

ENVIRONMENT & SOCIAL MANAGEMENT SYSTEM



**KENYA
DEVELOPMENT
CORPORATION**

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Page 1 of 134

Table of Contents

1	<i>Introduction.....</i>	8
1.1	About Kenya Development Corporation.....	8
1.2	About DRIVE	8
1.3	Purpose of the ESMS	9
1.4	Scope of the ESMS	10
1.5	Review and Update of the ESMS	10
2	<i>E&S Policy.....</i>	10
2.1	KDC's E&S Policy	11
2.2	E&S Reference Framework.....	12
2.2.1	National Standards	12
2.2.2	Exclusion List.....	12
2.2.3	World Bank E&S Standards.....	12
2.3	Project Eligibility	13
3	<i>Understanding E&S Risks</i>	13
3.1	Potential Environmental Risks and Impacts	14
3.2	Potential Social Risks and Impacts	15
4	<i>E&S Procedures.....</i>	16
4.1	Subproject Preparation.....	16
4.1.1	Step 1: Initial Screening and Subproject Categorization.....	16
4.1.2	E&S Due Diligence.....	19
4.1.3	Legal Agreements	20
4.1.4	Stakeholder Engagement	20
4.2	E&S Supervision.....	21
5	<i>E&S Roles and Responsibilities</i>	23
6	<i>Reporting.....</i>	26
6.1	Internal Reporting.....	26
6.2	External Reporting.....	27
7	<i>External Communication Mechanism/ Complaints Handling Mechanism</i>	28

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 2 of 134

List of Annexes

Annex 1	Exclusion List
Annex 2	National Legal and Regulatory Framework
Annex 3	Guidance Note on E&S Categorization
Annex 4	Initial E&S Screening Form
Annex 5	E&S Due Diligence and Site Visit Checklist (to be used by KDC's E&S team or E&S Consultant)
Annex 6	Sample E&S Covenants
Annex 7	Terms of Reference for ESDD
Annex 8	ESDD Report Outline
Annex 9	Suggested E&S Action Plan Template
Annex 10	Guidance on development of Grievance Mechanism (to be shared with subprojects)
Annex 11	Guidance for Subprojects on Developing Stakeholder Engagement Plan (to be shared with the subprojects)
Annex 12	E&S Reporting Format (to be used by subprojects for reporting to KDC)
Annex 13	E&S Monitoring Report (ESMR) Format (from KDC to the MoALFC/ SDL)
Annex 14	E&S Risks and Impacts and their Mitigation

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 3 of 134

Definitions

Environmental and Social Framework (ESF)	consists of the World Bank's Vision for Sustainable Development ; the Bank's Environmental and Social Policy for Investment Project Financing (IPF); ten Environmental and Social Standards (ESSs), which set out the requirements that apply to its Borrowers; and a Directive on Addressing Risks and Impacts on Disadvantaged or Vulnerable Individuals or Groups .
E&S Policy	means E&S Policy of KDC articulating its commitment E&S risk management and sustainable development.
EHS Guidelines	World Bank Group Environmental Health and Safety Guidelines.
E&S Officer	means a senior officer of KDC to be responsible for administration and oversight of the E&S Management System.
E&S Consultant	is the external agencies to be engaged by Bank to undertake E&S categorization and to undertake E&S Due diligence of high -risk business activities to be financed by Bank.
Environmental and Social Management Framework (ESMF)	refers to an instrument that examines the risks and impacts of the DRIVE project, and those risks and impacts cannot be determined until the program or sub-project details have been identified. The ESMF sets out the principles, rules, guidelines, and procedures to assess the E&S risks and impacts. The ESMF for the DRIVE project for Kenya is available at (Include the link_
ESIA	The process of identifying, predicting, evaluating mitigating the E&S impacts.
Environmental and Social Management System (ESMS)	The ESMS is the set of policies, procedures, tools and internal capacity to identify and manage the E&S risks posed by the subprojects.
Grievance Mechanism	A mechanism to address affected communities' concerns and complaints.
E&S Action Plan	A plan of action acceptable to borrower to achieve compliance with the KDC's E&S standards and requirements.
Environmental & Social Due Diligence	An assessment and analysis of E&S risks and opportunities associated with a subproject being considered for financing to ensure that such risks would not present a potential liability to KDC.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 4 of 134

Excluded Activity	Any business or activity listed on the Exclusion List presented in Annex 1 .
Investment Project Financing (IPF)	refers to the World Bank’s financing of investment projects that aims to promote poverty reduction and sustainable development. IPF supports projects with defined development objectives, activities, and results, and disburses the proceeds of Bank financing against specific eligible expenditures.
National law	refers to applicable national, sub-national or sectoral laws, regulations, rules and procedures.
Subproject	is a project or activity financed by KDC under the DRIVE project. Also referred to as ‘borrower’ and ‘beneficiaries’

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 5 of 134

Acronyms

CDP	Community Development Plan
DRIVE	De-Risking, Inclusion And Value Enhancement Of Pastoral Economies
ECM	External Communication Mechanism
E&S	Environmental and Social
ESDD	Environment & Social Due Diligence
EHS	Environmental, Health and Safety
EIA	Environmental Impact Assessment
EMP	Environment Management Plans
ESA	Environmental and Social Assessment
ESAP	Environment & Social Action Plan
ESIA	Environmental and Social Impact Assessment
ESF	Environmental and Social Framework
ESMP	Environmental and Social Management Plan
ESMS	Environmental and Social Management System
ESS	Environmental and Social Standards
FGD	Focus Group Discussion
FPIC	Free, Prior and Informed Consent
GBV/ SEA	Gender Based Violence/ Sexual Exploitation & Abuse
GIIP	Good International Industry Practice
GRM	Grievance Redress Mechanism
HoA	Horn of Africa
H&S	Health and Safety
ICP	Informed Consultation and Participation
IEE	Initial Environment Examination
IFC	International Finance Corporation
ILO	International Labour Organisation
IPDP	Indigenous Peoples' Development Plan
IPs	Indigenous Peoples
IUCN	International Union for Conservation of Nature
KDC	Kenya Development Corporation
LRP	Livelihood Restoration Plan
M&E	Monitoring and Evaluation
MoALFC	Ministry of Agriculture, Livestock, Fisheries and Cooperatives
NEMA	National Environment Management Authority
NGO	Non-Governmental Organisation
PAF	Project Affected Family
PAP	Project Affected Person
PIU	Project Implementation Unit
RAP	Resettlement Action Plan
RF	Reference Framework
SDG	Sustainable Development Goals
SDL	State Department of Livestock

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 6 of 134

SEP	Stakeholder Engagement Plan
SH	Sexual Harassment
SIA	Social Impact Assessment
ToR	Terms of Reference

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 7 of 134

1 Introduction

1.1 About Kenya Development Corporation

The Kenya Development Corporation (hereinafter, KDC or Corporation) was established in 2020 with the objective to:

- a) Facilitate the social-economic development of Kenya by the initiation, assistance, or expansion or by aiding the initiation, assistance or expansion of development, commercial or other undertaking or enterprises in Kenya or elsewhere;
- b) Promote sustainable Economic development by providing development finance, infrastructure finance, business support, and advisory services to medium and large scale industries, infrastructure projects, and commercial undertaking in targets sector in Kenya and elsewhere;
- c) Establish or participate by way of joint or private equity ventures, finance ,or otherwise assist in the establishment of development projects and companies for execution of undertakings, works, projects, or enterprises whether of private or public character and to acquire, underwrite and dispose of shares and interests in such companies;
- d) Provide venture capital, seed capital and risk capital, for the establishment of projects, enterprises, or industries;
- e) Provide technical assistance through advisory and project management support;
- f) To promote the government agenda; including Sustainable Development Goals (SDG) goals and Vision 2030.

The Memorandum and Articles of Association mandate the KDC to extend financial assistance in three primary ways i.e. debt, equity and advisory/ services/technical assistance/grants. The products and services that the Corporation shall offer shall be in these three categories and it shall customize them based on the specific customer requirements.

1.2 About DRIVE

The World Bank project De-Risking, Inclusion And Value Enhancement Of Pastoral Economies (DRIVE) is designed with the objective to protect pastoralists against drought with enhanced access to financial services, include them in the value chains, and facilitate the livestock and livestock products trade in the Horn of Africa (HoA).

Component 2 of the DRIVE project is focused on livestock value chains and trade facilitation. Under this component, the pastoralist groups would be linked to investment opportunities. The DRIVE project, under this component will support private investment in the livestock value chains so that pastoral producers can be

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 8 of 134

linked to reliable markets and extract greater value addition from their livestock-rearing activities; the project will target pastoralist groups already formed.

Three types of intervention are contemplated to be supported under the DRIVE project:

- a) **Upgrading quality infrastructure** such as testing facilities, traceability systems, certification services, inspection services, and quarantine systems. It is critical to enable formal trade and enhance the quality of livestock and livestock products, to export higher value processed products (such as meat and leather goods).
- b) **Trade facilitation and trade logistics** to strengthen quarantine facilities and their efficient linkages to ports with the digitization of export and sanitary certificates; it will also improve the logistics on the transit of live animals.
- c) **De-risking facility to support private investment in the value chains.** The project will set up a de-risking facility to support private investments into the livestock value chains, focusing on a few demonstration investments to show that sustainable business models can emerge to benefit pastoralists. Investments will have to be private sector driven, commercially viable, and benefit pastoral producers. The de-risking facility will provide financial support through two windows, one window for significant investments with substantial demonstration effects (i.e., that can be replicated and scaled-up), and a second window that will focus on women and youth business enterprises in pastoral areas, which could support livelihood diversification. The supported investments will be required have to strong adaptation or mitigation climate Co-Benefits. The de-risking facility will not support enterprises with strong negative impact to climate for example, industrial livestock production.

The State Department of Livestock (SDL), Kenya has signed a subsidiary agreement with the KDC for the implementation of activities related to the private sector under the DRIVE project of the World Bank as mentioned under (c) above. Under the agreement with SDL, the KDC will facilitate private investment in the livestock value chain through de-risking facility. The objective is to link pastoral producers to reliable markets and ensure they extract greater value addition from their livestock-rearing activities.

1.3 Purpose of the ESMS

This ESMS defines the environment and social (E&S) policy, and procedures for integrating E&S considerations into investment and advisory decisions of the KDC related to the World Bank supported DRIVE project. Through this ESMS, the KDC ensures consistent and effective implementation of E&S risk management practices in all its activities, products and services related to the DRIVE project. Through its ESMS, the KDC seeks to ensure that subprojects it supports under DRIVE are implemented

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 9 of 134

and operated in accordance with the requirements of its E&S Reference Framework (RF).

The ESMS is meant for the staff and consultants of the KDC to enable them to ensure compliance of all DRIVE activities with the E&S RF defined in section 2.2. The specific objectives of this ESMS are:

- To set the KDC's E&S Policy and its commitment to sustainable development;
- To provide guidance to the KDC staff and consultants for adherence to the E&S Policy;
- To define processes and procedures for E&S compliance through the lifecycle of investment and advisory projects;
- To establish tools in the form of checklists, templates and guidelines for screening, categorization, assessment, and management of E&S risks and impacts in the KDC operations;
- To establish an information disclosure and an external communication mechanism for communication of relevant E&S information to stakeholders, especially to the impacted community;
- To define institutional roles and responsibilities for successful implementation of the ESMS along with a commitment to competent staffing, financing of the ESMS, and training and capacity building of internal resources; and,
- To establish a review and monitoring protocol for the successful and continual ESMS implementation.

1.4 Scope of the ESMS

The ESMS applies to all investments made by the KDC under the DRIVE project (both new investments and follow-on investments), from the early identification stage through to investment, portfolio management, and exit.

1.5 Review and Update of the ESMS

The ESMS implementation will be reviewed annually and it will be revised in response to the review findings. The ESMS would also be revised at regular intervals to ensure consistency with the requirements of lenders and national regulations and to respond to emerging issues. KDC will endeavour to apply the ESMS to all its operations.

2 E&S Policy

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 10 of 134

2.1 KDC's E&S Policy

The E&S policy underlines the KDC's commitment to integrating E&S considerations into its operations and to comply with the E&S RF and to ensure continual improvement through the ESMS implementation. Specifically, the KDC commits to:

- Ensure that all its operations related to DRIVE are reviewed, evaluated and monitored against E&S RF (presented in section 2.2);
- All subprojects will be screened against the exclusions list;
- All subprojects shall be prepared and implemented in accordance with relevant environmental and social national laws and regulations;
- Confirm compliance with national regulations and requirements of National Environment Management Authority (NEMA);
- Integrate E&S risk considerations and management into all its decisions and operations;
- Support subprojects only when they are expected to be designed, built, operated and maintained in a manner consistent with the E&S RF;
- Allocate resources for effective ESMS implementation;
- Ensure that all staff are trained in, and are aware of their roles and responsibilities with respect to, ESMS implementation;
- Establish a monitoring protocol to confirm ESMS implementation and compliance of subprojects with the E&S RF;
- Promote transparency and accountability through internal and external disclosure and reporting;
- Ensure appropriate consultation and transparency in all subprojects;
- Ensure that the management and all shareholders including employees understand the E&S policy commitments; and
- Promote non-discrimination, fair treatment of the workforce, and freedom of association.

In addition to the E&S Policy, the KDC will ensure that the subprojects it finances manage their social impacts in compliance with the following Social Policy.

- (i) Screen all subprojects against any exclusions in the legal agreement;
- (ii) Screen, review and categorize subprojects in accordance to their potential social risk impacts;
- (iii) Avoid and/ or minimize land acquisition and resettlement through the selection of appropriate locations and design of subprojects;
- (iv) Where the land acquisition is unavoidable, compensation is provided in line with full replacement cost principles and in line with international best practices such as the World Bank's Environment & Social Standards (ESS);
- (v) Restore the livelihoods of all those who experience loss of livelihood;
- (vi) Ensure protection of vulnerable groups, such as the economically and socially disadvantaged, women, children, physically-handicapped, and indigenous

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 11 of 134

- peoples (known in Kenya as vulnerable and marginalized groups – VMGs) and take appropriate measures to consult with them in meaningfully and culturally appropriate ways and to restore their livelihoods as relevant;
- (vii) Identify and meaningfully engage with affected communities and other key stakeholders;
 - (viii) Ensure implementation of a functional and effective grievance mechanism (GM) and stakeholder engagement plan (SEP);
 - (ix) Adopt and promote measures to effectively prevent and manage any form of violence and harassment, including Gender-Based Violence (GBV), Sexual Harassment and Exploitation (SEA) & Sexual Harassment (SH) in the work place; and,
 - (x) Adopt and promote measures to effectively manage the impacts of labour influx, including the preparation of labour management plans and codes of conduct for project workers.

2.2 E&S Reference Framework

The KDC will ensure that all its investment and advisory activities under the DRIVE project are undertaken in compliance with the E&S RF defined in this section.

2.2.1 National Standards

All subproject activities financed and supported under the DRIVE project need to be compliant with provisions of the legal framework of Kenya. An overview of relevant national regulatory requirements is presented in **Annex 2**.

2.2.2 Exclusion List

The exclusion list is presented in **Annex 1**. All subproject activities will need to be in compliance with the exclusion list.

2.2.3 World Bank E&S Standards

All subprojects financed under the DRIVE project will have to be in compliance with the:

- (i) World Bank Environment & Social Framework <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework>. This includes the following ESS:
 - ESS 1: Assessment and management of environmental and social risks and impacts;
 - ESS 2: Labor and working conditions;
 - ESS 3: Resource efficiency and pollution prevention and management;
 - ESS 4: Community health and safety;

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 12 of 134

- ESS 5: Land acquisition, restrictions on land use and involuntary resettlement;
- ESS 6: Biodiversity conservation and sustainable management of living natural resources;
- ESS 7: Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities;
- ESS 8: Cultural heritage;
- ESS 9: Financial intermediaries;
- ESS 10: Stakeholder Engagement and Information Disclosure.

(ii) The World Bank Group General Environmental, Health and Safety (“EHS”) Guidelines

(http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/our+approach/risk+management/ehsguidelines) and specific sectoral EHS Guidelines.

2.3 Project Eligibility

Under the World Bank supported DRIVE project, de-risking facility will be provided to social enterprises that can generate profit for shareholders and improve the livelihoods of the pastoral communities. The supported investments will focus on investments that improve production and incomes of pastoralists. These investments could be in the form of grass-fed red meat, auxiliary value chains like animal feed production, camel milk production, live animal export, processed livestock products, cold chains, third party logistics (the list is not exhaustive). The de-risking facility will deliver support through two windows:

1. Large business window – Up to US\$10 million per transaction
2. The special window for women and youth providing support up to USD\$300,000 per transaction.

3 Understanding E&S Risks

The project activities in the livestock value chain might generate a series of E&S impacts. These impacts will stem from subproject activities such as: (i) construction of meat and milk processing facilities; (ii) development of warehousing/ livestock yards; (iii) development of slaughter houses and abattoirs; (iv) improving animal export facilities; and (v) animal feed production. This section explains some of these impacts to help E&S team in their assessment of E&S risks and impacts.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 13 of 134

3.1 Potential Environmental Risks and Impacts¹

- (i) **Waste management:** Solid waste generated during livestock production includes waste feed, animal waste, and carcasses. Other wastes include various kinds of packaging (e.g. for feed and pesticides), used ventilation filters, unused/ spoilt medications, used cleaning materials, and sludges from wastewater treatment if present (which may contain residual amounts of growth enhancers and antibiotics, among other hazardous constituents).
- (ii) **Wastewater:** Livestock operations most commonly generate non-point source effluents due to runoff from feed (including silage) storage, loading, and unloading, livestock housing, feeding, and watering, waste management facilities, and areas of land application of manure. Depending on the type and intensity of the operation, as well as the nature of stormwater management features, some facilities may also include point sources which typically require collection and treatment prior to final discharge. In either case, effluents have the potential to contaminate surface water and groundwater with nutrients, ammonia, sediment, pesticides, pathogens and feed additives, such as heavy metals, hormones, and antibiotics. Effluents from livestock operations typically have a high content of organic material and consequently a high biochemical oxygen demand (BOD) and chemical oxygen demand (COD), as well as nutrients and suspended solids (TSS).
- (iii) **Air emissions:** Air emissions from livestock production include ammonia (e.g. management of animal waste), methane and nitrous oxide (e.g. animal feeding and waste management), odors (e.g. animal housing and waste management), bioaerosols, and dust (e.g. feed storage, loading, and unloading, feeding, and waste management activities). Effective waste management, as described above, is critical to reduce the emission of air pollutants.
- (iv) **Hazardous Materials Management:** Hazardous materials are used throughout the milk, and meat production cycles (e.g. disinfecting agents, antibiotic, etc.).
- (v) **Ecological impacts:** The most significant potential ecological impacts resulting from livestock production are associated with water and air emissions, as discussed above. In addition, livestock with access to creeks, rivers, and other natural water sources may cause environmental damage by contaminating the water with animal waste, destroying riparian habitat, and eroding the stream banks. In addition overgrazing may contribute to soil losses because of severe erosion, and a reduction in soil productivity caused by alteration of the vegetation composition and associated organisms in rangelands.

¹ Source: WBG EHS Guidelines

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 14 of 134

- (vi) **Animal diseases:** Animal disease-causing agents can spread rapidly, especially in intensive livestock operations. Animal diseases can enter a facility with new animals, on equipment, and on people. Some diseases can weaken or kill large numbers of animals at an infected facility. In some cases, the only remedy available to an operation is to sacrifice an entire group of animals to prevent the spread of the disease to other parts of the facility or to other facilities. The procedures to protect against the spread of animal diseases will depend on the type of animal at a facility, the way the diseases of concern spread to and infect animals, and the vulnerability of the animals to each specific disease.
- (vii) **Occupational health & safety:** Agriculture has one of the worst fatal accident and occupational health records of any major employment sector. Occupational health and safety hazards related to the daily operations of the mammalian livestock sector include: (a) exposure to physical hazards; (b) exposure to chemical hazards; (c) exposure to biological agents; and confined spaces. Exposure to biological and microbiological agents may be associated with inhalation and ingestion of dust and aerosols during manure handling in the lairage, pens and livestock yards, as well as through incidental ingestion and dermal contact during carcass handling, intestine cleaning, handling of stomach contents, and waste and wastewater management operations. Exposure to dust from the spices used in meat processing may also act as an irritant or as an allergen.

3.2 Potential Social Risks and Impacts

- (i) **Loss of land and involuntary resettlement:** Subprojects under the DRIVE may require land for setting up processing units, feedlots or export facilities. This may lead to loss of land, involuntary resettlement and economic displacement. Subprojects that involve land acquisition, restriction on land use or involuntary resettlement have been excluded from the scope of the DRIVE project.
- (ii) **Community safety:** Improper handling and disposal of animal waste and carcasses could expose the surrounding communities to public health risks through contamination of water, soil and other resources. In addition, unhygienic conditions in meat processing facilities could lead to contamination of meat.
- (iii) **Gender and vulnerable groups:** Women and vulnerable groups experience disproportionate impacts and often these can lead to further marginalization of vulnerable groups (e.g., women, disabled, aged, ethnic minorities, indigenous, and young). The areas where the subprojects are likely to be located are already impacted by aspects of Gender Based Violence (GBV) including perceived low status of women, pre-existing high prevalence and acceptability of GBV (early /forced marriages, polygamy) with high levels of poverty, which is likely to heighten the communities' vulnerability to Sexual Exploitation and Abuse. Increased livestock wealth, may result to increased empowerment of men and further marginalization of women

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 15 of 134

GBV has significant impacts at individual level, with victims suffering from physical, sexual and mental effects, loss of earnings and increased health care cost. It also has societal impacts including lower productivity, thus reduced economic outputs and growth, and increased pressure on social and health services. Quantifying the cost of GBV in terms of human suffering and economic indicators is difficult.

- (iv) **Exclusion of deserving groups and individuals (poor pastoralists, vulnerable groups, women youth PWDs):** Vulnerable communities may be disproportionately disadvantaged or made more vulnerable by the project interventions. Such communities could fail to benefit from development and opportunities resulting from the project.

All of above described impacts will vary across subprojects depending upon the location, nature of project and resource use. **Annex 14** discusses these risks in detail and provides recommended mitigation measures.

4 E&S Procedures

4.1 Subproject Preparation

Subproject preparation phase involves undertaking E&S due diligence (ESDD) to identify key risks and to define the scope of E&S conditions for KDC's financing and advisory support. The key steps to be undertaken as part of subproject preparation are explained in the following sections.

4.1.1 Step 1: Initial Screening and Subproject Categorization

Soon after a subproject is originated, KDC's E&S team will apply the exclusion list to determine eligibility for support. KDC will not support any application that is on the exclusion list presented in **Annex 1** and KDC's existing investment policy. The exclusion list includes a list of activities and project activities that will not be supported by KDC as part of the DRIVE project.

After confirming exclusion list compliance, the E&S team of KDC will undertake an initial E&S screening as per the attached screening checklist (**Annex 4**) and assign a provisional E&S categorization to the subproject. The purpose of initial screening and categorization is to determine the significance of potential E&S risks and impacts and the level of E&S risk assessment required for any given subproject.

E&S Categorisation	
Each subproject will be assigned an E&S category. The category is an indication of potential E&S risks and impacts associated with the subproject. The E&S categories are:	
Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 16 of 134

Category A: Subproject activities with potential significant adverse E&S risks and/or impacts that are diverse, irreversible, or unprecedented.

Category B: Subproject activities with potential limited adverse environmental or social risks and/or impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures.

Category C: Subproject activities with minimal or no adverse environmental or social risks and/or impacts.

Category FI: This category refers to indirect investments by financial intermediaries (FI). This category is further divided into:

- FI-1: when an FI's existing or proposed portfolio includes, or is expected to include, substantial financial exposure to business activities with potential significant adverse environmental or social risks or impacts that are diverse, irreversible, or unprecedented.
- FI-2: when an FI's existing or proposed portfolio is comprised of, or is expected to be comprised of, business activities that have potential limited adverse environmental or social risks or impacts that are few in number, generally site-specific, largely reversible, and readily addressed through mitigation measures; or includes a very limited number of business activities with potential significant adverse environmental or social risks or impacts that are diverse, irreversible, or unprecedented.
- FI-3: when an FI's existing or proposed portfolio includes financial exposure to business activities that predominantly have minimal or no adverse environmental or social impacts.

More detailed guidance on E&S categorization is provided in **Annex 3**. **Annex 3** includes Legal Notice No. 31 of the EMCA. This illustrates the E&S categorization of subprojects as per the EMCA and would help the E&S team of the KDC to assign provisional E&S categories to subprojects. However, there is a possibility that E&S categorization as per the WB ESF might vary from Legal Notice No. 31. In such situations, the categorization as per the ESF will prevail for the DRIVE project.

