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REPUBLIC OF KENYA



# MINISTRY OF ENERGY

TERMS OF REFERENCE

FOR

KENYA-OFF GRID SOLAR ACCESS PROJECT (K-OSAP)-  
ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT, SOCIAL  
ASSESSMENT AND VULNERABLE & MARGINALISED GROUP  
PLAN

**REFERENCE: REOI: KE-MOE-120934-CS-QCBS**

Credit No. 6135-KE; PROJECT ID: P160009: THE KENYA OFF-GRID SOLAR ACCESS  
PROJECT FOR THE UNDERSERVED COUNTIES (KOSAP)

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**KENYA OFF-GRID SOLAR ACCESS PROJECT (KOSAP)  
ENVIRONMENTAL AND SOCIAL IMPACT ASSESSMENT, SOCIAL ASSESSMENT  
AND VULNERABLE & MARGINALISED GROUP PLAN**

**TERMS OF REFERENCE**

**1.0 Introduction**

The Ministry of Energy (MoE) is co-ordinating the implementation of US \$150 million project to enable marginalized communities in Kenya to access modern energy services through off-grid solar. In alignment with the Kenya National Electrification Strategy, the World Bank-funded Kenya Off-Grid Solar Access Project (KOSAP) will serve an estimated 1.3 million people in 277,000 households across 14 counties. The project targets to power homes, businesses, and community facilities via mini-grids and stand-alone solar systems, using practical business models that attract private sector investment, knowledge, sustainable services and other key efficiencies.

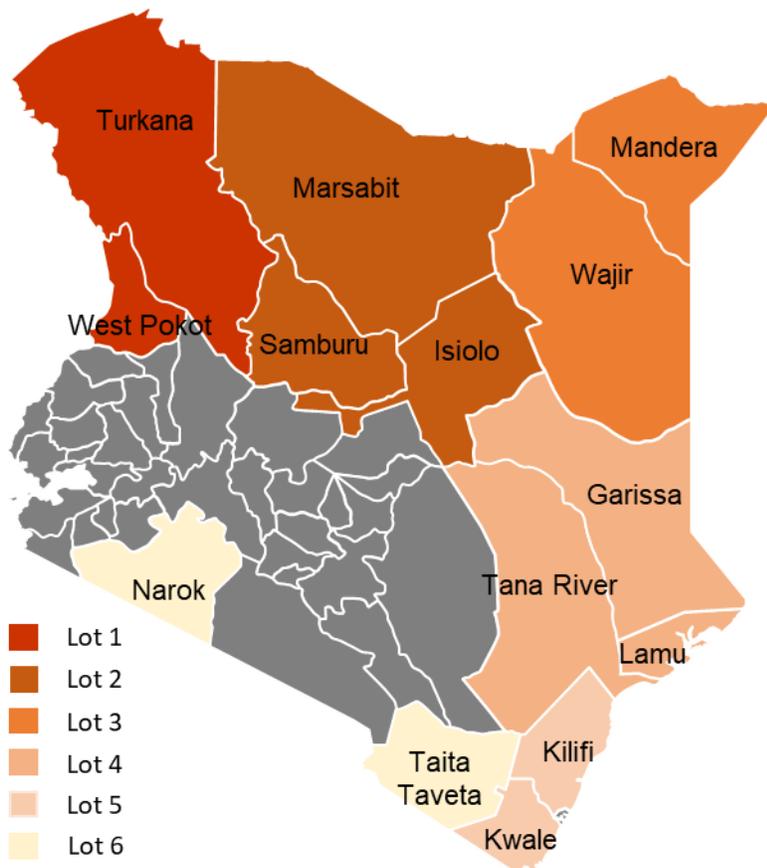


Figure 1. KOSAP Target Counties and Service Territories/Lots

The project area is split into six service territories based on geographic proximity and to optimize the costs of field operations. Component 1 involves construction of mini-grids for Community Facilities, Enterprises and Households will be subjected to ESIA studies as this activity may have potential impacts on the environment. 151 minigrids will be constructed across 12 counties. West Pokot and Taitaveta will not have any Minigrids despite being in KOSAP counties. Most of the proposed minigrid sites are located close to schools and Health centres where land is either publicly or communally owned. Given the proposed locations of the Minigrid sites according to the Kenya Mini-grid profile report from NRECA International, the consultant will therefore be expected to thoroughly analyse the potential impacts of the proposed project to the environment and suggest alternative project design and recommendations where applicable.

It is envisaged that the studies will be divided into 3 Clusters; Cluster 1 - Lot 1 and 4 has a total of 49 Minigrids; Cluster 2 - Lot 3 with 55 Minigrids; Cluster 3 - Lot 2, 5 and 6 has a total of 48 Minigrids; Three consultancy firms will be hired to conduct ESIA studies across the 3 clusters.

| <b>Lots</b> | <b>Counties</b> | <b>No.of Minigrids</b> | <b>Total per Lot</b> |
|-------------|-----------------|------------------------|----------------------|
| Lot 1       | Turkana         | 23                     | <b>23</b>            |
|             | Westpokot       | 0                      | -                    |
| Lot 2       | Isiolo          | 11                     |                      |
|             | Marsabit        | 15                     |                      |
|             | Samburu         | 9                      | <b>35</b>            |
| Lot 3       | Wajir           | 25                     |                      |
|             | Mandera         | 30                     | <b>55</b>            |
| Lot 4       | Garissa         | 17                     |                      |
|             | Lamu            | 3                      |                      |
|             | Tanariver       | 6                      | <b>26</b>            |
| Lot 5       | Kilifi          | 3                      |                      |
|             | Kwale           | 8                      | <b>11</b>            |
| Lot 6       | Narok           | 2                      |                      |
|             | Taitataveta     | 0                      | <b>2</b>             |
|             | <b>Total</b>    | <b>151</b>             |                      |

Table 1: Presents the list of counties and the no.of minigrids in each lot

Vision 2030 aspires to universal access to electricity by 2030, but in 2013 the government revised the target year to 2022. As of February 2018, access was estimated at 75% from both grid and off-grid options. The Government has put in place strategies to accelerate access to modern energy services through public and private initiatives. The Government, with support from development partners, has allocated substantial resources for the development of energy infrastructure including

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exploitation of renewable energy resources. This effort also provides opportunities for collaboration with the private sector in renewable energy development and national electrification.

Implementation of major projects in Kenya is preceded by Environmental and Social Impact Assessment studies. The National Environmental Management Authority (NEMA) requires that project proponents undertake Environmental and Social Impact Assessments (ESIA) and annual environmental and social audit as stated in The Environmental Management and Coordination Act (EMCA) 2015 and in the Environmental (Impact Assessment and Audit) (Amendments) Regulations 2009. In addition, the Environmental and Social Impact Assessment will be conducted in line with the World Bank's environmental and social safeguard policies and the four project safeguards framework documents prepared under KOSAP

- (a) The Environmental and Social Management Framework (ESMF)
- (b) Vulnerable and Marginalized Group Framework (VMGF)
- (c) Resettlement Policy Framework (RPF)
- (d) Social Assessment (SA)

The framework documents prepared are the bridging documents between the country's Environmental and Social regulations and the World Bank (WB) safeguard policies and standards. Environmental and Social Impact Assessment, outlined in the Terms of Reference herein, has to be conducted within a limited time to facilitate projects review and clearance by the REREC/KLPC (client/project Proponent) and the WB prior to being submitted to NEMA for subsequent review and licensing. Rural Electrification and Renewable Energy Corporation (REREC) and Kenya Power and Lighting Company (KPLC) are the implementing agencies who will oversee construction and operation of the minigrids. The consultant will therefore be required to work closely with the counterpart staff and the Project Co-ordinator in these implementing agencies to ensure comprehensive ESIA studies are done and the implementing agencies and WB clearance/ "No Objection" obtained before forwarding them to NEMA for issuance of licenses for all subprojects under KOSAP.

The consultant shall develop an ESIA report in compliance with project ESMF, national legislation and regulatory standards including the World Bank Environmental and Social Safeguard policies and Standards

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## **2.0 ESIA Objectives**

The main objective of this assignment is to:

1. Carry out public consultations & disclosure and prepare a stakeholder engagement plan (SEP). Obtain contributions of stakeholders (including the land owners/users, local communities, proponent, relevant authorities and the public) and ensure that all issues, concerns, and queries raised are addressed in the ESIA report
2. Describe and analyze environmental, ecological and social impacts of the projects and facilitate management control of environmental practices.
3. Formulate mitigation measures to minimize impacts and enhance benefit and compile a Final Environment and Social Impact Assessment (ESIA) Report which will provide all the necessary information for NEMA to decide whether (and under what conditions) to authorize the proposed development. Prior to submission to NEMA, the ESIA report will be cleared by the World Bank to ensure it has been prepared in line with the Bank's safeguard policies for ESIA.
4. Prepare an ESIA report compliant to the Environmental Management and Coordination Act 2015, The Environmental (Impact Assessment and Audit) (Amendment) Regulations 2009 and to Environmental and Social Management Framework (ESMF) prepared under KOSAP in accordance to the WorldBank Environmental and Social Safeguards
5. Identify and assess compliance of project activities with relevant statutory and internal requirements. The key ones being;
  - a) National Legislative and Regulatory framework
  - b) World Bank Environmental and Social Safeguards Policies,
6. Establish a mechanism for monitoring and evaluating compliance and time frame for implementing such measures

## **3.0 Scope of Work**

The scope of work for the ESIA consultant will comprise of:

1. Concisely describe the project, its geographic, ecology, general layout including maps at an appropriate scale where it is required.
2. Carry out Baseline data collection on the environmental and social characteristics of the existing situation. This description involves;

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- Physical environment (topography, geology, climate, and meteorology, air quality, hydrology etc.,
  - Biological environment (i.e., fauna & flora types and diversity, endangered species, sensitive habitats etc.
  - Social and cultural environment, including present and projected, where appropriate (i.e., population, land use, planned development activities, community structure, employment, and labor market, sources and distribution of income, cultural properties.
3. Identify and provide a description of the pertinent regulations and standards governing the environmental quality, health and safety, protection of sensitive areas, land use control at the national and local levels and ecological and socio-economic issues. The key one being the World Bank Environmental and Social Safeguards Policies
- OP/BP 4.01 Environmental Assessment
  - OP/BP 4.04 Natural Habitats
  - OP/BP 4.10 Indigenous Peoples
  - OP/BP 4.12 Involuntary Resettlement
4. Consultants should analyze and describe, both positive and negative, significant environmental, ecological and social impacts brought about by the project.
5. Analysis and description of all occupational health and safety concerns brought about by the project's implementation and operations. Recommendations shall be made on corrective and remedial measures to be implemented under the Environmental and Social Risk Management Plan.
6. Environmental and Social Management and Monitoring Plan: A monitoring plan with specific description, and technical details of monitoring measures including the parameters to be measured-Noise, water and Air Quality, methods to be used, sampling locations, frequency of measurements, and definition of thresholds that will signal the need for corrective actions as well as deliver monitoring and reporting procedures.

