayleave - and to secure their broad support for the project. In addition, they will be sensitized on the provisions of the Community Land Act 2016 which stipulates that cash compensation for such land will be paid to the County Government, which will hold it on behalf of the community in a special interest-bearing account until such a time that the community land is registered, after which the County Government will remit the compensation money and interest earned to the registered community. (See executive Summary paras 28-29). In addition, Ketraco will invite the community to explore the possibility of land for-land and in-kind compensation in terms of priority community projects of their choice that are beneficial to all PAPs. However, should the Community Land Act not be operational⁸ at the time of RAP implementation, or if it will be operational but is not in conformity with the requirements of OP 4.12 for compensation at full replacement cost, the provisions of OP 4.12 will guide the compensation for unregistered community land. This is because Ketraco has no control over when all the required mechanisms and institutional arrangements for registering community land will be established (by the national and county governments) and can therefore not set a time limit for this under the project. PAPs who experience transitional losses as a result of delayed compensation payments or specific losses during the transition period, including PAPs waiting for registration of community lands (because the concerned authorities have not put in place mechanisms to enable PAPs register their land), will be compensated for those losses and/or provided with temporary support to avoid hardships, such as rental land or premises, or other appropriate transitional support as agreed with such PAPs in conformance with the provisions of OP4.12.

116. Compensation for community land where the affected PAPs or households are considered PDPs may entail discussion with the county governments – which holds such land in trust for the community – in consultation with the affected community - to identify land in an area that is close to the affected parcel, where the project displaced persons (PDPs) can be relocated, especially if deemed vulnerable. Should cash compensation be the preferred option in such a case, then Ketraco will ensure that cash compensation levels are sufficient to replace the lost land and other assets at

⁸ The Community Land Act is not yet operational

full replacement cost as outlined in the OP 4.12. The community that claims ownership of such unregistered land will however be sensitized to the provisions of the Community Act, as well as the option of in-kind compensations. If these communities include VMGs, consultation regarding land acquisitions and compensation and monitoring of the resulting agreed measures will also follow the requirements of the VMGF.

117. All three categories of PAPs will be provided compensation for loss of assets and resettlement assistance as prescribed by OP 4.12. Where PAPs' primary residence is affected and/or PAP/PAH is vulnerable, additional assistance may be given in consultations with them, to further cater for their transitional needs. In addition, livelihood restoration will be a key factor under the project. In this regard, special attention will be given to PAPs who lose their sources of livelihoods, including non-owners and the vulnerable persons in the above categories. In such cases, consideration will be paid to non-owners and vulnerable persons by identifying their needs from the socio-economic and baseline studies undertaken as part of the RAP process, and offering them assistance as appropriate, in line with provisions of OP 4.12.

118. The groups should be individually consulted and given opportunities to participate in the resettlement decision-making process, as well as project activities. Consultation will be held with these groups to ensure that resulting resettlement and compensation improves their pre-project livelihood with preference going towards their resettlement in the vicinity of their lost land or livelihood asset. The RAPs would be designed to ensure special attention is paid to the monitoring of the resettlement process to ensure that pre-project livelihoods are indeed improved upon.

119. Under KESIP, resettlement assistance will be provided to PAPs in all categories who will lose their primary residence and livelihoods, including land or housing, as needed to restore livelihoods and address vulnerability. Table 5 makes further provisions for addressing the needs of vulnerable PAPs who will be affected by the project.

120. As a subset of the resettlement process, Ketraco will work with PAPs to establish an acceptable project level GRM as described in section 6.2 with an assurance and decisions concerning their grievances and complaints will be made in the shortest possible time.

121. Eligibility may be claimed collectively, for example, as a community or religious group and does not necessarily have to be individuals or families. A formal agreement and transparency of the approval process will be essential for collective group eligibility. KETRACO, along with the county administration and community leaders, will ensure that the eligibility rights of all, and in particular those deemed vulnerable, are upheld.

122. In addition, notice of a cut-off date will be posted both in the local media and at appropriate locations within the footprint of the project. In accordance with good practices and the community engagement plan, this notice must be published informing communities and PAPs of the cut-off date for compensation eligibility. Establishing this cut-off date is essential in the process, as new inhabitants coming to the project affected areas after the cut-off date will not be considered for compensation. The eligibility cut-off date should be set immediately following the socio-economic survey and PAPs and assets census, which is contemporaneous with valuation of assets.

123. If the PDP opts for cash compensation, the receiver should be encouraged to operate through a joint account in the name of both or group of entitled persons and his or her spouse,

unless the person is divorced, separated or widowed. Following completion of a full census and household surveys, the entitlement matrix (outlined in Table 4 further below) will be elaborated accordingly for each project.

124. In summary, those eligible for compensation under the project may fall within any of the following categories: (i) asset owner; (ii) business tenant; (iii) residential tenant; (iv) squatter (v) resident employees, (vi) workers (vii) resource users. Encroachers, i.e., those who come after cut-off date, will not be eligible for compensation or other resettlement measures provided by the project.

3.5 Potential Positive and Negative Impacts of the Project

125. There is a likelihood of displacement of persons along the transmission corridors. It is expected that the properties/assets affected during wayleave acquisition for the construction of the T-Lines and the substations will be fairly and promptly compensated. The subprojects are likely to have two categories of effects: permanent; and temporary. Permanent effects will result in a complete loss of use of property, vegetation, or land by the PAPs as a result of the subproject activities. This is likely to occur where permanent installations are established. Temporary effects will result in an interruption in the current use of property or land by the affected persons because of the subproject activities. This is likely to occur during, excavations for tower foundations construction of the substations, repeater stations, access and safety zones.

126. The potential positive social impacts from KESIP will include increased opportunities for employment and wealth creation, upscaling of electricity access to the poor, improved standard of living and increased revenues for the PAPs, host communities and the country at large. Attention will be paid to the vulnerable and marginalized groups (VMGs) to ensure that they accrue direct benefits from the project. Concerning employment creation, KETRACO is an equal opportunity employer. Technical skills will be subjected to fair and competitive government employment regulations and procedures. For non-skilled labor, KETRACO will require the contractor to give priority to the affected communities, with preferential treatment given to PAPs from vulnerable households. Effective engagement and selection procedures will be shared for full participation of PAPs in all project activities, including employment. Criteria for the selection of vulnerable households will also be agreed with the PAPs to avoid any complaints or feelings of favoritism. Similarly, depending on the nature of approved materials for construction, the contractor will be required to maximize opportunities for locally available materials without compromising on the standards of works so as to enable the local communities benefit from this income opportunity. It is to be noted however that employment and material provision are only temporary sources of income that will run for the duration of the construction process. As indicated in section 4.4, livelihood restoration opportunities will be considered for vulnerable PAPs.

127. The potential negative environmental and social impacts from the project may include loss of assets (land and/or crops from land/right of way acquisition), impacts on natural vegetation and biodiversity, risk of sparks/fire from live conductors; occupational safety and health hazards, and noise during construction. The project will put in place measures to mitigate these negative effects to ensure reduced harm to the PAPs, host communities and people involved in any aspect of the subprojects.

128. Provisions have been made in this RPF to accommodate all potential situations, including the very unlikely cases that entail actual displacement and livelihood restoration assistance in accordance with OP 4.12. Every precaution will be taken to avoid and/or minimize resettlement. The level of detail and comprehensiveness of the RAPs will vary depending on the specific subproject and the nature of impacts to be addressed. Land take in VMGs areas will be avoided as much as possible under KESIP. However, should complete avoidance of land take in VMGs areas not be possible, then the provisions of this RPF will apply to the compensation of land and other assets, in addition to the VMGF that has been prepared for KESIP.

129. The potential social impacts to be addressed within the context of preparing this RPF have been identified. However, it is expected that site-specific social analysis/assessment studies will be carried out within specific localities, as and when required to further inform the PIU. The framework for compensation/resettlement will then be applied incorporating specific: (i) institutional arrangements; (ii) resettlement/compensation eligibility criteria; (iii) implementation procedures; (iv) financial responsibilities; and (v) M&E plan. Table 3 presents the potential positive impacts from the project and the beneficiaries.

No.	Positive impacts	Beneficiaries
1	Increased incomes -Employment and wealth creation -Local material supplies -Up-scaling electricity access to the poor -Increase in revenues -Improved standard of living	-PAPs -Vulnerable PAPs and Host communities -VMGs and other local communities from which local materials will be purchased -Local business people and poor rural households -Contractors/suppliers, Agencies (KPLC, KETRACO, etc.) -Kenyans, more generally
2	Social Inclusion -Gender considerations	-Host communities -VMGs
4	Improved communications (fiber optic cables are constructed on the transmission lines)	-PAPs -Host communities -Agencies (KPLC, KETRACO, etc.) -Kenyans, more generally
5	Social benefits -HIV/AIDS education and awareness -Benefits to education	-PAPs -Host communities -VMGs

130. Table 4 lists the key potential negative impacts from the project and their mitigation measures. It should be noted that through the M&E activities, any negative impacts that arise during project planning and implementation will be noted, and communicated to the PIU Manager in a timely manner for resolution.

No.	Negative impacts	Mitigation measures
1	Loss of assets (land, structures and/or crops from land/right of way acquisition)	Land for land compensation (where possible) or cash compensation at full replacement cost for land and other assets. Such compensation will be guided by the provisions of the RAP/ARAP that will be prepared for KESIP in accordance with this RPF.
2	Environmental impacts -Impact on natural vegetation and biodiversity	

	<ul style="list-style-type: none"> -Impacts on air quality from vehicle exhaust emissions -Construction material sourcing, mainly wooden poles -Noise during construction 	<ul style="list-style-type: none"> -Avoidance of actions such as land acquisition and destruction of natural habitats, and compensation as necessary if avoidance is not possible -Ensuring that contractors adhere to and observe safety standards in all their activities -Use of alternative construction materials and minimization of loss of assets -Arranging for construction activities during times when there is minimal disruption to community activities
3	<p>Health and safety</p> <ul style="list-style-type: none"> -Risk of sparks/fire from live conductors -Solid waste -Electric shocks and electrocution of people -Oil leaks from transformers 	<ul style="list-style-type: none"> -Community sensitization and education on safety -Contractors to be required to develop, submit and observe strict job safety procedures -Put in place robust M&E structures to capture and document any issues arising from the project implementation for resolution
4.	Loss of livelihoods	Livelihood restoration as per the RPF

4.0 METHODS OF VALUING ASSETS AND COMPENSATION

4.1 Valuation of Assets

4.1.1 Valuation of Land

131. The Land Act, 2012, was amended via a Bill that was published in the Kenya Gazette Supplement No. 9 of 2018, and passed by the National Assembly, with amendments, on 8th August, 2018) to, among others, establish the criteria for assessing the value of compulsorily acquired land. The Bill that was passed is cited as *The Land Value Index Laws (Amendment) Act, 2018*.

132. Section 107A of the Land Value Index Laws (Amendment) Act, 2018, sets the following criteria for assessing value for compulsorily acquired freehold land.