This initial screening involves:

- Review of information provided by the subproject
- Review of information in the public domain, including a web search related to the project, and project sponsor. The desk review and web search is to help identify significant E&S issues that may represent a reputational risk for KDC. The web search should include a search for negative press reports, public complaints, protests, infringements of the regulations, labour disputes, court cases or fines. Some key words for web search include: 'labour', 'illegal', 'child labour', 'environment pollution', 'waste', 'water', 'community', 'employees',

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 17 of 134

'discrimination', 'accident', 'death', 'harassment', 'security', 'protest', 'blockade', 'landgrab', 'human rights', 'violation', 'violence', 'conflict', 'suppression', 'civil rights', 'land acquisition', 'indigenous people', and 'stakeholder engagement'.

Level of E&S assessment based on E&S categorisation

E&S Category	Scope of E&S assessment
Category A	<p>Under category A subproject, the impacts may extend beyond the project footprint and may be wide ranging in terms of impacts on social aspects, biodiversity and environmental issues.</p> <p>Typically, most category A projects require a full scale environmental & social impact assessment (ESIA), including an environmental and social management plan (ESMP). Some category A projects, depending on whether land will be acquired or project-affected persons will lose access to resources important for livelihoods, would require a resettlement action plan including livelihood restoration plan.</p>
Category B	<p>Impacts in category B projects are usually site-specific, and are usually mitigable. Most category B projects require an initial environmental examination (IEE)/ E&S scoping study, including an limited ESMP. In case of some category B, a full scale ESIA might be required depending on the project context.</p>
Category C	<p>Category C projects mostly have limited E&S impacts that can be easily mitigated. An IEE may be required in some cases.</p>

After completing the initial screening, the E&S team will determine the scope of ESDD (whether a site visit is required or not, external expertise required, etc.), develop an information request list and share the same with the subproject investment/ deal team.

Decision: At this stage, the E&S team of KDC informs the project team about subproject's compliance with the exclusion list and explains the scope of the ESDD and provides an information request list. The findings of the initial E&S screening are recorded in the screening report.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 18 of 134

4.1.2 E&S Due Diligence

Subprojects that are compliant with the exclusion list move to the next step of ESDD. The objective of ESDD is to: (a) confirm compliance of the project with all E&S requirements as mentioned in section 2.2 and identify gaps in compliance; (b) identify E&S risks and potential for reputational risks, legacy issues and pending liabilities; and (c) develop and agree on an E&S action plan (ESAP) for closing the gaps and implementing remedial actions.

As part of the ESDD, KDC's E&S team will confirm regulatory compliance of the subproject. **Annex 2** provides a summary of regulatory requirements that are likely to be relevant to the kind of subprojects KDC will support as part of the DRIVE project. When undertaking an ESDD, the E&S team of KDC will determine which national legislations are applicable and what are the requirements in relation to E&S assessment.

The ESDD will involve: (i) review of E&S documents provided by the client on the subproject for completeness as per the E&S requirements. These documents could include IEE, ESIA, E&S management plans (ESMPs), regulatory clearances, etc.; (ii) site visit by E&S team of KDC; and, (iii) consultation with project affected families (PAFs) and other key stakeholders to know their views on the project.

Review of documents: The E&S team will review all E&S documents such as the ESIA/ IEE, resettlement action plan (RAP), EMPs, livelihood restoration plan (LRP), stakeholder engagement plan (SEP), grievance mechanism (GM), and/or other documents that are submitted by the project sponsor/ client. The National Environment Management Authority (NEMA) established under the Environmental Management and Co-ordination Act (EMCA) is the key government institution for the implementation of all policies relating to environment. defines the E&S assessment requirements for projects. For instance, Category A (defined as high risk projects by NEMA) require a full ESIA or similar assessment. Depending on the stage of the subproject, it is likely that an E&S assessment aligned to the NEMA requirements might have been completed. The subprojects should be asked to submit all such E&S assessments and management plans. The review of documents will be undertaken against the applicable ESS and the requirements set therein. If the review of documents reveals gaps between the assessment and the applicable E&S requirements, the E&S team will recommend supplementary assessment and development of management plans to address the identified gaps. The requirement for supplementary assessment and completion timeline will be included in the ESAP. It is likely that some supplementary assessment may need to be completed before the investment decision can be made. These typically include assessments related to understanding the E&S risks and impacts and major red flags.

It is possible that some investments might approach KDC for funding at a very early stage in subproject preparation. For such subprojects, the E&S team will advise the

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 19 of 134

subproject proponent on the scope of E&S assessment, provide TOR for assessment, and review subproject design from E&S perspective with the objective of minimizing E&S impacts.

Site visit: Site visit will be undertaken for all category A and B projects. **Annex 5** provides a site visit checklist. Site visit is crucial to understand the subproject setting, to evaluate its surroundings first hand and confirm the E&S compliance.

Consultations with project affected community: As part of site visit, consultations will be held with community impacted by the subproject. The consultations should focus on discussing the subproject, their views on the subproject & its activities, any concerns & suggestions, their knowledge about the community grievance mechanism and their access to the subproject team. Separate consultations will be held with separate stakeholder groups.

E&S action plan: Based on the findings of the ESDD, KDC will develop an ESAP for the subprojects to address the identified gaps, if any. The ESAP will (i) describe the actions for implementation of the corrective actions; (ii) define the timeline for their implementation; and (iii) describe the schedule and mechanism for external reporting and confirmation of the ESAP implementation.

The ESDD may be undertaken internally by the E&S team of KDC or through an external consultant. The TOR for an external E&S consultant for ESDD is provided in **Annex 7**. For all category A projects, KDC will hire an experienced E&S consultant(s) to undertake the ESDD.

The findings of the ESDD will be included in the investment memo that is presented to the management investment committee. The E&S section in the investment memo will, at minimum, include: (i) the subproject description, applicable ESSs and final E&S category; (ii) significant E&S impacts, and the adequacy of E&S mitigation measures and management plans; (iii) an assessment of client capacity and commitment to implement ESMPs; and (iv) the proposed ESAP.

4.1.3 Legal Agreements

The E&S team will ensure that all subproject legal agreements include E&S covenants to ensure ESAP implementation and ongoing compliance of the subproject with ESF. Sample E&S covenants are provided in **Annex 6**.

4.1.4 Stakeholder Engagement

The E&S team of KDC will advise the client to undertake meaningful consultation with affected people, and to document the consultation processes and its outcome as part of the social impact assessment (SIA) and SEP. The client will be asked to develop a project specific SEP for the subproject as per the guidance provided in **Annex 11**. For all subprojects with impacts on the community and affected people, the E&S team of

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 20 of 134

KDC will undertake stakeholder consultations as part of the ESDD process. In addition to the SEP, KDC will require all subprojects to develop a GM for the community. The GM will define the process by which grievances can be reported, assessed and resolved. **Annex 10** provides guidance for the subprojects on development of GM.

KDC's own engagement with its stakeholders will be governed by the process defined in section 7 on the external communication mechanism.

4.2 E&S Supervision

Once the subproject is in the portfolio, KDC will monitor its E&S performance to ensure ongoing compliance with the ESF and at approval conditions. Any non-compliance with the ESAP, E&S covenants in the legal agreements or ESS requirements must be reported to the portfolio management committee.

As part of supervision, the E&S team of KDC will undertake review of: (i) updates on ESAP implementation provided by the client/ subproject; (ii) E&S monitoring reports (refer **Annex 12** for E&S monitoring report template); and (iii) site visits. The E&S team will review periodic E&S monitoring reports submitted by subprojects/clients.

Supervision visits are required to assess the E&S performance. The timing and frequency of visits will be dependent on the stage of the subproject implementation and will be proportionate to the nature and potential impacts and risks. For most category A, annual E&S site visits will be undertaken during operational and biannual visits during construction phase. The recommended monitoring including site visits protocol is defined in the following table. However, E&S team must exercise judgement while determining the frequency of site visits.

Project E&S Category	E&S monitoring
Category A	<p><u>Construction phase:</u></p> <ul style="list-style-type: none"> Quarterly E&S monitoring reports during construction period. Third party project completion audit at the end of the construction period. KDC to undertake six-monthly site supervision visits Incident reports to be submitted by the subproject as soon as the incident occurs <p><u>Operational phase:</u></p> <ul style="list-style-type: none"> Six monthly E&S monitoring reports during operations for the first 1 year. Subsequently, annual monitoring reports. Annual supervision visits
Document Name: Environment and Social Management System	
Effective Date:	
Document Number: KDC/PO/ESMS /00	
Version Number: 0.0	
Repository: Quality Management Office	
Page 21 of 134	

Project E&S Category	E&S monitoring
	<ul style="list-style-type: none"> Incident reports to be submitted by the subproject within 24 hours of occurrence
Category B	<p><u>Construction phase:</u></p> <ul style="list-style-type: none"> Quarterly E&S monitoring reports during construction period. Third party project completion audit at the end of the construction period. KDC to undertake six-monthly site supervision visits Incident reports to be submitted by the subproject as soon as the incident occurs <p><u>Operational phase:</u></p> <ul style="list-style-type: none"> Annual E&S monitoring reports. Annual supervision visits Incident reports to be submitted by the subproject within 24 hours of occurrence
Category C	<p><u>Construction phase:</u></p> <ul style="list-style-type: none"> Quarterly E&S monitoring reports during construction period. Third party project completion audit at the end of the construction period. KDC to undertake annual site supervision visits Incident reports to be submitted by the subproject as soon as the incident occurs <p><u>Operational phase:</u></p> <ul style="list-style-type: none"> Annual E&S monitoring reports. Supervision visits when the monitoring suggests E&S risks and non-compliance Incident reports to be submitted by the subproject within 24 hours of occurrence

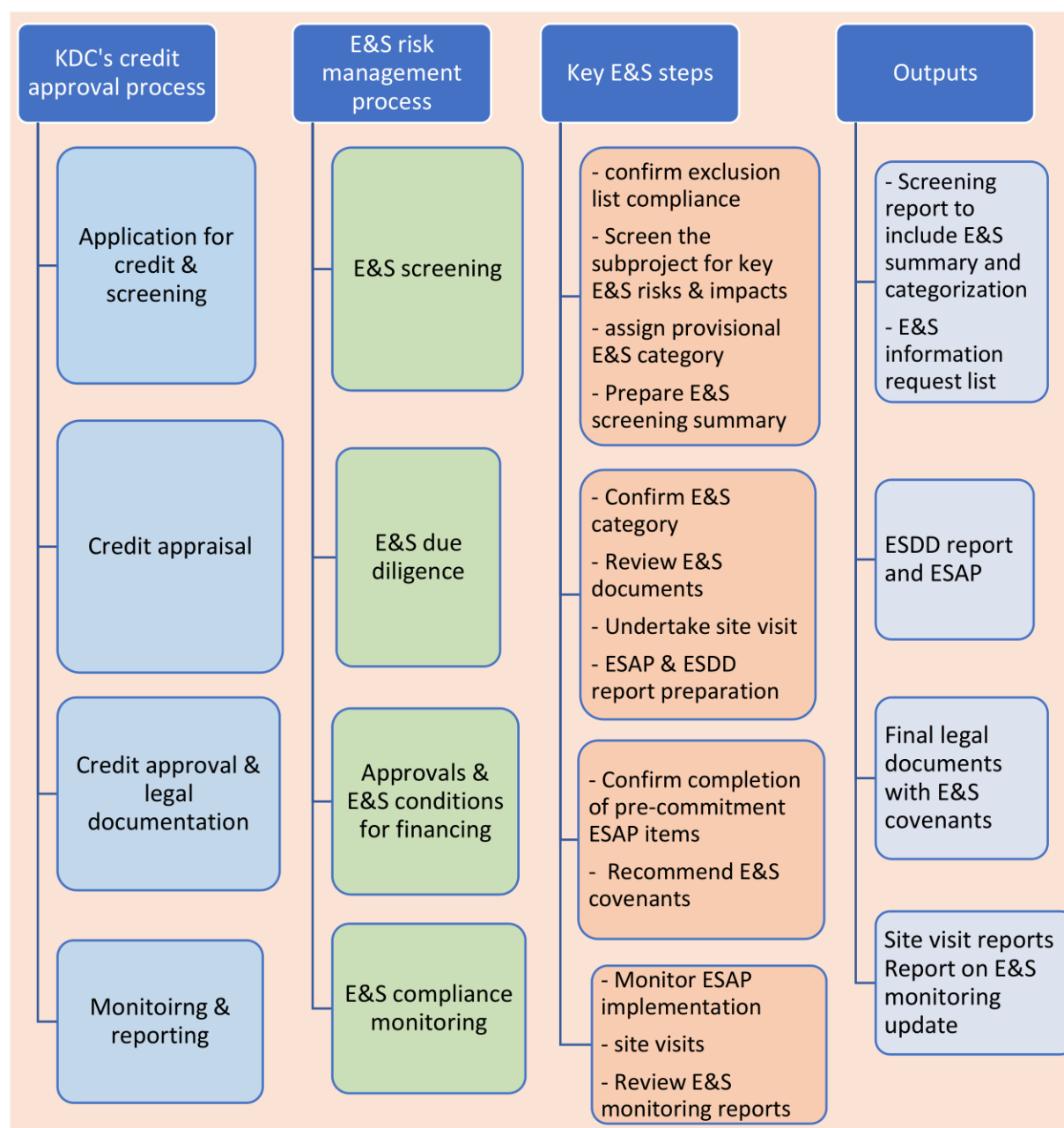
Incident reporting refers to significant incidents which have material impacts on the subproject's operations, the welfare of employees, contractors or members of the public, or the environment. These incidents may include:

- Work-related injuries and fatalities (including deaths of employees, contract workers and, members of the public)

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 22 of 134

- Significant pollution discharges above limits of normal operation
- Incidents significantly affecting the health of employees, contractors, or members of the public
- Strikes or employee unrest
- Incidents leading to closure or stoppage of operations; and
- Significant community unrest.

The diagram below illustrates the key steps involved in E&S risk management.



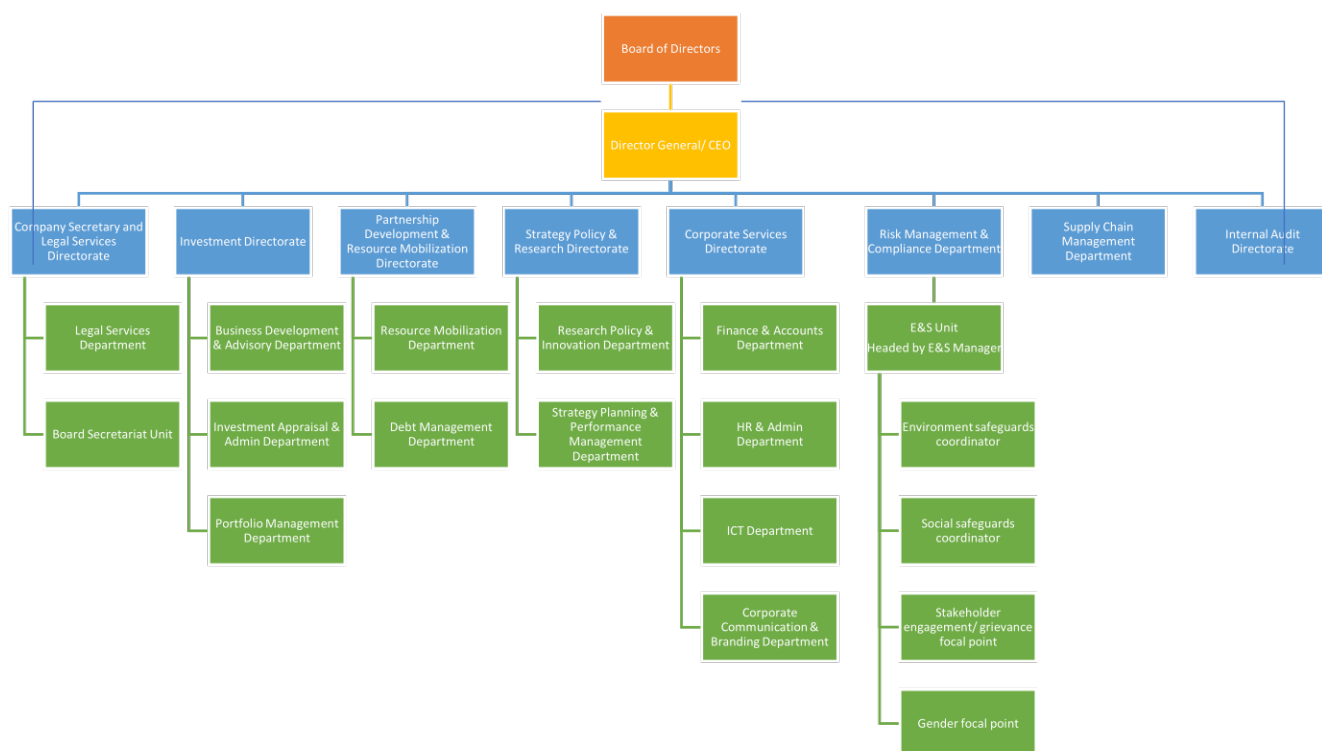
5 E&S Roles and Responsibilities

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 23 of 134

This section defines the E&S roles and responsibilities within KDC.

KDC is led by its Board of Directors. The Director General, who is also the Chief Executive Officer (CEO), has the ultimate responsibility over KDC and its operations. The Internal Audit Directorate and the Company Secretary have direct reporting to the Board. The core functions of KDC are supported by various departments such as the Human Resources (HR) , Investment Department, Portfolio Management, Communication and Strategy Departments.

Responsibility for E&S risk management is with Environment & Social Unit (ESU) within the Risk Management and Compliance Department. . The ESU is managed by the E&S Manager, who has the overall responsibility for ESMS implementation. The E&S Manager reports to the Departmental Head and is supported by qualified environment specialist and social specialist.



The key E&S roles and responsibilities are defined in the table below.

	E&S role
Board of Directors	<ul style="list-style-type: none"> Approval of the ESMS Assigning resources and capacity for ESMS implementation Ensure that E&S issues are integrated in review and approval of funding applications and funding agreements

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 24 of 134

	E&S role
	<ul style="list-style-type: none"> Review of ESMS implementation
Senior Management	<ul style="list-style-type: none"> Recruitment of E&S staff Capacity building of KDC staff in ESMS implementation Resource allocation for ESMS implementation and resources Review of ESMS implementation
Management Investment Committee	<ul style="list-style-type: none"> Ensuring that E&S issues are integrated in review and approval of funding applications and funding agreements Requiring investment team to ensure that all investment memos include E&S section
E&S Manager	<ul style="list-style-type: none"> Head of the ESU Ensure implementation of the ESMS Assigning E&S resources and manpower to projects Hiring, and supervising the work of E&S consultants Capacity building of KDC staff and consultants in E&S risk management and ESMS implementation Supervising and undertaking ESDD and supervision of subprojects undertake an annual review of the procedures to respond to any lessons learned over the year of implementation Coordinate with SDL
Environment & Social Unit (E&S unit will have one envt. Safeguards coordinator and one social safeguards coordinator)	<ul style="list-style-type: none"> Undertake initial E&S screening and recommend E&S categorization Undertaking ESDD of subprojects. Review all E&S assessment and management plans against the E&S requirements and prepare ESDD report. Undertake site visits, consultations with key stakeholders and project affected community. Oversees the implementation and monitoring of gender-related actions. Reviews various social management plans (such as stakeholder engagement plan, GRMs, GBV/SEA and SH management plans, labor management plans) and assessment reports and prepare ESDD report. Ensures disclosure of all social risk management plans as appropriate such as GMs, GBV/SEA and SEPs on KDC website For all subprojects, submit and coordinate the review of all E&S assessment documents and management plans with the World Bank team Prepares subproject disclosure documents for KDC. Undertake monitoring of projects to confirm compliance with E&S requirements and prepare monitoring reports. Contribute to the annual E&S performance monitoring report for submission to the World Bank. Prepare TOR and supervise the work of environment consultants.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 25 of 134

	E&S role
	<ul style="list-style-type: none"> Report any non-compliance with environment requirements to the senior management; and Plan and execute capacity building for KDC team, its consultants, and subprojects.
E&S Consultants	The specific role of E&S consultants will be defined for subprojects they are hire for. KDC may hire E&S consultants from time to time to support its inhouse E&S team for undertaking ESDD and E&S monitoring.
Stakeholder engagement/ grievance focal point	<p>This will be a designated position within KDC.</p> <ul style="list-style-type: none"> Responsible for coordinating E&S related complaints received through KDC's complaints handling mechanism Coordinating with the communication/ public relations team of KDC on proactively providing information on KDC's ESMS and its implementation
Gender focal point	<p>This will a designated position within KDC.</p> <ul style="list-style-type: none"> guide the subprojects to integrate gender considerations in subproject design Guide subproject on gender-based violence (GBV), development of code of conduct to address risk of GBV t workplace Provide guidance on how to access and address GBV risk and risk of exclusion

6 Reporting

6.1 Internal Reporting

Internal reporting will be to the senior management of KDC. The E&S team will prepare internal reports on ESMS implementation and related challenges, portfolio compliance with E&S RF, stakeholder concerns and grievances received through the external communication mechanism, and E&S incidents reported by subprojects. The purpose of internal reporting is to let the management know of any emerging issues and challenges in implementing the ESMS and also alert them of any issues at the portfolio level.

E&S monitoring reports from various subprojects will be one of the key inputs to the internal monitoring reports. Hence, it is important that all subprojects submit their E&S monitoring report as per the agreed format in a timely manner. The E&S team

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 26 of 134

will ask the portfolio team to ensure timely submission of monitoring reports by subprojects.

Internal E&S reports will cover:

- No. of funding applications received during the reporting period
- No. of applications rejected on account of E&S issues (such as non-compliant with the exclusion list, major red flags, etc.)
- Break up of portfolio by E&S category
- Overall E&S compliance of the portfolio with the E&S requirements
- Challenges in implementation of the ESMS and action plan for addressing the challenges
- Grievances from the community and other relevant stakeholders and their status
- Number of SEA/SH cases received/referred, disaggregated by age and by sex; number of SEA/SH cases open, and the number of SEA/SH cases closed, and the average time they were open
- External audit findings

KDC will undertake annual third party ESMS implementation audit every alternate year with a view to identify any issues and course correct.

6.2 External Reporting

External reporting for the DRIVE project will be to Ministry of Agriculture, Livestock, Fisheries and Cooperatives (MoALFC) and SDL. Reporting to the MoALFC/ SDL will be ongoing and periodic. Ongoing reporting will be on each subproject before they are supported by KDC. All E&S instruments/ documents prepared for each subproject. MoALFC/SDL will review ESIA and ESMPs prior to signing off sub-loan agreements to ensure identification, assessment, management, and monitoring of the E&S risks and impacts is in accordance with the process and procedures defined in this ESMF and that the subproject E&S assessment and management plans are in compliance with the requirements of the E&S RF. The following steps will be implemented for each subproject:

- Inform the MoALFC/ SDL of new funding requests being considered with E&S categorization of each request;
- Submit initial screening findings with the plan and timeline for ESDD and available E&S reports;
- Share ESDD report and draft ESAP along with all E&S studies and ToRs for supplementary studies and consult the MoALFC/ SDL team on selection of the E&S Consultants for supplementary studies. All E&S documents such as the feasibility study, ESIA/ SIA report, EMP, RAP, LRP, IPP, Stakeholder Engagement Plan, Community Grievance Mechanism will be shared with the

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 27 of 134

MoALFC/ SDL for review, approval and disclosure on the MoALFC/ SDL and the World Bank site;

- Report on incidents of GBV and security at the subproject level.

In addition to the reporting on each subproject, KDC will submit an annual E&S monitoring report (as per the format presented in **Annex 13**) to the MoALFC/ SDL to confirm ongoing compliance of subprojects with the E&S requirements.

In addition to reporting to the MoALFC/ SDL, KDC will disclose this ESMS and all E&S instruments/ documents such as ESIA/ SIA, ESMPs, RAP, LRP, IPDP, SEP, CDP (whichever applicable) for every new subproject on its website. The disclosure will include brief description of the subproject, E&S instruments, E&S assessment undertaken by KDC and subproject's ongoing compliance.

7 External Communication Mechanism/ Complaints Handling Mechanism

KDC has a complaints handling mechanism that defines the process for receiving, recording, processing & assessing and addressing external inquiries and complaints from the public and other stakeholders regarding its operations. The complaints handling mechanism is disclosed on KDC's website (include the link here).