### **3.1 Phase I:Task Assignment**

The consultant is expected to undertake investigations on conservation of natural resources, social aspects, economic activities, historical heritage, public consultations and disclosures. The project details will be provided to give a guideline of the subproject to be studied. The scope of services to be undertaken by the consultant shall include the following:

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### **3.1.1 Task 1: Inception and Site Screening**

KOSAP is assigned environmental category B. Screening of the subproject will be conducted to ensure that subprojects that may have potential adverse impacts are recommended for more detailed studies either through preparation of Project Reports (PR) or full Environmental and Social Impact Assessment (ESIA). Prior to commencement of sub-projects, the environmental and social experts at the PIUs together with the consultants will fill out the screening form

The Consultant will be responsible for gathering, reviewing and analyzing all necessary data and information. Where these are insufficient, the Consultant shall make all practical efforts to produce the missing information/data including professional estimates and predictions based on the most likely conditions at the project area, reliable information and data from similar situations and conditions, etc. The Consultant shall characterize the extent and quality of available data and describe the key- data gaps, the uncertainties associated with estimates, predictions and data used from similar situations. The methods of accommodating these gaps and uncertainties in the ESIA should be well stated and presented by the consultant. The work will also include thorough consultations and meetings with all parties concerned (project host communities or their representatives; county and national authorities; representatives of the scientific community; NGOs etc.); in strict accordance with the requirements of the government of Kenya and the World Bank's Environmental and Social Safeguards. The consultant will be responsible to review and update the following tasks:

The consultant will provide an inception report that will include a detailed work plan:

- Examine all aspects of the Project and produce an inception report which will review the tasks to be carried out and agree with the project proponent on any modifications and additions that may be required.
- Prepare a detailed work plan indicating schedules and inputs required to complete the tasks.
- During this inception period, the consultant will carry out a scoping exercise that will provide the basis for the final report and a detailed work plan.
- Prepare a public consultation and disclosure plan

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### **3.1.2 Task 2: Description of the Proposed Project**

The consultant is to review all existing project documentation and the four main safeguard documents prepared under KOSAP- these are Social Assessment, Vulnerable and Marginalized Group Framework, Resettlement Policy Framework and the Environmental and Social Management Framework. They shall further undertake a detailed study of the proposed projects. The consultant shall then concisely describe the project location including its geographical, ecological and the general layout of associated infrastructure including maps at an appropriate scale where necessary. Location of all project related development sites, including proximal offsite investments; general layout; flow diagrams/drawings of facilities/operation design basis, size, capacity, flow-through of unit operations, including pollution control technology included if any; pre-construction activities and construction activities; construction schedule; staffing size and support; facilities and services around; commissioning, operation and maintenance activities and plans; required offsite investments; and life expectancy for major project components.

### **3.1.3 Task 3: Description of the Baseline Environment of the proposed project site**

The Consultant is required to collect, collate and present baseline information on the environmental characteristics of the proposed project site. This description should involve but not limited to:

- Physical environment (topography, land cover, geology, climate and meteorology, air quality, hydrology, etc.  
Biological environment (i.e. flora and fauna types and diversity, endangered species, sensitive habitats etc.)
- Social and cultural environment, including present and projected. Where appropriate i.e. population, land use, planned development activities, community social structure, employment and labor market, sources and distribution of income, cultural/religious sites and properties, vulnerable groups and indigenous populations etc).
- Economic activities: livelihood; employment; gender composition.

Some examples of the specific activities are: based on field surveys; identification of any species of special concern, namely species with conservation status or endemic to the area including birds;

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commentary on conservation status of specific species; compilation of a broad scale vegetation or habitat map of the area indicating the extent to which the proposed project can affect each vegetation or habitat type; description of current land use and compilation of a broad land use map.

#### **3.1.4 Task 4: Description of the Policy, Institutional and Regulatory Framework**

The Consultant shall carry out a review of the respective national environmental policies, legislation, regulatory and administrative frameworks in conjunction with the Bank's Environmental and Social Safeguards policies and indicate which of these policies are triggered by the proposed project. The consultant shall further identify any gaps that might exist and make recommendations as to how these potential gaps should be bridged in the context of the proposed project; Assess the agencies environmental assessment and management capacity, as well as their capacity to implement the proposed mitigation measures and make appropriate recommendations, including potential capacity building- training needs and their respective cost. The consultant shall identify and describe the pertinent regulations and policies - both national and international, governing the environmental, social, health and safety management. Thereafter, the Consultant shall identify the project activities that should comply with the identified regulations and show the project legal obligation to the respective requirements. Special emphasis should be given to World Bank Group's Environmental, Health and Safety Guidelines.

#### **3.1.5 Task 5: Description of Potential Alternatives to the project**

The consultant will presents the various project alternatives considered during the project development and others that are still available for the project to consider to eliminate or minimize the impacts while achieving the same project objective. The alternatives considered could be consideration of several siting alternatives, design options, technology selection, construction techniques to be used and even construction phasing to be adopted. The consultant should justify that the option selected is the most sustainable option in terms of cost, time, budget, environment and social sustainability and if not, recommend other options still available for consideration while making final design revision.

#### **3.1.6 Task 6: Methods and Techniques used in determining impacts of Proposed Project**

The Consultant shall assess, analyze, predict and describe all significant changes brought about by each proposed project activities and developments. These would encompass environmental,

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ecological and social impacts, both positive and negative, as a result of each proposed activity and development intervention that is likely to bring about changes in the baseline environmental and social conditions discussed in Task 3.

The Consultant will make a prioritization of all concerns identified and differentiate between short, medium, long-term and cumulative impacts during construction, operation and decommissioning. The Consultant shall also identify both temporary and permanent impacts. A detailed outline and discussion of specific conditions that might affect the environment which is unique to the type of proposed development being assessed.

The consultant will take a systematic approach to identification, mitigation and evaluation of all impacts and will identify potential changes which the proposed project may cause.

These would include, but not be limited to, changes in the following:

- Physical environment: geological, topography, soils climate and meteorological; groundwater and surface hydrology
- Biological environment: flora, fauna; rare or endangered significant natural sites, etc; species of commercial importance and species with potential to become a nuisance, vector or dangerous.
- Socio-cultural environment. (Include both present and projected where appropriate); population affected (number of subsistence systems), land use where appropriate and property (including houses, crops/plants and other properties etc); planned development activities; public health; cultural characteristics (including cultural property and heritage); and gender differentiation.
- Economic activities: Livelihood; employment; gender composition. Some examples of the specific activities are based on field surveys; identification of any species of special concerns, namely species with conservation status of endemic to the area including birds; commentary on conservation status of specific species; complication of a broad scale vegetation or habitat map of the area indicating the extent to which the proposed project can affect each vegetation or habitat type; description of current land use and complication of a broad land use map.
- Employment opportunities.
- Safety issues, including (i) measures to assure the safety of local residents in relation to minigrids construction activities (ii) ensure that the safety and health concerns of

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permanent, temporary and migrant workers are addressed and (iii) an HIV, AIDS program for workers and affected communities.

- Construction phase impacts.
- Waste management for the entire project, including the work camps and construction sites.
- Traffic density, workers and community safety, and dust control.

The Consultant will analyze all the positive and negative impacts and expound on their nature in terms of either being direct or indirect impacts, short term or long term (their temporal nature), reversible or irreversible. The impacts shall be categorized in their respective construction phases ie pre-construction, construction, operational and potential decommissioning phase. Cumulative impacts occurring as a consequence of other activities in the project area shall also be forecasted and analysed.

A special emphasis should be given to labour influx related impacts like gender based violence, sexual harassment, spread of HIV/AIDS and other sexually transmitted diseases during the construction period, these should be reflected in the ESMP with associated budget for managing or otherwise avoiding them. Wherever possible, the consultant will describe impacts quantitatively in terms of environmental costs and benefits and assign economic values where feasible, Impact analysis should be divided between construction, operation and decommissioning impacts.

### **3.1.7 Task 7: Social-Cultural risks and Mitigation Measure**

The consultant will analyze and identify risks and impacts related to Labor influx, Gender Based Violence, Sexual Exploitation and Abuse, potential risks of exclusion of some segments of society from accessing project benefits and the special needs of vulnerable members of society such as poor female and orphan headed households, people with disabilities, single mothers etc. and propose prevention, response and other mitigation measures in the ESMP.

The consultant will identify impacts and risks related to involuntary resettlement such as land acquisition; physical displacement, economic/livelihoods displacement, physical and economic/livelihoods displacement. Such identification will form the basis for RAP preparation.

The consultant will undertake screening for the presence of Vulnerable and Marginalized Groups (VMGs) in, or their collective attachment to the project area. The ESIA report must clearly indicate whether or not VMGs (who meet the OP 4.10 criteria) are present in the subproject's footprint as the basis of proceeding with the SA and the related VMGP preparation.

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### **3.1.8 Task 8: Development of Environmental and Social Management Plans and Implementation Arrangement**

The Consultant will develop a comprehensive environmental and Social Management Plan. The plan will detail a set of enhancement and mitigation, monitoring and institutional measures to avoid, minimize, reduce to acceptable levels or where not possible compensate for the adverse environmental and social impacts and/or maximize socioeconomic benefits including positive impacts enhancement measures to multiply and ameliorate positive impacts identified besides designing mitigation measure for the negative impacts. The Consultant should provide cost outlays for the proposed enhancement and mitigation measures as well as their financial support, time frame, responsibility, institutional and implementation arrangements for ESIA and ESMP implementation. This will be provided for all phases of the project.

The ESMP will include, but not be limited to;

- Overall environmental management during construction, operation and de-commissioning (in line with national regulations and World Bank's OP/BP 4.01 Environmental Assessment and the 4 safeguard documents prepared for the project-SA,VMGF,ESMF,RPF)
- Electronic Waste Management strategy for each of the project site(in line with National legal provisions-NEMA, World Bank's Environmental and Social Safeguard policies, safeguard documents prepared for the project-SA,VMGF,ESMF,RPF and any other relevant sector specific guidelines)
- Occupation Health and Safety management (in line with national legal provisions and with EHS Guidelines and relevant sector specific guidelines)
- Workers management (in line with national regulations and
- Community health, safety, and security (in line with national regulations)
- Activities and impacts: Predicted adverse environmental and social impacts (and any uncertainties about their effects) for which mitigation is necessary should be identified and summarized. Effective measures to prevent or reduce significant negative impacts to acceptable levels during
  - (i) construction and
  - (ii) operation

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- Estimate the impacts and costs of those measures. Estimate the costs of any residual impacts. Another area of impacts that could contribute substantially are the cumulative effects of the construction and operational phases of the Project. Most of these, if not all, can be avoided by following a set of best practices that the consultant will prepare.
  - A contracting management system to assure that all contractors and subcontractors are informed and aware of the ESMP and a contracting mechanism which will incentivize contractors and their subcontractors to comply with the ESMP or alternatively penalize them for failure to comply with the ESMP;
  - Description of implementation and monitoring program: Prepare a detailed arrangement (responsibilities) for implementing and monitoring the implementation of mitigation measures and the impacts of the project during construction, operation and maintenance. This will include a description of monitoring methodology, specific operations, and features to be monitored, monitoring reporting relationships and arrangements to ensure that monitoring is effective and leads to modifications where required to ensure minimal impact on the environment. Include in the plan an estimate of costs and description of other inputs such as training and institutional strengthening to ensure effective monitoring. An indication of what performance indicators to be used is to be provided.
  - **Chance Find Procedures**–Describe briefly the ‘Chance Find’ procedures to ensure preventive and mitigation measures are formulated and implemented in the event physical cultural resources are encountered during subproject implementation. However, the fully ‘Chance Find’ procedures shall be included as an annex to the ESIA report.