1. Valuation of freehold land and community land for purposes of compensation under this Act shall be based on the land value index developed jointly by the national government and county government for that purpose and the provisions of this Part.
2. For purposes of this Part “land value index” means an analytical representation showing the spatial distribution of land values in a given geographical area at specific time.
3. In addition to any other principle that may be employed in calculating the land value index, the declared value of the land for purposes of payment of rates, rents or stamp duty shall be taken into account.
4. In assessing the value of freehold land and determining the just compensation to be awarded for land acquired under this Act, an increase in the value shall be disregarded if:
(a) the increase in the potential value of land is occasioned by the intended use or development of the land to be acquired; (b) the increase in the actual value of the land as at the date of publication of the notice of intention to acquire is likely to accrue from the use to which the land will be put when acquired; (c) the increase in the apparent value of the land is occasioned by any development or improvement to the land if: (i) the improvement was made on the land within two years prior to the date of publication in the *Gazette* of the notice of intention to acquire the land, unless it is proved that the improvement was made *bona fide* and not in contemplation of proceedings for the acquisition of the land: provided that where the national government or the county government makes changes in the use of the land compulsorily acquired to affect other land owners, these owners shall be excluded from the application of this provision. (ii) the improvement was done after the date of publication in the *Gazette* of the notice of intention to acquire the land, unless the improvements were necessary for the maintenance of any building in a proper state of repair; (iii) the improvement is contrary to any law or is detrimental to the health of the occupiers or to public health generally.
5. In addition to the provisions of subsection (1), the following circumstances shall not be taken into account in determining the value of the land: (a) the degree of urgency which has led to the acquisition; (b) any inconvenience caused to a person interested in the land; or (c) damage which is likely to be caused to the land after the date of publication in the *Gazette* of the notice of intention to acquire the land or in consequence of the intended land use;

6. Despite subsections (1) and (2), the following matters may be taken into consideration in assessing the value of land: (a) damage sustained or likely to be sustained by persons interested at the time of the Commission's taking possession of the land by reason of severing the land from other land; (b) damage sustained or likely to be sustained by persons interested in the land at the time of the Commission's taking possession of the land injuriously affecting other property, whether movable or immovable or in any other manner affecting the person's actual earnings; (c) if, in consequence of the acquisition, any of the persons interested in the land is or will be compelled to change residence or place of business, the payment of reasonable expenses to be determined by the Commission; (d) damage genuinely resulting from diminution of the profits of the land between the date of publication in the *Gazette* of the notice of intention to acquire the land and the date the Commission takes possession of the land; and, (e) the effect of any express or implied condition of title or law which restricts the intended land use.
7. In determining the damage resulting from diminution of the profits of the land, the Commission shall require proof of existence of the profits including evidence of tax returns.
8. For purposes of Article 40 (4) of the Constitution, compensation to be made to occupants in good faith of land compulsorily acquired who may not hold title to the land shall be assessed based on: (a) the number of persons in actual occupation of the land for an uninterrupted period of twelve years immediately before the publication of notice of intention to acquire the land; (b) improvements done before the date of publication in the *Gazette* of the notice of intention to acquire the land; and (c) damage sustained or likely to be sustained by the occupants of the land at the time of the Commission's taking possession of the land injuriously affecting other property, whether movable or immovable or in any other manner affecting the person's actual earnings; and, (d) if, in consequence of the acquisition, any of the occupants in good faith of the land is or will be compelled to change residence or place of business, the payment of reasonable expenses to be determined by the Commission.
9. An occupant in good faith does not include a person unlawfully occupying any land without the consent of the owner. (However, the right of squatters is recognized as per OP4.12 [as explained in para 30]).
10. The compensation payable under subsection (6) shall not in any case exceed the value of the structures and improvements on the land.
11. Despite subsection (9), where boundaries of land are ascertainable, prompt payment in full, of just compensation may be made to occupants in good faith in the case of: (a) land lawfully held, managed or used by individuals or families as ancestral land; or (b) land traditionally occupied by individuals, families or entities pending adjudication.
12. For the purposes of this section, "value" in relation to land means the value of the land, assessed in accordance with this section, at the date of publication in the *Gazette* of the notice of intention to acquire the land.

133. While section 107A (1) of the Land Value Index Laws (Amendment) Act, 2018 assigns joint responsibility for developing the land value index to the national government and county government, this is yet to be done. In the meantime, the Valuation Department, one of the technical departments within the Ministry of Lands and Physical Planning which is headed by the Director of Land Valuation (formerly referred to as the Chief Government Valuer), continues to play a key role in providing valuation services which forms a basis for revenue collection (Stamp Duty, Ground Rent and Rates) or determination of appropriate market rents and market values for leasing

or sale and purchase for, and by all National and County Government Departments, Commissions, Agencies, Parastatals, Institutions of Higher Learning, Public Schools and all public bodies. Currently, it is the responsibility of the Director of Land Valuation to determine fair market rents and values and to ensure that all revenue due to Government is collected and public property is disposed of or acquired in a manner that protects the monetary interests of the Government of Kenya. For this reason, the Director of Land Valuation (Chief Government Valuer) is the Principal Advisor to national and county governments on all valuation matters, which include among others:

- a. Valuation for Stamp Duty to enhance revenue generation from transfer of land. The Department of Valuation determines the market value on each property to ensure that the right amount of revenue is collected.
- b. The Department is responsible for the preparation and continuous review of the National Land Value Index to contain cases of land speculation especially for large scale infrastructure development.

134. If at the time of KESIP implementation, the national and county governments will have jointly established the land value index, this will be applied by Ketraco, provided that it will be in conformity with the full replacement cost as defined by OP 4.12. If it will not be operational, or if it will be operational but not in conformity with the full replacement cost valuation principles of OP 4.12, then Ketraco will compare the valuation methods set by the Director of Land Valuation for the various zones with the provisions of OP 4.12 to determine land values for the wayleave corridors to be acquired under KESIP, and whichever is higher will apply. For KESIP, therefore, the valuation method as established by the Department of Land Valuation will be augmented by the provisions of the World Bank's OP 4.12 which defines valuation of full replacement cost according to the affected asset as follows: (i) for agricultural land⁹, it is the pre-project 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 cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes; (ii) for land in urban areas, it is the pre-displacement market value of land of equal size and use, with similar or improved public infrastructure facilities and services and located in the vicinity of the affected land, plus the cost of any registration and transfer taxes; (iii) for houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes.

Note: Despite the provisions of items 8 and 9 (above) of the Land Valuation Department, Ketraco will compensate all persons affected by the project's activities including squatters for their lost assets and offer them resettlement assistance as necessary.

135. On the other hand, the Materials Departments of the Ministry of Transport, Infrastructure, Housing and Urban Development has a schedule of rates for preparing estimates for construction projects, which KETRACO will apply to assess compensation costs for construction materials and labor, which will be reviewed from time to time. In case of disputes involving valuation rates by

⁹ Footnote 8 of OP 4.12 states that "Land" includes anything growing on or permanently affixed to land, such as buildings and crops".

Ketraco, the affected PAPs will be encouraged to seek help from independent valuers of their choice to ensure that they get full replacement for their land.

136. In determining the replacement cost of assets under KESIP, depreciation of the asset and the value of salvage materials will not be considered, nor will the value of benefits to be derived from the project be deducted from the valuation of an affected asset. KETRACO will include these provisions of OP 4.12 in the ToRs for valuation of affected assets to ensure impacted PAPs are not disadvantaged by the country's valuation methods which are currently less stringent than the provisions of the Bank policy. These provisions for calculating replacement cost excludes the resettlement assistance. The resettlement assistance will be as per the provisions of OP4.12.

137. In case an affected person feels aggrieved with the valuation method as set by the Department of Land Valuation, supplemented by the provisions of OP 4.12 and the provisions of this RPF and the respective RAPs, KETRACO will encourage the aggrieved party to access independent valuation as guided by the Compensation Laws in the Land Act, 2012.

4.1.2 Valuation of Structures

138. KETRACO has reviewed and synchronized the costs to the relevant types of construction materials used for buildings at the various rural regions of Kenya. Where rate schedules do not exist or are out of date, recent quotations by contractors for similar types of construction in the vicinity of the project area would be validated and utilized in calculating replacement costs. The valuation methods as stipulated in the Kenyan law will be supplemented under KESIP with the provisions of OP 4.12 Annex 1, footnote 1, to determine the full replacement cost of structures.

4.1.3 Valuation of Crops/Trees

139. Vegetation damage shall be compensated at full replacement cost¹⁰ as required by OP 4.12 and defined in footnote 1. In addition, Ketraco is currently undertaking a review of valuation methods for crops and trees under the guidance of the Ministry of Agriculture and county governments to ensure they are in conformity with current market valuation requirements. Under KESIP therefore, current market value as established by Ketraco or full replacement cost as per OP 4.12 – whichever is higher - will be applied to compensate for trees and crops.

4.2 Compensation

4.2.1 Compensation for Land

140. Outright purchase of land will only apply to sites where substations are to be constructed. For substations, KETRACO will acquire the land and any permanent assets on it, and pay

¹⁰ OP 4.12 Source Book defines full replacement cost for crops and trees. For crops, this means, “when arrangements cannot be made to allow for harvest, the market value for lost cash crops is paid. In some countries the value of the harvest is determined by the average market value of crops for the previous three years”. For trees, “where markets exist, the value of a tree of a specified age and use can be used to determine compensation rates. Where markets do not exist, surrogate values must be determined. For timber trees, the value of a tree equals that of the lumber. For fruit or fodder trees, the value is equal to the cumulative value of the fruit crop for its productive life (and any timber value). If replacement trees are provided, good practice indicates that compensation be based on the value of the harvests lost until the replacement trees come into full production (typically, 7–10 years). In the case of immature trees, a less costly alternative may be to directly supply seedlings as a replacement and provide compensation for the resulting delay in reaching fruit-bearing capacity”.

compensation based on current market value as applied in all its operations, or full replacement cost as per OP 4.12, whichever is higher.¹¹ On the other hand, KETRACO will compensate for limited loss of use of land affected by the wayleave trace (this refers to land under wayleave that is severely affected by the TL). For wayleave, where the affected parcel of land is too small making it uneconomically viable and/or where existing residence(s) and structures are unable to be relocated within the unaffected area of the parcel, Ketraco will, as an added in-kind benefit, offer full replacement cost compensation to such a PAP, for loss of productive use of the affected land, plus all transaction costs as stipulated by OP 4.12, to enable the PAP(s) to purchase alternative land of a similar size and productive value. The PAP(s) will retain ownership and use of the affected parcel and a wayleave easement will be registered against the affected plot. The capacity threshold of a PAH is deemed to be 2000m², i.e. someone or a PAH living on land which has less than 2000m² of unaffected land is deemed to be a PDP. PDPs are eligible for full replacement cost compensation package for their affected land, i.e. compensation in cash or in kind for lost assets, plus all transaction costs, plus (disturbance allowance and other assistance as necessary in accordance with OP 4.12. At the same time, PDPs will keep the tenure and use of the affected parcel.

141. Where an encumbrance is placed on the land, i.e. for the wayleave trace, and the area of land unaffected is greater than 2000m² then compensation will take the form of cash per centum figure of the full replacement cost (as per OP 4.12) of the land within the wayleave trace (as defined in the key terms definition presented in Annex 1). KETRACO will **not** purchase the land but compensate for loss of use, encumbrance registered on the title including the restrictions on access and the prohibitions associated with structures, crops and agriculture. This is regardless of it being agricultural, residential or business land.