All communication and complaints received through the complaints handling mechanism will be documented and periodically reported to the senior management and the World Bank as part of annual E&S reporting. The reports will provide information on the following:

- Number of communications/complaints received (as per source and type of issue such as E&S, commercial, etc.)
- Number of open enquiries and complaints
- Number of closed enquiries and complaints
- Number of enquiries and complaints which exceeded the defined timeline
- Number of enquiries and complaints which were escalated

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 28 of 134

Annex 1

Exclusion List

List of Activities that KDC will not finance:

1. Any activities resulting or anticipated to result in permanent or temporary physical or economic displacement.
2. Any activities involving adverse impacts on biodiversity conservation and sustainable management of living natural resources.
3. Any activities that have adverse impacts on cultural heritage as defined under ESS8.
4. Any activities that, due to the nature and scale of the activities, would result in a wide range of significant adverse impacts and risks, which are long-term, permanent, and/or irreversible, impossible to avoid entirely, and cannot be mitigated or required complex, unproven mitigation and excessive associated costs, rendering its risk classification as high.
5. Production or trade in any product or activity deemed illegal under the Recipient's laws or regulations or ratified international conventions and agreements.
6. Production or trade-in pesticides/herbicides subject to international phase-outs or bans.
7. Any activities that would curtail workers' fundamental rights. These would include: (i) freedom of association and the effective recognition of the right to collective bargaining; (ii) prohibition of all forms of forced or compulsory labor; (iii) prohibition of child labor, including without limitation the prohibition of persons under 18 from working in hazardous conditions (which includes construction activities), persons under 18 from working at night, and that persons under 18 be found fit to work via medical examinations; (iv) elimination of discrimination in respect of employment and occupation, where discrimination is defined as any distinction, exclusion or preference based on race, color, sex, religion, political opinion, national extraction, or social origin.
8. Production or activities that impinge on the lands owned, or claimed under adjudication, by indigenous peoples, without full documented consent of such peoples.
9. Any other excluded activities as set out in the ESMF for the Project.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 29 of 134

Annex 2

National Legal and Regulatory Framework

This annex outlines and highlights the relevant institutional and legal as well as policy framework in Kenya which may have a direct bearing on the subprojects to be supported by KDC.

1. Constitution of Kenya, 2010

This is the supreme law of Kenya for protection of the environment and sustainable development is enshrined in the Constitution of Kenya. Sections 69 and 70 of Kenya's Constitution has identified National Obligations in respect of the environment and enforcement of environmental rights. The Constitution guarantees every person in Kenya the right to clean and healthy environment and assigns a duty to them to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

It places an obligation on the state to ensure sustainable exploitation, utilization, management, and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits. Further, the state is obligated to establish systems of environmental impact assessment, environmental audit, and monitoring of the environment.

Section 70 provides for enforcement of environmental rights. It gives a person the right to approach the court for redress and legal remedy if any person feels that her right to a clean and healthy environment recognized and protected under Article 42 has been, is being or is likely to be, denied, violated, infringed or threatened.

The court have the rights to prevent, stop or discontinue any act or omission that is harmful to the environment. They can compel any public officer to take measures to prevent or discontinue any act or omission that is harmful to the environment; or to provide compensation.

It is noteworthy that for purpose seeking legal remedies, an applicant does not have to demonstrate that any person has incurred loss or suffered injury.

Essentially, the new Constitution has embraced and provided further anchorage to the spirit and letter of EMCA 1999 and EMCA (amendment) Act, 2015 whose requirements for environmental protection and management have largely informed Sections 69 through to 71 of this document. In Section 72 however, the new constitution allows for enactment of laws towards enforcement of any new provisions of the Supreme Law.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 30 of 134

The Constitution of Kenya (2010) contains a comprehensive Bill of Rights. Article 43 guarantees all Kenyans their Economic, Social, and Cultural (ESC) rights. It asserts the right for every person to social security and binds the State to provide appropriate social security to persons who are unable to support themselves and their dependents. This right is closely linked to other social protection rights, including the right to healthcare, human dignity, reasonable working conditions, and access to justice. Article 21 establishes the progressive realization of social and economic rights and obligates the State to observe, respect, protect, promote, and fulfil the rights and fundamental freedoms in the Bill of Rights. Underlying all these rights is the principle of equality and non-discrimination that is provided in Article 27 and requires that the State take the necessary measures to bridge the inequalities in society.

The Kenyan Constitution (2010) states that every person is equal before the law and has the right to equal protection and equal benefit of the law. It describes equality as the full and equal enjoyment of all rights and fundamental freedoms. This article entrenches the right to equal opportunities in political, economic, cultural, and social spheres. Prohibits discrimination on all grounds and requires the state to employ affirmative action measures to address historical injustices that are responsible for the marginalization of some interest groups. It requires that persons with disabilities should form at least 5% of every elective or appointed body. It recognizes the rights of youth, minorities, and marginalized groups and elderly persons² to participate in all spheres of life including political, social, and economic spheres. It sets the minimum gender quarter to not more than Two-Thirds of either gender on representation in elective or appointive positions. Article 21 (3) requires all State organs and all public officers to address the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, members of minority or marginalized communities, and members of ethnic, religious or cultural communities. Article 27 (1 and 4) prohibits discrimination based on age. Article 55 entitles and guarantees youth the opportunities to participate in political, social, economic, and other spheres of life, the right to access employment, the right to protection from harmful cultural practices and exploitation, and the right to access relevant education and eventual employment. Youth are defined in Article 260 as persons who have attained the age of 18 years but have not passed the age of 35 years.

Article 53 safeguards children by entitling them to basic nutrition, shelter, and health care while guaranteeing their protection from abuse, neglect, harmful cultural practices, all form of violence, inhuman treatment, and punishment, and hazardous

² Article 57(a), Constitution of Kenya

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 31 of 134

or exploitative labour care. Article (53 b) makes the child's best interest in the guiding parameter in every matter concerning the child.

The Kenyan Constitution (Article 27(3)) provides that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural, and social spheres. Discrimination based on sex, pregnancy, marital status, the dress is also prohibited in Article 27(4 and 5). Further, to Article 27(6) requiring affirmative action to redress past injustices, Article 27(8) requires the State to enforce the general affirmative action Clause (6), to take legislative and other measures to implement the principle that not more than two-thirds of the members of elective or appointive bodies shall be of the same gender.

KDC as part of its ESDD of subprojects will determine compliance with above mentioned constitutional provisions.

2. Environment Policy, 2014

The aim of the Environment Policy (Sessional Paper No.10 of 2014) is to ensure that environmental concerns are part of the national planning and management processes; and that guidelines are provided for environmentally sound development. The policy has seven broad goals under which guiding principles are mainstreamed to achieve conservation and management of the natural resources (forest ecosystems, arid and semi-arid lands ecosystems, etc. that have wildlife resources, water resources, grazing lands, minerals, soils therein). Some of the principles outlined in the policy include the right to a clean and healthy environment, ecosystem approach, total economic value, sustainable resource use, equity, public participation, precautionary principle, the polluter pays principle, international cooperation, community empowerment, benefit-sharing, and good governance.

The policy promotes the use of ESIA as an innovative environmental and social management tool. It also calls for the Government of Kenya (GoK) to ensure that all significant development projects are subjected to ESIA and regular audits. The ESIA/ESMP Reports and Studies (that will be subjected to regular audits) will be prepared for subprojects assessed as Category A or B to promote sustainable development as envisaged in the policy.

3. Environment Management and Coordination Act (No. 8 of 1999), EMCA (amendment) Act 2015, Cap 387

This is an Act of Parliament providing for the establishment of an appropriate legal and institutional framework for the management of the environment and for matters connected therewith and incidental thereto. This Act is divided into 13 Parts, covering main areas of environmental concern as follows: Preliminary (I); General principles (II); Administration (III); Environmental planning (IV); Protection and Conservation

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 32 of 134

of the Environment (V), Environmental impact assessments (EIA), audits and monitoring (VI); Environmental audit and monitoring (VII); Environmental quality standards (VIII); Environmental Restoration orders, Environmental Easements (IX); Inspection, analysis and records (IX); Inspection Analysis and Records (X); International Treaties,

Conventions and Agreements (XI) National Environment Tribunal (XII); Environmental Offences (XIII). The Act provides for the setting up of the various ESIA Regulations and Guidelines which are described in the table below:

Regulations	Brief description	Applicability to subprojects
Environmental (Impact Assessment and Audit) Regulations 2003	The Environmental (Impact Assessment and Audit) Regulations 2003 basically lists the guidelines of undertaking, submission and approval of the ESIA reports.	Subprojects will be required to undertake E&S assessment as per the regulations. KDC will review these E&S assessments to confirm compliance with its RF.
Environmental Management and Co-ordination (Waste Management) Regulations 2006	These Regulations apply to all categories of waste as provided in the Regulations including industrial wastes; hazardous and toxic wastes; pesticides and toxic substances; biomedical wastes; and radio-active substances.	Applicable to subprojects that generate waste. KDC to confirm compliance as part of ESDD and ongoing monitoring.
Environmental Management and Coordination, (Water Quality) Regulations 2006	These Regulations apply to drinking water, water used for agricultural purposes, water used for recreational purposes, water used for fisheries and wildlife and water used for any other purposes. This includes the protection of sources of water for domestic use; water for industrial use and effluent discharge; and water for agricultural use. These Regulations outline: <ol style="list-style-type: none"> 1. Quality standards for sources of domestic water; 2. Quality monitoring for sources of domestic water; 3. Standards for effluent discharge into the environment; 4. Monitoring guide for discharge into the environment; 5. Standards for effluent discharge into public sewers; 6. Monitoring for discharge of treated effluent into the environment. 	Applicable to all subprojects that provide drinking water facilities to its employees and in labour camps. KDC to review drinking water quality reports as part of ESDD and ongoing compliance.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 33 of 134

Environmental Management and Coordination, Conservation of Biological Diversity (BD) Regulations 2006	These Regulations apply to conservation of biodiversity which includes conservation of threatened species, inventory and monitoring of biodiversity and protection of environmentally significant areas, access to genetic resources, benefit sharing and offences and penalties.	Applicable to subprojects which create biodiversity impacts. The E&S assessment for such subprojects will need to assess the nature of biodiversity impacts and adequacy of proposed mitigation measures. KDC to confirm compliance with its E&S RF.
Environmental Management and Coordination (Wetlands, Riverbanks, Lake Shores and Sea Shore Management) Regulations 2009	These regulations provide for the protection and management of wetlands, riverbanks, lakeshores and sea shore management and detail guidelines on the same.	Applicable to subprojects which create impacts on wetlands, riverbeds, and other surface bodies. KDC to determine applicability and check for compliance if applicable.
Environmental Management and Coordination (Noise and Excessive Vibration Pollution) (Control) Regulations, 2009	These regulations prohibit making or causing any loud, unreasonable, unnecessary or unusual noise which annoys, disturbs, injures or endangers the comfort, repose, health or safety of others and the environment. It also prohibits the contractor from excessive vibrations which annoy, disturb, injure or endanger the comfort, repose, health or safety of others and the environment or excessive vibrations which exceed 0.5 centimetres per second beyond any source property boundary or 30 metres from any moving source. Under the regulation the Contractor will be required to undertake daily monitoring of the noise levels within the Project area during construction period to maintain compliance.	All subprojects operations that generate noise have to ensure compliance with the limits set under these regulations. KDC to review noise monitoring data as part of ESDD and ongoing monitoring.
Occupational Health and Safety Act, 2007	This is an Act of Parliament to provide for the safety, health and welfare of workers and all persons lawfully present at workplaces, to provide for the establishment of the National Council for Occupational Safety and Health and for connected purposes. The Act has the following functions among others:	Subprojects that employ workers in activities which are hazardous and present OHS risks will have to comply with the requirements of this Act. KDC will determine compliance of the subprojects with this Act as

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 34 of 134

	<ul style="list-style-type: none"> • Secures safety and health for people legally in all workplaces by minimization of exposure of workers to hazards (gases, fumes & vapours, energies, dangerous machinery/equipment, temperatures, and biological agents) at their workplaces. • Prevents employment of children in workplaces where their safety and health is at risk. • Encourages entrepreneurs to set achievable safety targets for their enterprises. • Promotes reporting of work-place accidents, dangerous occurrences and ill health with a view to finding out their causes and preventing of similar occurrences in future. • Promotes creation of a safety culture at workplaces through education and training in occupational safety and health. <p>Failure to comply with the OSHA, 2007 attracts penalties. The Occupational Safety and Health Act (OSHA) 2007 repealed the Factories and Other Places of Work Act. Anything done under the provisions of the Factories and Other Places of Work Act including subsidiary legislation issued before the commencement of the OSHA 2007 shall be deemed to have been done under the provisions of this Act.</p> <p>The Factories and Other Places of Work Act had over the years passed several subsidiary rules and regulations for effective implementation of the Act. All shall, as long as it is not inconsistent with OSHA 2007 remain in force until repealed or revoked by subsidiary legislation under the provisions of OSHA 2007 and shall for all purposes be deemed to have been made under this Act.</p> <p>These regulations include:</p> <ul style="list-style-type: none"> • The Factories (Cellulose Solutions) Rules 1957; 	part of its ESDD and regular monitoring.
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Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 35 of 134

	<ul style="list-style-type: none"> • The Factories (Wood Working Machinery) Rules 1959; • The Factories (Dock) Rules 1962; • The Factories (Eye Protection) Rules 1978; • The Factories (Electric Power) (Special) Rules 1978; • The Factories (Building Operations and Works of Engineering Construction) Rules 1984; • The Factories and Other Places of Work (Health & Safety Committees) Rules 2004; • The Factories and Other Places of Work (Medical Examination) Rules 2005; • The Factories and Other Places of Work (Noise Prevention and Control) Rules 2005; • The Factories and Other Places of Work (Fire Risk Reduction) Rules 2007; • The Factories and Other Places of Work (Hazardous Substances) Rules 2007. <p>The scope of OSHA 2007 has been expanded to cover all workplaces including offices, schools, academic institutions and plantations. It establishes codes of practices to be approved and issued by the Director, Directorate of Occupational Health and Safety (DOHS) for practical guidance of the various provisions of the Act.</p> <p>Other parameters within the Act relevant to the project include:</p> <ol style="list-style-type: none"> 1. Duties of employers, owners or occupiers of workplace; 2. Establishment of safety and health committees; 3. Annual safety and health audit of workplaces; 4. Safety and Health obligations for persons who may come to premises for work and are not employees of that particular workplace; 5. Reporting of any accident, dangerous occurrence or occupational poisoning caused in the workplace to the area Occupational Health and Safety Office. <p>These incidents should be entered in</p>	
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Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 36 of 134

	<p>the General Register. In case of fatal accident information to the area Safety and Health Office should be within 24 hrs. and a written notice to the same within 7 days;</p> <p>6. The duties of manufactures, designers, importers and suppliers to ensure that all articles and substances for use at workplace are safe and will not cause injury to health and the environment;</p> <p>7. Duties of self-employed persons;</p> <p>8. Duties of employed persons;</p> <p>9. Prohibition of interference or misuse of any appliance, convenience or any other facility provided to secure Safety, Health and Welfare at work by any person (occupier, self- employed person or employed);</p> <p>10. The administration of the Act is the responsibility of a Director and other appointed and gazetted officials (Occupational Health and Safety Officers);</p> <p>11. The registration of all workplaces by the Director Directorate of Occupational Health and Safety (DOHS) forming the basis of his work statistics;</p> <p>12. Machinery safety to include:</p> <ul style="list-style-type: none"> • Safe use of machinery, plant and equipment; • Prime makers and transmission machines; • The maintenance, construction of fencing safeguards; • The statutory requirements of various machines, plants and equipment (hoists and lifts, chains and ropes, cranes, steam receivers and containers, air receivers, cylinders for compressed liquefied and dissolved gases and refrigeration plants). <p>13. Chemical safety including:</p> <p>(i) Handling, transportation and disposal of chemicals and other hazardous substances;</p> <p>(ii) Importance of Materials Safety Data Sheets (MSDS);</p>	
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Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 37 of 134

	<ul style="list-style-type: none"> (iii) Labelling and marking of chemical substances; (iv) Classification of hazardous chemicals and substances; (v) Establishment and adoption of exposure limits on hazardous substances in a workplace; (vi) Control of air pollution, noise and vibrations; (vii) Redeployment on medical advice. 	
The Work Injury Benefits Act (2007)	<p>Provides for compensation to employees for work-related injuries and diseases contracted in the course of their employment and for connected purposes. The Act applies to all employees including employees employed by the Government, other than the armed forces, in the same way, and to the same extent as if the Government were a private employer. An employee who is involved in an accident resulting in the employee's disablement or death is subject to the provisions of this Act and entitled to the benefits provided under this Act. The workplace wellness programs include mental health, HIV/AIDs, and communicable diseases.</p> <p>This Act provides for compensation to employees for work-related injuries and diseases contracted in the course of their employment and for connected purposes. In the event of injury, during the implementation of the projects under the program, the employer/contractor will be required to compensate workers under the Act. The contractor must, therefore, obtain and maintain relevant insurance policies in respect of this liability.</p>	<p>This act will be applicable to all subprojects and is triggered when there is a work-related injury or disease contacted during employment.</p> <p>KDC will have to ensure that the subprojects report all work-related injuries and incidents as part of regular reporting and that subprojects compensate workers as per the Act.</p>
The Water Act 2016	<p>Water in Kenya is owned by the Government, subject to any right of the user, legally acquired. The control and right to use water is exercised by the Minister administering the Act, and such use can only be acquired under the provisions of the Act. The Minister is also vested with the duty to promote investigations, conserve and properly use</p>	<p>Subprojects, depending on their nature of activities and scale, are required to have water permits for process water.</p> <p>KDC will, as part its ESDD and regular monitoring, confirm that subprojects it</p>
Document Name: Environment and Social Management System		Effective Date:
Document Number: KDC/PO/ESMS /00		Version Number: 0.0
Repository: Quality Management Office		Page 38 of 134

	<p>water throughout Kenya. Water permits may be acquired for a range of purposes, including the provision and employment of water for the development of power and other uses. These regulations will relate to abstraction and use of water from rivers.</p>	<p>finances have required permits.</p>
<p>The Water Resources Management Rules (2007)</p>	<p>These Rules apply to all water resources and water bodies in Kenya, including all lakes, water courses, streams and rivers, whether perennial or seasonal, aquifers, and shall include coastal channels leading to territorial waters.</p> <p>The Water Resources Management Rules empower Water Resources Management Authority (WRMA) to impose management controls on land use falling under riparian land. It also enables any person with a complaint related to any matter covered by these rules to the appropriate office in WRMA. The rules also elaborate on the following:</p> <ul style="list-style-type: none"> • Mechanisms for appeal; • Public notification; • Public consultation; • Orders on compliance; • Protection of the integrity of the water resources monitoring network; • Water Resource User Associations; • Water Resource Database; • Approval of activities listed in the fifth schedule of Water Act 2002; Authorization and permitting; • Wetlands; • Allocation of water for irrigation; • Prior right to water for storage; • Dams; • Groundwater development and its regulation; • Control of water pollution and effluent discharge; • Water works; • Water use charges on permitted water use; • Conservation of riparian land and catchment areas; • Catchment management strategies; • Protected areas and ground water conservation areas; Establishment and protection of reserve water; 	<p>Under these rules, subprojects that use water from water bodies and resources have to ensure catchment and riparian lands are not disturbed and no unsustainable use of water resources is carried out.</p> <p>KDC will ensure as part of ESDD that ESIA covers use of water resources and associated impacts, where relevant.</p>
Document Name: Environment and Social Management System		Effective Date:
Document Number: KDC/PO/ESMS /00		Version Number: 0.0
Repository: Quality Management Office		Page 39 of 134

	<ul style="list-style-type: none"> Miscellaneous provisions which include provisions on: <ol style="list-style-type: none"> Qualifications to practice as a water resource professional; Qualifications for a registered contractor; Recognized water quality laboratories; Emergency orders; Penalties for offences; Revocation of rules under Cap 372. <p>Part IX: Conservation of Riparian and Catchment Areas of the Rules, Section 116(5) states “Unless otherwise determined by a water resources inspector, the riparian land adjacent to the ocean is defined as a minimum of two metres vertical height or thirty metres horizontal distance from the high watermark, whichever is less”.</p> <p>Section 118 (1) of the Rules state “No person shall undertake the activities listed in the Sixth Schedule on riparian land unless authorised by the Authority in consultation with other relevant stakeholders”.</p> <p>Part A of the Sixth Schedule: Protection and Conservation of Riparian and Catchment Areas of the Rules provide activities proscribed on riparian land as:</p> <ol style="list-style-type: none"> 1) Tillage or cultivation; 2) Clearing of indigenous trees or vegetation; 3) Building of permanent structures; 4) Disposal of any form of waste within the riparian land; 5) Excavation of soil or development of quarries; 6) Planting of exotic species that may have adverse effect to the water resource; 7) Or any other activity that in the opinion of the Authority and other relevant stakeholders may degrade the watercourse. 	
The Wildlife Conservation and	The Wildlife (Conservation and Management) Act 2013, covers matters relating to wildlife in Kenya including protected areas, activities within protected	This Act would be applicable to subprojects

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 40 of 134

Management Act, 2013	<p>areas, control of hunting, import and export of wildlife, enforcement and administrative functions of wildlife authorities.</p> <p>The Act specifically provides for the protection and regulation of protected animals, game animals and game birds as defined in three schedules. The first schedule includes game animals mostly mammals, although the list also includes crocodile and ostrich. The second schedule lists game birds, and the third schedule lists protected animals, which comprise primarily mammals, although it also includes two species of marine turtles, while in 1981 it was amended to include several species of reptiles, amphibians and butterflies. Apart from the protection provided to plants within National Parks and National Reserves, plants receive no further protection under this Act outside the protected areas.</p> <p>Specific provisions of the Act allow for the establishment of National Parks (Section 6), National Reserves (Section 18), and local sanctuaries (Section 19).</p>	<p>that impacts wildlife conservation areas.</p> <p>KDC will ensure as part of ESDD that ESIA covers impacts on wildlife conservation where relevant.</p> <p>The following subprojects are excluded from the project:</p> <ul style="list-style-type: none"> Any project having an adverse impact on critical habitats³ and/or legally protected⁴ and internationally recognized areas⁵ of high biodiversity value Any project where a biodiversity offset⁶ is proposed as the mitigation measure
Public Health Act	<p>The Public Health Act provides for the protection of human health through prevention and guarding against introduction of infectious diseases into Kenya from outside, to promote public health and the prevention, limitation or</p>	<p>This would be applicable to subprojects that pose risk to public health.</p> <p>KDC will assess the risk as part of its ESDD.</p>

³ Critical habitats are areas with high biodiversity value, including (i) habitat of significant importance to Critically Endangered and/or Endangered species; (ii) habitat of significant importance to endemic and/or restricted-range species; (iii) habitat supporting globally significant concentrations of migratory species and/or congregatory species; (iv) highly threatened and/or unique ecosystems; and/or (v) areas associated with key evolutionary processes.

⁴ Legally protected areas are those that meet the IUCN definition: "A clearly defined geographical space, recognized, dedicated and managed, through legal or other effective means, to achieve the long-term conservation of nature with associated ecosystem services and cultural

values." For the purposes of this Performance Standard, this includes areas proposed by governments for such designation

⁵ Exclusively defined as UNESCO Natural World Heritage Sites, UNESCO Man and the Biosphere Reserves, Key Biodiversity Areas, and wetlands designated under the Convention on Wetlands of International Importance (the Ramsar Convention).