- **Contractor clauses**

The section will cover worksite health and safety, the environmental and social management of construction sites; labour camps/out of area workers, HIV/AIDS and other Sexually Transmitted Diseases (STDs), stakeholder engagement plans, grievance redress mechanism, child protection, gender equity and sexual harassment, labour rights and the employment of community members.

The Consultant will define standardized environmental and social clauses that KPLC/REREC will include in supply and installation bidding documents and contracts for the construction and supervision consultants, to ensure satisfactory environmental, social, health and safety performance of contractors. The clauses will cover possibly six issues

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- i. Environment, Health and Safety (EHS)
  - ii. Environmental and social monitoring by contractor
  - iii. Environmental and social liabilities
  - iv. Grievance mechanism for workers
  - v. Stakeholder engagement plans
  - vi. child protection strategy
- **Implementation Schedule and Cost Estimates**
    - i. Implementation schedule for mitigation measures that must be carried out as part of the subproject, showing phasing and coordination with overall subproject implementation plans.
    - ii. The capital and recurrent cost estimates and sources of funds for implementing the ESMP.
  - **Institutional Arrangements**
    - i. Review the institutional arrangements, responsibilities, and procedures within KPLC/REREC, Supervision Engineer/Consultant and its contractor to carry out each of the mitigatory and monitoring measures (e.g., for operation, supervision, enforcement, monitoring of implementation, remedial action, financing, reporting, and staff training).
    - ii. Describes the role of DOSH, NEMA and other stakeholders in monitoring the implementation of the ESMP and in certifying compliance.
    - iii. Includes training of contractors and Supervision Engineer/Consultant regarding the environmental and social clauses that apply to them.
    - iv. Estimates the resources required by KPLC/REREC to implement and monitor the ESMP, such as level of effort (LOE), and equipment.
    - v. As necessary, proposes capacity building, additional technical support or organizational changes, to ensure the timely and effective implementation of the ESMP.
    - vi. Describe the current administrative arrangements for environmental regulation, enforcement, and management in Kenya.
    - vii. Provide a general assessment of the government agencies involved in environmental and social management issues, to ensure that the ESMP will be effectively implemented. The agencies may need strengthening through capacity building measures to be specified in the Environmental and Social Management Plan.

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### **3.1.9 Task 9: Development of Monitoring and Supervision Plans and Indicators**

- An ongoing monitoring and reporting program, with specified reporting intervals and indicators for the life of the project including real-time management oversight and auditing (ideally by a third party) to ascertain that the impacts are occurring as predicted and the mitigation measures are effective
- The Consultant is required to give a specific description and technical details of monitoring measures for ESMP , including the parameters to be measured, methods to be used, sampling locations, frequency of measurements, definition of thresholds that will signal the need for corrective actions as well as deliver a monitoring and reporting procedure. The consultant should provide a time frame and implementation arrangement in order to deploy adequate resources in terms of; staffing requirements, training and cost outlay.

### **3.1.10 Task 10: Stakeholder Consultation and Grievance Redress Mechanism**

The Consultant shall undertake consultations with relevant stakeholders, especially with the project host communities, in preparation of and during the ESIA studies. Consultations shall be in a culturally sensitive and appropriate way with the project host communities and stakeholders. A Stakeholder Engagement Plan (SEP) shall be developed by the Consultant to guide the engagement, and submitted to the client prior to the start of ESIA consultations. The SEP shall be updated at the end of the ESIA process to cover all phases of the Project (preparation, construction, operation, de-commissioning) and shall contain, but not be limited to

- Stakeholder Analysis and Stakeholder Register
- Provisions, activities, and schedules for continuous information, consultation, and participation of identified stakeholders with an indication of responsibilities
- Provisions for public information and disclosure (as per national legislation)
- Design a Grievance Redress mechanism (for the project host communities and the public in the project area) that will be culturally appropriate to respective project sites.
- Ensure equal representation and inclusion of all the stakeholders. The proponent, the government and the project host community shall have representatives in the committees
- Clearly describe how grievances will be escalated and the timelines within which complaints should be handled as envisaged in the project documents-ESMF, VMGF and RPF at the subcounty, locational and national levels with membership and roles clearly defined.

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- Review the proposed GRM procedures for receiving, handling and resolving complaints from affected individuals and communities (*this should be discussed and consulted upon during the public consultation process*).
  - Identify communities that have a culturally acceptable grievance redress mechanism that can be adopted
  - A summary of the budget estimates

### **3.1.11 Task 11: Study Reports**

The overall output of the assignment will be an Environmental and Social Impact Assessment report, prepared in accordance with the Kenyan Legislation and the World Bank Environmental and Social Safeguards Policies. The reports shall be in the English Language and in an editable version for ease of review and commenting where necessary. The ESIA report should be in a format acceptable to NEMA and the World Bank's Operational procedures. The consultant shall present the ESIA report to the WB for clearance and issuance of "No Objection" before forwarding the reports to the National Environment Management Authority (NEMA) for approval in the required number of copies.

### **3.1.12 Task 12: ESIA Review and Quality Control**

The consultant is required to present the draft report to the Implementing agencies (KPLC and REREC) for review and concurrence. REREC will review reports in Lot 1 and 2 while KPLC will review reports in Lot 3,4,5 and 6. The consultant shall be expected to update the report incorporating the clients comments if any and submit a second draft for shairing with the WB for further review and commenting. The consultant shall further be expected to update any comments the WB may have before updating the final ESIA report under Task 12 for submission to the National Environmental Management Authority (NEMA) for final review and licencing. The Consultant shall continue to be available to updating the ESIA to the satisfaction of both NEMA and the WB clearance standards.

### **3.1.13Task 13: Counterpart Staff**

For purposes of supervision the consultant shall undertake the study together with 4 counterpart staff seconded by the project proponent i.e 14 Chief Executive Committee Members(CEC's) Environment or Energy or Land in each of the counties; 14 County Renewable Energy officers (CREO's); Environmental and Social Safeguards/Monitoring and Evaluation / communication specialists and an officer from REREC/KPLC.

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#### **4.0 Qualifications of personnel:**

The firm proposing to undertake the consultancy must demonstrate the in-house capacity to undertake the exercise and have multiple teams each with an experienced Environmental and Social specialist to simultaneously undertake the assignment. The team should be multidisciplinary and should include at least two (2) specialists inter alia with other complimenting support specialist.

The consultant shall be expected to demonstrate that the team proposed has a competent and experienced:

- A project team leader who is a specialist in Environmental and Social Impact Assessment projects and is clearly identified as a team leader. Must have 15 years' experience in management of projects or consultancies of similar nature and complexities
- One (1) Environmentalist, registered Lead experts per team with at least Master degree majoring in environmental science and at least 10 years' experience in Environmental Impact Assessment of projects and occupational Health and Safety
- One (1) Social expert per team with a masters degree majoring in Sociology from a recognized institution of learning and at least 10 years in the social impact assessment of projects;
- Provide proof of prior engagement in other WB,AfDB and other financial intermediary institutions project
- Good communication skills both verbal and written and fluency in English and Kiswahili is essential
- Demonstrates that the Consultant and his proposed team have relevant and appropriate experience to carry out all components of the ToR
- Detailed curriculum vitae for each team member must be included and their execute commitment to be available during the consultancy period;

The table below indicates the required time input for each of the experts:

| <b>#</b> | <b>Expert</b>                        | <b>Time Inputs (Man Months)</b> |
|----------|--------------------------------------|---------------------------------|
| i.       | Project Team Leader                  | 6 (spread over 6 months period) |
| ii.      | Team Member 1( Enviromental Expert ) | 4 (spread over 6 months period) |

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|      |                              |                                 |
|------|------------------------------|---------------------------------|
| iii. | Team Member 2(Social Expert) | 4 (spread over 6 months period) |
|------|------------------------------|---------------------------------|

## 5.0 Schedule and Deliverables

Specify dates for the consultancy deliverable

- The team is expected to clearly indicate assignment critical milestones, with timing for each activity; taking into account the duration of the entire project implementation period.
- Preliminary meetings and inception activities
- Field visits
- Public consultative forums
- Reports preparation and submission of deliverables to the Client and Any anticipated constraints likely to affect the desired timeframe.

## 6.0 Outputs and timelines of the Consultancy Commencement

The Consultant shall commence the ESIA study within seven (7) calendar days of the effective date of signing of the contract with the Ministry of Energy.

### 6.1 Inception Report

The Consultant will prepare and submit to the implementing agency-REREC/KPLC an inception report within 4 weeks of signing the contract, in both hard copy and soft copy. The inception report will include information about each minigrid in their assigned lot:

- i. A clear description of the understanding of the assignment, methodology to be used in undertaking the assignment and a detailed work plan
- ii. A preliminary analysis of potential key direct and indirect impacts of the minigrid constructions
- iii. The identification of issues requiring guidance or input from REREC/KPLC
- iv. Examine all aspects of the Project and produce an inception report which will review the tasks to be carried out and agree with the implementing agency KPLC/REREC on any modifications and additions that may be required.
- v. Prepare a detailed work plan indicating schedules and inputs required to complete the tasks.
- vi. During this inception period, the consultant will carry out a scoping exercise that will provide the basis for the final report and a detailed work plan.

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- vii. Prepare a public consultation and disclosure plan.

## **6.2 Full draft report**

For each minigrid site, the consultant will provide a full draft ESIA report 150 days after signing the contract, in both hard copy and soft copy. The draft must cover all the issues mentioned in Section 3.1 above and must clearly show the environmental and social impacts and risks of the project, identify if the project will result in any land take; Confirm the presence or collective attachment of VMG's in the project's area of influence. The consultation plan must be included as an Annex. KPLC/REREC will review and comment on the reports within 14 days. Given the magnitude of the work and the huge number of reports to be reviewed, the consultant will be required to submit 3 draft reports per week after signing the contract. The consultant will be required to work with 3 teams at minimum to be able to cover the proposed work load in each lot.