142. Land-for-land approach is desirable under this planning but due to the generally small amounts of land required for the wayleave corridor and capacity constraints, cash-for-land will be the preferred option for the majority of PAPs. For community land however, Ketraco will encourage the concerned PAPs to opt for in-kind compensation in the form of community projects that are beneficial to all affected PAPs without discrimination on the basis of e.g., gender, vulnerability, age or disability considerations. As part of the offer and option package negotiation process, PAPs will be encouraged to purchase alternative land with their compensation, so as to facilitate their income restoration and return to their traditional land use activity, as the case may be. As discussed in Section 3.4.3 (iii), KETRACO will assist those deemed vulnerable in identifying alternative lands, and will support them to fully restore their livelihoods. Where alternative land is acquired by the PAP or through assistance by KETRACO, the costs and expenses associated with registering the alternative land will be borne by KETRACO, and if required, transition assistance will be provided as defined as defined in para 107 above.

4.2.2 Compensation for Structures

143. All structures, including residential housing, businesses, public service facilities, etc. within wayleave trace must be removed. Compensation will be provided at full replacement cost of all such structures affected by the wayleave trace as established by a value. Full replacement cost of a structure would include labor costs and all other transaction costs such as any taxes that may be levied, and as defined by OP 4.12 in footnote 1 and section 4.1.1 above. The valuer will

¹¹KETRACO does not make separate payments for the area below a tower after compensation for limited loss of use has been paid for the same wayleave. Land for substation is purchased fully at current market value.

provide a figure for labor in his/her assessment as well as calculate other relevant transaction costs. KETRACO will endeavor not to relocate or move any graves or other culturally sensitive areas along the right of way by making appropriate adjustments to the proposed line/tower.

144. A disturbance/transitional allowance in line with the requirements of OP 4.12 will be provided. No depreciation will be factored in the final capital value of the structure and the supply of materials and labor costs to reconstruct the structure in its original constructed state will be included in the final capital value. This disturbance allowance is provided to cover expenses which may be incurred during relocation, in cases where structures are affected, or alternative land is being sought, it may include such items as transport of salvage materials, expenses incurred while searching for alternative land, etc.

145. Transitional assistance, in addition to the disturbance allowance for structures, will be provided to vulnerable PAPs on a case by case basis, depending on the nature and severity of vulnerability, especially if the project impact on them requires them to move. The assistance may include relocation allowance, lost income and work time. Vulnerable PAPs will additionally receive assistance either in the form of a management resource – Ketraco person or someone agreeable to the PAP -to oversee and support the transition. For a non-Ketraco person, an allowance will be paid to the person to oversee the transition process. Such assistance will be available also to individual Vulnerable PAPs who have claim to community land. The specific package will be developed and agreed with the PDP/PAP as part of his/her individual compensation package. Any PAPs who experience delays in compensation and/or specific losses during the transition period, including PAPs waiting for registration of community lands will be compensated for those losses and/or provided with temporary support to avoid hardships, such as rental land or premises, or other appropriate transitional support.

4.2.3 Compensation for Crops/Trees

146. Trees/crops with a height of over 12ft are prohibited within the wayleave corridor and must be removed prior to construction. KETRACO will allow enough time for harvesting of seasonal crops nearing maturity to be done before initiating project activities, as shown in Table 5.

147. PAPS will be allowed to harvest crops as well as transfer fruit trees, where feasible, and within the stipulated relocation schedule included in the offer agreement. Cognizance of seasons and planting, schedules will be collected as part of the information required during the socio-economic survey. KETRACO has been using KFS and Ministry of Agriculture rates – which are mandated by law to set are market rates for trees and crops respectively– to compensate for crops and trees. However, unlike the market situation where the buyer takes the purchased asset, KETRACO on its parts leaves the cut trees and crops to the owner, thus providing additional benefit to the owner. To conform with current market value at full replacement cost, Ketraco is currently in the process of reviewing the market valuation methods for trees and crops under the guidance of the ministry of agriculture and county governments. If under KESIP there will be need to remove crops or trees prior to maturity/harvesting, or if trees have to be cut down because they are taller than the limits allowed on the wayleave, then full replacement cost for trees and crops as defined by OP 4.12 – Source Book - (see footnote 10) will be paid for such crops and trees

148. In all cases, all categories of compensations – land, structures, crops and trees - will be paid out to the affected PAPs start of construction works.

Table 5: Compensation Entitlement Matrix			
Asset	Specifications	Affected People	Compensation Entitlements (Note that all amounts are indicative and will be updated to reflect full replacement cost in accordance with OP 4.12)
Land	Private Land	Private Owners	<p>The basis of valuation is full replacement cost as per OP 4.12 definition. The compensation value will depend on the degree of inconvenience to, and/or extent of land lost by the land owner,. The extent of loss or inconvenience caused will depend on the total size and shape of the land, slope, number of lines traversing the land, manner of traverse and economic use.</p> <p>The compensation value at full replacement cost is not only based on the inconvenience caused to the proprietor or extent of land lost, but also on the basis that KETRACO's interests will be embedded against the title.</p> <p>KETRACO has assigned the land capacity threshold at 2,000m². This means that a PDP is someone living on land which has an area of less than 2,000m² unaffected. Transaction costs related to search of alternative land and payment of duties or taxes will be part and parcel of the full replacement cost, in addition to movement allowance and other support as necessary as per OP 4.12 where relocation is involved.</p> <p>For restriction/prohibitions imposed on land use and encumbrance of the affected parcel by the wayleave, appropriate compensation will be paid to PAPs as compensation for the restriction/prohibition.</p>
	Trust Land, Community Land and Government Land	County Governments/ Ministry of Lands	KETRACO shall apply either to the Commissioner of Lands or the National Land Commission for alienation, allocation and advise on any payments for compensation. Such compensation shall take into account full replacement cost as per OP 4.12 plus all transaction costs.. In addition, KETRACO will consult with the appropriate clan, designated chiefs, assistant-chiefs, elders, Members of County Assembly (MCAs) and PAPs through the free, prior and informed consultations process, to ensure that the process is all inclusive and all the risks and impacts, including on individual occupants/households are addressed and compensated according to this RPF.
	Land held by other statutory bodies	Statutory bodies	KETRACO shall approach statutory bodies directly for wayleaves Offers of Agreement only on structures and vegetation as Government bodies do not pay other Government bodies in regard to land compensation.
Building and structures	Compensations as below	<u>Squatters</u>	Compensation for structures and other assets (but not land), at full replacement cost plus transaction costs, disturbance allowance and resettlement assistance based on the provisions of OP 4.12 as defined in footnote 1 of this RPF
Impacts on livelihood	Livelihood restoration and transitional arrangements	All PAPs whose livelihoods are affected, including vulnerable PAPs and squatters	All PAPs whose livelihoods will be affected under the project will be assisted through livelihood restoration activities. These will include all PAPs whose livelihoods have been affected such as economically displaced PAPs, vulnerable PAPs, e.g. poor elderly persons, orphans, poor female/male headed households and poor people with disabilities. PAPs whose livelihoods have been affected and vulnerable PAPs will be compensated at full replacement cost for their assets in accordance with OP 4.12 – including land if they fall under classification (i) or (ii) of the eligibility criteria - that may be affected by the project. Such

			PAPs will be offered resettlement assistance as prescribed by OP 4.12 (see footnote 2). Squatters (or those who have no recognizable legal right or claim to the land they are occupying) are entitled to compensation at full replacement cost for their assets (but not land) and offered resettlement assistance as defined by OP 4.12. As per OP 4.12, such resettlement assistance may consist of land, other assets, cash, employment, and so on, as appropriate (see footnote 2). Ketraco, in consultation with the affected PAPs, will agree on the level of resettlement assistance based on OP 4.12 provisions. Where necessary, Ketraco will support PAPs who qualify for livelihood restoration support with capacity building and to establish small income generating activities. Also, Ketraco will impress upon their contractors to give priority consideration for employment to PAPs in this category, especially in areas where unskilled labor is needed.
Business goods and tenancy	Amount adequate to relocate household goods	<u>Tenants</u>	Right to salvage materials, relocation assistance and accommodation for vulnerable PAPs
Loss of income	Lost income	<u>Workers</u>	One-month salary in lieu of termination notice (subject to validation that this is adequate).
Buildings and Structures	Modern houses with modern finishes. They include concrete natural stone, coral, and bricks and treated sawn timber materials structures.	Owners	Indicative rates (based on Ketraco's experience) normally range from Kshs 1,500 to Kshs. 4,500 per sq.ft. This will depend on location whether urban or rural and the finishes used, plus transaction costs if any. At KESIP implementation, rates will be paid at full replacement cost plus all transaction costs and movement allowance offered if necessary
	Structures of semi-permanent construction including those made from sawn timber, timber off-cuts, and GCI walling, sundried bricks on cemented floors.	Owners	Indicative rates range from Kshs. 1,000 to Kshs.3, 000.00 per sq ft. This will depend on location whether urban or rural and the finishes used, plus transaction costs if any. At KESIP implementation, rates will be paid at full replacement cost plus all transaction costs and movement allowance offered if necessary
	Units of a temporary nature including thatch roofs, rammed or earthen floors and Adobe blocks and wattle, thatch walls and Manyatta.	Owners	Indicative rates range from Kshs. 500 to Kshs 2,000.00 per sq. ft. This will depend on location whether urban or rural and the finishes used, plus transaction costs if any. At KESIP implementation, rates will be paid at full replacement cost plus all transaction costs and movement allowance offered if necessary
Domestic Storage Facilities	This will be based on the permanency, design, size and construction materials used.	Owners	Indicative rates range from Kshs. 500.00 to Kshs. 2,000.00 per sq. ft, plus transaction costs if any. At KESIP implementation, rates will be paid at full replacement cost plus all transaction costs and movement allowance offered if necessary
Domestic animal units	This will include chicken pens, zero grazing units and other domesticated animal facilities.	Owners	The rates will be determined by type of construction material and size. Rates normally range between Kshs. 500.00 to Kshs. 1,000.00 per sq ft, plus transaction costs if any. But at KESIP implementation, rates will be paid at full replacement cost plus all transaction costs and movement allowance offered if necessary

Water storage facilities	These are storage facilities for water. They range from plastic tanks, concrete tanks, bricks and stone.	Owners	The bases will be considered as well as size. Indicative normally range from Kshs. 1,500.00 - 2,000.00 per cubic meters. At KESIP implementation, rates will be paid at full replacement cost plus all transaction costs and movement allowance offered if necessary
Fencing	These will be determined by type of construction materials - chain links, barbed wire, concrete, etc.	Owners	Normal indicative rates for chain link range from Kshs. 400.00 - 600.00 per meter run, barbed wire from Kshs. 100.00 -300.00 per meter run, concrete/stone wall from Kshs. 700.00 –1,000.00 per meter run, natural hedge is catered for under crop damage. The variance is generally determined by type of the supports, plus transaction costs if any. However, during KESIP implementation, rates will be paid at full replacement cost plus all transaction costs and movement allowance offered if necessary
Crops	Crops damaged as a result of the wayleaves acquisition and construction activities.	Owners	Crop damage compensation rates will be at full replacement cost as required by OP 4.12 (see footnote 10).
Trees	Trees growing within the wayleave and are over 12ft tall.	Owners (private or public)	Compensation rates for the various types of trees will be at full replacement cost as required by OP 4.12 (see footnote 10).

4.3 Officiating Valuation

149. An inventory of each asset belonging to the PAP will be taken in his/her presence and a signed acknowledgement done that the inventory includes all of the PAP’s affected assets. Values of each asset will be clearly stipulated and pre-printed, shown to the affected person, and set against the type and number of such losses that the individual will receive compensation for, and alongside the total of all losses will be displayed. To ensure the valuation and negotiation are transparent and free from manipulation, a complaint/negotiation process will be established in consultation with the PAPs

4.4 Alternative Host Sites

150. Where necessary, land for land compensation will be considered after careful and adequate consultation with the vulnerable PAPs. To this end, Ketraco will make available, alternative resettlement sites for all interested PAPs who lose more that 10% of their productive land area, and to vulnerable PAPs who are physically displaced, as part of resettlement assistance. To this end, resettlement assistance will be provided to PAPs’ in all categories who will lose primary residence and livelihoods including land/housing as needed to restore livelihood and address vulnerability.

