



**STATE DEPARTMENT FOR CROP DEVELOPMENT
& AGRICULTURAL RESEARCH**

Office of the Principal Secretary



Land
Commercialization
Initiative

**TRANSFORMING
KENYA'S UNDERUTILIZED
AGRICULTURAL LAND
FOR ENHANCED FOOD SECURITY**

INVESTOR HANDBOOK

Contents

| | |
|--|-----------|
| List of Abbreviations and Acronyms | 3 |
| Definition of Terms | 3 |
| Introduction | 5 |
| About the Land Commercialization Initiative | 6 |
| 2.1 Background | 6 |
| 2.2 Enabling Legislation for the LCI | 6 |
| 2.3 How the LCI Works | 7 |
| Investing in the LCI | 10 |
| 3.1 Minimum Requirements | 10 |
| 3.2 Call for Request for proposals (RFP) | 11 |
| 3.3 Target Investors | 11 |
| 3.4 Investor Facilitation | 11 |
| 3.4 Investor Facilitation | 11 |
| LCI Investment Projects | 13 |
| 4.1 Galana Kulalu | 14 |
| 4.2 Bura Irrigation Scheme | 15 |
| 4.3 Egerton University | 16 |
| 4.4 Kiambere Farm | 17 |
| 4.5 Kiritum Field Unit | 18 |
| 4.6 Masinga Farm | 19 |
| 4.7 Tana Delta Irrigation Project (TDIP) | 20 |
| 4.8 Tana Irrigation Scheme | 21 |
| Investment Protection and Guarantees | 22 |
| 5.1 Right to Property and Life under the Constitution of Kenya | 22 |
| 5.2 Foreign Investment Protection Act (FIPA) Rev.2016 | 23 |
| 5.3 Investment Guarantees and Dispute Settlement Mechanisms | 23 |
| Annexes | 26 |
| Annex 1: Procedures and Requirements to Invest in Kenya | 26 |
| Annex 2: LCI's Enabling Legislations and Relevant Sections | 28 |



List of Abbreviations and Acronyms

| Acronym/ Abbreviation | Description |
|-----------------------|---|
| ADC | Agricultural Development Corporation |
| ATO | Agriculture Transformation Office |
| EOI | Expression of Interest |
| KEBS | Kenya Bureau of Standards |
| KenInvest | Kenya Invest Authority |
| KRA | Kenya Revenue Authority |
| LCI | Land Commercialization Initiative |
| MoALD | Ministry of Agriculture and Livestock Development |
| MoLPP | Ministry of Lands and Physical Planning |
| NEMA | National Environment Management Authority |
| NLC | National Land Commission |
| OAG | Office of the Attorney General |
| RFP | Request for Proposal |

Definition of Terms

“**Landowner**” also means the Lessor and the registered proprietor of land; landowner is also referred to as the Lessor in this document;

“**LCI Project**” means the Land Commercialization initiative and all the processes leading to it and facilitating it;

“**Lessee**” the person to whom a lease is granted or an investor in the Land.



Land
Commercialization
Initiative

Introduction

This handbook is intended to guide a prospective investor looking to invest in the Kenya Agribusiness sector through the Land Commercialization Initiative (LCI) being undertaken by the Ministry of Agriculture and Livestock Development (MoALD). It is designed to give comprehensive information to all investors - local and foreign to help them become familiar with the initiative and make informed decisions.

This document provides a comprehensive overview of the LCI, outlining its background, how it works, and how investors can get involved. Further, the handbook provides an overview of proposed sites for investment, covering factors such as land suitability, legal standing, and environmental and social impact factors. This section is informed by preliminary assessments conducted on potential investment land sites.

Lastly, it outlines relevant national laws and regulations that serve to protect both local and foreign investors which will be applicable to the Land Commercialization Initiative as well as protection guarantees for investors as outlined in Kenya's constitution.