## **6.3 Final Reviewed and Updated report**

The consultant will provide an updated reports incorporating KPLC/REREC comments within 7 days after receiving comments from the project proponent and later 14 days after receiving comments from the WB if any before generating a final report for submission to NEMA. Site specific social assessment(SA) will only be prepared based on the findings of ESIA, while VMGP's will be prepared based on the findings and recommendations of the site specific SA's. The Phase II-SA and Phase III-VMGP aspects of the consultancy will only go on after the ESIA has been cleared by the WB. Separate findings and recommendations should be done on environmental and Social Issues on the final ESIA report.

## **7.0 Support to the Consultant**

The project proponent will make available to the consultant all the project information available to her to help them execute the assignment. These include: project designs and drawings, project framework documents - ESMF, VMGF, RPF, SA, Project Appraisal Document, Constitution of Kenya, 2010; Introductory letters to the counties etc. Consultant are expected to make the request in writing for any other material they may need to undertake their assignment.

## **8.0 TERMS OF ENGAGEMENT**

- The consultant will attend a kickoff/scoping meeting for the purpose of clarification and discussion of tasks and key business issues.

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- The consultant will provide costing indicating task, resource person/expert, rate/day, duration in man-days, labor, etc.
  - The consultant will provide a detailed work plan prior to beginning works which will be mutually agreed with the Client.
  - KPLC/REREC shall avail PCU safeguard staff who shall work closely with the Consultant and represent the implementing agencies. This staff would represent the implementing agency in different tasks. They shall however not be held responsible for any failure on the Consultant to deliver the project with the desired quality.
  - Assisting in provision of existing project information and data when required,
  - Reviewing and approving reports and any submissions by the Consultant that require approval
  - Following-up on the public consultations and monitoring of environmental implementation plans
  - The Consultant shall make his own arrangements for office space and equipment facilities (fax, phone, e-mail, internet, computers, copying, editing, etc.) including transport and personnel accommodation.
  - The Consultant at his/her own expense shall provide all equipment, tools and software needed to undertake the assignment.

## **9.0 Conduct of Work**

The Consultancy team will be expected to be fluent in both Kiswahili and English Languages and be able to work closely with the implementing agencies. All documentation shall be in English. The EIA team shall undertake not to reveal to unauthorized parties nor to use in any way the technical information e.g. procedures, data, plans, drawings, equipment findings and recommendations, which will be placed at its disposal by the implementing agency or which in any case comes to the team knowledge during the execution of this assignment. All the raw data including minutes of meeting, photos, questionnaires, sketch maps, parameter samples remain the property of the client and are expected to be handed over at the end of the assignment.

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## Kenya Off-Grid Solar Access Project

### Social Assessment Terms of Reference

#### 1.0 Background and Objectives

The Government of Kenya (GoK), in its Vision 2030, aims at transforming “Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens.” Promoting equal opportunities across the entire Kenyan territory is key to realizing this vision. Energy is identified as one of the key sectors that form the foundation for socio-political and economic growth. In order to achieve the national target of attaining universal access to electricity by 2022, the GoK now seeks to close the access gap by providing electricity to remote, low density, and traditionally underserved areas of the country. The Kenya Off-Grid Solar Access Project (KOSAP) directly promotes the objectives by supporting the use of solar technology to drive electrification of households, enterprises, community facilities and water pumps in 14 out of 47 counties in Kenya that have been defined as “marginalized areas” by the Commission on Revenue Allocation (CRA).

The World Bank’s Operational Policy on Indigenous Peoples (OP 4.10) is triggered when it is known that Indigenous Peoples (IPs) are present, are likely to be present in, or have collective attachment to the project area. The term Indigenous Peoples is used in a generic sense to refer exclusively to a distinct social and cultural group possessing the following characteristics in varying degrees:

- Self-identification as members of a distinct indigenous social and cultural group and recognition of this identity by others; and
- Collective attachment to geographically distinct habitats, ancestral territories, or areas of seasonal use or occupation, as well as to the natural resources in these areas; and
- Customary cultural, economic, social, or political institutions that are distinct or separate from those of the mainstream society or culture; and
- A distinct language or dialect, often different from the official language or languages of the country or region in which they reside.

The objective of OP 4.10 is to contribute to the World Bank’s mission of poverty reduction and sustainable development by ensuring that:

- The development process fully respects the dignity, human rights, economies, cultures and natural resource-based livelihoods of IPs/VMGs.
- To avoid adverse impacts of projects or when avoidance is not possible, to minimize, mitigate and/or compensate for such impacts.
- To promote sustainable development benefits and opportunities in a manner that is accessible, culturally appropriate and inclusive.

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- To improve project design and promote local support by establishing and maintaining an ongoing relationship based on meaningful consultations with affected communities throughout the project's life-cycle

In Kenya, various groups of people who meet the above criteria are referred to as Vulnerable and Marginalized Groups (VMGs). For KOSAP, approximately 50 mini-grid sites have been identified to be within areas where the vulnerable and Marginalized Groups are found according to the Kenya Mini-grid profile report by NRECA International. For this reason, the policy is applicable to the project, and site-specific social assessments will be conducted for each of the sites in the VMG areas.

## **2.0 Objectives of the Social Assessment**

In line with the objectives of OP 4.10, the overall objective of the social assessment (SA) is to analyze the socio-economic and cultural characteristics of the VMGs in the underserved counties in order to establish the project's potential positive and adverse effects on the VMGs and to examine project alternatives where adverse effects may be significant. The findings of the SA will inform project design and the preparation of Vulnerable and Marginalized Groups Plans (VMGPs) as the instrument for enabling VMGs to access project benefits in culturally appropriate ways.

The SA will be conducted in accordance with the free, prior and informed consultations principles (See Note at the end of this section of the ToR) with the affected VMGs – leading to their broad support for the project.

The specific objectives of the assessment is to:

- a) Assist the project to support the aspirations and needs of the Vulnerable and Marginalized groups and peoples in the project area.
- b) Identify and prepare a comprehensive plan that will avert any potentially adverse effects from project interventions on Vulnerable and Marginalized Groups and where not possible or feasible, mitigate or compensate such adverse impacts.
- c) Ensure that the project benefits reach the Vulnerable and marginalized groups and peoples in an equitable manner and through institutions that respect and are able to serve them in a decentralized manner

### **2.1 Phase II: The specific tasks of the SA will include**

1. Review of the legal and institutional framework applicable to VMGs. This will include but not limited to:
  - i. The international agreements that Kenya has signed and ratified that relate to VMGs;
  - ii. The Constitution of Kenya, 2010, especially its provisions on VMGs whether they

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- are recognized as a distinct group;
  - iii. Other national and county laws and regulations applicable to VMGs, e.g. whether they have any special rights or protections in law, e.g. in relation to their language, culture etc;
  - iv. How the legal and institutional frameworks practically impact on these groups.
  - v. Comparison between Kenyan laws and OP4.10 and recommendations on how to address any gaps between the Kenyan laws and the World Bank policy
2. Gathering and analyzing baseline information including social, cultural, economic and institutional contexts of the project in relation to VMGs:
- i. Social: Are VMGs integrated into the larger society? Are they separate? If separate, is it voluntary or involuntary isolation? How are they vulnerable or marginalized? Do they have access to social services?)
  - ii. Cultural: Do VMGs maintain own cultural practices? Is there any conflict with the Government about cultural heritage/practices? Is their culture/language at risk of dying out due to assimilation? Is assimilation acceptable to them?) Do VMGs in the T-Line have any tangible and/or intangible cultural heritage (structures, historical sites, sacred sites, artifacts, music, story-telling, poetry) that may be affected (positively or negatively by the project?
  - iii. Economic: population/demographic statics of the VMGs in each site; education levels of the VMGs; the VMGs livelihood strategies? Whether their livelihoods are dependent on land and or other natural resources, and if so, which ones? Whether their livelihoods are changing, and if so, how? Are they moving from rural areas to urban areas? Are they economically vulnerable? What are the practical implications of their vulnerability? Formal and informal employment sectors for the VMGs; Opportunities for improved sustainable livelihoods?)
  - iv. Institutional: What kind of institutions do the VMG's have that are distinct from those of the government? Do they have rights to govern certain institutions, such as a local council, school, hospital, economic development entity? Do they have special control of natural resources, such as forests, fisheries, water or land areas? How is the government/VMGs relations?
3. Based on items 1 and 2 above, identifying key project stakeholders and analyzing their interests and roles in the project, in particular, those stakeholders who speak for and represent the VMGs.
4. Identifying the potential positive and adverse effects of each of the project's components on VMGs. Critical to the determination of potential adverse impacts is an analysis of the relative vulnerability of, and risks to the affected VMGs, given their distinct circumstances

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and close ties to land and natural resources, as well as their lack of access to opportunities relative to other social groups in the communities, in which they live. Identifying mitigation measures for each set of adverse impacts of the project

5. Based on 1-5 above, making recommendations to inform the project design in order to ensure that it is culturally appropriate and accessible to VMGs.
6. Making recommendations to inform the preparation of Vulnerable and Marginalized Groups Plans, including the following as appropriate:
  - a) Site specific culturally appropriate development measures, and,
  - b) Measures to minimize, mitigate, or compensate the adverse effects, and to ensure that the VMGs receive culturally appropriate benefits under the project.
7. Clearly documenting the consultation process with VMGs during the SA, including positive and negative views as well as the outcomes from the consultations leading to their broad support for the project. Should the SA note that there is no broad support for the project or any of its components, make recommendations on how to address the VMGs concerns.
8. In consultation with the VMGs, elaborating a culturally appropriate process for free, prior and informed consultations with them at each stage of the project preparation and implementation. (See Note below).
9. In consultation with the VMGs, proposing arrangements for the disclosure of the SA, including disclosure locations and language.

The objectives of the **free, prior and informed consultation** with the Community are to:

- a) Fully inform the communities about the proposed project.
- b) Evaluate in a participatory manner the potential impacts and benefits, and the various perspectives regarding the project.
- c) Accord the VMGs in a fair and culturally appropriate way the opportunity to be engaged and determine how they wish to be involved throughout the project cycle.
- d) Solicit the support of the VMGs for the project.
- e) Determine the nature of the local power structure and document the procedures for the entry and access into the community.
- f) Obtain accurate and detailed data on local customs and historical traditions for information to all KOSAP and partner agencies and agents.
- g) Determine through careful consultation with the VMGs the preferred representatives in decision making.

**Note:** Meaningful, free, prior and informed consultations with VMGs during the social assessment and at every stage of project implementation should be:

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- In an appropriate language
  - Culturally appropriate,
  - Gender and inter-generationally inclusive,
  - Conducted in good faith,
  - Voluntary, free of interference and non-manipulative,
  - Involve advance information to VMGs about the activity at hand, and provide sufficient time for them to make informed decisions.