⁶ Biodiversity offsets are measurable conservation outcomes resulting from actions designed to compensate for significant residual adverse biodiversity impacts arising from project development and persisting after appropriate avoidance, minimization and restoration measures have been taken.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 41 of 134

	<p>suppression of infectious, communicable or preventable diseases within Kenya, to advice and direct local authorities in regard to matters affecting the public health to promote or carry out researches and investigations in connection with the prevention or treatment of human diseases. This Act provides the impetus for a healthy environment and gives regulations to waste management, pollution and human health.</p> <p>The Public Health Act regulates activities detrimental to human health. The owner(s) of the premises responsible for environmental nuisances such as noise and emissions, at levels that can affect human health, are liable to prosecution under this act. An environmental nuisance is defined in the act as one that causes danger, discomfort or annoyance to the local inhabitants or which is hazardous to human health. This Act controls the activities of the project with regard to human health and ensures that the health of the surrounding community is not jeopardized by the activities of the project such as water development.</p>	
The Forest Act No 7, 2005	<p>The Forest Act, Cap 385 of 1962 (revised 1982, 1992 and 2005) addresses the reservation, protection, management, enforcement and utilisation of forests and forest resources on Government land. The Forest Act is applicable to gazetted forest areas (Forest Reserves) and specifically covers:</p> <ul style="list-style-type: none"> • Gazettement, alteration of boundaries and de-gazettement of Forest Reserves (Section 4); • Declaration of Nature Reserves within Forest Reserves and regulation of activities within Nature Reserves (Section 5); • Issuance of licenses for activities within Forest Reserves (Section 7); • Prohibition of activities in Forest Reserves (removal of forest produce, grazing, cultivation, hunting, etc.) and on un-alienated Government land (removal of trees, collection of honey, 	<p>The Act identifies activities that are prohibited in forest reserves. Subprojects which create impacts of forest and forest resources will have ensure there activities are in compliance with the Act.</p> <p>KDC will not fund subprojects that are proposed for implementation in forests and other such ecologically sensitive areas.</p>

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 42 of 134

	<p>lighting of fires) except under license from the Director of Forest Services (Section 8);</p> <ul style="list-style-type: none"> • Enforcement of the provisions of the Act, penalties and powers afforded to enforcing officers (Sections 9-14); • Power of the Minister to make rules with respect to sale and disposal of forest products, use and occupation of land, licensing and entry into forests (Section 15). This prerogative has been taken with the Forests (General) Rules, which sets forth rules for sale of forest produce and specifies royalty rates for these products. <p>Section 4 of the Forest Act relates to excision and addition to the Government forest estate. Section 4 (2) states that declaration or alteration of forest boundaries, or cessation of a forest area may not take place unless twenty-eight days' notice of the intention to make the declaration is published by the Minister in the Kenya Gazette. Implementation of changes in forest areas can be affected by Legal Notices (published in the Kenya Gazette Supplement) once the formalities of 28 days' notice are complete.</p>	
The Land Act 2012	<p>It is very explicit in the Land Act, 2012, Section 107, that whenever the national or county government is satisfied that it may be necessary to acquire some particular land under section 110 of Land Act 2012, the possession of the land must be necessary for public purpose or public interest, such as, in the interests of public defence, public safety, public order, public morality, public health, urban and planning, or the development or utilization of any property in such manner as to promote the public benefit; and the necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having right over the property, and so certifies in writing, possession of such land may be taken.</p>	<p>KDC will not fund subprojects that are proposed for implementation in areas earmarked by the government for acquisition under the Land Act.</p>
The Trust Land Act (CAP 288)	<p>The constitution vests all land which is not registered under any act of parliament under the ownership of local authorities as</p>	<p>Subprojects that are proposed for implementation in areas that</p>

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 43 of 134

	trust land. Section 117 of the Constitution of Kenya provides that the Trust Lands Act may empower a county council to set apart an area of trust land vested in that county council for use and occupation by a public body or authority for public purposes, or by any person for a purpose likely to benefit the persons. The Act state that while giving due considerations to the rights and obligations of landowners, there shall be compensation whenever a materials site, diversion or realignment results into relocation of settlement or any change of user whatsoever of privately owned land parcels.	are registered under trust land Act will require long-term lease with the respective county. The projects must have 100% benefit to the affected community. KDC will ensure as part of ESDD that ESIA
Antiquities and Monuments Act, Cap 215 of 1983	This Act aims to preserve Kenya's national heritage. Section-2 defines an antiquity as any moveable object other than a book or document made or imported into Kenya before 1895. Human, faunal or floral remains in Kenya dating to before the benchmark date of 1895 are also deemed to be antiquities. Both the National Museums of Kenya and the Kenya Cultural Centre have been established in part to discharge this Act.	KDC will not fund subprojects that are proposed for implementation in areas earmarked by the government for preservation of Kenya's national heritage
The Lakes and Rivers Act Chapter 409 Laws of Kenya	This Act provides for protection of river, lakes and associated flora and fauna. The provisions of this Act may be applied in the management of the project.	KDC will not fund subprojects that are proposed for implementation in areas or in activities that adversely affect river, lakes and associated flora and fauna
The Employment Act, 2007	This Act declares and defines the fundamental rights of employees; minimum terms and conditions of employment; to provide basic conditions of employment of employees; and to regulate the employment of children, among other rights. Key sections of the Act elaborate on the employment relationship; protection of wages; rights and duties in employment; termination and dismissal and protection of children, among others. This Act will guide the management of workers, especially during the construction period.	All subprojects will be required to have HR policies that are consistent with the Employment Act.. KDC will review the HR policies and practices of subprojects as part of its ESDD and ongoing monitoring.
HIV and AIDS Prevention and Control Act 2011	The object and purpose of this Act is to (a) promote public awareness about the causes, modes of transmission,	The subprojects, where labour influx is expected, are required to educate and generate awareness about

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 44 of 134

	<p>consequences, means of prevention and control of HIV and</p> <p>AIDS; (b) extend to every person suspected or known to be infected with HIV and AIDS full protection of his human rights and civil liberties by (i) prohibiting compulsory HIV testing save as provided in this Act; (ii) guaranteeing the right to privacy of the individual; (iii) outlawing discrimination in all its forms and subtleties against persons with or persons perceived or suspected of having HIV and AIDS; (iv) ensuring the provision of basic health care and social services for persons infected with HIV and AIDS; (c) promote utmost safety and universal precautions in practices and procedures that carry the risk of HIV transmission; and (d) positively address and seek to eradicate conditions that aggravate the spread of HIV infection.</p> <p>Section 7 of the Act focuses on HIV and AIDS education in the workplace and states that (1) The Government shall ensure the provision of basic information and instruction on HIV and AIDS prevention and control to (a) employees of all Government Ministries, Departments, authorities and other agencies; and (b) employees of private and informal sectors. (2) The information provided under this section shall cover issues such as confidentiality in the work-place and attitudes towards infected employees and workers.</p>	<p>HIV and AIDS in the workplace.</p> <p>KDC will assess this risk as part of its ESDD.</p>
Labour Relations Act 2012	<p>An Act of Parliament to consolidate the law relating to trade unions and trade disputes, to provide for the registration, regulation, management and democratisation of trade unions and employers organisations or federations, to promote sound labour relations through the protection and promotion of freedom of association, the encouragement of effective collective bargaining and promotion of orderly and expeditious dispute settlement, conducive to social justice and economic development and for connected purposes. This Act in Section II Part 6 provides for freedom of employees to associate; section 7 provides</p>	<p>All subprojects will have to be in compliance with this Act. KDC will confirm compliance as part of its ESDD and ongoing monitoring of subprojects.</p>

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 45 of 134

	for protection of rights of employees; Part 9 provides for adjudication of disputes and Part 10 provides for protection of the employees to hold strikes and lock outs.	
Vulnerable and Marginalised Groups	<p>Kenyan Constitution Article 260 of the constitution defines “marginalized community” to include a community that, because of its relatively small population or for any other reason, has been unable to fully participate in the integrated social and economic life of Kenya as a whole. Article 10 recognizes the participation of the people, protection of the marginalized, and sustainable development as national values and principles of governance. It also recognizes culture as the foundation of the nation and as the cumulative civilization of the Kenyan people and nation.</p> <p>Article 27 (1) & (4) of the CoK, 2010 provides for equality in the ‘treatment’ of people; it prohibits discrimination based on race, ethnic or social origin, colour, religion, belief, culture, dress, language or birth. Whilst projects should be neutral on the issue of ethnicity; they occasionally run the social risk of impacting different ethnic communities differently where such projects traverse different ethnic communities and there is a perception or an effect of the dominance of benefits being enjoyed by some groups at the expense of others. Social inclusion based on ethnicity is also discussed in Article 21 (3), which requires the State to address the needs of vulnerable groups within society, including members of particular ethnicity, religious or cultural communities.</p>	<p>KDC will encourage subprojects help orphans and vulnerable children, poor elderly persons, unemployed persons, persons disabled by acute chronic illnesses, widows, and widowers, persons with disabilities and any other persons who would be considered vulnerable avail benefits under this Act in its project area. Where direct impacts are created on VMGs, KDC will require mitigation of those impacts by subprojects in compliance with the Kenyan laws and the World Bank requirements.</p> <p>Subprojects will be encouraged to have Corporate social responsibility policy to utilize a certain percentage/significant percentage of profits in social projects in the local area.</p>
Social Assistance Act (No. 24 of 2013)	The Social Assistance Act is implemented through the Social Development Department in the Ministry of Labour and Social Protection, the Social Assistance Unit deals with orphans and vulnerable children, poor elderly persons, unemployed persons, persons disabled by acute chronic illnesses, widows, and widowers, persons with disabilities and any other persons who would be	KDC will encourage subprojects help orphans and vulnerable children, poor elderly persons, unemployed persons, persons disabled by acute chronic illnesses, widows, and widowers, persons with disabilities and any other persons who would be

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 46 of 134

	<p>considered vulnerable. The type of assistance provided includes emergency assistance for a period not exceeding one-month, short term assistance for less than four consecutive months, long term assistance for a period of four or more consecutive months or special assistance. The Social assistance programme are intended to: (a) assist in the development of individual, family and community capacity to become self-sufficient; (b) increase the ability of persons in need to assume greater responsibility for themselves; (c) lessen dependence by the people on public financial assistance; (d) provide support services to allow persons who may otherwise be in need to avoid dependence on public financial assistance, and (d) lessen remove or prevent the causes and effects of poverty.</p>	<p>considered vulnerable avail benefits under this Act in its project area.</p> <p>KDC will confirm compliance as part of its ESDD and ongoing monitoring of subprojects.</p>
National Land Commission Act (2012) on Land Acquisition	<p>The act establishes the National Land Commission to manage public land and carry out the compulsory acquisition of land for specified public purposes. Involuntary resettlement, if left unmitigated, normally gives rise to severe economic, social, and environmental risks. People face impoverishment when their productive assets or income sources are lost, and social networks are weakened. Some of the impacts of resettlement, if not mitigated, include landlessness, joblessness, homelessness, marginalization, increased morbidity and mortality, food insecurity, educational loss, loss of access to common property, and social displacement.</p>	<p>As per the Exclusion List, KDC will not fund subjects that involve land acquisition, restriction on land use of involuntary resettlement</p>
Community Land Act (2016)	<p>Provides for allocation, management, and administration of community land. Establishes Land Allocation Committees and Community Land Board. County governments shall hold in trust all unregistered community land on behalf of the communities for which it is held. The respective county government shall hold in trust for a community any monies payable as compensation for compulsory</p>	<p>As per the Exclusion List, KDC will not fund subjects that involve land acquisition, restriction on land use of involuntary resettlement</p>

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 47 of 134

	<p>acquisition of any unregistered community land. Upon registration of community land, the respective county government shall promptly release to the community all such monies payable for compulsory acquisition. Any such monies shall be deposited in a special interest-earning account by the county government. Any land which has been used communally, for a public purpose, before the commencement of this Act shall upon commencement of this Act be deemed to be public land vested in the national or county government, according to the use it was put for.</p>	
<p>Kenya Constitution on Compulsory Land Acquisition</p>	<p>The Constitution of Kenya, 2010, protects the sanctity of private property rights and states that no property can be compulsorily acquired by the Government except under law. Article 40(3) states: <i>"The State shall not deprive a person of property of any description, or of any interest in, or right over, the property of any description, unless the deprivation" –</i></p> <ul style="list-style-type: none"> a) <i>Results from the acquisition of land or an interest in land or a conversion of an interest in land, or title to land, following Chapter Five; or</i> b) <i>Is for a public purpose or in the public interest and is carried out following this Constitution and any Act of Parliament that –</i> <ul style="list-style-type: none"> (i) <i>Requires prompt payment in full, of just compensation to the person; and</i> (ii) <i>Allows any person who has an interest in or right over, that property a right of access to a court of law.</i> <p>The Constitution empowers the state to exercise the authority of compulsory acquisition. Land Act, 2012 designates the NLC as the institution empowered to compulsorily acquire land. Article 40 of the Constitution provides that the state may deprive owners of the property only if the deprivation is "for a public purpose or in</p>	<p>As per the Exclusion List, KDC will not fund subjects that involve land acquisition, restriction on land use of involuntary resettlement</p>

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 48 of 134

	the public interest," but neither the Constitution nor any law provides an exclusive list of permissible public purposes or interests. The state's exercise of this power is left at the discretion of NLC and requires the state to make full and prompt payment of "just compensation" and an opportunity for appeal to the court.	
Land Laws (Amendment) Act (2016)	This Act amends the laws relating to the land to align them with the Constitution, to give effect to Articles 68(c)(i) and 67(2)(e) of the Constitution, to provide for procedures on evictions from land, and for connected purposes. The Act has repealed sections of the following Acts: Land Registration Act, 2012, Land Act, 2012 and National Land Commission Act, 2012. At the implementation stage, the project will adhere to land requirements under the Act especially where land take is necessary from private owners.	As per the Exclusion List, KDC will not fund subjects that involve land acquisition, restriction on land use of involuntary resettlement. Land under the Security docket/ protected zones as national security sites/ land/ Registered under ministry of interior and coordination of national government, ministry of defence, united nations zones and office of the president will be excluded from the project.

While the EMCA supersedes all other environmental legislation, numerous other laws and regulations in addition to those described above may influence the various aspects and activities of the subprojects, which include the following among others:

- (i) Trade Licence Act, Cap 497;
- (ii) Penal Code Cap 63 (rev. 1985);
- (iii) Standards Act, Chapter 496 (1974);
- (iv) Building Code (1968);
- (v) Work Injury and Benefits Act (2007);
- (vi) Food, Drugs and Chemical Substances Act, Cap 254 (rev 1992);
- (vii) Use of Poisonous Substances Act, Cap 247(rev. 1983);
- (viii) Transport Licensing Board Act (Cap. 404).
- (ix) National Gender and Equality Commission Act 2011

4. Relevant Sector Policies

In addition the regulations listed in the previous section, there are a few sector specific policies that may be relevant to the subprojects. These are:

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 49 of 134

4.1. National Policy on Environment and Development Sessional Paper No. 6 of 1999

Currently, a far-reaching initiative towards an elaborate national environmental policy is contained in the Sessional Paper No. 6 of 1999 on Environment and Development. It advocates for the integration of environmental concerns into the national planning and management processes and provides guidelines for environmental sustainable development.

4.2. The National Environmental Sanitation and Hygiene Policy-July 2007

The National Environmental Sanitation and Hygiene Policy is devoted to environmental sanitation and hygiene in Kenya as a major contribution to the dignity, health, welfare, social well-being and prosperity of all Kenyan residents.

4.3. Forest Policy 2005

The goal of this Policy is to enhance the contribution of the forest sector in the provision of economic, social and environmental goods and services. The specific objectives of this policy are to:

- Contribute to poverty reduction, employment creation and improvement of livelihoods through sustainable use, conservation and management of forests and trees.
- Contribute to sustainable land use through soil, water and biodiversity conservation, and tree planting through the sustainable management of forests and trees.
- Promote the participation of the private sector, communities and other stakeholders in forest management to conserve water catchment areas, create employment, reduce poverty and ensure the sustainability of the forest sector.
- Promote farm forestry to produce timber, wood fuel and other forest products.
- Promote dry land forestry to produce wood fuel and to supply wood and non-wood forest products.
- Promote forest extension to enable farmers and other forest stakeholders to benefit from forest management approaches and technologies.
- Promote forest research, training and education to ensure a vibrant forest sector.

4.4. Wildlife Policy 2007

The goal of this Policy is to provide a framework for conserving, in perpetuity, Kenya's rich diversity of species, habitats and ecosystems for the wellbeing of its people and the global community. The objectives and priorities are to:

- Conserve Kenya's wildlife resources as a national heritage.
- Provide legal and institutional framework for wildlife conservation and management throughout the country.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 50 of 134

- Conserve and maintain viable and representative wildlife populations in Kenya.
- Develop protocols methodologies and tools for effective assessment and monitoring of wildlife conservation and management throughout the country.
- Promote partnerships, incentives and benefit sharing to enhance wildlife conservation and management.
- Promote positive attitudes towards wildlife and wildlife conservation and management.

4.5. Eviction Guidelines (2010)

According to the Eviction Guidelines drafted by Ministry of Lands (2010), the Government shall ensure that evictions only occur in exceptional circumstances. Evictions require full justification given their potential extremely negative impact on a wide range of international recognised human rights. Any eviction must be warranted by law, reasonable in the circumstances, proportionate and can only be carried out in accordance with the Guidelines and international human rights and humanitarian law.

The Government shall ensure that exceptions to the prohibition on forced evictions such as the 'interest of society' or 'public interest' should be read restrictively, so as to again ensure that evictions only occur in exceptional circumstances.

Where eviction is considered to be justified it should be carried out in strict compliance with the following procedures:-

- a) Appropriate notice given to the affected individual or groups clearly stating the modalities, day and time of the eviction.
- b) Consultations with the affected individual or group on the proposed eviction modalities and resettlement plans.
- c) Holding of public hearing with affected persons and other stakeholders to provide an opportunity to discuss alternative proposals for resettlement.
- d) Provide opportunity for the parties to seek legal redress where there is a stalemate or dispute.
- e) The eviction notice should contain a detailed justification for the decision, among others be in a language that is understood by all individuals concerned; include the full details of the proposed alternative; and where no alternatives exist, all measures taken and foreseen to minimize the adverse effects of evictions

Section 4.95 on Alternative land and housing states that the Government shall ensure that evictions do not result in individuals being rendered homeless or vulnerable to the violation of other human rights. The Government shall, where those affected are unable to provide for themselves, take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 51 of 134

The Land Tenure System in Kenya

Land tenure in Kenya is classified as public, community or private. Public land consists of government forests (other than those “lawfully held, managed or used by specific communities as a community forest, grazing areas or shrines”), government game reserves, water catchment areas, national parks, government animal sanctuaries, and specially protected areas.

Customary Land Tenure

This refers to unwritten land ownership practices by certain communities under customary law. Kenya being a diverse country in terms of its ethnic composition has multiple customary tenure systems, which vary mainly due to different agricultural practices, climatic conditions, and cultural practices.

Public Tenure

This is where land owned by the Government for her purpose and which includes unutilized or un-alienated government land reserved for future use by the Government itself or may be available to the general public for various uses. The land is administered under the Land Act 2012. Categories of government land include forest reserves, other government reserves, alienated and un-alienated government land, national parks, townships, and other urban centers and open water bodies.

Community Land

Community Land in Kenya is governed by the Community Land Act and this regulation provides for the allocation, management, and administration of community land. Community land follows a tenure system that defines land owned by the traditional community, identified based on ethnicity, culture or similar community of interests. This law establishes Land Administration Committees (LAC) to allocate customary land rights to community members. However, LACs are subject to the jurisdiction of the Community Land Board (CLB). The CLB exercises control over the allocation and the cancellation of customary land rights by the LAC. CLB also established and maintains a register and a system of registration for recording the allocation, transfer, and cancellation of customary land rights and rights of leasehold.

The CLB also holds and manages community land on behalf of those communities to regulate all transactions relating to community land and to facilitate the recording and issuance of title in community land. The LAC, on the other hand, allocates the right in respect to the specific portion of land to community members by agreement with notification of the CLB for registration. They also determine the size of the portion and the boundaries of the portion of land in respect of which the right is allocated. LACs have the powers of cancellation of rights with approval of CLBs.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 52 of 134

Freehold Tenure

This tenure confers the greatest interest in land called absolute right of ownership or possession of land for an indefinite period, or in perpetuity. Freehold land is governed by the Land Registration Act, 2012. The Act provides that the registration of a person as the proprietor of the land vests in that person the absolute ownership of that land together with all rights, privileges relating thereto.

Leasehold Tenure

Leasehold is an interest in land for a definite term of years and may be granted by a freeholder usually subject to the payment of a fee or rent and is subject also to certain conditions which must be observed e.g. relating to developments and usage.

The Process of Land Acquisition in Kenya

Proof that Compulsory Possession is for Public Good

It is very explicit in the Land Act, 2012, Section 107, that whenever the national or County government is satisfied that it may be necessary to acquire some particular land under section 110 of Land Act 2012, the possession of the land must be necessary for a public purpose or public interest, such as, in the interests of public defence, public safety, public order, public morality, public health, urban and planning, or the development or utilization of any property in such manner as to promote the public benefit; and the necessity, therefore, is such as to afford reasonable justification for the causing of any hardship that may result to any person having right over the property, and so certifies in writing, possession of such land may be taken.

Respective Government Agency or Cabinet must seek Approval of NLC

The respective Cabinet Secretary or Government agency or the County Executive Committee Member must submit a request for acquisition of private land to the NLC to acquire the land on its behalf. The NLC will prescribe criteria and guidelines to be adhered to by the acquiring authorities in the acquisition of land. But at the same time, the NLC may reject a request of an acquiring authority, to undertake an acquisition if it establishes that the request does not meet the requirements prescribed.

Inspection of Land to be acquired

NLC may physically ascertain or satisfy itself whether the intended land is suitable for the public purpose that the applying authority intends to use as specified. If it certifies that indeed the land is required for a public purpose, it shall express the satisfaction in writing and serve necessary notices to landowners and or approve the request made by acquiring authority intending to acquire land.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 53 of 134

Publication of Notice of Intention to acquire

Upon approval, NLC shall publish a notice of intention to acquire the land in the *Kenya Gazette and County Gazette*.⁷ It will then serve a copy of the notice to every person interested in the land and deposit the same copy to the Registrar. The courts have strictly interpreted this provision, requiring that the notice include the description of the land, indicate the public purpose for which the land is being acquired and state the name of the acquiring public body. NLC will, therefore, be required to make a comprehensive notice that includes a description of the land, public purpose for which the land is acquired, and the acquiring public body. The Land Registrar shall then make an entry in the master register on the intention to acquire as the office responsible for survey, at both national and County level, geo-references the land intended for acquisition.

Serve the Notice of Inquiry

Thirty days after the publication of the Notice of Intention to Acquire, the NLC then schedules a hearing for a public inquiry. NLC must publish notice of this hearing in the *Kenya Gazette and County gazette* 15 days before the inquiry meeting and serve the notice on every person interested in the land to be acquired. Such notice must instruct those interested in the land to deliver to the NLC, no later than the date of the inquiry, a written claim for compensation.

Holding of a Public Hearing

The NLC convenes a public hearing not earlier than 30 days after publication of the Notice of Intention to Acquire. On the date of the hearing, the NLC must conduct a full inquiry to determine the number of individuals who have legitimate claims on the land, the land value, and the amount of compensation payable to each legitimate claimant.

Besides, at the hearing, the Commission shall— make a full inquiry into and determine who are the persons interested in the land; and receive written claims of compensation from those interested in the land. For the purposes of an inquiry, the Commission shall have all the powers of the Court to summon and examine witnesses, including the persons interested in the land, to administer oaths and affirmations and to compel the production and delivery to the NLC of documents of title to the land. The public body for whose purposes the land is being acquired, and every person interested in the land, is entitled to be heard, to produce evidence and to call and to question witnesses at an inquiry. It will also provide an opportunity to those interested in the land to hear the justification of the public authority in laying claims to acquire the land.

Valuation of the Land

⁷ The *Kenya Gazette* is the official government journal in Kenya published by the Government Printing Press.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 54 of 134

Part III of the Land Act 2012, section 113 (2a) states that “the Commission shall determine the value of conclusive evidence of (i) the size of land to be acquired; (ii) the value, in the opinion of the Commission, of the land; (iii) the amount of compensation payable, whether the persons interested in the land have or have not appeared at the inquiry.” This can be interpreted that NLC must determine the value of the land accordingly and pay appropriate just compensation in accordance with the principles and formulae stipulated that it will develop. The final award on the value of the land shall be determined by NLC and shall not be invalidated by reason of discrepancy, which may be found to exist in the area.

Matters to be considered in determining Compensation:

The market value of the property, which is determined at the date of the publication of the acquisition notice. Determination of the value has to take into consideration the conditions of the title and the regulations that classify the land use e.g. agricultural, residential, commercial, or industrial.

Award of Compensation

Under the Land Act 2012 section 117, the State may award a grant of land in lieu of monetary compensation (“land for land”), upon agreement, and provided the value of the land awarded does not exceed the value of the monetary compensation that would have been allowable. The law stipulates that any dispossessed person shall be awarded the market value of the land. The new law is silent on relocation support or disturbance allowance support.

Upon the conclusion of the inquiry, and once the National Land Commission (NLC) has determined the amount of compensation, the NLC prepares and serves a written award of compensation to each legitimate claimant.⁸ The NLC will publish these awards, which will be considered “final and conclusive evidence” of the area of the land to be acquired, the value of the land, and the amount payable as compensation.⁹ LA, Section 115 further stipulates that an award shall not be invalidated by reason only of a discrepancy between the area specified in the award and the actual area of the land. Compensation cannot include attorney’s fees, costs of obtaining advice, and costs incurred in preparing and submitting written claims.

Payment of Compensation

A notice of award and offer of compensation shall be served to each person by the Commission. Section 120 provides that “first offer compensation shall be paid

⁸ Land Act, 115

⁹ Land Act, 115

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 55 of 134

promptly” to all persons interested in land¹⁰ before a notice of acquisition is issued. Section 119 provides a supplementary condition and states that if the size of the land is greater than the size of land in respect of which the award has been made, then NLC shall compensate for excess size “as soon as practicable.”¹¹ Where such amount is not paid on or before the taking of the land, the NLC must pay interest on the awarded amount at the market rate yearly, calculated from the date the State takes possession until the date of the payment.¹²

In cases of dispute, the Commission may at any time pay the amount of the compensation into a special compensation account held by the Commission, notifying any persons interested accordingly. If the amount of any compensation awarded is not paid, the Commission shall on or before the taking of possession of the land, open a special account into which the Commission shall pay interest on the amount awarded at the rate prevailing bank rates from the time of taking possession until the time of payment.