About the Land Commercialization Initiative

2.1 Background

The Land Commercialization Initiative (LCI) is an initiative of the Kenya Ministry of Agriculture and Livestock Development (MoALD), implemented by the Agriculture Transformation Office (ATO) and led by the Department of Agricultural Engineering Services with the support of development partners.

Through LCI, MoALD is pursuing a large-scale agricultural commercialization model by making available underutilized land held by the state for private sector investment through leasing.

Anchored in the national food security and economic growth priorities, as illustrated in Figure 1 below, the LCI aims to transform Kenya's underutilized agricultural land for enhanced food security by providing opportunities for private sector investment in the agricultural sector. By doing so, it tackles four key issues characteristic of Kenya's agricultural sector:

- a) Underutilization of government-owned land for agricultural production.
- b) Commercialization of agricultural land at the expense of food production.
- c) Dependence on small scale farming to meet national nutritional demands.
- d) Low mechanization of agriculture, inhibiting optimum output for the local economy



Figure 1: National Agricultural Sector Priorities; Source: Kenya Kwanza Manifesto

2.2 Enabling Legislation for the LCI

The LCI, carries out its mandate through a Cabinet Memorandum that was issued in May of 2022, authorizing the commercialization of under-utilized public land for agricultural purposes. Leasing of public land will be conducted primarily under the Public Procurement and Asset Disposal Act.



2.3 How the LCI Works

The Ministry of Agriculture and Livestock Development (MoALD) identifies potential land sites for agricultural investment.

1

2

MoALD conducts an initial screening of the land sites to gather data on its suitability, environmental and social risks, and legal status prior to profiling the identified sites.

Land Suitability Assessment & Profiling

Assesses viability of sites in relation to soil quality, topography, climate, access to infrastructure and human resources amongst other factors that determine site readiness for agricultural activity.

Environmental and Social Impact Assessment

Screens sites' potential for environmental and social impact and opportunities/risks

Legal Assessment

Assess unencumbered sites to determine their viability and security for investors for example: availability of approved masterplan, geo-surveys and titles

Based on the findings from step 2 above, the Ministry prioritizes the most viable sites for investment

3

4

MoALD advertises selected land sites to the public through a government web portal.

MoALD issues an Expression of Interest (EOI) and subsequently Requests for Proposal (RFPs) to potential investors via the land portal and other forms of mass media and investor engagement

5

6

Applications from potential investors are received and screened

Shortlisted investors undertake due diligence as they deem necessary

7

8

MoALD facilitates negotiations on lease of land between landowners/ lessor and investors/lessee.

At this stage, a leasing agreement is drafted, registered, (in compliance with the Land Registration Act, 2012) and signed.

Key authorities and stakeholders at the leasing stage include:

| # | Institution | Role |
|---|--|---|
| 1 | National and local administration | Facilitate public participation and engagement |
| 2 | Communities | |
| 3 | Ministry of Agriculture and Livestock Development | Coordinates leasing agreement activities |
| 4 | Office of the Attorney General | Provides legal advice in the structuring of the leasing agreement |
| 5 | Landowner | Leases land to investors |
| 6 | Investors | Lease land from owners |
| 7 | Ministry of Lands and Physical Planning (MoLPP) and National Land Commission (NLC) | Ensure compliance with relevant land laws |

Investment evaluation: project proposals are evaluated based on the preliminary criteria below. This is followed by the appraisal of potential investments by a designated committee.

9

- Investor profile and background
- Investment scope and justification
- Case for investment
- Demand, technical and engineering, legal and institutional analysis
- Value of investment (operation costs, financial and economic viability)
- Environmental and social impact(s) on community

10

Operationalization of leases.