### **3.0 Methodology for undertaking the SA**

The consultant shall propose a detailed methodology that clearly articulates the participatory and consultative methodologies – in line with the free, prior and informed consultations process requirements – to be used in undertaking the SA. These will include but not be limited to:

Desk Review of Reports and Documents

Stakeholder Consultations for Ensuring Free, Prior and Informed Consultation

Literature review, including among others, the review of the World Bank’s Operational Policy (OP 4.10) on VMGs and its related Annex, Annex A (see Appendices 5 and 6); the Kenyan policies, legislations and regulations on marginalized and minority groups, in particular, the Constitution of Kenya, 2010;

Focused Group Discussions that are gender and intergenerationally inclusive;

Proof of the consultation process with VMGs, (including as attachment: consultation dates, venues, list and signatures of attendees, photos of consultation sessions and minutes of the consultation process including question asked by VMGs, name of the person asking the question, responses given for each question and how views and concerns of the VMGs have been taken into account in the main report).

## **4.0 Outputs of the Consultancy**

### **4.1 Inception Report**

The Consultant will prepare and submit to the implementing agencies-REREC/KPLC an inception report within 4 weeks of signing the contract, in both hard copy and soft editable copy. The inception report will include information for each mini-grid with vulnerable and marginalized groups:

a clear description of the understanding of the assignment, methodology to be used in undertaking the assignment, and, a detailed work plan

a preliminary analysis of potential key direct and indirect impacts of the mini-grid

the identification of issues requiring guidance or input from the implementing agencies; REREC/KPLC

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an annotated table of content for each assignment, SA report

#### 4.2 Full draft report

For each mini-grid site with the presence of VMG's, the consultant will provide a full draft SA report 60 days after signing the contract, in both hard copy and soft editable copy. The draft must cover all the issues mentioned in Section 2 above and must clearly show the consultation process with VMGs and other concerned stakeholders. This entails the process of free prior and informed consultations with affected VMGs, for which the consultation plan must be included as an Annex. REREC/KPLC will review and comment on the reports within 14 days. The consultant will then incorporate the changes(7days) and send the report back to the implementing agencies REREC/KPLC who will then send it to the bank for review

#### 4.3 Final report

The consultant will provide a final report incorporating REREC/KPLC's comments and World Bank's comment within 90 days after contract signature, in both hard copy and soft copy. The consultant will remain available to incorporate changes from the World Bank before a "No Objection" is granted by the bank and the report disclosed in the World Bank Info shop, Ministry of Energy and the Implementing Agencies REREC/KPLC

### **5.0 Support to the Consultant**

#### 5.1 Documents to be provided by REREC/KPLC

KPLC will make available to the consultants, the Constitution of Kenya, 2010, and other appropriate Kenyan laws and regulations (national and county) applicable to VMGs. In addition, KPLC will provide the Consultant with the World Bank policies on VMGs (OP 4.10) and their related Annexes. (These have been included in these ToRs as Appendices). Reference should be made to the safeguard documents prepared under KOSAP-Social Assessment, Vulnerable and Marginalized Group Framework, Resettlement Policy Framework, Environmental and Social Management Framework

#### **6.0 Report Format**

All reports shall be in the English Language, in a format acceptable to the World Bank and KPLC/REREC. The reports must be clear and concise

#### **7.0 Consultant's Qualifications**

The Consultant shall provide sufficient and qualified personnel to complete the SA tasks for mini-grids with VMG's presence in the assigned lot within 90days of contract signing and for the VMGP, within 60 days of contract signing.

For each Cluster, the consultant will assign: (i) a coordinator, and (ii) a team leader for each task, who will be accountable for the timely completion of his task. The team for each task shall include the skill mix necessary to meet the objectives and scope of services.

### 7.1 The SA and VMGP Team Leader

The SA/VMGP Team Leader shall have the following qualifications:

A masters' degree in Sociology, Anthropology or other social sciences from a recognized university proof of leadership in carrying out a SA and preparation of at least 5 VMGPs/Community Development Plans participation in at least two SAs and at least two VMGP for a power project that met the requirements of an International Financial Institution, such as the World Bank, IFC, an Equator bank, AfDB, or EIB

The SA/VMGP team leader will spend considerable time in the field (leading the teams in his/her docket) and part of the time in Nairobi, Kenya, writing reports or meeting/consulting with Nairobi based stakeholders and institutions.

The table below indicates the required time input for each of the experts:

| #    | Expert  | Time Inputs (Man Months)        |
|------|---|---------------------------------|
| i.   | Project Team Leader(SA/VMGP)  | 5 (spread over 5 months period) |
| ii.  | Team Leader Member 1( Gender Specialist )                                     | 3 (spread over 5 months period) |
| iii. | Team Member 2(Stakeholder Engagement Specialist/Community Development Expert) | 3 (spread over 5 months period) |

### 8.0 Services, Facilities and Tools

KPLC will avail safeguards staff who shall work closely with the Consultant and represent the KPLC and REREC. This staff would represent the implementing agencies in different tasks:

- Assisting in provision of existing project information and data when required,
- Reviewing and approving detailed designs and any submissions by the Consultant that require approval

These staff shall, however, be under the control of and be paid by the Client. They shall not be held responsible for any failure on the Consultant to deliver the project with the desired quality.

The Consultant shall make its own arrangements for office space and equipment facilities (fax, phone, e-mail, internet, computers, copying, editing, etc.) including transport and personnel accommodation in Kenya.

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The Consultant at his/her own expense shall provide all equipment, tools and software needed to undertake the assignment.

## Appendix 1: OP 4.10

### OP 4.10 - Indigenous Peoples

These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.

OP 4.10  
July, 2005

Note: OP/BP 4.10, *Indigenous Peoples*, were revised on April 2013 to take into account the recommendations in “*Investment Lending Reform: Modernizing and Consolidating Operational Policies and Procedures*” (R2012-0204 [IDA/R2012-0248]), which were approved by the Executive Directors on October 25, 2012. As a result of these recommendations: (a) OP/BP 10.00, *Investment Project Financing*, were revised, among other things, to incorporate OP/BP 13.05, *Supervision*, and OP/BP 13.55, and *Implementation Completion Report*, (which have accordingly been retired); and (b) OP 8.60, *Development Policy Lending*, and OP 9.00, *Program-for-Results Financing*, have also been revised. OP/BP 4.10 have consequently been updated to reflect these changes, as well as to clarify the extent of their applicability to Development Policy Lending and Program-for Results-Financing and to reflect the updated title of the Bank’s policy on access to information.

Questions on this OP/BP may be addressed to the Safeguard Policies Helpdesk in OPCS ([safeguards@worldbank.org](mailto:safeguards@worldbank.org)).

Revised April 2013

1. This policy<sup>1</sup> contributes to the Bank’s<sup>2</sup> mission of poverty reduction and sustainable development by ensuring that the development process fully respects the dignity, human rights, economies, and cultures of Indigenous Peoples. For all projects that are proposed for Bank financing and affect Indigenous Peoples,<sup>3</sup> the Bank requires the borrower to engage in a process of free, prior, and informed consultation.<sup>4</sup> The Bank provides project financing only where free, prior, and informed consultation results in broad community support to the project by the affected Indigenous Peoples.<sup>5</sup> Such Bank-financed projects include measures to (a) avoid potentially adverse effects on the Indigenous Peoples’ communities; or (b) when avoidance is not feasible, minimize, mitigate, or compensate for such effects. Bank-financed projects are also designed to ensure that the Indigenous Peoples receive social and economic benefits that are culturally appropriate and gender and intergenerationally inclusive.

2. The Bank recognizes that the identities and cultures of Indigenous Peoples are inextricably linked to the lands on which they live and the natural resources on which they depend. These distinct circumstances expose Indigenous Peoples to different types of risks and levels of impacts from development projects, including loss of identity, culture, and customary livelihoods, as well as exposure to disease. Gender and intergenerational issues among Indigenous Peoples also are complex. As social groups with identities that are often distinct from dominant groups in their national societies, Indigenous Peoples are frequently among the most marginalized and vulnerable segments of the population. As a result, their economic, social, and legal status often limits their capacity to defend their interests in and rights to lands, territories, and other productive resources, and/or restricts their ability to participate in and benefit from development. At the same time, the Bank recognizes that Indigenous Peoples play a vital role in sustainable development and that their rights are increasingly being addressed under both domestic and international law.

3. *Identification.* Because of the varied and changing contexts in which Indigenous Peoples live and because there is no universally accepted definition of “Indigenous Peoples,” this policy does not define the term. Indigenous Peoples may be referred to in different countries by such terms as “indigenous ethnic minorities,” “aboriginals,” “hill tribes,” “minority nationalities,” “scheduled tribes,” or “tribal groups.”

4. For purposes of this policy, the term “Indigenous Peoples” is used in a generic sense to refer to a distinct, vulnerable, social and cultural group<sup>6</sup> possessing the following characteristics in varying degrees:

- (a) self-identification as members of a distinct indigenous cultural group and recognition of this identity by others;
- (b) collective attachment to geographically distinct habitats or ancestral territories in the project area and to the

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natural resources in these habitats and territories<sup>7</sup>

(c) customary cultural, economic, social, or political institutions that are separate from those of the dominant society and culture; and

(d) an indigenous language, often different from the official language of the country or region.

A group that has lost "collective attachment to geographically distinct habitats or ancestral territories in the project area"; (paragraph 4 (b)) because of forced severance remains eligible for coverage under this policy.<sup>8</sup> Ascertaining whether a particular group is considered as "Indigenous Peoples" for the purpose of this policy may require a technical judgment (see paragraph 8).

5. *Use of Country Systems.* The Bank may decide to use a country's systems to address environmental and social safeguard issues in a Bank-financed project that affects Indigenous Peoples. This decision is made in accordance with the requirements of the applicable Bank policy on country systems.<sup>9</sup>

### **Project Preparation**

6. A project proposed for Bank financing that affects Indigenous Peoples requires:

(a) screening by the Bank to identify whether Indigenous Peoples are present in, or have collective attachment to, the project area (see paragraph 8);

(b) a social assessment by the borrower (see paragraph 9 and [Annex A](#));

(c) a process of free, prior, and informed consultation with the affected Indigenous Peoples' communities at each stage of the project, and particularly during project preparation, to fully identify their views and ascertain their broad community support for the project (see paragraphs 10 and 11);

(d) the preparation of an Indigenous Peoples Plan (see paragraph 12 and [Annex B](#)) or an Indigenous Peoples Planning Framework (see paragraph 13 and [Annex C](#)); and

(e) disclosure of the draft Indigenous Peoples Plan or draft Indigenous Peoples Planning Framework (see paragraph 15).

7. The level of detail necessary to meet the requirements specified in paragraph 6 (b), (c), and (d) is proportional to the complexity of the proposed project and commensurate with the nature and scale of the proposed project's potential effects on the Indigenous Peoples, whether adverse or positive.

### *Screening*

8. Early in project preparation, the Bank undertakes a screening to determine whether Indigenous Peoples (see paragraph 4) are present in, or have collective attachment to, the project area.<sup>10</sup> In conducting this screening, the Bank seeks the technical judgment of qualified social scientists with expertise on the social and cultural groups in the project area. The Bank also consults the Indigenous Peoples concerned and the borrower. The Bank may follow the borrower's framework for identification of Indigenous Peoples during project screening, when that framework is consistent with this policy.