151. Ketraco recognizes that vulnerable households may have different land needs from most households or needs that are unrelated to the amount of land available to them. If a PDP is deemed vulnerable, KETRACO will intercede and look for alternative ‘host’ land. Consultations will be held with the local leadership of the host community to seek for and avail viable alternatives to the affected persons. For land-based resettlement, the new site’s productive potential and location of available services should be at least equivalent to those existing at the old site if not improved. The RPF recognizes the need for providing additional support to vulnerable PAPs, especially if they are PDPs, so as to cushion them from impacts associated with the project and to facilitate faster adjustment in the new environment. Therefore, in selecting the new relocation site, it will be

important to explore with the vulnerable PAPs potential sources of other income generation to complement their current sources of income while considering that these are accessible.

152. The new site should provide comparable access to employment opportunities, infrastructure, production opportunities, education and health services. In this regard:

- i. Special consideration shall be paid to vulnerable PDPs by identifying their needs from the socio-economic and baseline studies undertaken as part of the RAP process;
- ii. The PDP HHs or groups should be individually consulted and given opportunities to participate in the resettlement decision-making process, as well as project activities;
- iii. Consultation with these groups to ensure that resulting resettlement and compensation improves their pre-project livelihood - with preference going to their resettlement in the same settlement;
- iv. The RAPs would be designed to ensure special attention is paid to the monitoring of the resettlement process in order to ensure that pre-project livelihoods are indeed improved upon;
- v. PAPs, including PDPs, would be given sufficient technical and financial assistance to make use of the grievance mechanisms of the project where required; and
- vi. Decisions concerning them to be made in the shortest possible time.
- vii. The project will strive to improve or enhance some social service amenities such as water, health and education facilities to cater for both the PAPs and their host communities as a way of promoting peaceful co-existence between them.

5.0 CONSULTATIONS, STAKEHOLDER ENGAGEMENT AND COMMUNICATION STRATEGY

153. Effective resettlement planning requires regular consultation with a wide range of project stakeholders. Stakeholders include any individual or group affected by, or that believes it is affected by the project and any individual or group that can play a significant role in shaping or affecting the project. KETRACO will identify the relevant stakeholders for the RAP/ARAP early on in the resettlement planning process. The key stakeholders will include:

- i. Local people and businesses affected by the project (i.e. the PAPs);
- ii. County government officials;
- iii. Village /community leaders;
- iv. Civil Society Organizations (CSOs) and NGO's in the locality.
- v. Local community organizations; and,
- vi. Any other group that for any reason believes it has a stake/interest in the project.

154. The PIU will develop a community engagement plan, as part of the RAP, and as a first step towards informing the community about the project, its impacts and entitlement framework, in accordance with this RPF. The community engagement plan shall be an on-going process in order to engage stakeholders in meaningful consultations about the project and shall continue throughout all stages of the project. Special efforts will be made to ensure participation of vulnerable people as defined by the Bank and in the CoK (2010). Where VMGs are traversed by the transmission line, a VMGP will be prepared in accordance with the OP 4.10. Free, prior and informed consent will be sought before project implementation.

155. The RAP/ARAP will contain an explicit public information strategy. This may include the use of mass media, possibly through radio, television, public notices and other channels that may be found to be accessible to the PAPs, to advise on the dates and times of public meetings, availability of documents, eligibility criteria, cut-off dates, and compensation measures. Information could also be communicated by KETRACO through the county administration provided that such communication will be accessible to PAPs. It is important that the supply of information and consultation with different stakeholders be through a language/local dialect and medium the local people are comfortable with. In addition, clear communication of responsibility and accountability procedures, personnel and resource availability for effective implementation of the plan shall be put in place. A schedule shall be prepared and disseminated within the footprint of the project detailing the time, place for consultation and contact details of the lead project person.

156. As a matter of strategy, public consultation shall be an on-going activity throughout the project cycle. PAPs will be consulted individually and/or in groups, depending on the context. The PAP linked consultation and participation process will include the following phases: data collection; valuation of assets and design of compensation packages; grievance redress procedures; and M&E.

157. *Data collection:* In this phase the PAPs will be individually interviewed and asset registers compiled. If the PAPs wish to register issues, claims and concerns, these will be registered as part of the formal survey and logged as emerging issues to be clarified during the sensitization

meetings. Since the report from the data gathering phase will only document findings and emerging issues, more specific grievances will be documented to be handled during implementation. KETRACO will strive to address issues related to its mandate at this point, and escalate the rest to the relevant offices as per the institutional framework that will be established after the participating institutions are confirmed once the subprojects are known. Feedback will be given to the PAPs during disclosure of the RAP. All PAPs will be interviewed during the course of the data collection.

158. Valuation of assets and design of compensation packages: The process of valuation of assets will ideally run in parallel with the data collection and as part of the RAP/ARAP. Where affected populations do not have land titles, cadastral surveys may have to be carried out to establish the basis for compensation. The PIU, guided by a surveyor and valuer, will establish procedures to regularize and recognize claims to land, including claims that derive from customary law and traditional usage during survey and informal sub-divisions. During valuation, estimates of values accruing to the PAPs will be undertaken and discussed with the individuals concerned. Where housing is to be replaced, the mechanisms by which this will be done, as well as design of possible replacement housing will be discussed with eligible PAPs. The process of compensation pay-out will be undertaken in a transparent and confidential manner.

159. Grievance redress procedures: PAPs will have right of access to the formally established grievance redress process that shall have been developed in consultation with them, and will be entitled to make their concerns and/or complaints known. The two level GRM – community level and Ketraco level - is presented in chapter 6.

160. Monitoring and Evaluation: Continuous monitoring of the resettlement process will be spearheaded by the PIU. If deemed necessary in consultation with the World Bank, Ketraco may hire the services of Independent Monitors during project implementation. Such monitors would be charged with the responsibility to monitor implementation of specific aspects of the project, in particular, the compensation process and the GRM. Where independent monitors are involved, the PIU will introduce them to the PAPs and the Community Resettlement Committees (CRCs) during meetings. Their role and duration in the communities will be clearly explained to the PAPs and CRCs during such meetings.

6.0 GRIEVANCE REDRESS MECHANISM

6.1 Introduction

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

162. *Grievances may arise from members of communities who are dissatisfied with the consultation, eligibility criteria, PAP categorization, valuation of assets, crop compensation rates, option packages offered, prohibitions, community planning measures, or the actual implementation. During the initial stages of the socio-economic survey, stakeholders shall be made aware of all the above matters and provided with copies of grievance redress system presented in this RPF for their concurrence as a guide on how grievances will be managed. The GRM will be a living system that will be subject to review as and when needs arises provided that Ketraco and the particular community have agreed on the need to do so, or as advised by the CLO.*

6.2 The KESIP GRM System

163. There will be two levels of grievance redress, i.e. the community level and the Ketraco level. The GRM at the community level will be guided by the community's cultural norms and values. Development of the GRM will involve the community members to ensure that it is practical and implementable. To this end, Ketraco will work with the community leaders – men, women youth and people with disabilities - to be sure that the community's socio-cultural grievance resolution approach is adequate or if additional requirements are needed to to strengthen it. The agreed approach will then be presented to the affected community at large for their concurrence.

164. *Community sensitization on the formation of the community level GRM: KETRACO will facilitate the formation of Community Resettlement Committees (CRC) for each subproject and the selection of the committee members will be guided by the community's methods of selecting people who sit in their governance structures. Before the selection of CRC members, Ketraco will explain to the affected communities along the wayleave corridor the need to resolve grievances at the lowest level possible, by the community members themselves, through channels that take into consideration the community's socio-cultural mechanisms for grievance redress while retaining the right to escalate unresolved matters to Ketraco or to the country's judicial systems. For purposes of grievance redress under the project, they will be sensitized on the need to include women, men, youth and people with disabilities as appropriate in the community level GRM. Selection/election into the CRC membership should consider factors such as integrity, objectivity and service-oriented mindsets as well as availability to convene quickly and resolve grievances as soon as they arise.*

165. *The selection/election into the CRC:* Following the sensitization the PAPs community will then be invited to elect/select men and women – including youth and people with disabilities - of integrity who are willing and available to serve as members of the CRC, which will serve as the court of first appeal for reporting and resolving any grievances, complaints or disputes that may arise from RAP/ARAP implementation. Details and the number of people to sit in the CRC will be agreed with each community, but would usually should be a minimum of seven and a maximum of 15 with a view to ensuring there are no ties in case they need to vote on a case.

166. The CRCs will be subproject based. However, due to the linear nature of T-Lines, each T-Line will be divided into manageable segments for ease of grievance redress to ensure that PAPs do not travel long distances to report complaints or grievances. The CRC will be report to Ketraco through the Community Liaison Officer (CLO), on the cases they are handling.

167. *Responsibilities of the CRC:* The CRC will be charged with the responsibility of resolving grievances as soon as they arise, through the agreed/strengthened socio-cultural approach. In this regard, Keraco, in consultation with the PAPs, will draw a ToR to guide the work of the CRC. The ToR will include the duration of time within which reported grievances have to be addressed, quorum for resolving cases, how to document reported cases, the resolution process and decisions reached among others.

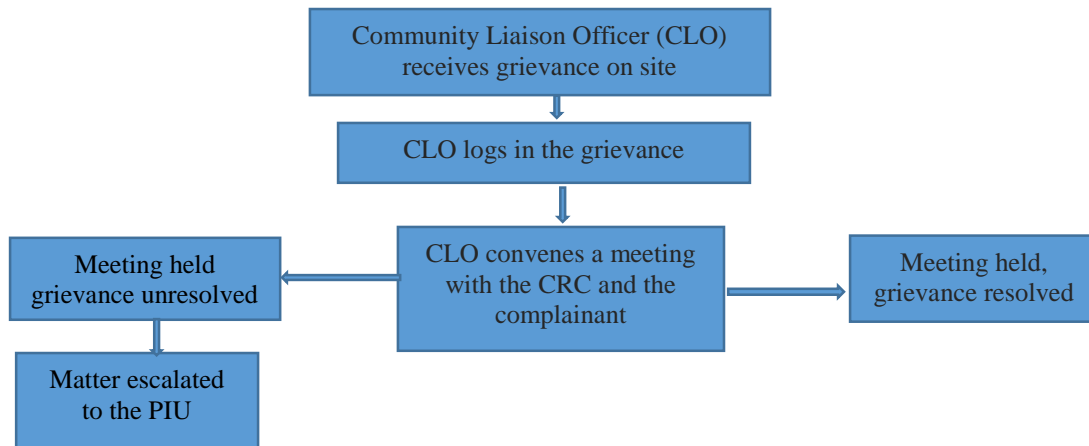
168. The community level grievance redress procedure will start with registration of the grievances with KETRACOs CLO on site or with the CRC. The CLO will convene a meeting with CRC, invite the aggrieved party to the meeting and present the grievance to the committee for hearing. It is envisaged that the CRC will acknowledge receipt of the complaints and grievances within two weeks, and strive to resolve the matter within one month, but this will be agreed with them. The CRC will ensure that grievances reported to it are dealt with in a fair, consistent and timely manner, in accordance with the agreed timelines and resolution modes. Each CRC will be encouraged to resolve matters objectively and to escalate to Ketraco any disputes that they are not able to resolve within timelines that will be included in their ToR. In this regard, the CRC will seek to eliminate unreasonable or illegitimate claims which may be driven by other factors that are not genuine, or project related, and satisfy legitimate claimants by reconciling the aggrieved PAP(s) either with one another, or with KETRACO as the case may be.