Investing in the LCI

3.1 Minimum Requirements

To invest in the LCI, investors are required to meet the following minimum requirements where they must:

1. Demonstrate financial capacity, experience, and expertise in delivering investment required.
2. Demonstrate how prior similar investments were financed and evidencing how the financing arrangements were set up.
3. Demonstrate deep experience in areas of the investment evidenced by having undertaken similar investments, especially in developing economies.
4. Demonstrate technical capacity, experience, and expertise to undertake planning, preparation of business case and risk management.
5. Demonstrate experience around executing large agriculture projects that will generate value to the public/citizens in terms of food security, income generation and / or export value.
6. Demonstrate capacity and experience on leveraging synergies and structuring financing and technical solutions to ensure the investment is delivered.
7. Demonstrate evidence of good planning to enhance community linkages to the project.
8. Demonstrate experience and adoption (or planned adoption) of sustainable green technologies, climate smart agriculture, and efficient use of power and water technologies.

In addition to the minimum required information, to be pre-qualified, investors/bidders shall provide the following information needed to assess their financial and technical capacity and qualification:

- **Letter of Expression of Interest:** A cover letter, not exceeding two pages in length, containing the investors single point of contact details (names, full physical address, address, email, telephone number) of who will handle all communications associated with their submission and stating the areas of expertise the firm/investor is able to offer in relation to the investment.
- **Firms' company profile:** The investors should provide a brief description of their organization and an outline of the recent experience relevant to the investment.
- **Financials:** Investor to provide a statement of financial capacity by a 3rd party or via an NDA audited accounts for the last 3 years of the entity/ firm demonstrating financial capability and amount that will be committing to the investment.
- **Organization of project team/description** of team members, qualification and responsibilities.
- **References** for previous project that the firm have implemented elsewhere.

Evaluation of the EOI and screening of investors will be based on a pre-qualification criteria set by the Ministry.

Pre-qualified investors who meet the minimum score shall be invited/requested to submit their investment proposals (i.e., feasibility study and business plan) through a call for Request for Proposals (RFP).



3.2 Call for Request for proposals (RFP)

The prequalified investors will be asked/requested to submit their proposals. These RFP's shall be a comprehensive feasibility study combined with a business plan for each LCI project.

The Ministry's LCI Secretariat shall advise investors on development of the feasibility study and business plan ensuring that it is guided by the LCI Project Evaluation template which will be made available to the investors. The Ministry's advertisement, receipt of bids and public opening of tenders shall follow procedures set out by the Public Procurement and Disposal Act.

3.3 Target Investors

The Land Commercialization Initiative is open to Kenyan and foreign investors keen on accessing land for commercial agriculture activities that align with the national agenda for increased food security and economic growth.

Investors for the LCI are expected to be agribusinesses, but may include qualified individuals, institutions, cooperatives, farmer groups, associations etc. This is not an exhaustive list, however, any individual or entity willing to allocate resources to invest in the LCI, and meets the general screen criteria, will be considered as a target investor for the initiative.

3.4 Investor Facilitation

To ensure efficiency and rapidity of local and foreign investors/businesses seeking registration services and acquiring of necessary permits and licences to operate in Kenya, the Kenya Investment Authority – KenInvest, shall provide pre-investment and aftercare services including the issuance of an investment certificate, which provides investors with pre-liminary and mandatory operational licenses.

Similarly, the LCI is working with the following authorities among others to further ease the process of investment in the LCI for all types of investors:

| # | Agencies/Institutions | Role |
|---|--|--|
| 1 | Office of the Attorney General (OAG): Business Registrar | <ul style="list-style-type: none">Register businesses.Oversee movable property security rights registry |
| 2 | Kenya Revenue Authority (KRA) | Ensure tax compliance |
| 3 | National Treasury | Advise on applicable tax incentives |
| 4 | Kenya Bureau of Standards | Product quality certification |
| 5 | National Environmental Management Authority | Approval of Environmental Impact Assessments |