### *Social Assessment*

9. *Analysis.* If, based on the screening, the Bank concludes that Indigenous Peoples are present in, or have collective attachment to, the project area, the borrower undertakes a social assessment to evaluate the project's potential positive and adverse effects on the Indigenous Peoples, and to examine project alternatives where adverse effects may be significant. The breadth, depth, and type of analysis in the

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social assessment are proportional to the nature and scale of the proposed project's potential effects on the Indigenous Peoples, whether such effects are positive or adverse (see [Annex A](#) for details). To carry out the social assessment, the borrower engages social scientists whose qualifications, experience, and terms of reference are acceptable to the Bank.

10. *Consultation and Participation.* Where the project affects Indigenous Peoples, the borrower engages in free, prior, and informed consultation with them. To ensure such consultation, the borrower:

(a) establishes an appropriate gender and intergenerationally inclusive framework that provides opportunities for consultation at each stage of project preparation and implementation among the borrower, the affected Indigenous Peoples' communities, the Indigenous Peoples Organizations (IPOs) if any, and other local civil society organizations (CSOs) identified by the affected Indigenous Peoples' communities;

(b) uses consultation methods<sup>11</sup> appropriate to the social and cultural values of the affected Indigenous Peoples' communities and their local conditions and, in designing these methods, gives special attention to the concerns of Indigenous women, youth, and children and their access to development opportunities and benefits; and

(c) provides the affected Indigenous Peoples' communities with all relevant information about the project (including an assessment of potential adverse effects of the project on the affected Indigenous Peoples' communities) in a culturally appropriate manner at each stage of project preparation and implementation.

11. In deciding whether to proceed with the project, the borrower ascertains, on the basis of the social assessment (see paragraph 9) and the free, prior, and informed consultation (see paragraph 10), whether the affected Indigenous Peoples' communities provide their broad support to the project. Where there is such support, the borrower prepares a detailed report that documents:

(a) the findings of the social assessment;

(b) the process of free, prior, and informed consultation with the affected Indigenous Peoples' communities;

(c) additional measures, including project design modification, that may be required to address adverse effects on the Indigenous Peoples and to provide them with culturally appropriate project benefits;

(d) recommendations for free, prior, and informed consultation with and participation by Indigenous Peoples' communities during project implementation, monitoring, and evaluation; and

(e) any formal agreements reached with Indigenous Peoples' communities and/or the IPOs.

The Bank reviews the process and the outcome of the consultation carried out by the borrower to satisfy itself that the affected Indigenous Peoples' communities have provided their broad support to the project. The Bank pays particular attention to the social assessment and to the record and outcome of the free, prior, and informed consultation with the affected Indigenous Peoples' communities as a basis for ascertaining whether there is such support. The Bank does not proceed further with project processing if it is unable to ascertain that such support exists.

#### *Indigenous Peoples Plan/Planning Framework*

12. *Indigenous Peoples Plan.* On the basis of the social assessment and in consultation with the affected Indigenous Peoples' communities, the borrower prepares an Indigenous Peoples Plan (IPP) that sets out the measures through which the borrower will ensure that (a) Indigenous Peoples affected by the project receive culturally appropriate social and economic benefits; and (b) when potential adverse effects on Indigenous Peoples are identified, those adverse effects are avoided, minimized, mitigated, or compensated for (see [Annex B](#) for details). The IPP is prepared in a flexible and pragmatic manner,<sup>12</sup> and

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its level of detail varies depending on the specific project and the nature of effects to be addressed. The borrower integrates the IPP into the project design. When Indigenous Peoples are the sole or the overwhelming majority of direct project beneficiaries, the elements of an IPP should be included in the overall project design, and a separate IPP is not required. In such cases, the Project Appraisal Document (PAD) includes a brief summary of how the project complies with the policy, in particular the IPP requirements.

13. *Indigenous Peoples Planning Framework.* Some projects involve the preparation and implementation of annual investment programs or multiple subprojects.<sup>13</sup> In such cases, and when the Bank's screening indicates that Indigenous Peoples are likely to be present in, or have collective attachment to, the project area, but their presence or collective attachment cannot be determined until the programs or subprojects are identified, the borrower prepares an Indigenous Peoples Planning Framework (IPPF). The IPPF provides for the screening and review of these programs or subprojects in a manner consistent with this policy (see [Annex C](#) for details). The borrower integrates the IPPF into the project design.

14. *Preparation of Program and Subproject IPPs.* If the screening of an individual program or subproject identified in the IPPF indicates that Indigenous Peoples are present in, or have collective attachment to, the area of the program or subproject, the borrower ensures that, before the individual program or subproject is implemented, a social assessment is carried out and an IPP is prepared in accordance with the requirements of this policy. The borrower provides each IPP to the Bank for review before the respective program or subproject is considered eligible for Bank financing.<sup>14</sup>

#### *Disclosure*

15. The borrower makes the social assessment report and draft IPP/IPPF available to the affected Indigenous Peoples' communities in an appropriate form, manner, and language.<sup>15</sup> Before project appraisal, the borrower sends the social assessment and draft IPP/IPPF to the Bank for review.<sup>16</sup> Once the Bank accepts the documents as providing an adequate basis for project appraisal, the Bank makes them available to the public in accordance with [The World Bank Policy on Access to Information](#), and the borrower makes them available to the affected Indigenous Peoples' communities in the same manner as the earlier draft documents.

### **Special Considerations**

#### *Lands and Related Natural Resources*

16. Indigenous Peoples are closely tied to land, forests, water, wildlife, and other natural resources, and therefore special considerations apply if the project affects such ties. In this situation, when carrying out the social assessment and preparing the IPP/IPPF, the borrower pays particular attention to:

(a) the customary rights<sup>17</sup> of the Indigenous Peoples, both individual and collective, pertaining to lands or territories that they traditionally owned, or customarily used or occupied, and where access to natural resources is vital to the sustainability of their cultures and livelihoods;

(b) the need to protect such lands and resources against illegal intrusion or encroachment;

(c) the cultural and spiritual values that the Indigenous Peoples attribute to such lands and resources; and

(d) Indigenous Peoples' natural resources management practices and the long-term sustainability of such practices.

17. If the project involves (a) activities that are contingent on establishing legally recognized rights to lands and territories that Indigenous Peoples have traditionally owned or customarily used or occupied

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(such as land titling projects), or (b) the acquisition of such lands, the IPP sets forth an action plan for the legal recognition of such ownership, occupation, or usage. Normally, the action plan is carried out before project implementation; in some cases, however, the action plan may need to be carried out concurrently with the project itself. Such legal recognition may take the following forms:

(a) full legal recognition of existing customary land tenure systems of Indigenous Peoples; or

(b) conversion of customary usage rights to communal and/or individual ownership rights.

If neither option is possible under domestic law, the IPP includes measures for legal recognition of perpetual or long-term renewable custodial or use rights.

### *Commercial Development of Natural and Cultural Resources*

18. If the project involves the commercial development of natural resources (such as minerals, hydrocarbon resources, forests, water, or hunting/fishing grounds) on lands or territories that Indigenous Peoples traditionally owned, or customarily used or occupied, the borrower ensures that as part of the free, prior, and informed consultation process the affected communities are informed of (a) their rights to such resources under statutory and customary law; (b) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (c) the potential effects of such development on the Indigenous Peoples' livelihoods, environments, and use of such resources. The borrower includes in the IPP arrangements to enable the Indigenous Peoples to share equitably in the benefits<sup>18</sup> to be derived from such commercial development; at a minimum, the IPP arrangements must ensure that the Indigenous Peoples receive, in a culturally appropriate manner, benefits, compensation, and rights to due process at least equivalent to that to which any landowner with full legal title to the land would be entitled in the case of commercial development on their land.

19. If the project involves the commercial development of Indigenous Peoples' cultural resources and knowledge (for example, pharmacological or artistic), the borrower ensures that as part of the free, prior, and informed consultation process, the affected communities are informed of (a) their rights to such resources under statutory and customary law; (b) the scope and nature of the proposed commercial development and the parties interested or involved in such development; and (c) the potential effects of such development on Indigenous Peoples' livelihoods, environments, and use of such resources. Commercial development of the cultural resources and knowledge of these Indigenous Peoples is conditional upon their prior agreement to such development. The IPP reflects the nature and content of such agreements and includes arrangements to enable Indigenous Peoples to receive benefits in a culturally appropriate way and share equitably in the benefits to be derived from such commercial development.

### *Physical Relocation of Indigenous Peoples*

20. Because physical relocation of Indigenous Peoples is particularly complex and may have significant adverse impacts on their identity, culture, and customary livelihoods, the Bank requires the borrower to explore alternative project designs to avoid physical relocation of Indigenous Peoples. In exceptional circumstances, when it is not feasible to avoid relocation, the borrower will not carry out such relocation without obtaining broad support for it from the affected Indigenous Peoples' communities as part of the free, prior, and informed consultation process. In such cases, the borrower prepares a resettlement plan in accordance with the requirements of [OP 4.12, \*Involuntary Resettlement\*](#), that is compatible with the Indigenous Peoples' cultural preferences, and includes a land-based resettlement strategy. As part of the resettlement plan, the borrower documents the results of the consultation process. Where possible, the resettlement plan should allow the affected Indigenous Peoples to return to the lands and territories they traditionally owned, or customarily used or occupied, if the reasons for their relocation cease to exist.

21. In many countries, the lands set aside as legally designated parks and protected areas may overlap with lands and territories that Indigenous Peoples traditionally owned, or customarily used or occupied. The Bank recognizes the significance of these rights of ownership, occupation, or usage, as well as the need for long-term sustainable

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management of critical ecosystems. Therefore, involuntary restrictions on Indigenous Peoples' access to legally designated parks and protected areas, in particular access to their sacred sites, should be avoided. In exceptional circumstances, where it is not feasible to avoid restricting access, the borrower prepares, with the free, prior, and informed consultation of the affected Indigenous Peoples' communities, a process framework in accordance with the provisions of [OP 4.12](#). The process framework provides guidelines for preparation, during project implementation, of an individual parks and protected areas' management plan, and ensures that the Indigenous Peoples participate in the design, implementation, monitoring, and evaluation of the management plan, and share equitably in the benefits of the park's and protected areas. The management plan should give priority to collaborative arrangements that enable the Indigenous, as the custodians of the resources, to continue to use them in an ecologically sustainable manner.