169. KETRACO's Community Liaison Officer (CLO) will be the link between the CRC and KETRACO. If the CRC is unable to satisfy the claimant, then the matter will be escalated to Ketraco through the CLO or directly by the claimant. Being a support to the CRC, the CLO in agreement with the CRC will escalate the unresolved complaints to the PIU, with documentation about the issue, how it has been dealt with by the CRC as well as the reason for the stalemate.

170. *Facilitation of the CRC:* CRC members will be paid facilitation fee of Kshs. 1,000 person per sitting.

171. The community level grievance redress procedure is illustrated in Figure 3.

Figure 2: Community Level Grievance Redress Procedure



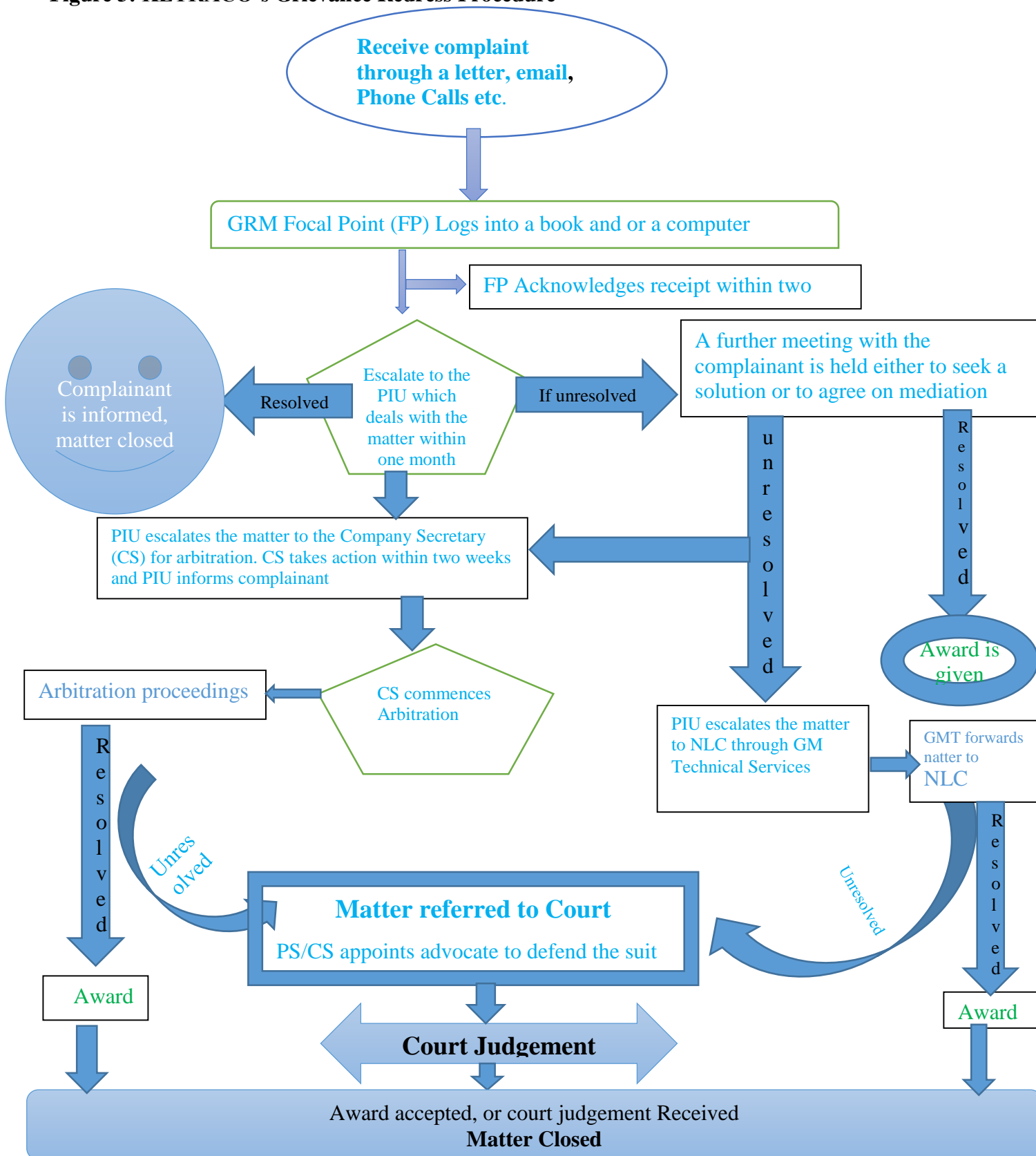
172. The second level grievance redress will be the Ketraco level. Ketraco will seek to resolve complaints through its internal processes or seek a arbitration/mediated resolution before informing the complainant to seek judicial resolution if they are still not satisfied. Ketraco’s internal project grievance redress process will include redress by the PIU, or the institution of an arbitration/mediation process by the Company Secretary where appropriate. At the Ketraco level, grievances will be received through email, letters, verbal, suggestion box or from the CLO or the CRC. Once grievances are received, they will be logged into the grievance log in the office. Some grievances may be resolved immediately, especially those that need Ketraco’s project staff to provide information to the complainant. If not, they will be escalated to KETRACO’s PIU, as illustrated in Figure 4. Ketraco will acknowledge receipt of complaints within two weeks and will strive to resolve each complaint within two months.

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

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

175. The project will try as much as possible to resolve the issues locally and expeditiously to ensure that all affected persons do not suffer harm. In addition, KETRACO will partner with institutions with the capacity to train and undertake alternative dispute resolution (ADR) to accelerate the process. Mediators, who may be respected members of the affected community or people with expertise in this area will be identified and agreed upon between Ketraco and the complainant, and will be engaged on a needs basis.

Figure 3: KETRACO's Grievance Redress Procedure



6.3 World Bank Redress Service

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

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

6.4 World Bank Inspection Panel

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

178. Ketraco will sensitize the PAPs on the Bank's GRS and Inspection Panel, and the fact that they are free to access these Bank systems if they feel they have been or are likely to be harmed by a Bank financed project.

7.0 BUDGET AND FUNDING ARRANGEMENTS

179. KESIP is a government project and acquisition of land to facilitate its implementation will be done in the interest of the public. That being the case, all costs associated with the resettlement process under KESIP will be borne by the National Government through the MoE.

180. KETRACO will, on behalf of the MoE, manage both the financial inputs as well as the additional managerial and technical expertise required to complete the T-Line RAP/wayleaves process, or outsource services as required. In addition, KETRACO will:

- i. Maintain overall responsibility for the wayleaves acquisition process and manage any associated resettlement/relocation of PAPs;
- ii. Ensure the guiding principles in this RPF are adhered to;
- iii. Ensure maximum participation of the PAPs in planning their own resettlement and post-resettlement;
- iv. Obtain access to funding from MoE to finance the implementation of resettlement;
- v. Accept responsibility for delivering compensation payment to PAPs and responsibility for other resettlement-related costs; and,
- vi. Ensure M&E of the RAP and undertake appropriate remedial actions so as to effectively deal with grievances.

181. Tentatively, approximate budget estimates of the cost of RAP implementation and related process activities are outlined in Table 6 below. However, the actual budget which will be reviewed periodically, will be established after the RAP preparation is since it is only then that the level of effort for the processes will be known based on subproject locations, actual impacts and related mitigation measures, and other complexities that will be involved.

182. The budget for resettlement and compensation for each RAP/ARAP will be determined through a preliminary valuation and baseline socio-economic study. Information on specific impacts, individual and household incomes and numbers of PAPs and other available demographic data will facilitate the preparation of a detailed RAP. The RAP will have a detailed and accurate budget for resettlement and compensation following review and assessment of the socio-economic data. Other related costs, such as surveying, planning, consultancy, supervision, miscellaneous entitlements and monitoring will be estimated. In addition, if required, provisions for training of KETRACO staff in aspects of RAP preparation, implementation and monitoring will be included in the budget.

183. In order to ensure that the compensation and resettlement component will be implemented smoothly, all efforts will be made to develop realistic cost estimates during the preparation of the RAP. It is accepted that not all eventualities will be foreseen and a contingency of 10% of the total budget shall be included in the budget estimates.

184. The resettlement funds received by Ketraco from the National Treasury through the MoE will be deposited by KETRACO into a designated project account. From this account, payments will be made after review and approval of the project expenditure by responsible officers within KETRACO.

185. As part of the on-going progress reporting exercise, the PIU will be required to submit to the WB details of the RAP implementation and compensation status as it relates to the resettlement aspects of the project. To enable accurate implementation status reporting, KETRACO will monitor all aspects related to RAP implementation and if need be, revise the budget to ensure smooth implementation. Should it become necessary to revise the budget, the revised budget will be shared with the Bank along with evidence that the funding for any resettlement planned for that year has been allocated and would be available in a timely. A RAP budget template is appended in Annex 3 while the RAP process and implementation budget lines and estimates are in Table 6 below.

Table 6: Budget Estimates RPF and RAP Implementation

No	Budget Item	Amount Ksh	Source of Funds
1	RPF implementation	2,000,000.00	NT through MOE
2	Screening for RAP/ARAP	1,000,000.00	NT through MOE
3	Stakeholder Engagement	25,935,000.00	NT through MOE
4	Grievance Redress Mechanism	12,000,000.00	NT through MOE
5	Preparation of RAPS and ARAPs	75,558,000.00	NT through MOE
6	RAP/ARAP implementation		NT through MOE
	Land	1,035,885,141.76	
	Structures	528,661,124.04	
	Crops and trees	374,761,682.24	
	Transitional support	1,295,400.00	
	Final valuation and verification of assets	20,543,736.24	
	RAP operation cast (KETRACO and NLC	37,289,719.63	
7	Monitoring, Evaluation and oversight	13,695,824.00	NT through MoE

8.0 MONITORING, EVALUATION AND REPORTING

8.1 Monitoring Objectives

186. Monitoring and evaluation will be a key part of the implementation of the RPF. The arrangements of M&E will be aligned to specific objectives of the RAP, including:

- i. If full, compensation at current replacement cost was remitted for loss of use of land, structures and crops/trees; and,
- ii. If displaced and compensated, PAPs were assisted to improve their livelihoods and standards of living or if there was an attempt to restore livelihood as much as possible.

187. The specific objectives of monitoring will be to determine:

- i. If affected people are satisfied with the actual resettlement process;
- ii. If affected people have been paid in full and before implementation of any project that is causing resettlement;
- iii. If affected individuals, households, and communities have been able to maintain their pre-project standard of living, and even improve on it;
- iv. If information was disseminated prior to the project implementation; and
- v. If information was disseminated to VMGs in case of areas where VMGs are present as per the provisions of the VMGF.