Transfer of Possession and Ownership to the State

Once first offer payment has been awarded, the NLC serves notice to all persons with interest in the property indicating the date the Government will take possession. Upon taking possession of the land, the commission shall ensure payment of just compensation in full. When this has been done, NLC removes the ownership of private land from the register of private ownership and the land is vested in the national or County Government as public land free from any encumbrances.

Temporary Possession

The Commission has also the power to obtain temporary occupation of land. However, the commission shall as soon as is practicable, before taking possession, pay full and just compensation to all persons interested in the land.

Opportunity for Appeal

The Kenya Constitution establishes the Environment and Land Court. Article 162 of the constitution provides for the creation of specialized courts to handle all matters on land and the environment. Such a court will have the status and powers of a High Court in every respect. Article 159 on the principles of judicial authority, indicates that courts will endeavor to encourage the application of alternative dispute resolution mechanisms, including traditional ones, so long as they are consistent with the constitution. Section 20, of the *Environment and Land Court Act, 2011* empowers the Environment and Land Court, on its motion, or on the application of the parties to a

¹⁰ *Land Act*, This language reflects the language of the Kenya Constitution, 1963.

¹¹ *Land Act*, 119

¹² *Land Act* 115.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 56 of 134

dispute, to direct the application of Alternative Dispute Resolution (ADR), including traditional dispute resolution mechanisms.

Any person whose land has been compulsorily acquired may petition the Environment and Land Court for redress with respect to:

- *The determination of such a person's right over the land.*
- *The amount offered in compensation; and*
- *The amount offered in compensation for damages for temporary dispossession in the case of the Government's withdrawal of its acquisition of the land.*

Parties will pay fees as determined by Environment and Land Court, which may waive them completely or in part on grounds of financial hardship. The willing buyer and willing seller process of land acquisition is consistent with the above process, however, the intention to buy land by government agencies is advertised in the local dailies and willing person apply to be considered. This is in line with international good practice and does not involve coercion.

5. Institutions relevant to E&S Regulations

This section provides information on the institutions that are relevant E&S regulations in Kenya.

5.1. Environmental Assessment Administrative/Institutional framework

There are over 20 institutions and departments, which deal with environmental issues in Kenya. Some of the key institutions include the Ministry of Environment and Mineral Resources (MEMR), Kenya Forest Services (KFS), Kenya Wildlife Service (KWS), National Museums of Kenya (NMK), National Environment Management Authority (NEMA), Ministry of Environment Natural Resources (MEWNR), Ministry of Water and Irrigation (MoWI), Water Resources Management Authority (WRMA), Ministry of Interior and Coordination of National Government, Ministry of Defence (as they own protected zones due to National Security), Ministry of lands and the public universities, among other organisations. There are also local and international NGOs involved in environmental issues in Kenya. In 2001, the Government established specific administrative structures to implement the EMCA. The main administrative structures are described in the following sections.

5.1.1. The National Environment Management Authority

The responsibility of the National Environmental Management Authority (NEMA) is to exercise general supervision and co-ordination over all matters relating to the environment and to be the principal instrument of Government in the implementation of all policies relating to the environment.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 57 of 134

In addition to NEMA, the Act provides for the establishment and enforcement of environmental quality standards to be set by a technical committee of NEMA known as the Standards and Enforcement Review Committee (SERC) which will govern the discharge limits to the environment by the proposed project.

5.1.2. County Environmental Committees

The County Environmental Committees also contribute to decentralised environmental management and enable the participation of local communities. These environmental committees consist of the following:

- (i) Representatives from all the ministries;
- (ii) Representatives from local authorities within the province/district;
- (iii) Two farmers / pastoral representatives;
- (iv) Two representatives from NGOs involved in environmental management in the province/district;
- (v) A representative of each regional development authority in the province/district.

5.1.3. Public Complaints Committee on Environment

The Public Complaints Committee (PCC) is established under Section 31 of EMCA. The PCC is concerned with the investigation of complaints relating to environmental damage and degradation generally. The PCC has powers to investigate complaints against any person or even against NEMA or on its own motion investigate any suspected case of environmental degradation. The PCC is required by law to submit reports of its findings and recommendations to NEC. The law however is weak in that it does not provide PCC with the mandate to see its recommendations carried through. Further, NEC is not specifically required to do anything with regard to the reports submitted by the PCC and will often note and adopt the same without any further follow up action. So far the PCC has experienced challenges such as failure to honour summons, hostility between parties, hostility directed at PCC investigators, lack of understanding of EMCA and abdication of duty by Lead Agencies.

5.1.4. Standards and Enforcement Review Committee

The Standards and Enforcement Review Committee (SERC) is a committee of NEMA and is established under Section 70 of EMCA. This is a technical Committee responsible for formulation of environmental standards, methods of analysis, inspection, monitoring and technical advice on necessary mitigation measures.

They members of SERC consist of representatives of various relevant government ministries and parastatals that are Lead Agencies as well as those responsible for matters such as economic planning and national development, finance, labour, public works, law and law enforcement, etc. Other members are drawn from public universities, and other government institutions.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 58 of 134

5.1.5. National Environmental Tribunal (NET)

The NET is established under Section 125 of EMCA for the purpose of hearing appeals from administrative decisions by organs responsible for enforcement of environmental standards. An appeal may be lodged by a project proponent upon denial of an EIA licence or by a local community upon the grant of an EIA licence to a project proponent. NEMA may also refer any matter that involves a point of law or is of unusual importance or complexity to NET for direction. The proceedings of NET are not as stringent as those in a court of law and NET shall not be bound by the rules of evidence as set out in the Evidence Act. Upon the making of an award, NET's mandate ends there as it does not have the power to enforce its awards. EMCA provides that any person aggrieved by a decision or award of NET may within 30 days appeal to the High Court.

5.1.6. Environment and Land Court

The Kenya Constitution establishes Environment and Land Court. Article 162 of the constitution provides for the creation of specialized courts to handle all matters on land and the environment. Such a court will have the status and powers of a High Court in every respect. Article 159 on the principles of judicial authority, indicates that courts will endeavour to encourage application of alternative dispute resolution mechanisms, including traditional ones, so long as they are consistent with the constitution. Section 20, of the Environment and Land Court Act, 2011 empowers the Environment and Land Court, on its own motion, or on application of the parties to a dispute, to direct the application of including traditional dispute resolution mechanisms.

Any person whose land has been compulsorily acquired may petition the Environment and Land Court for redress with respect to:

- The determination of such person's right over the land;
- The amount offered in compensation; and
- The amount offered in compensation for damages for temporary dispossession in the case of the Government's withdrawal of its acquisition of the land.

Parties will pay fees as determined by Land and Environment or the court may choose to waive them completely or in part on grounds of financial hardship.

5.1.7. Directorate of Occupational Safety and Health Services (DOSHS)

The Directorate of Occupational Safety and Health Services (DOSHS) is one of the departments within the Ministry of Labour and East African Community Affairs, whose primary objective is to ensure the safety, health, and welfare of all workers in all workplaces. DOSHS is mandated to develop and implement effective systems for the prevention of workplace diseases, ill health, and accidents to reduce damage to property and work injury compensation claims for improved productivity. The

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 59 of 134

Directorate enforces the Occupational Safety and Health Act, 2007 (OSHA, 2007) with its subsidiary legislation which aims at the prevention of accidents and diseases at work.

5.2. Institutional Responsibilities with respect to Social Issues

The constitution provides for a number of institutions to address issues of vulnerable and marginalised groups including grievance redress mechanisms. Key constitutional mechanisms for redress of issues related to marginalization include the (a) Commission on Administrative Justice - Office of the Ombudsman; (b) National Land Commission; and (c) Committee on Revenue Allocation.

5.2.1. The Commission on Administrative Justice (CAJ) - Office of the Ombudsman

Kenya has a formal Feedback and Complaints Handling Mechanism. The Commission is the national/constitutional stakeholder instrument for grievance redress. Its mandate is to receive and address complaints against public officers and public institutions to improve service delivery. Three types of complaints can be made to the office of the Ombudsman including: (i) Citizen against State/public officers and institutions; (ii) Public officers against fellow public officers; and, (iii) Public institutions against other public institutions. Table 2 below provides the steps and process for feedback and complaints redress by the Ombudsman.

5.2.2. The National Land Commission

The National Land Commission (NLC) is an independent commission tasked with registering land transfers, resolving land disputes and addressing historical land injustices. NLC is tasked with facilitating and increasing access to fair and equitable mechanisms for resolving land and natural resource based disputes and conflicts.

National Land Commission Act, 2012 specifies the role of NLC as:

- To identify public land, prepare and keep a database of all public land, which shall be geo-referenced and authenticated by the statutory body responsible for survey;
- Evaluate all parcels of public land based on land capability classification, land resources mapping consideration, overall potential for use, and resource evaluation data for land use planning; and
- Acquire land for public purposes
- Solve land disputes and deal with historical land injustices
- Share data with the public and relevant institutions in order to discharge their respective functions and powers under this Act; or
- May require the land to be used for specified purposes and subject to such conditions, covenants, encumbrances or reservations as are specified in the relevant order or other instrument.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 60 of 134

5.2.3. County Land Management Boards (CLMB)

County Land Management Boards are established by the NLC in consultation and cooperation with the national and county governments. Among the 3 and not more than seven members of the CLMB appointed by the NLC there shall be a physical planner or a surveyor who shall be nominated by the county executive member and appointed by the county governor. The Boards' mandates cover the processing of applications for allocation of land, change and extension of user, subdivision of public land and renewal of leases. They may also perform any other functions assigned by the NLC.

5.2.4. The Commission on Revenue Allocation (CRA)

CRA is the CoK, 2010's mechanism for bringing the marginalized communities and regions of Kenya into the country's mainstream development agenda. The mandate of CRA includes to: (i) Recommend on equitable sharing of revenues between National and County Governments and among Counties; (ii) Recommend on financing and financial management of County Governments; and to (iii) Determine, publish and regularly review a policy which sets out the criteria by which to identify the marginalized areas. The constitution has further established the Equalization Fund as the instrument with which CRA it to achieve its mandate. The objective of the equalization fund is to eradicate marginalization and other forms of economic inequalities in Kenya and to bring all groups into mainstream development within 20 years from the date of promulgation of the CoK, 2010. There is clear overlap between the counties designated as marginalized by the CRA and the location of marginalized groups.

5.2.5. National Gender Equality Commission

National Gender Equality Commission is a constitutional Commission established by an Act of Parliament in August 2011, as a successor commission to the Kenya National Human Rights and Equality Commission pursuant to Article 59 of the Constitution. NGECE derives its mandate from Articles 27, 43, and Chapter Fifteen of the Constitution; and section 8 of NGECE Act (Cap. 15) of 2011, with the objectives of promoting gender equality and freedom from discrimination. The over-arching goal for NGECE is to contribute to the reduction of gender inequalities and the discrimination against all; women, men, persons with disabilities, the youth, children, the elderly, minorities and marginalized communities

5.2.6. Kenya National Commission on Human Rights

The Kenya National Commission on Human Rights (KNCHR) is an autonomous national Human rights institution established under article 59 of the Constitution of Kenya 2010 with the core mandate of furthering the promotion and protection of human rights in Kenya. The Commission plays two key broad mandates;

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 61 of 134

- It acts as a watchdog over the Government in the area of human rights.
- Provides key leadership in moving the country towards a human rights state.

The main goal of KNCHR is to investigate and provide redress for human rights violations, to research and monitor the compliance of human rights norms and standards, to conduct human rights education, to facilitate training, campaigns and advocacy on human rights as well as collaborate with other stakeholders in Kenya.

5.2.7. Department of Social Development under the State Department of Social Protection, Ministry of Labour and Social Protection

The Department of social development derives its mandate from Executive Order No. 1 of 2018 that includes: community mobilization, family promotion and protection, community development policy, registration of self-help groups, implementation of the Social Protection Policy, policies and programs for persons with disabilities, policies, and programs for older persons, national volunteerism policy, vocational training and rehabilitation of persons with disabilities. Focuses on the empowerment of families and communities for sustainable social development towards improving their livelihoods.

5.2.8. National Council for Persons with Disabilities (NCPD)

Oversight of all matters concerning persons with disability with the statutory responsibility for facilitation of disability mainstreaming programmes, formulating and developing measures and policies designed to achieve equal opportunities for PWDs, cooperating with the government during the National Census to ensure that accurate figures of PWDs are obtained; issuing orders requiring the adjustment of buildings that are unfriendly for use by PWDs, recommending measures to prevent discrimination against PWDs, encouraging and securing the rehabilitation of PWDs within their communities and social environment, registering persons with disabilities and institutions and organizations giving services to PWDs and raising public awareness on disability.

5.2.9. State Department of Labour in the Ministry of Labour and Social Protection

The Labour Department under the Ministry of Labour and East African Community Affairs responsible for the implementation of the three major laws namely: The Employment Act, 2007, The Labour Institutions Act, 2007, and The Labour Relations Act, 2007. This is done through the formulation and implementation of the National Labour Legislation and policy through the National Labour Board and sectoral wages councils as well as the National Tripartite Consultative Council. The Department is also responsible for operationalizing the tripartite mechanism in handling labour issues through a tripartite dialogue process which involves consultation between workers, employers, and government representatives. The Labour Department will

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 62 of 134

be responsible for ensuring the labour laws and other legislation under its mandate are addressed under the Program.

5.2.10. The Department of Children Services in the Ministry of Labour and Social Protection

This department has the sectoral oversight and management, of all matters concerning children, policies on children and social development, management of statutory children's institutions, and children's welfare and penal protection. The Department of Children Services, the National Council for Children Services and the Child Welfare Society of Kenya are the three structures with the functions of overseeing Children Services Welfare and Protection. The Child Welfare Society of Kenya (CWSK) is a state corporation for the care, protection, welfare, and adoption of children. It is the National Adoption Society for Kenya and the National Emergency Response, Welfare, and Rescue Organization for children. The Agency was established and gazetted in 1955 as an approved society and the Adoption Society for Kenya in 1969. Whilst its functions largely focus upon children faced with adverse societal risks/ills, it is the proper placement agency for an affected child, whilst a social risk is being managed.

5.2.11. Child Welfare Society of Kenya

Has the statutory responsibility for the provision of care, protection and welfare services to all children (especially those who are socially marginalized); and primary adoption agency for children.

5.2.12. The State Department of Public Service and Youth in the Ministry of Public Service' Youth and Gender

Sectoral oversight and management, of all matters concerning the youth and mainstreaming Youth in National Development, Youth Policy and Empowerment, Internship and Volunteer Policy for Public Service, and Counselling Policy and Services.

5.2.13. National Cohesion and Integration Commission (NCIC)

Oversight commission on all matters concerning social cohesion by eliminating all forms of ethnic or racial discrimination and discourage persons, institutions, political parties and associations from advocating or promoting discrimination, enhancing tolerance, understanding, and acceptance of diversity in all aspects of national life and promoting respect for religious cultural and linguistic diversity in a plural society.

5.2.14. The State Departments of Gender in the Ministry of Public Service and Gender

Provides sectoral oversight and management, of all matters concerning gender. Gender policy management, special programmes for women affirmative action social

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 63 of 134

empowerment, gender mainstreaming in ministries/departments/agencies, community mobilization, domestication of international treaties/conventions on gender, and policy and programmes on gender violence. Provides the sectoral oversight and management, of all matters concerning gender. Further provides gender policy management, special programmes for women affirmative action social empowerment, gender mainstreaming in ministries/departments/agencies, community mobilization, domestication of international treaties/conventions on gender, and policy and programmes on gender violence.

5.2.15. The State Department of Devolution in the Ministry of Devolution and the Arid and Semi-Arid Lands

The department has the statutory oversight and management of all matters concerning the traditionally marginalized regions (include the Arid and Semi-Arid Lands) (ASAL). ASAL policy, coordination of planning and development for and semi-arid lands, implementation of special programs for the development of arid and semi-arid areas, implementation of arid and semi-arid programs, coordinating research for sustainable arid and semi-arid land resource management, development and livelihoods, promotion of livestock development, marketing and value addition of resources within arid and semi-arid areas, enhancing livelihoods resilience of pastoral and agro-pastoral communities, coordinating responses against drought and desertification and peace-building and conflict management within arid and semi-arid areas.

5.2.16. National Disaster Management Authority

Has the mandate of overall coordination and advisory mandate over all matters relating to drought management. Implementation of drought management policies/programs; coordination of stakeholders' drought-response; development and management of drought early-warning system, national/county-level drought contingency plans, and drought preparedness strategies, publishing/dissemination drought-management/prevention reports, manuals, codes or guidelines, and information, coordination of the declaration of a national/international disaster, coordination of the implementation of the country's drought-management (regional/international) commitments.

5.2.17. The National Police Service

The National Police has the mandate of upholding rule of law for a safe and secure society and enforcement of the law for peace and safety of the nation.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 64 of 134

Annex 3

Guidance Note on E&S Categorization

E&S categorization is one of the first steps in subproject preparation. It helps in understanding the magnitude of E&S risks and impacts and scope of ESDD. This guidance note highlights the issues to be considered while categorizing a subproject and gives few examples of how the categorization process will work in practice.

The factors that help in determining E&S categorisation include:

- a) **Sector:** The E&S categorization should consider the sector/ industry of the subproject as some sectors have higher inherent risks than others. For instance, infrastructure projects which involve long construction period, land acquisition and processes that generate emissions have inherently higher risks than projects in the IT sector.
- b) **Scale and nature:** Greenfield subprojects are inherently more riskier than brownfield/ expansion projects. A greenfield project may involve land acquisition which, at times, causes impacts that are irreversible. Similarly, large scale subprojects may present higher risks than subprojects which are smaller in size and capacity.
- c) **Location:** The location of subprojects defines its context and setting which is associated with different risks & impacts. For instance, subprojects triggering resettlement, located in or near critical habitats present higher risks and impacts. Location includes country-specific, region-specific, and site-specific E&S issues. Subprojects that have, or are likely to have, significant impacts on local communities' (including Indigenous Peoples), health, safety, security, livelihood (e.g. resettlement), and/or biodiversity (e.g. impacts on protected areas) should be associated with medium to high E&S risks and impacts and should be categorised accordingly.
- d) **Type of financing and use of proceeds:** Type of financing and use of proceeds determine the level of exposure to the subproject. Typically, project financing has more greater than short term lending.

Examples of E&S Category

Category A

- Large dams and reservoirs
- Mining and quarrying
- Forestry and logging (large scale)
- Agro industries (large scale)
- Industrial plants (large scale)
- Major new industrial estates

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 65 of 134

- Major oil and gas developments, including major pipelines
- Large ferrous and non-ferrous metal operations
- Large-scale pulp and paper industries
- Large port and harbour developments
- Large thermal or hydropower development
- Manufacture, use or disposal of large quantities of pesticides/herbicides and mineral fertilizers
- Manufacture, transportation and use of hazardous and/or toxic materials
- Domestic and hazardous waste disposal operations
- Large-scale tourism developments
- Large-scale textile industries involving wet processes
- Large-scale transportation projects (airports, highways, motorways, railroads)
- Projects in or near to highly sensitive and high value ecosystems
- Projects with large resettlement components and all projects with potentially major impacts on human populations
- Projects affecting indigenous or tribal populations
- Projects which impose serious occupational or health risks
- Projects which pose serious socioeconomic concerns

Category B

- Agribusiness (small scale)
- City hotels, small scale tourism
- General manufacturing
- Chemical industries, without any bulk storage of inflammable, explosive or hazardous substances
- Manufacture of plastic products
- Processing and preservation of fruit and vegetable, fish, meat
- Vegetable/animal oil production and processing
- Manufacture of wines and other fermented beverages
- Dairy products manufacture
- Manufacture of leather products (except tanning and dyeing)
- Repair and maintenance shops
- Spinning, weaving and finishing of natural and synthetic fabric
- Printing
- Manufacturing of wood products
- Saw milling
- Manufacture of veneer, plywood and other wood-based materials
- Small power plants
- Schools
- Hospitals

Category C

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 66 of 134

- Establishment of business services industries (business advisors, accountancy auditors, etc.)
- Establishment of restaurants and other food premises (small scale)
- Education and training (small scale)
- Broadcasting (TV, radio, satellite)
- Health and family planning
- Establishment and equipment of art, design, telecommunications studios
- Tailoring and dress-making shops
- Advisory assignment
- Life insurance or personal insurance companies

Source: IFC, "Categorisation and Samples"

In addition to the above examples, the EMCA provides a list of low, medium and high risks projects.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 67 of 134

SPECIAL ISSUE

Kenya Gazette Supplement No. 62

195

30th April, 2019

(Legislative Supplement No. 16)

LEGAL NOTICE NO. 31

THE ENVIRONMENTAL MANAGEMENT AND CO-ORDINATION ACT

(No. 8 of 1999)

AMENDMENT OF THE SECOND SCHEDULE

IN EXERCISE of the powers conferred by section 58(4) of the Environmental Management and Coordination Act, 1999, the Cabinet Secretary for Environment and Forestry on the advice of the Authority amends the Second Schedule to the Act by deleting the undertakings specified thereunder and substituting therefor the following—

1. Low Risk Projects.

- (a) establishment of places of worship including churches, mosques and temples;
- (b) community based and social projects including sport facilities, stadia, social halls;
- (c) community water projects including boreholes, water pans, sand dams and sub-surface dams;
- (d) dispensaries, health centers and clinics;
- (e) livestock holding grounds and cattle dips;
- (f) expansion or rehabilitation of markets;
- (g) car and bus parks;
- (h) local roads and facility access roads;
- (i) business premises including shops, stores, urban market sheds;
- (j) cottage industry, jua kali sector and garages;
- (k) small scale rehabilitation, maintenance and modernization of projects;
- (l) schools and related infrastructure for learners not exceeding one hundred; and
- (m) standard warehouses not exceeding one thousand four hundred square meters.