### Indigenous Peoples and Development

22. In furtherance of the objectives of this policy, the Bank may, at a member country's request, support the country in its development planning and poverty reduction strategies by providing financial assistance for a variety of initiatives designed to:

- (a) strengthen local legislation, as needed, to establish legal recognition of the customary or traditional land tenure systems of Indigenous Peoples;
- (b) make the development process more inclusive of Indigenous Peoples by incorporating their perspectives in the design of development programs and poverty reduction strategies, and providing them with opportunities to benefit more fully from development programs through policy and legal reforms, capacity building, and free, prior, and informed consultation and participation;
- (c) support the development priorities of Indigenous Peoples through programs (such as community-driven development programs and locally managed social funds) developed by governments in cooperation with Indigenous Peoples;
- (d) address the gender<sup>19</sup> and intergenerational issues that exist among many Indigenous Peoples, including the special needs of indigenous women, youth, and children;
- (e) prepare participatory profiles of Indigenous Peoples to document their culture, demographic structure, gender and intergenerational relations and social organization, institutions, production systems, religious beliefs, and resource use patterns;
- (f) strengthen the capacity of Indigenous Peoples' communities and IPOs to prepare, implement, monitor, and evaluate development programs;
- (g) strengthen the capacity of government agencies responsible for providing development services to Indigenous Peoples;
- (h) protect indigenous knowledge, including by strengthening intellectual property rights; and
- (i) facilitate partnerships among the government, IPOs, CSOs, and the private sector to promote Indigenous Peoples' development programs.

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1. This policy should be read together with other relevant Bank policies, including *Environmental Assessment* [OP 4.01](#), *Natural Habitats* [OP 4.04](#), *Pest Management* [OP 4.09](#), *Physical Cultural Resources* [OP/BP 4.11](#), *Involuntary Resettlement* [OP 4.12](#), *Forests* [OP 4.36](#), and *Safety of Dams* [OP 4.37](#).
  2. "Bank" includes IBRD and IDA; "loans" includes IBRD loans, IDA credits, IDA grants, IBRD and IDA guarantees, and Project Preparation Facility (PPF) advances, but does not include Development Policy Lending or Program-for-Results Financing. For social aspects of Development Policy Lending and program-for-Results Financing operations, see [OP 8.60](#), *Development Policy Lending*, paragraph 10 and [OP/BP 9.00](#), *Program-for-Results Financing*. The term "borrower" includes, wherever the context requires, the recipient of an IDA grant, the guarantor of an IBRD loan, and the project implementing agency, if it is different from

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the borrower.

3. This policy applies to all components of the project that affect Indigenous Peoples, regardless of the source of financing.
4. "Free, prior, and informed consultation with the affected Indigenous Peoples' communities" refers to a culturally appropriate and collective decisionmaking process subsequent to meaningful and good faith consultation and informed participation regarding the preparation and implementation of the project. It does not constitute a veto right for individuals or groups (see paragraph 10).
5. For details on "broad community support to the project by the affected Indigenous Peoples," see paragraph 11.
6. The policy does not set an *a priori* minimum numerical threshold since groups of Indigenous Peoples may be very small in number and their size may make them more vulnerable.
7. "Collective attachment" means that for generations there has been a physical presence in and economic ties to lands and territories traditionally owned, or customarily used or occupied, by the group concerned, including areas that hold special significance for it, such as sacred sites. "Collective attachment" also refers to the attachment of transhumant/nomadic groups to the territory they use on a seasonal or cyclical basis.
8. "Forced severance" refers to loss of collective attachment to geographically distinct habitats or ancestral territories occurring within the concerned group members' lifetime because of conflict, government resettlement programs, dispossession from their lands, natural calamities, or incorporation of such territories into an urban area. For purposes of this policy, "urban area" normally means a city or a large town, and takes into account all of the following characteristics, no single one of which is definitive: (a) the legal designation of the area as urban under domestic law; (b) high population density; and (c) high proportion of nonagricultural economic activities relative to agricultural activities.
9. The currently applicable Bank policy is [OP/BP 4.00, \*Piloting the Use of Borrower Systems to Address Environmental and Social Safeguard Issues in Bank-Supported Projects\*](#). Applicable only to pilot projects using borrower systems, the policy includes requirements that such systems be designed to meet the policy objectives and adhere to the operational principles related to Indigenous Peoples identified in OP 4.00 (see [Table A1](#)).
10. The screening may be carried out independently or as part of a project environmental assessment (see [OP 4.01, \*Environmental Assessment\*](#), paragraphs 3, 8).
11. Such consultation methods (including using indigenous languages, allowing time for consensus building, and selecting appropriate venues) facilitate the articulation by Indigenous Peoples of their views and preferences. The *Indigenous Peoples Guidebook* (forthcoming) will provide good practice guidance on this and other matters.
12. When non-Indigenous Peoples live in the same area with Indigenous Peoples, the IPP should attempt to avoid creating unnecessary inequities for other poor and marginal social groups.
13. Such projects include community-driven development projects, social funds, sector investment operations, and financial intermediary loans.
14. If the Bank considers the IPPF to be adequate for the purpose, however, the Bank may agree with the borrower that prior Bank review of the IPP is not needed. In such case, the Bank reviews the IPP and its implementation as part of supervision (see [OP/BP 10.00, \*Investment Project Financing\*](#)).
15. The social assessment and IPP require wide dissemination among the affected Indigenous Peoples' communities using culturally appropriate methods and locations. In the case of an IPPF, the document is disseminated using IPOs at the appropriate national, regional, or local levels to reach Indigenous Peoples who are likely to be affected by the project. Where IPOs do not exist, the document may be disseminated using other CSOs as appropriate.
16. An exception to the requirement that the IPP (or IPPF) be prepared as a condition of appraisal may be made with the approval of Bank management for projects meeting the requirements of paragraph 11 of [OP/BP 10.00, \*Investment Project Financing\*](#). In such cases, management's approval stipulates a timetable and budget for preparation of the social assessment and IPP or of the IPPF.
17. "Customary rights" to lands and resources refers to patterns of long-standing community land and resource usage in accordance with Indigenous Peoples' customary laws, values, customs, and traditions, including seasonal or cyclical use, rather than formal legal title to land and resources issued by the State.
18. The *Indigenous Peoples Guidebook* (forthcoming) will provide good practice guidance on this matter.
19. See [OP/BP 4.20, \*Gender and Development\*](#).

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[Annex A - Social Assessment](#)

[Annex B - Indigenous Peoples Plan](#)

[Annex C - Indigenous Peoples Planning Framework](#)

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## Appendix 2: OP 4.10 Annex A: Social Assessment

### OP 4.10, Annex A - Social Assessment

**These policies were prepared for use by World Bank staff and are not necessarily a complete treatment of the subject.**

**OP 4.10 - Annex A  
July, 2005**

1. The breadth, depth, and type of analysis required for the social assessment are proportional to the nature and scale of the proposed project's potential effects on the Indigenous Peoples.
2. The social assessment includes the following elements, as needed:
  - (a) A review, on a scale appropriate to the project, of the legal and institutional framework applicable to Indigenous Peoples.
  - (b) Gathering of baseline information on the demographic, social, cultural, and political characteristics of the affected Indigenous Peoples' communities, the land and territories that they have traditionally owned or customarily used or occupied, and the natural resources on which they depend.
  - (c) Taking the review and baseline information into account, the identification of key project stakeholders and the elaboration of a culturally appropriate process for consulting with the Indigenous Peoples at each stage of project preparation and implementation (see paragraph 9 of this policy).
  - (d) An assessment, based on free, prior, and informed consultation, with the affected Indigenous Peoples' communities, of the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is an analysis of the relative vulnerability of, and risks to, the affected Indigenous Peoples' communities given their distinct circumstances and close ties to land and natural resources, as well as their lack of access to opportunities relative to other social groups in the communities, regions, or national societies in which they live.
  - (e) The identification and evaluation, based on free, prior, and informed consultation with the affected Indigenous Peoples' communities, of measures necessary to avoid adverse effects, or if such measures are not feasible, the identification of measures to minimize, mitigate, or compensate for such effects, and to ensure that the Indigenous Peoples receive culturally appropriate benefits under the project.

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**Kenya Off-grid Solar Access Project**  
**Vulnerable and Marginalized Group Plan**  
**Terms of Reference**

**1.0 Background**

The Government of Kenya (GoK), in its Vision 2030, aims at transforming “Kenya into a newly industrializing, middle-income country providing a high quality of life to all its citizens.” Promoting equal opportunities across the entire Kenyan territory is key to realizing this vision. Energy is identified as one of the key sectors that form the foundation for socio-political and economic growth. In order to achieve the national target of attaining universal access to electricity by 2022, the GoK now seeks to close the accesses gap by providing electricity to remote, low density, and traditionally underserved areas of the country. The Kenya Off-Grid Solar Access Project (KOSAP) directly promotes the objectives by supporting the use of solar technology to drive electrification of households, enterprises, community facilities and water pumps in 14 out of 47 counties in Kenya that have been defined as “marginalized areas” by the Commission on Revenue Allocation (CRA).

A VMGP is one of the instruments that are prepared in accordance with the requirements of OP 4.10 Annex B. OP 4.10 on the other hand contributes to the World Bank’s mission of poverty reduction and sustainable development by ensuring that:

- The development process fully respects the dignity, human rights, economies, cultures and natural resource-based livelihoods of Indigenous Peoples (known in Kenya as Vulnerable and Marginalized Groups – VMGs)
- To avoid adverse impacts of projects, or, when avoidance is not possible, to minimize, mitigate and/or compensate for such impacts.
- To promote sustainable development benefits and opportunities in a manner that is accessible, culturally appropriate and inclusive.
- To improve project design and promote local support by establishing and maintaining an ongoing relationship based on meaningful consultations with affected communities throughout the project’s life-cycle.

**Purpose of a Vulnerable and Marginalised Groups Plan (VMGP)**

VMGPs are plans meant to mitigate adverse project impacts on affected VMGs and to ensure that they access project benefits in culturally appropriate manner. The VMGP is prepared in accordance with the provisions of the VMGF and is based on the findings and recommendations of the Social Assessment undertaken in accordance with the provisions of OP 4.10 Annex A. The purpose of a VMGP is to ensure that VMGs receive culturally appropriate social and economic benefits under projects that are being implemented in their areas, and that measures are put in place to avoid, minimize, mitigate or compensate any adverse effects of the project on the VMGs. In accordance with the requirements of OP 4.10, the Vulnerable and Marginalized Groups Plan (VMGP) for each subproject will be prepared where VMGs are present, based on the findings and

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recommendations of the Social Assessment, and in consultations with the VMGs. A VMGP is therefore prepared after social assessment has been undertaken in the areas where VMGs are present, with the aim of enabling the consultant to describe and specify the measures and strategies for ensuring that the VMGs receive social and economic benefits that are culturally appropriate, and gender responsive, and in line with the free, prior and informed consultations channel described in the Social Assessment report.

## **2.0 Phase III: The specific tasks in the preparation of a VMGP**

The consultant shall prepare VMGP's based on the findings of site-specific social Assessments (SA's) after screening has been conducted on a sub-project to determine whether VMGs are present in, or have collective attachment to the project area. This screening will be conducted by the consultant together with the Environmental and Social specialist within KOSAP and the implementing agencies (REREC and KPLC) which will be used to ensure the rights and dignity of the VMGs have been safeguarded during project implementation (as per the national legislation and regulation and the World Bank's Environmental and Social Safeguard's Policies). All the VMGPs that will be prepared under KOSAP will be based on the findings and recommendations of the site-specific Social Assessment and will only commence after the Social Assessment report has been cleared by the Bank. Each VMGP will include all elements under the specific tasks.