8.2 Monitoring and Evaluation Indicators

188. A list of proposed monitoring indicators is presented below and includes, but is not limited to:

- i. Number and place of public consultation meetings held with PAPs and local authorities in preparation of and/or during RAP implementation;
- ii. Number of PAPs effectively compensated and aggregated amount disbursed compensation (actual versus planned);
- iii. Number of people resettled or provided with new business premises (whatever is applicable);
- iv. Number of people affected in case of community land and type and amount of compensation provided;
- v. Number of complaints:
 - Total received; total justified; total non-justified. The information gathered should include the subject matter for all complaints; an explanation for non-justified complaints;
 - Total resolved at various levels including the type of agreement reached; and
 - Total referred to the legal system/courts of law, including a clarification on who initiated the referral (local leaders, PAPs or project team members) and the subject matter.

189. Suggested performance/evaluation indicators include:

- i. Total type and level of all complaints received and resolved;
- ii. Completion of payment within stipulated period in the service agreement or as stipulated in the RAP implementation plan;

- iii. Completion of demolition of structures (if any) or crops/trees in the project area within stipulated period in the service agreement or in the RAP implementation plan;
- iv. Revival of affected businesses/farming activities within 4 months after the compensation payment; and
- v. Submission of monitoring reports at the frequency indicated in the M&E of the RAP implementation report.

8.3 Monitoring Approaches

190. RAP monitoring will be done at three levels:
- i. During the regular monitoring of the project at the implementation stage by KETRACO;
 - ii. By independent RAP Audit Consultant(s); and
 - iii. By World Bank during missions.
191. Methods to be used for the RAP monitoring will include:
- i. Baseline data to be collected from different sources, including the census and socioeconomic studies undertaken for the preparation of individual RAPs;
 - ii. Questionnaire (in the case of independent monitoring), and focus groups discussions and in-depth interviews to be used to collect data and information; and
 - iii. Comparative data analysis to be used to present the report indicating the difference in the status of the PAPs affected before, during the project and after the completion of the project.

8.4 Indicators to Determine Status of PAPs

192. A number of indicators will be used to determine the status of all PAPs as presented in Table 7, assessed at (i) baseline; (ii) shortly after the RAP implementation; and, (iii) after the time needed to verify livelihoods restoration, e.g. 2 years.

Table 7: Monitoring indicators		
SUBJECT	INDICATOR	VARIABLE
Land	Acquisition	Total area of Land Acquired and if the land is community owned or not Impact on PAP
Buildings/Structures	Relocated/Destroyed	Number of structures destroyed Type of structures destroyed Former structure vs Current structure
Trees and Crops	Destroyed	Type of trees destroyed Type of crops destroyed Total area destroyed Impact on PAPs
Compensation	Number of homesteads affected (buildings, land, trees, crops) as per the Entitlement Matrix	Number of owners compensated by type of loss Amount compensated by type and owner Number of people affected in case of community land and type and amount of compensation provided Number of replacement houses constructed

		<p>Size, construction, durability and environmental suitability of replacement houses</p> <p>Possession of latrines</p> <p>Water supply access</p> <p>Number of replacement businesses constructed</p> <p>Re-establishment of community resources</p> <p>Number of community buildings replaced</p> <p>Number of trees planted</p>
Disturbance	Number of homesteads affected by disturbances from construction	<p>Social/ Demographic Changes to homestead structure</p> <p>Household size (average number of households)</p> <p>Status of “vulnerable” homesteads</p> <p>Residential status of homestead members</p> <p>Movement in and out of the homestead (place and residence of homestead members)</p> <p>Access to social facilities</p> <p>Distance/travel time to nearest market center, church, shop.</p> <p>Changes to health status</p> <p>Nutritional status of resettled homestead members</p> <p>Number of people with communicable diseases</p> <p>Mortality Rates-Deaths registered per household</p> <p>Access to health care services (distance to nearest facility, cost of services, quality of services)</p> <p>Utilization of health care services</p> <p>Disease prevention strategies</p> <p>Extent of educational programs</p> <p>Latrine provision</p> <p>Access to clean water sources</p>
General Social demographic changes	Demographic data change	<p>Household size (average number of households)</p> <p>Status of “vulnerable” homesteads</p> <p>Residential status of homestead members</p> <p>Movement in and out of the homestead (place and residence of homestead members)</p> <p>Access to social facilities</p> <p>Distance/travel time to nearest market center, church, shop</p> <p>Changes to health status</p> <p>Nutritional status of resettled homestead members</p> <p>Number of people with communicable diseases,)</p> <p>Mortality Rates-Deaths registered per household</p> <p>Access to health care services (distance to nearest facility, cost of services, quality of services)</p> <p>Utilization of health care services</p> <p>Disease prevention strategies</p> <p>Extent of educational programs</p> <p>Latrine provision at schools</p> <p>Access to clean water sources</p>
Changes to educational status	Education levels	<p>Literacy and educational attainment of homestead members</p> <p>Access to education facilities</p>

		School attendance rates (age, gender) Number, type of educational establishments
Changes to status of women	Renewed participation	Participation in training programs Use of credit facilities Landholding status Taking up leadership roles
Homestead earning capacity	Ownership of capital assets	Landholding size, area cultivated and production volume/value, by crop (cash and subsistence crops) Landholding status (tenure) Changes to livestock ownership: pre- and post-disturbance Value of livestock sales, and imputed value of barter transactions Employment status of economically active members Skills of homestead members Earnings/income by source Changes to income-earning activities (agriculture) – pre- and post-disturbance Changes to income-earning activities (off-farm) – pre- and post-disturbance Amount and balance of income and expenditure Realization of homestead income restoration plans (components implemented, net income achieved) Possession of bank and savings accounts Access to income-generating natural resource base (wood, grass, sand, stones)
Procedures in operation	Census and asset verification/quantification procedures in place	Effectiveness of compensation delivery system Number of land transfers effected Co-ordination between local community and KETRACO officials
Public Consultations	Affected communities informed	Number of public meetings Reports of engagement
Grievance Redress	Cases received and handled	Number of Grievances Time taken to solve Channels used for redress

8.5 Reporting Requirements

193. General reporting: KETRACO considers timely elaboration and submission of pertinent reports during the project period of utmost importance. The reports are to be written in English. All the reports shall receive comments from Ketraco and the World Bank, which shall be incorporated in the final report by the authors and/or consultant(s).

194. Any consultant recruited to undertake any of the activities listed in this RPF will submit to KETRACO the following documents:

- i. An inception report - to be submitted two (2) weeks after the signing of the contract. The inception report will include a M&E framework, approach/methodology, timeframes and overview of key issues expected in the final report;

- ii. First draft;
- iii. Second revised draft taking into consideration comments by KETRACO and the Bank; and
- iv. Final report.

195. KETRACO will require of any consultant firms to engage the people listed in the bid in undertaking the actual work as proposed. Any infringement on this requirement will result in sanctions, as shall be detailed in the contract document.

9.0 DISCLOSURE

9.1 Communication Framework

196. The KETRACO's PIU will manage the day to day activities of KESIP. Specific arrangements for administering project activities at other levels will be established during project design. To ensure compliance with the WB's safeguards, KESIP will recruit and/or retain the current environmental and social safeguard specialists. These specialists will provide technical support and ensure compliance with the RPF by coordinating and working with KETRACO. A communication framework, to be developed for KESIP, will elaborate the principles, strategies and structures on how the project team and the affected communities will interact and collaborate on the project.

9.2 Disclosure

197. This RPF and subproject RAPs/ARAPs will be made available to the communities in the project areas. A summary of the key issues contained in each document shall be translated into the local language (Swahili) before disclosure to the communities. Once the WB accepts the RPF as providing an adequate basis for project appraisal, and each RAP/ARAP as providing the adequate basis to proceed with land acquisition for each project, the WB will make them available to the public in accordance with its Policies on Disclosure of Information, and the GOK will also make the documents available to the affected communities in an appropriate manner. It is notable that this RPF was consulted upon with key stakeholders on February 22, 2018 and the feedback used to refine the document. The comments and response on the issues raised is presented in Annex 5. The list of participants is also attached.

198. Each RAPs/ARAPs will be disclosed to the affected communities with detailed information on the project. This will be done through public consultations, copies of the RAP/ARAP will be made available in hard copies at: (i) Offices of the executing agency; (ii) sub-county or county offices; and (iv) any other local level public offices. Electronic versions of the framework, in English and Kiswahili, as well as the RAPs/ARAPs, will be placed on the official website of MoE, WB and KETRACO after approval and endorsement of the RPF and each RAP/ARAP by the WB.

9.3 Roles and Responsibilities

199. Specifically, the environment and social specialists (ESS) in KETRACO will be responsible for:

- i. Review and approve project proposals, ensuring that they adequately apply OP 4.12;
- ii. Assess the adequacy of the assessment of project impacts and the proposed measures to address issues pertaining to affected persons and communities. This should entail an assessment of project impacts and social risks, circumstances of the affected persons, and the capacity of the responsible officer to implement the measures; and,
- iii. Assess the adequacy of the consultation process and the affected persons and communities' broad support to the project. They should monitor project

implementation, and include constraints and lessons learned and the application of this RPF in its progress and monitoring reports. In addition, they should ensure that the PAPs and/or their representatives are included in the M&E exercises.

200. The CBOs and NGOs present and active in the area will be engaged during the preliminary activities and during the M&E of each subproject. The formation of GRM and steering committees for each subproject investment will also include, from the initiation, the representation of the CBOs and NGOs.

201. Prior to the implementation of each subproject, the WB will receive all the RAPs/ARAPs prepared, review and provide a 'No Objection' or otherwise. Once No Objection is obtained, KETRACO will implement the RAP/ARAP. Once a satisfactory RAP/ARAP completion report has been provided by KETRACO to the satisfaction of the Bank, the Bank will provide its "No Objection" to initiate construction of the respective subproject. During implementation, the WB will also conduct field M&E.

ANNEXES

ANNEX 1: DEFINITION OF TERMS

Unless the context dictates otherwise, the following terms will have the following meanings and interpretation.

Census means a field survey carried out to identify and determine the number of Projected Affected Persons (PAP) or Displaced Persons (DPs) as a result of land acquisition and related impacts under various investments. 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 (LGIs).

Compensation means the payment in kind, cash or other assets given in exchange for the acquisition of land including fixed assets thereon as well as other impacts resulting from activities.

Current Market Value, as used by KETRACO, is in reference to the value of land, structures, trees, crops or other assets in a given area at the time of acquisition at non-depreciated rates, and without consideration for the value of salvaged material. It is calculated at the highest price at which the asset can change hands in the area, without duress. In undertaking the current market valuation of an asset, e.g. land, or structures, the value of all other fixed assets are also calculated. In addition to the current market value of an asset, where relocation is involved, the affected persons are given adequate transitional assistance to cover for the hardship related to relocation.

Cut-off date is the date of completion of the census and assets inventory of persons affected by the project. Persons occupying the project area after the cutoff date are not eligible for compensation and/or resettlement assistance. Similarly, fixed assets established after the date of completion of the assets inventory, or an alternative mutually agreed on date will not be compensated.

Displaced Persons are persons who, for reasons due to involuntary acquisition or voluntary contribution of their land and other assets under the various investments, 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.

Involuntary Land Acquisition is when the project affected people need to be relocated or give up their rights to land and other assets as a result of development projects or other reasons which are beyond their control in this case the PAPs.

Land acquisition means the possession of or alienation of land, buildings or other assets thereon for purposes of the projects.

Land refers to agricultural and/or non-agricultural land and any structures thereon whether temporary or permanent and which may be required.

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 labor and contractors' fees; and (c) any registration costs.