2. Medium Risk Projects.

- (1) Urban Development including—

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 68 of 134

- (a) establishment of multi-dwelling housing developments of not exceeding one hundred units;
 - (b) tourism and related infrastructure;
 - (c) hotels with bed capacity not exceeding one hundred and fifty; and
 - (d) shopping centers, commercial centers and complexes, business premises, shops and stores not exceeding ten thousand square meters.
- (2) Transportation including—
- (a) construction and rehabilitation of roads including collectors and access roads;
 - (b) construction of a light rail transit;
 - (c) construction of jetties, marinas, piers and pontoons;
 - (d) rehabilitation works of airports and airstrips;
 - (e) helipads;
 - (f) parking facilities; and
 - (g) construction of bridges.
- (3) Water resources and infrastructure, including—
- (a) drilling for purposes of utilizing ground water resources and related infrastructure;
 - (b) water abstraction works; and
 - (c) water supply and distribution infrastructures.
- (4) Artisanal mining including quarrying of—
- (a) precious metals and gemstones;
 - (b) limestone and dolomite;
 - (c) harvesting of aggregate, sand, gravel, soil, clay, stone and slate;
 - (d) gypsum;
 - (e) pozzollana;
 - (f) carbon dioxide; and
 - (g) ferrous and non-ferrous ores.
- (5) Forestry related activities, including—
- (a) timber harvesting in plantation forests;
 - (b) reforestation and afforestation; and
 - (c) wood preservation or treatment facilities.
- (6) Agriculture and related activities, including—

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 69 of 134

- (a) medium-scale agriculture not exceeding one hundred hectares;
 - (b) medium size grain storage;
 - (c) medium size agricultural and livestock produce storage facilities;
 - (d) aquaculture not exceeding one hectare; and
 - (e) medium scale irrigation projects.
- (7) Medium scale processing and manufacturing industries, including—
- (a) brick and earth-ware manufacture;
 - (b) abattoirs and meat-processing plants;
 - (c) fish-processing plants;
 - (d) plants for the construction or repair of aircrafts or railway equipment;
 - (e) plants for the manufacture of tanks, reservoirs and sheet-metal containers;
 - (f) plants for manufacturing or recycling of plastics or paper;
 - (g) plants for manufacturing pharmaceuticals;
 - (h) plants for the manufacture of coal briquettes;
 - (i) distilleries;
 - (j) any other food-processing plants or agro-based processing plants; and
 - (k) go-downs for storage and warehouses.
- (8) Power and infrastructure projects, including—
- (a) hydropower development not exceeding ten megawatts;
 - (b) electrical sub-stations;
 - (c) pumped-storage schemes;
 - (d) cogeneration of power;
 - (e) low voltage power transmission lines; and
 - (f) solar power farms or plants.
- (9) Hydrocarbons projects, including—
- (a) service stations;
 - (b) LPG filling plant; and
 - (c) lubricant blending facilities.
- (10) Waste disposal, including—
- (a) waste transfer stations or storage facilities;

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 70 of 134

- (b) composting sites or plants;
- (c) removal and onsite disposal of asbestos.
- (11) Packaged treatment plants or onsite waste water treatment plants.
- (12) Biofuels processing plants.
- (13) Telecommunication infrastructures.
- (14) Expansion of tertiary institutions and related infrastructures.
- 3. **High Risk Projects—**
 - (1) General —
 - (a) an activity out of character with its surrounding; and
 - (b) any structure of a scale not in keeping with its surrounding.
 - (2) Changes in land use including—
 - (a) major changes in land use; and
 - (b) large scale resettlement schemes.
 - (3) Urban Development including—
 - (a) designation of new townships;
 - (b) establishment or expansion of industrial estates;
 - (c) establishment or expansion of recreational areas in National Parks, National reserves, forests, nature reserves and any areas designated as environmentally sensitive;
 - (d) establishment of shopping centers, commercial centers and complexes;
 - (e) establishment of hospitals;
 - (f) hotels with a bed capacity exceeding one hundred and fifty;
 - (g) establishment of new housing estate developments exceeding one hundred housing units;
 - (h) establishment of schools and other learning institutions exceeding one hundred learners; and
 - (i) other related urban developments.
 - (4) Transportation and related infrastructure projects, including—
 - (a) all new major roads including trunk roads;
 - (b) railway lines;
 - (c) airports and airfields;
 - (d) oil and gas pipelines;
 - (e) harbors and ports;
 - (f) construction of tunnels and channels;

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 71 of 134

- (g) metro transport facilities; and
 - (h) underground transport works.
- (5) Water resources and related infrastructure including—
- (a) storage dams and barrages;
 - (b) river diversions and water transfer between catchments;
 - (c) flood control schemes;
 - (d) sea walls; and
 - (e) water abstraction works.
- (6) Mining and other related activities including—
- (a) precious metals;
 - (b) salt firms;
 - (c) gemstones;
 - (d) ferrous and non-ferrous ores;
 - (e) coal;
 - (f) phosphates;
 - (g) limestone and dolomite;
 - (h) quarrying of stone and slate;
 - (i) harvesting of aggregate, sand, gravel, soil and clay; and exploration for the production of petroleum and minerals in any form.
- (7) Forestry related activities including—
- (a) clearance of forest areas;
 - (b) reforestation and afforestation with alien species;
 - (c) introduction of alien species;
 - (d) excisions of gazette forests;
 - (e) conversion of forests for whatever purposes; and
 - (f) any projects located within forest reserves such as construction of dams or other control structures that flood large areas.
- (8) Agriculture including—
- (a) aerial spraying;
 - (b) large-scale agriculture exceeding one hundred hectares;
 - (c) introduction of new crops and animals;
 - (d) large scale irrigation exceeding one hundred hectares;

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 72 of 134

- (e) major developments in biotechnology including the introduction and testing of genetically modified organisms; and
- (f) biofuel plantations.
- (9) Processing and manufacturing industries, including—
 - (a) mineral or ores refining and processing;
 - (b) large scale brick and earth-ware manufacture;
 - (c) cement manufacturing plants and lime processing;
 - (d) glass works;
 - (e) fertilizer manufacture or processing;
 - (f) explosive plants;
 - (g) tanneries;
 - (h) abattoirs handling more than one hundred animals per day and meat-processing plants;
 - (i) brewing and malting;
 - (j) bulk grain processing and storage plants;
 - (k) large scale fish-processing plants;
 - (l) pulp and paper mills;
 - (m) heavy manufacturing plants;
 - (n) lead smelting and processing plants;
 - (o) edible oil plants;
 - (p) steel mills;
 - (q) sugar factories; and
 - (r) any other chemical works and processing plants.
- (10) Power and infrastructure projects, including—
 - (a) thermal and hydropower development exceeding ten megawatts;
 - (b) geothermal development;
 - (c) wind farms;
 - (d) nuclear reactors and nuclear plants; and
 - (e) high voltage electrical transmission lines.
- (11) Hydrocarbon project, including—
 - (a) depots and refinery facilities for hydrocarbons;
 - (b) depots for natural gas;
 - (c) oil and gas fields development; and
 - (d) oil refineries and petro-chemical works.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 73 of 134

- (12) Waste disposal works, including—
- (a) sewerage works and waste water treatment plants;
 - (b) installation for disposal of industrial wastes;
 - (c) installation of incinerators;
 - (d) sanitary landfill sites;
 - (e) hazardous waste treatment or disposal facilities;
 - (f) facilities for disposal of solid or liquid hazardous waste;
 - (g) sludge treatment facility;
 - (h) e-waste recycling facilities;
 - (i) waste oil recycling facilities;
 - (j) waste tyre processing and recycling facilities; and
 - (k) commercial asbestos disposal sites.
- (13) Activities in natural conservation areas, including—
- (a) establishment of protected areas, buffer zones and wilderness areas;
 - (b) actions likely to affect endangered species of flora and fauna;
 - (c) formulation or modification of water catchment management projects;
 - (d) projects for the management of ecosystems especially by manipulating fire and water;
 - (e) commercial exploitation of natural fauna and flora;
 - (f) introduction of alien species of fauna and flora into ecosystems;
 - (g) wetlands reclamation or any projects likely to affect wetlands;
 - (h) projects located in indigenous forest including those outside of gazetted forests; and
 - (i) any project in an environmentally sensitive area.
- (14) Marine resource exploitation and reclamation, including—
- (a) mineral exploitation of resources in the marine areas;
 - (b) reclamation of marine areas; and
 - (c) mariculture.
- (15) Any other project which poses high environmental risks.

Dated the 30th April, 2019.

KERIAKO TOBIKO,
Cabinet Secretary for Environment and Forestry.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 74 of 134

Annex 4

Initial E&S Screening Form

Date of completion of this form:		Name of the E&S reviewer:	
Subproject Name:			
Brief Subproject Description: (Provide information on the type and scale of the construction activity (e.g., area, land required and approximate size of structures))			
Funding amount, type, and purpose of funding:			
Basis of Initial Screening: <ul style="list-style-type: none"><input type="checkbox"/> Site Visit (Date: _____)<input type="checkbox"/> Web search<input type="checkbox"/> Discussion with subproject developer:<input type="checkbox"/> Review of documents (list all documents)			
Summary of key E&S information:			
E&S aspects		Yes/ No (include details)	
Is the subproject on the exclusion list?			
Would the subproject displace or involve relocation of more than 200 persons?			
Would the subproject encroach or be located inside a protected area of natural habitat?			
Would the subproject displace, modify or render inaccessible a cultural heritage site or structure?			

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 75 of 134

Would the subproject create impacts on lands of Indigenous Peoples?	
Would the project involve: activities with potential significant adverse environmental and/or social risks and impacts that, individually or cumulatively, are diverse, irreversible, or unprecedented?	
Would the project have an impact on air, soil, water through emissions or similar?	
Would the proposed subproject result in generation of waste that cannot be recovered, reused, or disposed of in an environmentally and socially sound manner?	
Does the subproject include activities that require significant consumption of raw materials, energy, and/or water?	
Subproject siting information (check the ones that apply)	
<input type="checkbox"/> Rural/ undeveloped location <input type="checkbox"/> Proximity to protected area (e.g., forest/endangered species)/ecologically sensitive area (e.g., wetland/breeding grounds) <input type="checkbox"/> Proximity to culturally sensitive/indigenous area <input type="checkbox"/> Near or within site river/stream/pond/lake/sea	
Potential environmental Issues (check the ones that apply)	
<input type="checkbox"/> Air emissions (boiler, generator, vehicles, furnaces, incinerators, exhaust, on-site burning, etc) <input type="checkbox"/> Wastewater <input type="checkbox"/> Solid waste <input type="checkbox"/> Hazardous waste <input type="checkbox"/> Hazardous chemicals, fuels and pesticides <input type="checkbox"/> Resource consumption (fuel, electricity, electricity) <input type="checkbox"/> Nuisance (dust, noise, fumes, odours, vibration, traffic congestion)	
Potential social issues (check the ones that apply)	
<input type="checkbox"/> Land acquisition <input type="checkbox"/> Displacement/resettlement of local settlements <input type="checkbox"/> Impact on local settlements/livelihood <input type="checkbox"/> Impact on indigenous peoples <input type="checkbox"/> Complaints from neighbours/communities	

- ☐ On or adjacent to site of cultural/archaeological importance

Findings of web search (check the ones that apply)

- ☐ Protests from community against the subproject
☐ Action by regulatory authorities against the subproject
☐ Allegations of corruption and malpractices
☐ Labor non-compliance
☐ Reports of fatalities and poor OHS practices

Recommended Risk Categorisation and applicable ESSs (please mention the category here)

World Bank ESS	Triggered		Reasons	Reports/ assessment required
	Yes	No		
ESS1: Assessment and Management of Environmental and Social Risks and Impacts				
ESS2: Labour and Working Conditions				
ESS3: Resource Efficiency and Pollution Prevention and Management				
ESS4: Community Health and Safety				
ESS5: Land Acquisition, Restrictions on Land Use and Involuntary Resettlement				
ESS6: Biodiversity Conservation and Sustainable Management of Living Natural Resources				
ESS7: Indigenous Peoples/Sub-Saharan African Historically				

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 77 of 134

Underserved Traditional Local Communities				
ESS8: Cultural Heritage				
ESS9: Financial Intermediaries				
ESS10: Stakeholder Engagement and Information Disclosure				

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 78 of 134

Annex 5

E&S DUE DILIGENCE AND SITE VISIT CHECKLIST (to be used by KDC's E&S team or E&S Consultant)

Guidelines for site visit

During the site visit, the KDC E&S team and/ or their consultant will carry out the following tasks:

1. Visit the subproject and all its facilities such as livestock transit shelters, production facilities, water intake point, water treatment plant, wastewater treatment plant, solid waste storage area, hazardous waste storage area, labour canteen and rest facilities, labour & employee accommodation, and all associated facilities of the subproject. The visit to these areas should focus on general housekeeping, safety hazards, conditions in which material is stored, general working conditions, living conditions in camps, etc.
2. Review all subproject related information such OHS records, environmental monitoring data, wage record, community consultation records, documents/ reports supporting implementation of ESMPs and grievance record.
3. Meet key staff at the subproject including plant head, OHS staff, E&S team, human resources, security in charge, corporate social responsibility manager, and community liaison officer.
4. Hold consultations with the community especially project affected people. Discuss the subproject, status of implementation of ESMPs, their views on the subproject & its activities, any concerns & suggestions, their knowledge about the community grievance mechanism and their access to the subproject team. Hold separate consultations with all VMGs, if any.
5. Visit community projects undertaken by the subproject and meet with their beneficiaries.
6. Hold consultations with the workers especially on grievance mechanism, payment of wages and overtime, and general working conditions.

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 79 of 134

This site visit checklist can be used for appraisal as well as supervision visits.

Section A: Subproject details	
Subproject name:	
Subproject type:	
Subproject description:	
Dates of the site visit	
Names of team members who visited the site	
People met during the site visit or interviewed remotely (include their names, designation and contact details)	

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 80 of 134

Section B. Environmental and Social Due Diligence & Site Visit Checklist

Question	How to verify?	Observations
Subproject Status		
What is the subproject status (has construction started at the site?)		
Site condition		
Is there any village/ community within 500 meters of the subproject boundary?	Physical verification Observe the physical condition of the site and site surroundings?	
Is there an approach road to the site?	Physical verification	
Previous land use history [visible land contamination? Check on conditions of forest, population]	Discuss with site management staff/ workers from local area/ surrounding people/ nearby village head (within 5 km)	
Is the subproject located near a biodiversity rich area national park/ reserve forest/ sensitive mangrove land/ Areas which are habitat of endangered or ecologically sensitive species?	Discuss with site management staff/ workers from local area and surrounding community / local SPCB offices	
Environmental and Social Management Organization		
Is there any organizational arrangement for managing E&S issues/ risks?	Subproject phase specific organizational chart with names of the responsible officers	

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 81 of 134

Question	How to verify?	Observations
Is the E&S team adequately qualified?	Discuss with management at site and relevant staff entrusted with E&S responsibility	
Does the project maintain a regulatory register to understand the applicable E&S legislations?	See the register	
Was an ESIA completed for the subproject? If not, what kind of E&S assessment was undertaken?	Review the ESIA report or any other E&S assessment	
Is there any regular reporting system from site level to top management on occupational health / community / security issues?	Check internal reporting record if any	
Specific E&S management program/ action plan prepared to mitigate the identified E&S risk / impacts?	Document describing E&S issues and mitigation measures	
Facilities at construction site and in office		
Is there provision of sufficient and potable drinking water for the workers	Physical verification Ask for drinking water quality monitoring reports	
Are there sufficient latrines and bathrooms for workers?	Physical verification	
Is there a retiring room for workers in the workplace?	Physical verification	
Is there first aid facility at site?	Physical verification	

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 82 of 134

Question	How to verify?	Observations
Are firefighting arrangements and equipment adequate? Such as fire extinguishers, fire assembly points, etc.	Physical verification	
Are emergency contact nos. displayed at site	Fire brigade, Local Police station/ Ambulance/ Hospital/ Doctor/ Plant manager/ Occupier phone nos.	
Occupational Health and Safety		
Is there a workplace safety policy?	<ul style="list-style-type: none"> • Copy of safety policy • Proof of work force insurance • List of hazardous chemicals • List of PPEs provided 	
Does the subproject have qualified coordinators, officers, or other staff responsible to oversee OHS issues?	Interviews with E&S team	
Have the occupational hazards of working at this site/ project been assessed?	Review hazard assessment	
How is contractor's compliance with SOPs and safety policy is ensured?	Review the SOPs	
Does the subproject conduct regular OHS training for its workers and employees including contractor worker and training records are maintained in-house?	Review training records	
Any accidents at the site?	Review incident and accident register Talk to the workers at site	

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 83 of 134

Question	How to verify?	Observations
Any loss of life in recent past? Ever?	Review incident and accident register Talk to the workers at site	
Serious injuries? What were the reasons?	Review incident and accident register Talk to the workers at site	
Labour & working conditions		
Construction camp		
How many workers are expected during construction?	Go through the project records and speak with the project manager	
Is there a construction camp? What facilities does the construction camp have?	Visit the labour camp	
How many workers live or are expected to live in the construction camp?	Visit the camp, talk to construction labour regarding living arrangements	
Are contractors setting up their own construction camps? If yes, is there any guidance provided to them on the design of construction camps?	Ask for the guidance document Visit contractors' construction camps	
HR Policy		
Is there a formal HR policy? Does the policy include clear terms and conditions of employment and worker's rights related to hours of work, wages, overtime, compensation, benefits, etc.	Review the HR policy applicable to the project	

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 84 of 134

Question	How to verify?	Observations
How many staff are employed or are anticipated to be employed by the project (number, gender breakup and organogram)?	Ask for this data	
How are the general and specific working conditions, leaves, wage rates, working hours etc. communicated to the employees?	See a sample appointment letter	
Is there a policy on non-discrimination?	Review the policy on non-discrimination	
Is there any work which is given to a particular workforce only? What is that?		
How is the minimum age restriction monitored? What documents do you refer to for confirming age? What is the policy on child labor or minimum working age?	Look at HR files of 12 or more employees and workers Ask for policy on child labor	
Is there a grievance mechanism for workers & employees? How often has it been used in last 1 year and what are the most common grievances?	Review the grievance mechanism. Ask for grievance records	
Environmental pollution & waste management		
Resource use		
Where is the water been sourced from?	Physical check and discussion with site people Visit the water source point, if possible.	
Where is the construction material been sourced from?	Check for licenses Visit the quarries	

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 85 of 134

Question	How to verify?	Observations
Is water consumption monitored?	Ask for water consumption data	
What are expected water/energy usage levels (cbm/kWh) during construction and during operation?		
Environmental pollution		
How is the wastewater managed at site? Ask for details of the wastewater treatment process and point of discharge of treated effluent.	Wastewater quality report Data on quantity of wastewater generated	
Solid and hazardous/biomedical waste: ask for the waste characterization, such as the types of waste (animal waste, carcass, packaging material, etc.), the volume of each type of waste generated and the waste management/disposal methods for each waste stream.	Review the records	
Are any hazardous materials used at or generated by the project? If so, what type (e.g. explosive, corrosive, flammable, etc.)? Ask for how hazardous materials is managed on site to ensure proper handling/disposal.	Review the records Visit the site where hazardous material and waste is stored	
Ask for sources of air emission – DG set. Collect information on how air emissions are monitored.	Review air quality monitoring data Visit monitoring stations	

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 86 of 134

Question	How to verify?	Observations
Copy of environmental monitoring reports – ambient air quality, noise levels, treated wastewater quality, workplace air quality etc.		
Describe efforts and technical interventions to minimize fire risks at project/ site.		
Emergency preparedness		
<ul style="list-style-type: none"> Is there an Emergency Preparedness Plan? Does the plan have provision for mock drills, trainings etc.? 	Review the plan	
General housekeeping		
<ul style="list-style-type: none"> Evidence of liquid and solid wastes High levels of noise (intermittent or continuous) Strong smells/irritants Access, fire risk 	Visual inspection of all facilities at the site	
Community health & safety		
Are there any health risks to the nearby community due to subproject operations?	Waterlogged areas/ Waste disposal areas visible during site visit	
Whether security personnel of the project are sufficiently trained to avoid and handle any untoward situation involving local community?	Discuss with existing security personnel	
Social issues		

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 87 of 134

Question	How to verify?	Observations
Which social management plans are being implemented? Please learn about the status of implementation	Discuss with site management staff/ workers from local area and surrounding community	
Are there VGMs in the project vicinity?		
Community engagement and grievance mechanism		
How has the grievance mechanism been shared with the community?	<ul style="list-style-type: none"> • Review the Grievance recording system • What kinds of grievance are more common? • Is there any record of closing the grievance or communicating the redressal of grievance back to the grievant? • Interview community to know if they are aware of the grievance mechanism 	
Is there any other channel of logging the grievances?		
How long does it take to resolve grievances? Please give an example from registering to closing of the grievance and communicating the closure to the complainant.		

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 88 of 134

Question	How to verify?	Observations
What kind of grievances are more common and why?		
How is information disclosed to the community?	Interview local people within 2 Km of the project site, Review the reports that have been disclosed?	
Any meeting conducted with local community to take feedback on E&S management plans?	Ask meeting minutes or video recording/ photograph of the meeting	
Is there any conflict with the local population with respect to grazing their animals or access to their source of water, livelihood, cultural or other heritage, complaints of noise from nearby villages	Discuss with local workers/ people/ and management staff at site.	
Gender		
What is the composition of the workforce (disaggregated by gender, grade, and contract type)?		
Does the subproject consultation process include women/gender focused groups, or gender units?		
Is the project staff sensitised about gender issues especially GBV and SEA/SH?		
Does the subproject have policies and procedures in place to assess and manage gender-specific risks in the local community, particularly the risk of GBV & SEA/SH? Who is responsible for implementing these policies and how, including grievance mechanisms? Have there been any	Ask to see the policy on GBV and SEA/SH	

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 89 of 134

Question	How to verify?	Observations
complaints or grievances from women workers or members of local community?		
How do you ensure that the contractors have policies on GBV & SEA/SH and that all their workers are trained and sensitized about GBV and SEA/SH risks? Is there a code of conduct for workers?	Ask for the code of conduct	
Can you describe your grievance mechanism and the measures that are in place to prevent and address sexual harassment? Have there been past complaints about gender discrimination or sexual harassment?	Ask to see the grievance mechanism and sexual harassment policy	
Will there be women workers on site? If yes, does the contractor have policies in place to ensure gender specific labour and OHS risks are adequately addressed? Are there separate facilities available for women and men?		
Covid 19 precautions		
Are Covid-19 appropriate protocols defined?	Ask to see a copy	
Have staff and workers been trained in Covid 19 appropriate behaviour and have they been sensitized about Covid 19 risk?	See training records	
Are all community consultations conducted keeping in mind Covid 19 risks and requirements?		

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 90 of 134

Document Name: Environment and Social Management System	Effective Date:
Document Number: KDC/PO/ESMS /00	Version Number: 0.0
Repository: Quality Management Office	Page 91 of 134

Annex 6

Sample E&S Covenants

	E&S covenants
Definition	<p>Environmental and Social Consultant means the external consultant undertaking the ESDD and/ or E&S monitoring</p> <p>Environmental & Social Law means all or any law, statute, rule, regulation, treaty, directive, direction, by-law, code of practice, circular, guidance note, order, notice, demand, decision of the courts or of any governmental authority or agency or any regulatory body or any other body whatsoever in any jurisdiction relating to any matters pertaining to the environment, social, health, safety and natural resource management applicable to the subproject; and any permits, licences or consents they may require pursuant to any of the foregoing;</p> <p>ESIA mean the Environmental & Social Impact Assessment required to be conducted as part of the financing agreement in accordance with the terms of reference provided in Annex XX of this financing agreement.</p> <p>SIA means the Social Impact Assessment required to be conducted as part of this financing agreement in accordance with the terms of reference provided in Annex XXX of the financing agreement.</p> <p>Environmental and Social Requirements (E&S requirements) means:</p> <ul style="list-style-type: none"> a) any Environmental and Social Law (as amended from time to time); b) the World Bank ESF; c) the Environmental, Health and Safety Guidelines; and d) the Environmental and Social Documents, <p>Environmental, Health and Safety Guidelines means World Bank Group's Environmental, Health and Safety Guidelines</p> <p>WB ESF means the World Bank's Environment & Social Framework available at https://www.worldbank.org/en/projects-operations/environmental-and-social-framework</p> <p>Exclusion List means any of the activities as set out in Annex XX;</p>

	<p>E&S Performance Report means the E&S Performance Report setting out the specific environment, social, health & safety performance of the subproject as per the format provided in Annex XX. The report is to be delivered on quarterly basis during construction period and six monthly/ annually thereafter.</p>
Representation and warranties	<p>The borrower confirms that :</p> <ul style="list-style-type: none"> • there are no material E&S risks or issues in respect of the subproject other than those identified in the ESIA and other assessment reports; and • they have not received nor are aware of any material written communication from any person and/ or organization concerning the failure to develop and design the subproject or to undertake its operations and activities in accordance with the E&S requirements. • All E&S Approvals required in connection with the construction and operation of the subproject have been obtained by the borrower.
Conditions precedents	<p>The borrower will provide written affirmation prior to execution of the financing agreement to:</p> <ul style="list-style-type: none"> • Undertake all activities under this financing agreement in compliance with E&S requirements; • Not support any activity that is on the Exclusion List
Other covenants	<p>(i) The borrower shall have an E&S focal persons, at all times, to be assigned to E&S management and monitoring.</p> <p>(ii) The borrower shall ensure that their contractors develop and implement Construction Environmental and Social Management Plan (CESMPs).</p> <p>(iii) The borrower shall take any additional E&S assessment or monitoring necessary arising from site-specific works and activities that were not finalised or were unforeseen at the time the Environmental and Social Impact Assessment or any Environmental and Social Management Plan, as applicable, was completed.</p> <p>(iv) The borrower shall undertake its operations (including those required to carry out the Project); through its</p>

	<p>employees, agents, contractors and subcontractors, in compliance with the E&S Requirements</p> <p>(v) The borrower shall develop, adopt and implement a labour management plan (LMP) consistent with the E&S requirements.</p> <p>(vi) The borrower shall implement a workers' grievance redress mechanism, consistent with national labour laws and ESS2.</p> <p>(vii) The borrower shall have in place, OHS plans as described in the LMP, consistent with national labour laws and ESS2.</p> <p>(viii) The borrower shall put in place emergency preparedness and response plans.</p> <p>(ix) The borrower shall prepare, adopt, and implement measures and actions to assess and manage specific risks and impacts on resource efficiency and pollution prevention and management to the community arising from the subproject activities. These measures will be included in the subproject ESMPs and the SPRs or CPRs in accordance with the E&S requirements.</p> <p>(x) The borrower shall prepare, adopt, and implement measures to assess and manage specific risks and impacts on community health and safety arising from the subproject activities that they finance, and include these measures in the EMSPs, and SPRs or CPRs, in accordance with the E&S requirements.</p> <p>(xi) The borrower shall carry out a security risk assessment and develop a security management plan for each site as necessary, implement measures and actions to manage the risks to the human security of project-affected communities and project workers that could arise from the use of security personnel, or communal violence, or any incident that may be directly or indirectly connected with subproject activities.</p>
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	<p>(xii) The borrower shall prepare, adopt, and implement measures and actions to assess and manage specific risks and impacts on biodiversity, including the identification of different habitats that may be affected by subprojects. These measures will be included in the ESMPs, SPRs or CPRs for the specific subprojects, in accordance with the E&S requirements.</p> <p>(xiii) The borrower shall develop and implement chance find procedures - if applicable - the chance finds procedure which will include measures and actions to assess and manage risks and impacts on cultural heritage arising from sub-projects in accordance with the E&S requirements.</p> <p>(xiv) The borrower shall have in place a community grievance redress mechanism consistent with E&S requirements</p>
Reporting requirements	<p>(i) within thirty (30) days after the end of each quarter during the construction period deliver to KDC the corresponding E&S Performance Report in the form attached as Annex XX hereto confirming compliance with the Environmental and Social Requirements, the E&S covenants set forth in this Agreement and Applicable E&S Law;</p> <p>(ii) Within ninety (90) days of construction being over submit an E&S completion report to KDC confirming compliance with the E&S requirements the E&S covenants set forth in this Agreement and Applicable E&S Law. The E&S completion report is to be prepared by an independent E&S consultant.</p> <p>(iii) within thirty (30) days after the end of each six (6) month/ twelve (12) month period during operational phase deliver to KDC the corresponding E&S Performance Report in the form attached as Annex XX hereto confirming compliance with the Environmental and Social Requirements, the E&S covenants set forth in this Agreement and Applicable E&S Law;</p> <p>(iv) Promptly (no later than 3 business days) after its occurrence, notify the KDC of any social, labour, health and safety, security or environmental incident, accident or circumstance having, or which could reasonably be expected to have, any material impact on the implementation or operation of the Project in compliance with KDC's Environmental and Social Policy or a Material Adverse Effect, specifying in each case the nature of the</p>

	incident, accident, or circumstance and the impact or effect arising or likely to arise therefrom, and the measures the Borrower is taking or plans to take to address them and to prevent any future similar event; and keep KDC informed of the on-going implementation of those measures
KDC's rights	Upon reasonable notice, allow access for E&S representatives of KDC and its investors to any of the premises where the business of the Company is conducted, to have access to Company management, and to have access to the Company's books of account and records, in each case, solely as such E&S Representative reasonably considers necessary to monitor compliance with the E&S requirements

Annex 7

Terms of Reference for ESDD

KDC requires the services of E&S consultant(s) to perform Environmental and Social Due-Diligence (ESDD) of [insert name of project].