The specific tasks for VMGP preparation include:

1. Preparation of a summary of the SA findings as the basis of preparing the VMGP.
- i. The summary of SA findings should present:
  - a) A summary of a scale appropriate to the sub-project;
  - b) Review of the legal and institutional framework applicable to indigenous people in the project context where relevant.
  - c) Provide baseline information on the demographic, social, cultural, and political characteristics of the affected Vulnerable and Marginalized Groups (VMGs); the land and territories that they have traditionally owned or customarily used or occupied; and the natural resources on which they depend.
  - d) Identify key project stakeholders and elaborate a culturally appropriate and gender-sensitive process for meaningful consultation with VMGs at each stage of project preparation and implementation, taking the review and baseline information into account.
  - e) Assess, based on meaningful consultation with the affected indigenous people's communities, the potential adverse and positive effects of the project. Critical to the determination of potential adverse impacts is a gender-sensitive analysis of the relative vulnerability of, and risks to, the affected indigenous people's communities given their particular circumstances and close ties to land and natural resources, as well as their lack of access to opportunities

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relative to those available to other social groups in the communities, regions, or national societies in which they live.

- f) Include a gender-sensitive assessment of the affected VMGs perceptions about the project and its impact on their social, economic, and cultural status.
  - g) Identify and recommend, based on meaningful consultation with the affected VMGs communities, the measures necessary to avoid adverse effects or, if such measures are not possible, identifies measures to minimize, mitigate, and/or compensate for such effects and to ensure that the VMGs peoples receive culturally appropriate benefits under the project.
- ii. Summary of the legal and institutional framework applicable to VMGs;
  - iii. Summary of the baseline information on VMGs, disaggregated by gender and age;
  - iv. Summary of the results of the free, prior and informed consultations with VMGs during the SA study which led to the broad community support for the proposed project
    - 2. A framework for free, prior and informed consultations with VMGs during subproject implementation;
    - 3. Summary of findings on positive and adverse impacts on VMGs and proposed mitigation measures for the adverse effects and for maximizing positive impacts
      - a) When potential adverse effects on VMGs are identified, appropriate action plans of measures to avoid, minimize, mitigate, or compensate for these adverse effects.
      - b) The consultant should specify measures to avoid adverse impacts on indigenous people; and where the avoidance is impossible, specifies the measures to minimize, mitigate and compensate for identified unavoidable adverse impacts for each affected indigenous people group.
      - c) The identification and evaluation, based on free, prior, and informed consent with the VMGs communities, of measures necessary to avoid adverse effects and to ensure that VMGs receive culturally appropriate benefits under the subproject.
    - 4. Preparation of a time bound and achievable Action Plan of measures for ensuring culturally-appropriate social and economic benefits for VMGs, and/or for avoiding, minimizing, mitigating or compensating them for adverse effects. The Plan should be proportional to the specific context of the project, its benefits, social impacts and risks, and the circumstances of affected VMGs as identified by the SA;
    - 5. The monitoring and evaluation mechanisms should include arrangements for the free, prior and informed consultation with the affected VMGs'
      - a) The consultant will describe the mechanisms and benchmarks appropriate to the project for monitoring, and evaluating the implementation of the VMGP.
      - b) Specify arrangements for participation of affected indigenous people in the preparation and validation of monitoring and evaluation reports. VMGP report will be presented to the implementing Agencies and then the World Bank for approval before implementation of the subprojects.
    - 6. Development of an accessible and robust grievance redress mechanism (GRM) to be applied during the project implementation to address grievances or complaints brought forward by VMGs. The GRM should consider the availability of customary dispute settlement mechanisms among the VMGs as well as the Kenyan judicial recourses for dispute resolution;

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- a) Accessible procedures appropriate to the project to address grievances by the affected VMGs arising from project implementation. When designing the grievance procedures, the consultant should take into account resolution of grievances at lowest levels possible; the availability of judicial recourse and customary dispute settlement mechanisms among the VMGs’.
  - b) Vulnerable and Marginalized Groups may encounter a grievance or a complaint against the project, its staff or contractors during project implementation. To address or resolve the grievance, a mechanism describing procedures, roles and responsibilities in grievance management process should be put in place taking into consideration the community’s conflict resolution mechanism that maybe more acceptable and effective among the VMG’s.
  - c) GRMs should also be prepared in consultation with the VMG’s. This should be in line with the provisions of the VMGF and the provisions of OP 4.10 Annex B
- 7. Cost estimates for implementing the action plans and a financing plan;
  - 8. Arrangements for the disclosure of the VMGP;
- a) This is a process of disclosing information to stakeholders, especially PAPs under VMGs. It entails disclosing the project information, including VMGPs to the respective affected groups at appropriate and accessible locations and in languages that are mostly understandable by the respective groups
  - b) Summarize their comments on the results of the social impact assessment and identify concerns raised during consultation and how these have been addressed in project design;
  - c) Document the process and outcome of consultations with affected indigenous people’s communities and any agreement resulting from such consultations for the project activities and safeguard measures addressing the impacts of such activities
  - d) Describe consultation and participation mechanisms to be used during implementation to ensure indigenous people’s participation during implementation
  - e) Confirm disclosure of the draft and final VMGP to the affected VMGs
  - f) In the case of project activities requiring broad community support, document the process and outcome of consultations with affected indigenous people’s communities and any agreement resulting from such consultations for the project activities and safeguard measures addressing the impacts of such activities;
- 9. A summary of the framework and results of the free, prior, and informed consultation with the affected VMGs that was carried out during project preparation and that led to broad community support for the project.

#### 10. **Socio-Economic benefits for VMGS**

An action plan of measures to ensure that the VMGs receive social and economic benefits that are culturally appropriate, including, if necessary, measures to enhance the capacity of the project implementing agencies.

The consultant will describe and specify the measures to ensure that the VMGs receive social and economic benefits that are culturally appropriate, and gender responsive.

#### 11. **Capacity Building**

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The consultant shall provide measures to strengthen the social, legal, and technical capabilities of

- (a) government institutions to address indigenous people’s issues in the project area
- (b) VMGs organizations in the project area to enable them to represent the affected the VMGs more effectively.

### **3.0 Methodology for preparing the VMGP**

The VMGP will be prepared through meaningful consultation with VMGs in line with the free, prior and informed consultation principles and requirements. In this regard, the consultant will ensure that the VMGs are actively and meaningfully involved in the identification of sustainable social and economic development measures that are culturally appropriate to them and/or for avoiding, minimizing, mitigating or compensating them for adverse effects (where applicable). To this end, the consultant shall propose a detailed methodology that clearly articulates the participatory and consultative methodologies and processes – in line with the free, prior and informed consultation principles – to be used in the preparation of the VMGP. These will include but not be limited to:

- Literature review, including among others, the review of the World Bank’s Operational Policy (OP 4.10) on VMGs and its related Annex, Annex B (see Appendix 8, OP 4.10, Annex B); the Kenyan policies, legislations and regulations on treatment of marginalized and minority groups, in particular, the Constitution of Kenya, 2010;
- Focused Group Discussions and semi-structured interviews that are gender and intergenerationally inclusive.

### **5.0 Deliverables**

These will include:

- A report that presents each of the items in 2 above
- Proof of the consultation process with VMGs, (including consultation dates, venues, list and signatures of attendees, photos of consultation sessions as well as minutes of the meeting detailing the results of the consultations such as issues/concerns and questions raised by VMGs, who raised them, responses given and how issues/concerns and questions have been addressed in the VMGP itself)
- A clear and concise documentation presenting any positive and negative views that may have been expressed during the consultations with VMGs and how these have been taken into account in the VMGP.

### **6.0 Qualifications**

The VGMP Expert will have the following qualifications:

- One (1) Social specialist to conduct VMGP with a minimum of a masters’ degree (or its equivalent) in Sociology, Participatory Rural Appraisal, Community development, Anthropology or other social sciences from a recognized university
- The core team conducting VMGP should comprise of a Gender specialist, a stakeholder

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Engagement specialist/ Community Development expert

- A minimum of ten years of relevant work experience in social development work
- At least 5 years' working knowledge in the World Bank's operational policies, in particular, OP 4.10 Social safeguards policies
- Proof of leadership in carrying out a SA and preparation of at least 5 VMGPs/Community Development Plans.
- Experience with Community development, gender mainstreaming issues, VMG's and participatory approaches, and in particular, experience in World Bank's social safeguard policies, direct experience in working on implementation of Social Assessment, VMGP and other environmental and social safeguard
- Provide a template report on Vulnerable and Marginalized Group Plan from previous engagement
- Participation in at least two SAs and at least two VMGP for a power project that met the requirements of an International Financial Institution, such as the World Bank, IFC, an Equator bank, AfDB, or EIB
- Good communication skills both verbal and written
- Fluency in English and Kiswahili is essential
- Demonstrates that the Consultant understands the overall scope and nature of the VMGP preparation work, and what will be required to respond satisfactorily to each component of the ToR;
- Demonstrates that the Consultant and his proposed team have relevant and appropriate experience to carry out all components of the ToR
- Detailed curriculum vitae for each team member must be included;
- Describes the overall methodology for carrying out each component of the ToR, including desk and field studies, and data collection and analysis methods
- Provides an initial plan of work, outputs, and staff assignments with levels of effort by task

## **7.0 Support to the Consultant**

Documents to be provided by REREC/KPLC

KPLC will make available to the consultants; the Constitution of Kenya, 2010, and other appropriate Kenyan laws and regulations (national and county) applicable to VMGs. In addition, KPLC will provide the Consultant with the World Bank policies on VMGs (OP 4.10) and their related Annexes. (These have been included in these ToRs as Appendices). Reference should be made to the safeguard documents prepared under KOSAP-SA, VMGF, RPF, ESMF

### **Report Format**

All reports shall be in the English Language, in soft editable format and hard copy acceptable to the World Bank and KPLC/REREC. The reports must be clear and concise

The Consultant shall provide sufficient and qualified personnel to complete the SA tasks for Mini-grids with VMG's presence in the assigned lot within 90days of contract signing and for the VMGP, within 60 days of contract signing.

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For each cluster, the consultant will assign:

- (i) a coordinator, and
  - (ii) a team leader for each task, who will be accountable for the timely completion of his task.
- The team for each task shall include the skill mix necessary to meet the objectives and scope of services.

**Services, Facilities and Tools**

The KPLC shall avail staff who shall work closely with the Consultant and represent the KPLC and REREC. This staff would represent the implementing agencies in different tasks: Assisting in provision of existing project information and data when required. These staff shall, however, be under the control of and be paid by the Client. They shall not be held responsible for any failure on the Consultant to deliver the project with the desired quality.

**NB: The prospective consultant to note as follow.**

**A unit cost of conducting Social Assessment and Vulnerable and Marginalized Group Plan per minigrid should be provided**