Full Replacement cost. For land, this includes the pre-project 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 cost of preparing the land to levels similar to those of the affected land, plus the cost of any registration and transfer taxes. For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors' fees, plus the cost of any registration and transfer taxes. In determining the replacement cost, depreciation of the asset and the value of salvage materials are not taken into account, nor is the value of benefits to be derived from the project deducted from the valuation of an affected asset. Where domestic law does not meet the standard of compensation at full replacement cost, compensation under domestic law is supplemented by additional measures so as to meet the replacement cost standard. Such additional assistance is distinct from resettlement measures to be provided under other clauses in OP 4.12.

Resettlement Assistance means the measures to ensure that Affected Persons and Displaced Persons under various investments who may require to be physically relocated are provided with assistance during relocation, such as moving allowances, residential housing or rentals whichever is feasible and as required, for ease of relocation. This resettlement assistance may also include land, other assets cash, employment as is appropriate (including those without land rights) to restore or improve their living conditions and livelihoods.

The Resettlement Policy Framework (RPF)

The RPF sets out KETRACO's policy statement for development of a resettlement procedural framework manual for all its transmission infrastructure that involve involuntary resettlement. It sets out the resettlement objectives and principles, organizational arrangements and funding mechanisms for any resettlement that may be necessary during investments implementation. It guides the preparation of Resettlement Action Plans of individual investments in order to meet the needs of the Project Affected Persons (PAPs).

The **Resettlement Action Plans (RAPs)** for various investments under KESIP will therefore be prepared in conformity with the provisions of this RPF.

Project Affected Person(s) (PAPs) are persons who as a result of implementation of a project, lose their right to own, use, or otherwise benefit from a built structure, limited¹² or total loss of use of land, annual or perennial crops and trees or any fixed or moveable asset, either in full or in part, permanently or temporarily. These person(s) are affected because they may lose, be denied, or be restricted access to economic assets; lose shelter, income sources, or means of livelihood. These persons are affected whether or not they will move to another location.

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 Program Affected Persons and Displaced Persons to improve their living standards, income earning capacity and production levels; or at least maintain them at pre- project levels.

Resettlement and Compensation Plan, also known as a Resettlement Action Plan (RAP) or Resettlement Plan is a resettlement instrument (document) to be prepared for each individual investment which is prepared based on the principles of this RPF. It sets out the procedures that will follow and the actions that will be taken to mitigate adverse effects, compensate losses and provide resettlement benefits to persons and communities affected by an investment project. 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 contain specific and legal binding requirements to resettle and compensate the affected party before implementation of a given investment.

¹²Limited loss of use since the land owner is only restricted to building a structure and or planting trees which grow more than 12ft above the ground.

ANNEX 2: A COMPARATIVE ANALYSIS BETWEEN WORLD BANK O.P 4.12 AND KENYAN LEGAL CONTEXT WITH REGARD TO RESETTLEMENT PROCESS

Comparative Analysis between the World Bank O.P 4.12 and Kenyan Legal Context with regard to Resettlement Process ¹³			
Provisions of OP 4.12	Applicable Kenyan Law	Comparison/Comment	The law to be applied for the project
Resettlement programs to be sustainable, with meaningful consultation with affected parties.	The Land Act, 2012 Act provides steps for sensitizing the affected population. Gives provisions and guidance on consultation on implications and grievance procedures.	Same as the World Bank	WB's OP 4.12
Involuntary resettlement should be avoided wherever possible, or minimized, exploring all alternatives.	Involuntary resettlement possible in contexts of projects of national importance	The Land Act does not stipulate That resettlement should be avoided wherever possible; on the contrary, as long as a project is for public interest, involuntary resettlement is considered to be unavoidable.	This will be anchored on OP 4.12
Displaced persons should be assisted in improving livelihoods etc. or at least restoring them to previous levels.	The Land Act 2012 guarantees the right to fair and just compensation in case of relocation.	Just and fair compensation as outlined in the Land Act 2012 is not clear and can only be determined by NLC. It gives provisions about improving livelihood or restoring them to pre-project status	Implement World Bank OP 4.12 policy
RAP Process Requirements			
PAP Consultation: Displaced persons should be meaningfully consulted and should be given equal opportunities to participate in planning and implementing resettlement programs	The Land Act outlines procedures for consultation with affected population by the NLC and grievance management procedures.	Same as World Bank	Adopt both Kenyan legislation and World Bank Procedures.
Grievance Redress Mechanism: For physical resettlement, appropriate and accessible grievance mechanism will be established	Land Act 2012 clearly outlines the steps and process for grievance redress that includes alternative dispute resolution, renegotiation with NLC and is backed by the	Kenyan legislation meets OP4.12 requirements.	Adopt both Kenyan legislation and World Bank.

	judicial system through Environmental and Land Court Act.		
<p>Eligibility Criteria Determined by:</p> <p>(a) those who have formal legal rights to land (including customary and traditional rights recognized under the laws of the country)</p> <p>(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 the country or become recognized through a process identified in the resettlement plan</p>	<p>The Land Act 2012 provides that written and unwritten official or customary land rights are recognized as valid.</p> <p>The Law provides that people eligible for compensation are those holding land tenure rights.</p> <p>Land Act also recognizes those who have interest or some claim in the land such as pastoralist or who use the land for their livelihood.</p> <p>The constitution recognizes occupants of land even if they do not have titles and payment made in good faith to those Occupants of land. However, this does not include those who illegally acquired land.</p>	<p>The O.P 4.12 recognizes Eligibility as both formal (legal) and informal (customary) owners of expropriated land. However, it does not specifically recognize all users of the land to be compensated.</p> <p>The constitution of Kenya on the other hand recognizes occupants of land who do not have title and who the state has an obligation to pay in good faith when compulsory acquisition is made.</p>	<p>Ensure ALL users (including illegal squatters, laborers, rights of access) of affected lands are included in the census survey and compensated/assisted in line with OP 4.12 provisions for compensation and resettlement assistance for this category of PAPs.</p>
<p>(c) those who have no recognizable legal right or claim to the land they are occupying</p> <p>To determine eligibility: Carry out resettlement census. Cutoff date for eligibility is established</p>	<p>Land Act 2012 provides for census through NLC inspection and valuation process</p>	<p>Same as World Bank</p>	<p>Implement cut-off procedures as outlined in the World Bank Involuntary resettlement policy</p>
<p>World Bank OP4.12 Article 6(a) requires that displaced persons are provided with prompt and effective compensation at full replacement cost for losses of assets attributable directly to the project. If physical relocation is an impact, displaced</p>	<p>According to the Land Act, there is just compensation before the acquisition of land. However, interpretation of just compensation is yet to be clearly outlined through a specific</p>	<p>OP4.12 requires that displacement must not occur before all necessary measures for resettlement are in place, i.e., measures over and above simple compensation</p>	<p>Use WB OP4.12 procedures in determining form of compensation. Implement prompt and effective resettlement</p>

<p>persons must be provided with assistance during relocation and residential housing, housing sites and/or agricultural sites to at least equivalent standards as the previous site.</p> <p>Replacement cost does not take depreciation into account. In terms of valuing assets, if the residual of the asset being taken is not economically viable, compensation and assistance must be provided as if the entire asset had been taken.</p> <p>Compensation and other assistance required for relocation should be determined prior to displacement, and preparation and provision of resettlement sites with adequate facilities, where required</p> <p>Valuation: With regard to land and structures, “replacement cost” is defined as follows: For houses and other structures, it is the market cost of the materials to build a replacement structure with an area and quality similar to or better than those of the affected structure, or to repair a partially affected structure, plus the cost of transporting building materials to the construction site, plus the cost of any labor and contractors’ fees, plus the cost of any registration and transfer taxes.</p>	<p>schedule defining just compensation have not been put in place.</p> <p>Attorney’s fees, cost of obtaining advice or cost incurred in preparing and making written claim not in the Land Act other than just compensation The Act does not out rightly stipulate assistance for relocation but we can interpret that relocation cost.</p> <p>Land Act 2012 provides for compensation for the lost assets but is not specific on the exact amount or procedures on the same.</p> <p>The Land Act 2012 stipulates just compensation.</p>	<p>Interpretation of just compensation is not clear</p>	<p>assistance.</p> <p>Ensure that ALL resettlement options are agreed on with PAPs and put in place prior to displacement of affected PAPs.</p> <p>Apply the World Bank OP4.12 valuation measures, as outlined in Section 6, in order to fully value all affected assets in a consistent manner.</p>
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ANNEX 3: SOCIO-ECONOMIC SURVEY FORM

SOCIO-ECONOMIC SURVEY FORM FOR ACQUISITION OF RIGHT OF WAY

Ministry of Energy through KETRACO is proposing to construct a transmission line and associated substations. This questionnaire is administered to collect information of persons affected by the proposed project and also to facilitate preparation of Resettlement Action Plan (RAP). Kindly provide the required information which will be handled with confidentiality.

SECTION 1

1.0 BACKGROUND INFORMATION OF THE PAP

Name:

.....
.....

Tel. Contact.....

(Surname, First Name) (Mr, Mrs, Ms, Hon, Dr, Eng.)

District.....**Location:**.....

Division..... **Sub location:**.....

Identification card:..... **ID**

No......

(Passport, Company ID, Voters ID, Driving permit, NSSF card, ATM card, Other specify)

1.1 BIO-DATA

Gender:

Age (in years)

... ..

a) Male

b) Female

Marital status

Education level:

Religion:

a) Married

a) Primary

a) Catholic

b) Widowed

b) Secondary

b) Protestant

c) Divorced

c) Post-secondary

c) Muslim

d) Separated

d) Never attended

d) Hindu

e) Single

e) Other

(specify)_____

f) **No of dependants:**

1.2 Employment/source of income

What the person does for a living. (Tick where appropriately)

a) Farming.

b) Livestock rearing.

c) Business

d) Formal employment

e) Casual employment.

f) Other(specify)

Is the affected plot a principal place of residence? (Circle appropriate response) **Yes/No.**

Is the residential house affected? (Circle appropriate response) **Yes/No**

If YES, what are your relocation preferences (village and distance in kms from residence)

a)

b)

Have you buried any member of your family within the project affected part on this land?

a) Yes

b) No

If YES, how many?