1. Description of the Project

[Insert project description]

2. Objective

The purpose of this ESDD is to support KDC's investment decision by reviewing and verifying the project against the scope of work, identifying compliance gaps, defining E&S action plan (ESAP) and outlining a managing/monitoring regime.

This review must specifically address foreseeable risks and mitigation measures, and should give an overall opinion on the ability of the project to meet the E&S reference framework.

3. Reference Framework

The reference framework will be:

- (i) Applicable local, national and international E&S legislation;
- (ii) World Bank Environment & Social Framework <https://www.worldbank.org/en/projects-operations/environmental-and-social-framework>; and
- (iii) The World Bank Group General Environmental, Health and Safety ("EHS") Guidelines (http://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/ifc+sustainability/our+approach/risk+management/ehsguidelines) and specific sectoral EHS Guidelines.

4. Team

The assignment should be carried out by qualified E&S consultants with knowledge of the World Bank ESF and prior experience assessing E&S risks and impacts.

5. Scope of Work and Tasks

The scope of work entails verification of E&S aspects of the project as per scope of works and tasks. This will include but not be limited to the following major facilities:

[insert list of subproject facilities]

Specifically, the scope of work involves:

- i. Summarize the relevant characteristics of the subproject related to environmental, health, social and safety (EHSS) aspects based upon a review of existing information and a site reconnaissance visit. Relevant characteristics include: project description; institutional and legal framework; environmental and social conditions; EHSS impacts and issues; E&S mitigation and monitoring measures; contingency/emergency procedures; management review/oversight; management of contractors;
- ii. Evaluate the adequacy of the proposed subproject EHSS assessment, plans and procedures and present conclusions and recommendations associated with identified gaps. These are to include, but not be limited to, impacts not identified or properly evaluated, impacts not properly mitigated, insufficient monitoring programs, potential E&S risks and liabilities, etc;
- iii. Determine which of World Bank's ESS and WBG EHS Guideline provisions are applicable to the subproject and recommend, as appropriate, additional actions necessary to ensure compliance.
- iv. In relation to risks and impacts linked to emissions and discharges, natural or critical habitat, indigenous people and cultural heritage, also assess: (a) technical feasibility of mitigation measures that will enable compliance with the relevant WB ESS; and (b) cost of implementation of such mitigation measures.
- v. Reviewing whether capacity and management structures to address environmental and social impacts are feasible and appropriate; and
- vi. Reviewing proposed monitoring systems and suggesting amendments as necessary.

The ESDD will include the following five tasks:

1. **Preliminary review:** This will include a review of all relevant EHSS documents and information (i.e., subproject environmental and social impact assessments, environmental licenses and associated applications, health and safety plan, human resource policy, code of conduct, contingency/emergency plan, concession and construction contracts, any other additional environmental, health and safety studies, etc.).
2. **Site visit and further review:** Conduct site inspections, review facility-based records, and interview key staff, including both sponsor personnel and relevant

stakeholders (e.g. regulatory officials, community leaders, suppliers and customers).

3. **Management review:** The management review will include management structure, definitions of responsibilities, communication about responsibilities, training programs and internal reporting systems and will evaluate whether the structure will be adequate to manage E&S issues.
4. **E&S performance gaps and necessary corrective actions:** Analyse project E&S performance in relation to the KDC's E&S policy and the framework stipulated above. Identify gaps and any corresponding corrective actions that will be necessary. Prioritise these and recommend acceptable and justified implementation schedules.
5. **Due diligence documentation:** Prepare a report summarising the results of the E&S due diligence. The ESDD report shall include a summary of the impacts and risks associated with the project, including the related gaps and corresponding corrective actions that will be necessary in order for KDC to invest.

Deliverables

The consultant will provide a full report, describing: working approach; project description; reviewed information and documentation; interviewed peoples and entities; due diligence findings and recommendations, fully reflecting the scope of work. The report will include a clear compliance overview table, providing for each relevant aspect of the framework stipulated above including at least the following information per key requirement:

- Confirmation of initial E&S risk category assigned to the subproject by KDC;
- Description of the subproject;
- Applicability of the WB ESS and WBG EHS Guidelines;
- Compliance status, differentiating between minor and major gaps;
- Recommended follow-up and ESAP.

Furthermore, the consultant will give a qualitative judgment about the feasibility of selected opportunities for improvement.

ANNEX 8

ESDD REPORT OUTLINE

The E&S team should complete the ESDD report as per the following outline.

Sections	Contents
Subproject Description and status	Provide full subproject description including the site and environmental and social setting, surrounding land uses
Sensitive receptors	Local human settlements, local ecologically sensitive areas and protection and conservation of biodiversity, sites of cultural importance
Environmental and Social Categorization	Define the E&S category of the subproject and provide the rationale for categorization
Applicable E&S Standards	Explain which E&S Standards are applicable to the subproject and why
Subproject Social and Environmental Management Systems	Describe the processes by which the subproject manages environmental and social performance, including community engagement activities. This section should also cover compliance with national regulatory requirements.
Environmental aspects	This section should explain the sources of air pollution, water pollution, solid and hazardous wastes, noise, chemical hazards and emergency management, resource conservation and energy efficiency measures (refer ESS 1 and 3 for writing this section)
Resource utilization	This section should explain where the water, construction material, and other resources will be sourced from
Social Issues	This section should also define impacts on the community, stakeholder engagement and community grievance mechanism.
Labour and working conditions	Description of existing HR policies, OHS, labour complaints.
Community health & safety	Any community health and safety risks and impacts should be described in this section
Other subproject specific issues	Sections on biodiversity and cultural heritage should be included if these are relevant to the project.

Recommended corrective actions/ E&S Action Plan	For performance gaps, recommend corrective actions corresponding schedules, indicate priorities, and advise as to how to incorporate these into the Funding Agreement as either condition precedent or actions to be implemented later). An Environmental and Social Action Plan (ESAP) should be compiled with actions identified.
Summary and recommendations	This section should provide a E&S summary that should be included in the subproject documents and board paper. This section should describe both the E&S risks and opportunities.
Funding covenants/conditions	This section should recommend the funding covenants for inclusion in the funding agreement and the concession agreement.

Annex 9

Suggested E&S Action Plan Template

[illegible]

Annex 10

Guidance on development of Grievance Mechanism (to be shared with subprojects)

The KDC requires all its subprojects to develop and implement a grievance mechanism (GM). The objective of this mechanism is to allow community especially those impacted by the subproject to raise their grievances and concerns and to seek their resolution in a timely manner.

This is a guidance document for KDC's subprojects to develop community GM specific to their operations. Additional guidance on grievance mechanisms is provided

<http://documents1.worldbank.org/curated/en/598641478092542645/pdf/108864-WP-CAO-ENGLISH-Implementing-Grievance-mechanisms-PUBLIC.pdf>.

1. Objectives of Grievance Redress

A key element of social risk management is the development and implementation of an effective grievance mechanism. Grievance mechanism is required to provide a platform to the community and project affected persons (PAPs) to lodge complaints or concerns, without cost, and with the assurance of a timely and satisfactory resolution of the issue.

GM refers to a mechanism which allows the community members who feel they have been adversely affected by subproject/ company activities to raise their concerns, queries and complaints. An effective GM helps in:

- better community relations and engagement;
- identification, monitoring and redress of community concerns in a professional and timely manner; and
- proactively identify and address risks to project/ company.

An effective GM must be:

- developed in consultation with the community;
- timely, relevant, easily accessible and understandable;
- culturally appropriate;
- predictable and transparent;
- inclusive and fair;
- allowing anonymity;
- independent; and
- free from fear of retribution.

2. Scope of GM

The scope of the GM should be clearly defined and explained to the community. An effective GM must be open to all stakeholders who consider themselves affected by the activities of the subproject. The scope in terms of types of complaints should be wide and not restrictive.

For certain types of grievances such as those related to land acquisition process and payment of compensation, the government has its own grievance processes where the land has been acquired by the government. Such grievances should be forwarded to the land acquiring authority for resolution. It is important to note that the GoK has its own grievance mechanism related to land acquisition and payment of compensation. Those impacted by the land acquisition or land use restrictions should be helped by the subproject to access government management grievance mechanism.

3. GM Process

Grievance procedures do not replace existing legal process. The grievance procedures seek to resolve issues timely so as to pre-empt risks to community and projects. It helps in building strong community relations. An effective GM must be simple and implemented within a clear time schedule which should be adhered to. If grievance procedures fail to provide an agreed result, complainants can still seek legal redress.

There are seven basic steps involved in a functional grievance mechanism (see figure). The flow diagram below indicates the typical time taken at each step. The subprojects should define the timeframe keeping in mind the nature of the subproject and the resources.



These stages are explained in detail in the following table.

Receive and record	<p>This defines the several ways in which a community member can raise a question or complaint. These may include complaint/ suggestion box, email, phone, complaints register, in-person, letter and community meetings. Complaints may be submitted on a named or anonymous basis. The several options for making a complaint should be clearly defined, widely communicated and easily accessible to all community members. Locating a complaint box and register far away from the community which has no access to other means of making a complaint such as a phone or email defeats the purpose of having a GM.</p> <p>All grievances and complaints (irrespective of their validity) should be recorded. This record must be updated regularly to reflect the updated status of grievance (under investigation, closed, open). A grievance log form is suggested for logging grievances.</p>
Acknowledge	<p>The grievance officer or any other designated officer must acknowledge the receipt of a complaint within a specified period of time (usually 2-3 working days). For complaints received in-</p>

	<p>person, an acknowledgment can be provided on the spot or subsequently either through an email, SMS or letter.</p> <p>For high risk projects (category A projects), it is recommended that a dedicated grievance officer is hired to manage implementation of community grievance mechanism</p>
Assess	<p>The grievance officer or any other designated officer should conduct a timely initial assessment of the complaint to determine whether: (i) it pertains to the project operations; (ii) it falls within the purview of the GM; and (iii) the complainant is a community member and/ or affected person. After determining the validity, the grievance officer should ascertain who can resolve and respond to the grievance within the project and it should be referred to the concerned department with timeline for closure.</p>
Investigate and resolve	<p>An officer of the relevant department or an investigation should be assigned (certainly with 10 days of receipt of the grievance) to investigate and resolve the grievance. The concerned officer or team should be tasked with investigating the underlying cause of the grievance and identify changes required to internal systems and procedures to prevent a recurrence of a similar grievance. An Investigation Report should be completed within 15-20 days. The endeavour should be to always complete the investigation as soon as possible.</p> <p>After investigation, the next step is for the relevant department or investigation team to propose a resolution to the complainant. No further action is needed if the complainant accepts the resolution. If the solution is not accepted, the complaint should be escalated to the senior management and subsequently to a grievance committee for further investigation and resolution. The escalation mechanism should be clearly defined in the GM.</p>
Implement Resolution	<p>In case the resolution involves implementation of certain corrective actions, the project should implement those as per the agreed timeline.</p>
Monitor and close	<p>The complaint and implementation of its resolution should be monitored for a reasonable period to make sure that there are no residual issues and risks either to the project/ company or the community.</p>
Feedback	<p>An effective GM must have a feedback mechanism through which timely feedback should be provided to the complainant and the larger community (if the complaint relates to more community members). The feedback should be provided regularly during the grievance redress process.</p>

4. Resources

The subproject should define institutional roles and responsibilities for implementation of the GM. Most commonly, subprojects hire/ depute a grievance officer who is the first point of contact for all matters related to the GM. The grievance officer can also resolve some of the simpler grievances. Grievances that require intervention of specific departments should be forwarded to them for resolution. In case the resolution proposed by the concerned departments is unacceptable to the complainant then it should be escalated to the senior management of the subproject and subsequently to a grievance committee. Typically, grievance committee has representatives from the subproject/ company, the community, and civil society organizations working in that area.

In addition to defining institutional roles and responsibilities, the subproject must also allocate budget for implementation of GM.

It is recommended that all category A subprojects hire a dedicated grievance officer to ensure effective implementation of the GM.

5. Reporting grievances

The project stakeholders including the project affected families can report their grievances to KDC. However, the option of approaching KDC should be exercised only after a complainant has first sought resolution through the subproject level grievance mechanism. In her complaint to KDC, the complainant must provide evidence of first seeking resolution through the subproject's GM and justification for reluctance to use the subproject level GM (in case they have not used it).

It will be the responsibility of the subproject to ensure that this aspect of the GM is communicated and explained to the community.

6. Monitoring & Reporting

Monitoring and reporting can be tools for measuring the effectiveness of the grievance mechanism and the efficient use of resources, and for determining broad trends and recurring problems so they can be resolved proactively before they become points of contention. Monitoring helps identify common or recurrent claims that may require structural solutions or a policy change, and it enables the company to capture any lessons learned in addressing grievances. Reports containing the following information should be prepared and shared with the top management on regular basis.

- Number of grievances received;
- Total number of grievances open and closed;
- Average time taken for the closure of the grievances;
- Repetition of the grievances;
- Nature and type of grievances;

- Number of grievances coming from the VMGs (including, women, elderly, disabled, etc.); and,
- Number of grievances escalated to the grievance committee.

The subproject grievance officer will compile concise quarterly and annual reports of all grievances logged, results of these activities and grievances, and monitoring of the success of the stakeholder engagement and grievance resolution process. This will be made available for internal reporting as well as reported to KDC through E&S monitoring reports.

Sample grievance log form

SECTION 1: COMPLAINANT DETAILS			
Complaint reference number	Date when complaint received	Who received the complaint?	How was the complaint received (mode)?
Name of Complainant / Organization making the complaint (if not anonymous)			
Contact details	Phone number	Email	
SECTION 2: DETAILS OF COMPLAINT			
Description of the complaint:			
Date on which incident occurred leading to the complaint			
SECTION 3: ACKNOWLEDGEMENT OF COMPLAINT			
Acknowledgement of complaint sent	Date when acknowledgment was sent	Expected timeline for resolution	

to complainant (Y / N)		
SECTION 4: ASSESSMENT OF COMPLAINT		
Manager/ department responsible for addressing the complaint		
Time and date complaint referred to		
Description of action taken:		
Description of action proposed for resolution of complaint with timeline:		
Corrective action	Due date	Evidence of completion
SECTION 5: FEEDBACK TO COMPLAINANT		
Resolution communicated to the complainant	Y/N	
Date on which it was communicated		
How was it communicated?		
Complainant's initial response to the resolution		

Annex 11

Guidance for Subprojects on Developing Stakeholder Engagement Plan (to be shared with the subprojects)

1 Introduction

Stakeholder Engagement (SE) is a bedrock of strong, constructive and mutually beneficial working relationships. SE includes an inclusive and continuous process of interaction between a project and their stakeholders.

The KDC is committed to analyse, control and reduce the negative environmental and social (E&S) impacts and improve on the positive benefits of their financial operations. It's environment & social management system (ESMS) is designed to ensure compliance of all its operations with the national regulatory requirements and the World Bank E&S Standards (ESS). To this effect, KDC requires all subprojects supported by it to design, construct, and operate in compliance with the E&S requirements.

One of the key E&S requirements is for KDC's subprojects to develop and implement a stakeholder engagement and information disclosure plan (SEP).

The purpose of this annex is to guide subprojects to develop a dedicated subproject specific SEP that is proportionate to the risks and impacts of the subprojects being undertaken with KDC financing. Additional guidance on develop of SEP is provided on

https://www.ifc.org/wps/wcm/connect/topics_ext_content/ifc_external_corporate_site/sustainability-at-ifc/publications/publications_handbook_stakeholderengagement_wci_1319577185063.

2 Objectives of SE

A SEP is a formal blueprint for engaging with the stakeholders of a subproject to secure their support. It identifies the stakeholders, their relationship with the project, stakeholder information needs, communication channels, and timeframe for engagement.

It is a two-way process and it refers to exchange of information and consultation with stakeholders. The engagement and consultation process in any project should span the entire lifetime of a project, from its inception to its closure.

The specific objectives of SE are as follows:

- To share information with project/ company stakeholders in a timely, easily accessible and understandable manner;
- To provide opportunities to stakeholders to express their views and concerns, and allow the project/company to consider and respond to them;
- To anticipate and address issues and areas of concern of stakeholders;
- To promote transparency and accountability in all project/ company activities; and
- To enable development of a strong relationship with stakeholder groups based on ongoing engagement, understanding and trust.

3 Principles of SE

The key principles of SE:

- The process of engagement should be transparent, inclusive and culturally appropriate;
- The engagement activities should be aligned to the subproject timelines and proportionate to impacts/ risks associated with the subproject;
- The SE process should commence at an early stage of a subproject;
- Information relevant to the subproject and its development should be shared with stakeholders on a regular basis to ensure that all consultation is informed;
- All engagement activities should be documented;
- Meaningful engagement requires that subprojects be open to incorporating stakeholder feedback and suggestions in subproject design and various E&S mitigation strategies;
- Engagement should be free from manipulation and coercion;
- Reporting back to the consulted stakeholder group on the outcomes of engagement and the next steps.

4 Components of SEP

The key components of SEP are described below.

4.1 Stakeholder identification and analysis

Stakeholder identification, analysis and mapping is the first step in the process of SE. Stakeholders are persons or groups that are directly or indirectly affected by, and/ or can affect a project/ company's activities and policies. An example of types of stakeholders groups is provided in the table below

Typical Stakeholder groups and their categorization

Stakeholder Groups	Direct Stakeholders	Indirect Stakeholders
Community	<ul style="list-style-type: none"> • Local community • Pastoralist • Agricultural labourers • Vulnerable community 	<ul style="list-style-type: none"> • Host community
Institutional Stakeholders	<ul style="list-style-type: none"> • Village institutions • Project investors • Pastoral groups 	<ul style="list-style-type: none"> • Village Institutions (schools, health centres); • Political Parties • Civil society organization
Government	<ul style="list-style-type: none"> • Regulatory Authorities; • Local government administration 	
Other Groups		<ul style="list-style-type: none"> • Media • Other industries/projects • External influences

Stakeholder analysis and mapping includes the process of examining the relative influence that different individuals and groups have over a project/company as well as the influence of a project over them. Following the analysis, stakeholders can be mapped based on: (i) type and nature of impact; (ii) vulnerability; and (iii) influence over the project.

4.2 Information disclosure

Information disclosure forms the basis for all meaningful consultation and engagement. It refers to making relevant information available at accessible locations to various stakeholders in a manner that is understandable. Disclosure of information helps in gaining trust of stakeholders and it empowers them to participate effectively in the SE and consultation process and facilitates them to make informed decisions on subproject matters. Examples of information to disclose include:

- Subproject description, potential impacts (positive and adverse) (including environment impact assessment, social impact assessment studies), benefits and E&S mitigation plans
- Employment opportunities
- Plans for stakeholder engagement and grievance redressal mechanism
- Information on E&S performance and status of implementation of various E&S management plans developed as part of the assessment process
- Feedback on issues raised by stakeholders in previous consultations

The key principle for information disclosure is “to give people the information they need to participate in an informed manner.” The information must be disclosed early to allow time for processing and understanding the information. It must be in a language and manner that is understandable, accessible and tailored to the target stakeholder group.

As part of the SEP, information needs of each stakeholder group should be identified and documented (as suggested in the table below).

Information needs of different stakeholder groups

Stakeholder group	Information needs	Frequency of information disclosure

Some of the common ways of information disclosure include distribution of pamphlets, display at prominent places in the community, through village institutions, presentations, etc.

4.3 Engagement process and methods

Effective engagement with a diverse set of stakeholders requires use of a variety of consultation and engagement methods. The most widely used engagement methods are focus group discussions (FGD), structured and semi-structured interviews and open meetings. A FGD refers to a discussion carried out with a group of people sharing socio- economic background. Examples of such groups include women, agricultural labourers, encroachers and indigenous community.

It will be useful to draw up a calendar of engagement activities at the beginning of every quarter. This will enable concerned team to plan disclosure of information and make all arrangements for engagement.

4.4 Institutional roles

Effective implementation of SE activity requires clear definition of institutional roles and responsibilities. The subproject must identify specific project personnel/ staff for implementation of SE activities through the subproject life. These personnel should ideally be from E&S or corporate social responsibility department and should have the experience in community engagement.

4.5 Budgetary allocation

The borrower must allocate sufficient budget for implementing SE activities through the subproject life. Budgetary allocation would be needed for information disclosure (printing and distribution of material), booking venues for consultation, professional fee of NGO, travel and accommodation of team undertaking consultation, etc.

4.6 Documentation

Each of the above mentioned engagement activities is to be properly recorded in the form of minutes and maintained as a stakeholder engagement database. Such a

database would allow for effective monitoring of the engagement process as well as ensure that the concerns and queries of the stakeholders are met in a timely manner

Sample format for documentation of engagement activities

Stakeholder groups	Date/location	Purpose of engagement	Method of engagement	Key outcomes and actions	Status of actions identified in previous consultations	List of participants

4.7 Monitoring & review

A SEP is living document which must be reviewed and revised, if needed, on a regular basis. The review process should be informed by the engagement activities and their effectiveness and emerging stakeholder concerns. As part of the review process, feedback should be requested from various stakeholders.

Outline of SEP

- Subproject description
- Objectives and scope
- Review of existing stakeholder engagement process
- Stakeholder identification and analysis
- Information disclosure
- Methods and frequency of engagement
- Institutional roles and responsibilities
- Budget allocation
- Documentation, monitoring and review

Annex 12

E&S Reporting Format (to be used by subprojects for reporting to KDC)

Please provide responses to the questions below. Please include additional sheets or attachments as required to provide details on questions that have been answered Yes.

Subproject name:			
Location:			
Subproject status	<input type="checkbox"/> Design <input type="checkbox"/> Construction <input type="checkbox"/> Expansion <input type="checkbox"/> Operation <input type="checkbox"/> Closure <input type="checkbox"/> Other (<i>specify</i>)		
Completed by (name):			
Position and contact details:		Date :	

Report Covering Period:	
From:	To:

Section A: Compliance with E&S requirements

E&S issues at approval	Current E&S status/any changes since last report
Have the conditions precedent been met?	
Please provide the status of ESAP implementation along with supporting documents.	
Is the subproject in compliance with the regulatory requirements?	

Section B: Social & Environmental Management System (ESMS) Information

Policies & Processes	Yes/No	
Have there been any updates to the Environmental and Social Policies adopted by the subproject?		If yes, please provide a copy of the updated policies, including date when it was issued and reasons for the same.

Policies & Processes	Yes/No	
Please describe any activities for the last six months for staff training on E&S matters (including number of staff trained).		
State any difficulties and/or constraints related to the implementation of E&S procedures.		
E&S complaints and issues	Yes/No	
Non-compliance with national legislation and regulations		
Complaints from regulatory agencies, interest groups, or local communities		
Work-related fatalities or serious work-related injuries		
Any legal action		
Allegations or indications of corrupt practices		
Fines, penalties or increased permit charges		
Negative attention on the part of the media or NGOs (non-governmental organizations)		
Other material environmental and social issues affecting your operations during the reporting period		
Cost savings through process efficiency, waste minimization or other schemes, energy savings, ISO certification		
Reduction of polluting emissions into the environment		
Increased diversity/gender balance in workforce and management		
Positive media or NGO attention		

Section C: Environmental and Social Monitoring Data

1. Ambient Air Quality

Monitoring frequency	Monitoring location	Monitored parameters	Annual average achieved	Compliance with National requirements	World Bank limits
		SPM			
		Sox			
		NOx			
		Any other specified under consent to operate			

2. Single Point Air Quality Monitoring:

Monitoring frequency	Monitoring location	Monitored parameters	Regulatory limit as per consent to operate (in mg/ Nm3)	World bank Group/ IFC prescribed limit for the sector (in mg/ Nm3)	Annual average achieved (in mg/ Nm3)
		SPM			
		Sox			
		NOx			
		Any other specified under consent to operate			

3. Ambient Noise:

Monitoring frequency	Monitoring location	Monitored parameters	Regulatory limit [in dB(A)]	World bank Group/ IFC prescribed limit for the sector [in dB(A)]	Annual average achieved [in dB(A)]
				Industrial, commercial receptors, Daytime (07:00-22:00 hours)	
				Industrial, commercial receptors, Nighttime (22:00-07:00 hours)	

4. Liquid Effluent Discharges

Monitoring frequency	Monitoring location	Monitored parameters (Please mention at least those which are mandatory)	Regulatory limit as per	World bank Group/ IFC prescribed limit for the sector	Annual average achieved
		pH			
		Biochemical oxygen demand (BOD ₅)			

		Chemical oxygen demand (COD)			
		Oil and grease			
		Total suspended solids (TSS)			
		Total coliform bacteria, Most Probable Number (MPN) or plate count (PC)			
		Ambient temperature of receiving waters at edge of zone where mixing with effluent takes place (if not defined, 100 meters from discharge point).			
		Heavy Metals, Total			
		(list other parameters)			

- ☐ Please mention total volume of effluent treated and discharged
- ☐ Please describe the water course(s) which the effluent is discharged into (e.g. river, municipal system, sea).
- ☐ If the effluent is treated prior to discharge from the site please describe the level/ type of treatment provided.
- ☐ If the effluent is discharged into a municipal system please confirm the level of treatment provided and where the municipal system discharges to.

5. Waste Management

Types and quantities of waste generated

Type of waste	Quantity generated	Disposal method
Solid Waste		
Animal waste		
Animal carcasses		

6. Employee Workplace Monitoring

Sample Collection and Analysis Frequency	Required Workplace Monitoring Parameter	WBG/IFC Maximum Threshold Limit Value (TLV-TWA) ¹³	Performance in WBG/IFC units Annual average	Host Country Regulatory Limits and Units	Performance in Host Country units Annual average
	Particulate (Inert or Nuisance Dust)				
	(Other Parameters)				
	Workplace Noise				
	(Other Parameters)				

7. Fire Safety Monitoring

Fire Safety Verification Activities	Mandatory Frequency	Date(s) Performed	Observed Deficiencies ¹⁴	Corrective Actions and Schedule For Implementation ¹⁵
1.Fire Drills				
2.Inspection and certification of fire detection and suppression electrical and mechanical systems.				
3.Portable fire extinguisher inspection, refilling/recharging				

8. Social Monitoring Data

Grievance mechanism

	Number
No. of grievances received during the reporting period	

¹³ TLV-TWA (Threshold Limit Value-Time Weighted Average): The time-weighted average concentration for a conventional 8-hour workday and a 40-hour workweek, to which nearly all workers may be exposed, day after day, without adverse effect.

¹⁴ Attach additional sheets as needed to fully describe observed deficiencies.

¹⁵ Attach additional sheets as needed to fully describe corrective actions and implementation.

No. of grievances closed	
No. of grievances still open	
Average time taken to process a grievance	
Categories of grievances (provide breakup by each category)	

Annex 13

E&S Monitoring Report (ESMR) Format (from KDC to the MoALFC/SDL)

Reporting period:	
ESMR completed by (name, designation and contact details):	
ESMR reviewed by (name and designation):	
Date of the ESMR	

A. Portfolio Information

For the reporting period, please provide the following (as applicable):

Please list all exposures (please add rows as needed):

Subproject name, location	Type and description of the subproject	Investment type and amount (US\$ mn)	E&S Category	E&S issues identified at appraisal (list them)	Date of last supervision	Key E&S issues identified during supervision	Current E&S compliance status

Please attach copies of all ESDD reports and ESAP for new subprojects

Has any subproject been associated with the following issues?

E&S issues		Name of the subproject
Negative attention in the media or non-governmental organizations	<input type="checkbox"/>	
Non-compliance with national environmental, health & safety or labour laws and regulations	<input type="checkbox"/>	
Fatalities or serious injury	<input type="checkbox"/>	
Major accidents (e.g. e-waste management, contamination, fires, traffic others please specify)	<input type="checkbox"/>	
Non-compliance with the applicable E&S requirements	<input type="checkbox"/>	
Non-compliance with covenants included in the legal agreements	<input type="checkbox"/>	

Legal actions, fines, penalties or increased permit charges	<input type="checkbox"/>	
Retrenchment of workers	<input type="checkbox"/>	
Non-compliance with an agreed Environmental and / or Social Action Plan	<input type="checkbox"/>	
Complaints or grievances from regulatory agencies, workers, interest groups, or local communities	<input type="checkbox"/>	
Positive reports in media	<input type="checkbox"/>	

If the answer to any of the above is yes, please provide details on the issue and what corrective actions plans have been agreed with the company in response.

B. External Communication Mechanism/ Complaints Handling Mechanism

External communication mechanism and stakeholder engagement	
Is there a point of contact for dealing with public enquiries and concerns related to E&S matters?	Name: Title: Phone/mobile: E-mail:
How many complaints or grievances did you receive during the reporting period specifically with regards to subprojects and KDC's E&S risk management? Summarise any issues raised in the complaints or grievances and explain how they were resolved.	

C. Information on Implementation of Environmental and Social Management System (ESMS) and E&S Capacity

Policies & Processes	(Yes/No) If applicable	Description
Have there been any changes to the E&S Policy and ESMS? If yes, please provide a copy of the updated ESMS.	Yes/No	If yes, please provide a copy of the updated policy including date when it was issued and reasons for the same.
Please confirm that the ESMS remains in place and has not been reduced in scope or objectives.		

Please summarise any E&S training / capacity building provided to staff with E&S responsibilities.		Provide details on the number of people trained and topics covered.
Give details of subprojects rejected on environmental, health, safety or social grounds		
Please describe any difficulties and/or constraints regarding ESMS implementation		
Please describe what measures KDC has taken to ensure borrowers comply with E&S requirements, including List of Excluded Activities, national law, and WB's ESS.		
Please describe what assurances KDC has in place to ensure modern slavery, Gender-Based Violence and Harassment (GBVH), and SEA/SH and/or abuse are prohibited in subprojects' operations.		
Please confirm KDC's human resources policies and practices remain in place and have not been reduced in scope or application.		
How many subprojects did you supervise during the year? Did you undertake E&S supervision as part of your supervision?	Yes/No	If Yes, please provide details of supervision activities and findings.
How many subprojects did you visit during the reporting period?		Name and location
Have you invested in subprojects that involved land acquisition?	Yes/No	Please include details of such subprojects
Have you invested in subprojects that have created impacts on indigenous peoples and VMGs?	Yes/No	Please include details of such subprojects
Capacity		
Please specify any changes in E&S unit during the reporting period.		
Did you use the external consultant during the reporting period? If yes, for what activities and on how many subprojects?		Please provide details
Have you allocated budget for ESMS implementation?		Please provide budget details.

Monitoring		
How many subprojects provided E&S monitoring report during the reporting period?		Number of subprojects

Annex 14

E&S Risks and Impacts and their Mitigation

E&S Risks & Impacts	Possible mitigation measures
<p>OHS risks from chemical application</p> <p>The chemical application personnel will be exposed to livestock spraying residues during transport, handling, measuring, pouring and spraying and disposal. Personnel may be further at risk when handling the chemicals. The exposure time of these personnel is directly related to the frequency of the activity. Exposure can be due to deposits of chemicals, ingestion/swallowing through the mouth, accidental or deliberate; Dermal, through the skin when handling, measuring and pouring; Inhalation.</p>	<ul style="list-style-type: none"> i) Prepare and implement an Integrated Pest Management Plan (IPMP). ii) Develop and implement sub-project IPMPs for each operation. iii) Develop and implement Emergency Preparedness and Response Plan for each sub-project. iv) Develop and implement Occupational Health and Safety Plan for each sub-project. v) Use of appropriate Personal Protective Equipment (PPE) that will protect those responsible for various project activities. These PPEs should be replaced frequently whenever wear and tear is identified or reported. The PPEs to be provided should be guided by the WHO and FAO guidelines for PPEs. vi) Washing exposed parts of the body after work and before eating, smoking, etc. vii) Reduce personnel exposure time to the chemicals and rotation of applicators to avoid and limit over exposure and potential human health impacts. viii) Training and inductions for the project workers, transporters, storekeepers and field teams on chemical handling and use. ix) Training on Emergency Preparedness and Response Plan (EPRP) and awareness of the details of the chemical Material Safety Data Sheets (MSDS) for all the operators, transporters, storekeepers and field personnel. x) Testing and monitoring the chemicals used before, during and after the application exercise to monitor exposure to the chemicals.
<p>Contamination of surface water bodies</p> <p>Surface water bodies play a critical role as important sources of food and habitat for aquatic life, sources of water for commercial, domestic and industrial uses, and sources of</p>	<ul style="list-style-type: none"> (i) Avoidance of areas or regions with surface water bodies that are critical to habitats and livelihoods. (ii) Judicious selection of chemicals to be used based on the screening of the bio-physical environment of the project sites. (iii) Avoid use of chemical sprays near or on sensitive ecological areas.

<p>water for drinking and for wildlife therefore their contamination will have direct and indirect adverse impacts.</p> <p>Application of chemicals on the livestock to control various diseases and infections are likely to contaminate surface water bodies directly through the spray droplets falling into the water or indirectly through runoff from soil. This will consequently have adverse impacts on the aquatic life as well as livelihoods of communities dependent on the aquatic resources by contaminating water bodies routinely used for domestic and other uses. The primary concern is the possible release of the chemicals into the water bodies from accidental spills during the transportation of the chemicals, ground application of the chemicals, clean-ups of the PPEs and used equipment or the disposal of chemical packaging material.</p>	<ul style="list-style-type: none"> (iv) Optimum application of chemical sprays. iii) Develop and implement Emergency Preparedness and Response Plan. iv) Training on Emergency Preparedness and Response Plan (EPRP) and awareness of the details of the chemical Material Safety Data Sheets (MSDS) for all those involved. v) Collection of all used up PPEs, containers and packaging materials and disposing in accordance with Waste Management Plan. vi) Avoid washing of clothing and PPE in any water body, or where wash water will drain to water bodies. vii) Carry out regular environmental monitoring of selected organisms, soil and water for chemical residues by involving multi-disciplinary teams responsible for wildlife, water, environment, health and safety agencies.
<p>Soil and Ground Water Contamination</p> <p>Chemicals are known to leach vertically through the soil and contaminate both the soil and groundwater. They can adversely affect soil fertility by causing populations of beneficial soil microorganisms to decline. Contamination of underground water resources is also possible during the disposal of containers through leaching, burying and accidental spills. Chemical residues can adversely affect soil micro-organisms which are</p>	<ul style="list-style-type: none"> i) Conduct screening/mapping to determine the soil characteristics (based on agroecological zones) and presence or absence of ground water sources to inform selection of chemicals to use for spraying of livestock. ii) Avoid areas or sites with surface water bodies that are critical to habitats and livelihoods. iii) Carefully select chemical sprays based on the screening of the bio-physical environment. iv) Avoid using materials likely to contaminate soil and ground water. v) Ensure optimal use of chemicals used for spraying livestock. vi) Develop and implement Emergency Preparedness and Response Plan for each project site.

<p>responsible for microbial degradation in the soil, and for soil structure through bio concentration and bio magnification. Contamination of soil is detrimental to food security as it impacts directly on agriculture and related agricultural products.</p>	<ul style="list-style-type: none"> vii) Conduct training on Emergency Preparedness and Response Plan (EPRP) and awareness of the details of the chemical Material Safety Data Sheets (MSDS) for all the project teams. viii) Develop Waste Management Plan for management of chemical wastes. ix) Adopt the FAO guidelines for prevention of contamination of soil and water. x) Carry out regular environmental monitoring of selected organisms, soil and water for chemical residues during and after the project activities, by involving various teams from wildlife, water, environment, health and safety agencies.
<p>Air Pollution Impacts During the field activities, there are activities which may elevate gaseous and dust emissions and have an impact on air quality. The movement of livestock and vehicles along the roads will cause dust emissions and exposure to particulate matter stirred up from the roads; and vehicular emissions, nitrogen and sulphur dioxides (NO₂, SO₂). The vehicles are used for the transport of fodder, materials and equipment, as well as carriage of personnel to and from field.</p> <p>Air emissions from livestock production include ammonia (e.g. management of animal waste), methane and nitrous oxide (e.g. animal feeding and waste management), odors (e.g. animal housing and waste management), bioaerosols, and dust (e.g. feed storage, loading, and unloading, feeding, and waste management activities). Effective waste</p>	<ul style="list-style-type: none"> (i) Create awareness and provide relevant, timely information to local communities on potential adverse air quality impacts. (ii) Record all air quality complaints, identify causes, take appropriate corrective measures. (iii) Impose vehicular speed limits to reduce dust generation. (iv) Carry out environmental monitoring of air quality for chemical residues before, during and after the activities. (v) Control the temperature, humidity, and other environmental factors of animal waste storage to reduce emissions. (vi) Consider composting of animal manure to reduce odor emissions. (vii) Install dust-collection systems at dusty operations, such as feed grinding. (viii) Prevent overgrazing of pastureland. (ix) Implement fugitive-dust-control measures, such as wetting frequently traveled dirt roads, as necessary.

management, as described above, is critical to reduce the emission of air pollutants.	
Noise Emissions Noise impacts may arise as a result of the field activities. Potential sources of noise include motor vehicles and incessant noise of the movement of large herds of livestock. The noise may be irritating and impact on community health and safety as well as to wildlife.	(i) Develop and implement as part of the sub project IPMP, Occupational Health and Safety Plan for each sub project. (ii) Create awareness and provide relevant, timely information to local communities on field activities schedules and noise impacts. (iii) Restrict livestock activities to daytime only. (iv) Conduct regular analysis and monitoring of noise levels.
Impacts on Ecological Sensitive Habitats The application of chemicals through spraying can drift and contaminate ecosystems; creating a potential risk of polluting ecologically sensitive habitats such as wetlands, national parks and reserves, forests, pasture grasslands, crop fields and water bodies. Many of these effects may have consequences for the entire food chain.	i) Undertake screening to identify and map out sensitive ecological and agro-ecological areas. ii) Careful choice and use of chemicals for spraying of livestock. iii) Optimum use of chemicals to minimise excess application. iv) Adopt various FAO guidelines for prevention of contamination of ecologically sensitive habitats. v) Carry out environmental monitoring of selected habitats and organisms including receptors like soil and water for pesticides residues before, during and after the treatment activities. vi) Implement pasture / grazing management techniques to reduce nitrous oxide and methane emissions, including not overstocking pastures, avoiding late fall and winter grazing, improving soil drainage, and avoiding soil compaction from grazing to maintain the anaerobicity of the soil. vii) Prevent animals' access to surface water bodies using fences, buffer strips or other physical barriers. viii) Prevent overgrazing of pastureland through use of: rotational grazing systems based on seasonal and local ecosystem resilience (e.g. riparian zones), use of livestock trails to reduce soil trampling and gully formation / erosion near streams.
Solid Waste Impacts	i) Adopt FAO Guidelines on the Management Options for Empty Chemical Containers).

<p>Solid waste generated during livestock production includes waste feed, animal waste, and carcasses. Other wastes include various kinds of packaging (e.g. for feed and pesticides), used ventilation filters, unused/spoilt medications, used cleaning materials, and sludges from wastewater treatment if present (which may contain residual amounts of growth enhancers and antibiotics, among other hazardous constituents).</p>	<ul style="list-style-type: none"> ii) Provide training on waste management including container disposal methods. iii) Implement the Triple Rinse approach to decontaminating the containers. iv) Promote efficient storage, handling and use of feed by maintaining records of feed purchases and livestock feed use. v) Use covered or protected feeders to prevent feed from exposure to rain and wind. vi) Maintain feeding systems in good working condition to prevent spills and feed contact with the ground. vii) Observe internationally recognized guidance, such as that published by FAO, on land requirements for livestock production for livestock units (LU) per hectare (ha) to ensure an appropriate amount of land for manure deposition. viii) Keep animal waste as dry as possible by scraping wastes instead of, or in addition, to flushing with water to remove waste. ix) For feedlots, ensure that solid waste (e.g. bedding and muck) is gathered regularly and is not permitted to lie on the ground for long periods of time. x) Design, construct, operate, and maintain waste management and storage facilities to contain all animal waste, litter, and process wastewater including runoff. xi) Reduce mortalities through proper animal care and disease prevention. xii) Store carcasses until collection, using cooling if necessary to prevent putrefaction. xiii) Use a reliable collection company approved by local authorities that disposes of carcasses by rendering or incineration, depending on the cause of fatality. Incineration should only be conducted in permitted facilities operating under international recognized standards for pollution prevention and control. xiv) Where no authorized collection of carcasses is available, on-site burial may be one of the only viable alternatives, if allowed by the competent authorities. Whether onsite or offsite, the burial area should be accessible to earthmoving machinery and have stable, low-permeability soils with sufficient physical separation from houses and water resources to avoid contamination by vapors or leachate from buried, decaying materials.
<p>Effluent Waste Impacts The effluent waste includes surplus diluted spray solutions among others and unless the</p>	<ul style="list-style-type: none"> (i) Develop and implement a Waste Management Plan. (ii) Adopt FAO guidelines for disposal of chemical wastes (iii) Provide training on waste management including disposal methods of effluent wastes.

<p>wastes are managed correctly, they will be hazardous to both mankind and the environment. Contaminated effluent wastes could also have adverse impacts on the communities and bio-physical environment as a result of exposure.</p> <p>Livestock operations most commonly generate non-point source effluents due to runoff from feed (including silage) storage, loading, and unloading, livestock housing, feeding, and watering, waste management facilities, and areas of land application of manure. Depending on the type and intensity of the operation, as well as the nature of stormwater management features, some facilities may also include point sources which typically require collection and treatment prior to final discharge. In either case, effluents have the potential to contaminate surface water and groundwater with nutrients, ammonia, sediment, pesticides, pathogens and feed additives, such as heavy metals, hormones, and antibiotics. Effluents from livestock operations typically have a high content of organic material and consequently a high biochemical oxygen demand (BOD) and chemical oxygen demand (COD), as well as nutrients and suspended solids (TSS).</p>	<ul style="list-style-type: none"> (iv) Establish soak pits. (v) Reduce water use and spills from animal watering by preventing overflow of watering devices and using calibrated, well-maintained self-watering devices. (vi) Install vegetative filters to trap sediment. (vii) Install surface water diversions to direct clean runoff around areas containing waste. (viii) Implement buffer zones to surface water bodies, avoiding land spreading of animal within these areas.
<p>Community Health and Safety</p>	<ul style="list-style-type: none"> (i) Develop and implement a Security Management Plan to address management of security personnel and protection of equipment and supplies.

<p>No segment of the population is completely protected against exposure to chemicals and the potentially serious health effects, especially to high risk groups (WHO, 1990). Members of the public may also be affected. Those exposed to chemicals may suffer short-term acute health effects such as nausea, headaches, sore eyes, skin rashes and dizziness (FAO, 2008). Local communities may also be exposed to risks related to the spread of communicable diseases (STIs/HIV), social ills and tension within the communities, gender-based violence, sexual exploitation, abuse and harassment.</p>	<ul style="list-style-type: none"> (ii) Develop and implement Stakeholder Engagement Plan (SEP) to guide engagement activities with the communities. iii) Develop and implement Grievance Redress Management Procedures. iv) Develop and implement Gender Based Action Plan. v) Give warning to those whose activities are likely to adversely affect nearby environmentally sensitive sites. vi) Conduct regular public interaction for a to educate communities on specific areas of concern. vii) Ensure stakeholder engagement, community empowerment, mobilization and participation to address immediate concerns and build resilience according to the SEP. viii) Ensure all grievances on access and equity are addressed within the agreed GRM. ix) Conduct public awareness campaigns to ensure the public is informed about possible environmental and health effects of chemical sprays during project implementation. x) Undertake stakeholder consultations and engagement during project implementation as per the World Bank Guidelines.will adopt the guidelines in the technical note. xi) Carry out regular environmental monitoring of selected organisms, soil and water for chemical residues during and after the treatment activities, with the support and involvement of various multi-disciplinary agencies responsible for wildlife, water, environment, health and safety.
<p>Gender Based Risks and Impacts</p> <p>The ASAL areas are impacted by aspects of Gender Based Violence (GBV) including perceived low status of women, pre-existing high prevalence and acceptability of GBV (FGMs, early /forced marriages, polygamy) with high levels of poverty, which is likely to heighten the communities' vulnerability to Sexual Exploitation and Abuse. Increased livestock wealth , may result to increased</p>	<ul style="list-style-type: none"> (i) Preparation and implementation of GBV action plan (ii) Training of all the projects workers and members of affected local communities on gender issues, including GBV. (iii) Preparation and implementation of grievance redress mechanism. (iv) Preparation and implementation of a stakeholders engagement plan, which specifically address gender issues and incidences of GBV in affected communities. (v) Training of project staffs on code of conduct.

<p>empowerment of men and further marginalization of women</p> <p>GBV has significant impacts at individual level, with victims suffering from physical, sexual and mental effects, loss of earnings and increased health care cost. It also has societal impacts including lower productivity, thus reduced economic outputs and growth, and increased pressure on social and health services. Quantifying the cost of GBV in terms of human suffering and economic indicators it's difficult.</p>	
<p>Exclusion of deserving groups and individuals (poor pastoralists, vulnerable groups , women youth PWDs)</p> <p>Vulnerable communities may be disproportionately disadvantaged or made more vulnerable by the project interventions. As a result, such communities could fail to benefit from development and opportunities resulting from the project discrimination and exclusion during the selection and of beneficiaries and provision of project inputs including awareness raising, capacity building, accessing of insurance premiums and credit for investment among others. Additionally, it is possible that disadvantaged categories such as women, differently abled persons and elderly could be excluded from planning processes and</p>	<ul style="list-style-type: none"> (i) Inclusive consultations and focused group particularly to ensure participation of women and other vulnerable groups are provided for in project EMSF and related instruments. (ii) Development and implementation of intentional targeting guidelines by project management and staff.

implementation since there largely invisible in most pastoralist communities.	
<p>Child labour, forced labour and or poor working conditions</p> <p>Involvement of children in herding is very common in Africa, De-risking pastoralists may result into increased livestock, and consequently increased demand for herders most of whom are youth (under age of 18years) who may be engaged as child labourers. Livestock owners may also force their children to herd their livestock instead of going to school.</p>	<ul style="list-style-type: none"> (i) Minimum age of the project workers for the project set at 18 years and above except for youths who may be recruited as volunteers to gain educational skills. (ii) All contracts shall have contractual provisions to comply with the minimum age requirements including penalties for non-compliance in -line with the relevant national laws. (iii) Maintain labor registry of all workers with age verifications. (iv) Sub project environmental and social management plan should clearly forbid the use of child labor.
<p>Social conflicts</p> <p>Conflicts among group members</p> <p>The selections of pastoralist groups can trigger disagreements among groups, more so those who feel their voices are not heard or considered in decision making. Possible conflicts can arise from local community dynamics of the elite or the well-up trying to capture benefits of the project to a particular group, or differences between pastoralist and ranchers.</p>	<ul style="list-style-type: none"> (i) Community consultations should be meaningful and inclusive. (ii) Grievance address mechanism should be in place to solve any arising issue right from community level and project level. (iii) Adhere to the provision of GCHM procedures in resolving emanating social issues. (iv) Use the culturally accepted alternative dispute mechanisms including mediation, negotiation and conciliation by seeking elders to solve conflicts/ religious leaders. (v) Sensitize implementing staff on conflict sensitive project implementation.
<p>Spread of HIV/AIDS and other communicable diseases</p> <p>The Drive Project is anticipated to create more job opportunities, thus influx of migrant workers and increased incomes could drive an</p>	<ul style="list-style-type: none"> (i) HIV/ AIDS awareness creation and trainings for workers and beneficiary community. (ii) Distributions of Condoms to workers and beneficiary communities. (iii) Carry out voluntary HIV/ AIDS testing of workers and community. (iv) Guidance and counseling services to workers and community more so those who test positive and direct them to the nearest public hospitals for ARVs drugs.

increase on commercial work, and sexual exploitation of minors (defilement) with the host communities. Hence an increase in transmission of HIV/AIDS and other sexually transmitted infections (STIs) and other chronic conditions.	
Security Risks Some of the target counties are prone to community conflicts issues related to Al shaabab crossing to and from Somalia. The implementation of the DRIVE Project should not in any way exacerbate existing conflicts.	(i) Project staff and consultants should be sensitized on conflict sensitive project implementation. (ii) Project staff should be periodically subjected to security awareness campaigns. (iii) Project team should have alternative communication devices where network coverage is limited.