ITEM DESCRIPTION	Cash kshs for the last 12 months.	From affected land (YES)	NO
Income from household enterprises			
Crop farming			
Other agricultural income (e.g. livestock, poultry)			
Non-agricultural income(business)			
Rent received from rented property (land, housing)			
Family allowances/social security benefits.			
Remittances and assistance received from others			
Others (inheritance, alimony, scholarships, etc			
Formal employment income			
Temporary status of employment			
TOTAL			

Do you have a bank account?
a) Yes
b) No
If Yes, where? Bank name:.....
.....
Account no
.....
NB: If No, advice or Assist the PAP to open a bank account.
2. <u>HEALTH AND VULNERABILITY.</u>
i. Are there disabled or chronically ill people in the household?
Yes
No
ii. Type of care administered.
iii. What is the nearest health center known to the affected family?
iv. Is it actually using Yes/No. If No, why?
Yes
No

v. Are you aware of the HIV/AIDS?	
Yes	
No	
vi. Do you know your HIV/AIDS status?	
Yes	
No	
<u>WELFARE INDICATORS</u>	
vii. Does everyone in the household have at least two sets of clothes?	
Yes	
No	
ii. Does anyone in the household own a radio/Television set?	
Yes	
No	
iii. Does the household have transport equipment?	
Yes	
No	
If yes (tick appropriate response)	
Vehicle	
Bicycle	
Motorcycle	
Other (specify)	
iv. Where do you get water for your domestic use? (Tick appropriate response)	
Rain water	
Ponds/dams	
Community borehole	
Tap	
Protected spring	
River lake	
Other(specify)	
v. What fuel does the household use?	
Firewood	
Gas	

Charcoal
Solar
Paraffin/kerosene
Biogas
Electricity
Other(specify)
vi. What natural resources are available locally for use by the households?
Sand harvesting
Quarries
Water body
Other, specify
vii. Does your family belong to any of the following social networks?
Neighborhood groups
Clan
Religious
Income generating groups
Farmers association
Other, specify

ANNEX 4: RAP BUDGET TEMPLATE

Item	Cost US\$	Comment	Timing	Source of Funds	Channel of Disbursement
Operations					
Salaries					
Office/ Administration					
Transportation					
Consulting Services					
Miscellaneous					
Compensation					
Compensation to land owners for agricultural land					
Compensation for lost crop production for landowners and tenants					
Compensation for dwellings and structures					
Compensation for house plots					
Compensation for trees					
Compensation for enterprises					
Compensation for moving/ disturbance					
Land Acquisition and Resettlement Site Planning					
Land Acquisition					
Site Planning					
Infrastructure					
Monitoring & Evaluation					
RAP Monitoring					
RAP Evaluation					
Community Development					
Agricultural extension services					
Small enterprise training					
Revolving credit					
Totals					
Sub-total all times					
Contingency					
Total					

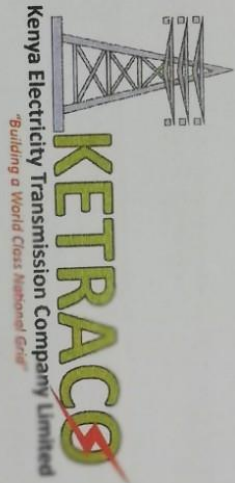
Adapted from IFC Handbook for Preparing a Resettlement Action Plan, April 2002.

**ANNEX 5: FEEDBACK RECEIVED DURING THE CONSULTATION MEETING
HELD ON FEBRUARY 22, 2018**

Issue	Feedback Provider	Specific Feedback	KETRACO's Response to feedback and how it will be reflected in the framework. If not, why not?
Grievance Redress Mechanism (GRM)	Kimberly Vilar - World Bank	-KETRACO should have a functional Grievance Redress Mechanism	Feedback was well received and will be considered.
GRM Procedures and RPF document	Irene Senei – CEC Lands Samburu	-KETRACO should elaborate in the RPF and she requested GRM procedures to be improved. For instance, she gave an example of Samburu where ranches exist and she requested that the committee members should include representatives of the group ranches and village council	There will be consultations to develop a GRM based on the local context that will also involve all key stakeholders
Community engagement	Joseph Shuel – CEC- Lands Laikipia	-Concurred with RPF document however he insisted that KETRACO should adopt a different way of consulting the communities in areas where land is communally owned -Communities need to be engaged more during the consultations -KETRACO should be consultative especially on communal land - the more consultative it is the more the community members will get information in an open and transparent way -KETRACO needs to look at the attachment these land owners have towards their lands -More emphasis should be placed on the management of issues related to communally owned land -KETRACO should endeavor to leave the communities better than they found them, without conflicts	KETRACO is committed to do all the consultations with relevant stakeholders and the request was well considered and addressed in the refined RPF
Compensation issue	Joash Oindo – National Lands Commission	-He noted that 15% should not only be added on the compensation for structure but also on land based on current market value -Land and structures are compensated at full replacement cost as per OP 4.12	Feedback was well noted and is captured in the section on compensation
GRM Procedures	Joash Oindo – National Land Commission	-On the GRM most grievances are related compensation, therefore, during enquiry KETRACO should elaborate more on the project and its benefits, i.e. give more information during sensitization meetings	KETRACO will engage the affected persons and their communities during the consultation prior and during implementation

		to reduce the number of complaints and grievances	
Swampy and Wetlands	Joash Oindo – National Land Commission	-He noted that wetlands should be avoided and are avoided by KETRACO in all its development activities -There is minimum compensation when a project passes through wet/swampy lands and government owned project.	Under KETRACO’s policy wetlands are avoided
Sensitization meetings	Celestine Kaseve - KETRACO	-At what point do we do an enquiry?	KETRACO usually organizes enquiries following the Gazette notice
Analysis of legal framework and world bank policy on resettlement	Kimberly Villar - World Bank	-Annex 2 on the RPF document presents a Comparative Analysis between World Bank O.P 4.12 and Kenyan Legal Context with regard to Resettlement Process	Observation was noted
Shared Benefits	Collins Nthuni -KWS	-How do you compensate on shared benefits?	-Benefits that accrue from the project should benefit all PAPs -KETRACO will establish the best way to compensate those affected by the project
Land use and compensation	Kipruto Kimosop – MCA Baringo	-When it comes to land valuation KETRACO needs to inform us of the process because pastoralists have their own way of defining land use -He asked what procedure is followed when there is complicated land ownership, such as in settlement schemes -He also noted that the Gazettement process is yet to be completed and there is a conflict between KFS and the communities on who owns land There is also an issue of fake title deeds in Baringo County	-KETRACO will compensate adequately for the limited loss of land -KETRACO works closely with local leadership and the NLC in resolving all matters related to land
Social value of Land	Irene Senei – CEC Lands Samburu	KETRACO should be cognizant of the social value of land in Samburu because land sustains their livelihood	-KETRACO compensates for limited loss of land and does not purchase land unless for very specific purposes such as the construction of substations. The land remains the land owners. -There are factors that determine the difference of value in different areas which include: size; use; terrain/gradient; access to infrastructure; and how easy can it be sold

Sacred land	Irene Senei – CEC –Lands Samburu	What about sacred lands?	-KETRACO avoids shrines and graves but in case a tower falls on any of such pieces of land negotiations are done with the communities, who are then dully compensated
Terms of valuations of land	Kipruto Kimosop – MCA Baringo	-He noted that valuation of land favors certain land tenure systems and discriminates the pastoralists. Further, pastoralists are not keen on selling land because they consider their land indigenous	KETRACO does not discriminate on compensation matters – land compensation is aligned closely to the provisions of the National Land Commission
Sensitization meetings	Irene Senei – CEC –Lands Samburu	-She advised KETRACO to take time during sensitization to explain clearly to the communities about compensation -KETRACO should also explain the importance of electricity for pastoralists, because electricity is not important for people who may not be able to use it due to the nature of habitation	KETRACO will monitor to ensure that the RAP has adequate provisions for communication and community sensitization



RPF, ESMF & VMGF MEETING - REGISTRATION FORM

Venue: The Boma Hotel

Date: 22nd February, 2018

NAME	ORGANIZATION	PHONE NUMBER	EMAIL ADDRESS	SIGN
DR. NAPPY Mwambere	WB	0722-8500401	myams-pa@ africa.int-imp	[Signature]
SAMUEL G. Mbugua	Kenya power	0720956314	S.G. Mbugua@ketraco.ke	[Signature]
AIDA CHIRAN	KETRACO	0727 087744	aidam@ketraco.co.ke	[Signature]
Ramat yodan	KETRACO	072037139	ryodan@ketraco.co.ke	[Signature]
Kimberly Wilson	World Bank	0743-030-669	kwilson@worldbank.org	[Signature]



RPF, ESMF & VMGF MEETING - REGISTRATION FORM

Venue: The Boma Hotel

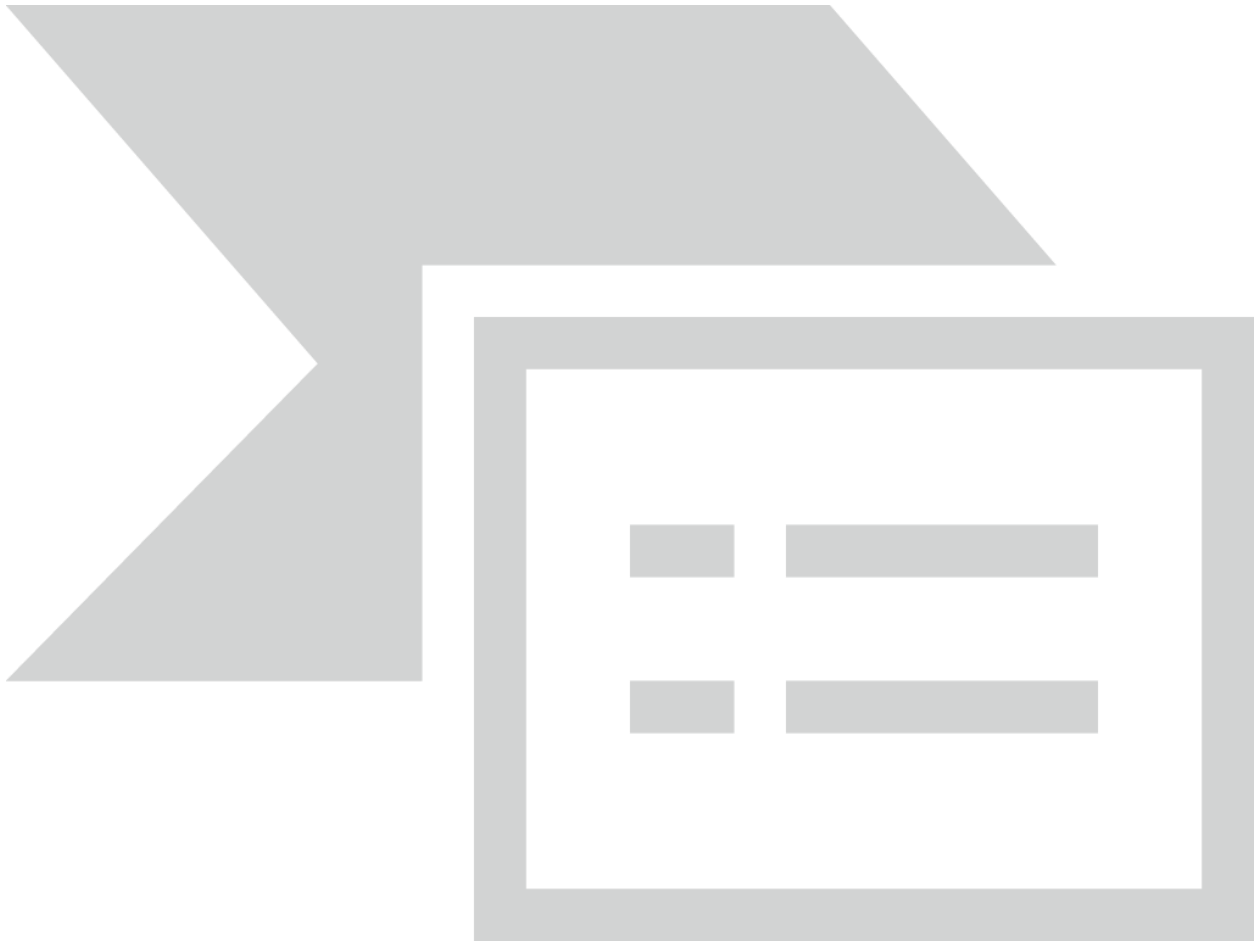
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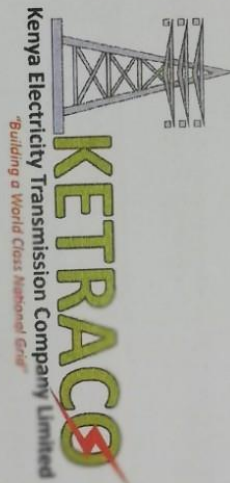












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