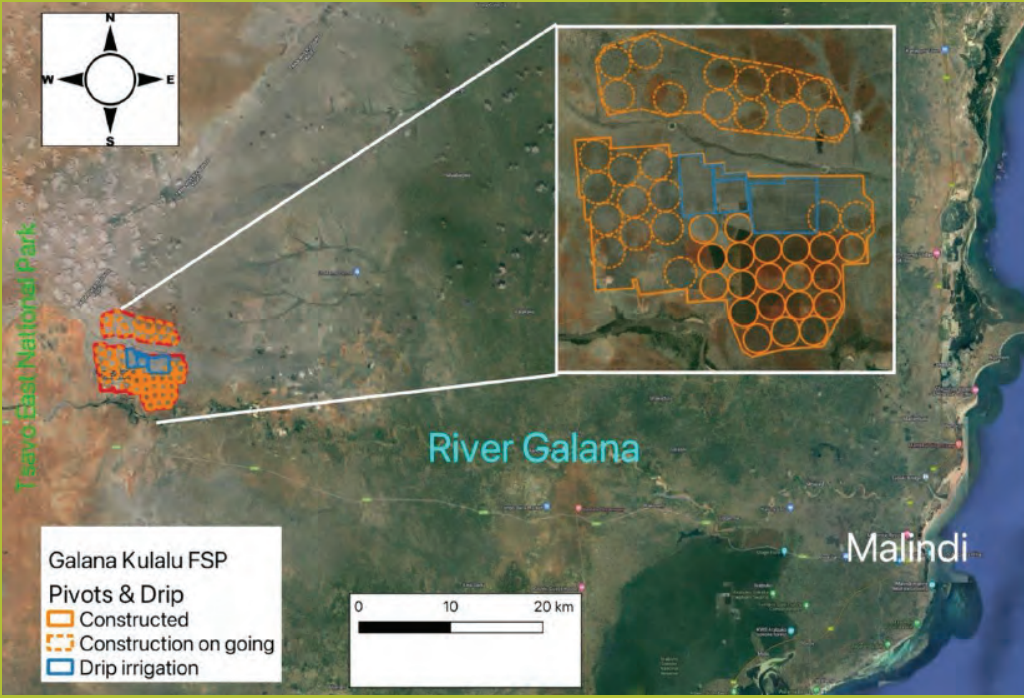


LCI Investment Projects

For this initial phase of the project, the Land Commercialization Initiative has prioritized the following parcels of land for investment:

1. Galana Kulalu.
2. Bura Irrigation Scheme.
3. Egerton University.
4. Kiambere Farm.
5. Kirimum Field Unit.
6. Masinga Farm.
7. Tana Delta Irrigation Project.
8. Tana Irrigation Scheme.

4.1 Galana Kulalu



Site Profile
 The Galana Kulalu project, situated 105 km Northwest of Malindi in Kilifi and Tana River Counties, focuses on developing infrastructure for water, irrigation, livestock, aquaculture, and eco-tourism. It encompasses diverse enterprises such as maize, sugarcane, horticulture, orchards, dairy, beef, fisheries, tourism, processing industries, and human settlement. The allocated site for LCI within this site is 10,000 acres.

Site Summary
 The Galana Kulalu Food Security Project offers an exceptional opportunity for large-scale investors seeking to develop food production for the Kenyan market. With a vast scope of production possibilities, including grains, oil crops, orchards, and livestock, the LCI site provides fertile ground for ambitious ventures. The project requires capable management teams ensuring a secure and profitable agricultural investment.

| | |
|--|---|
| <p>Location Kilifi and Tana River Counties</p> | <p>Sector Agriculture, Livestock and Fisheries</p> |
| <p>LCI Land Site 10,000 acres</p> | |
| <p>Land Owner National Irrigation Authority (NIA) for operation. Agricultural Development Corporation (ADC) for land tenure</p> | |

Land Suitability

Soil
 The site has a variety of soil types, with potential for agricultural development. Furthermore, the topsoil is adapted to support a wide range of crops and facilitate efficient pivot irrigation.

Climate
 Site is located in an arid zone suitable for irrigated production

Accessibility
 Site is well-equipped with essential physical infrastructure like roads, airstrip, generators, and irrigation systems, facilitating the utilization of its natural resources both within and around the region.

Energy
 Site currently relies on diesel generators for electricity. It is however the site is on track to be connected to the national grid.

Water
 Site benefits from a substantial catchment area for the Galana river which essential for irrigation.

Equipment and buildings

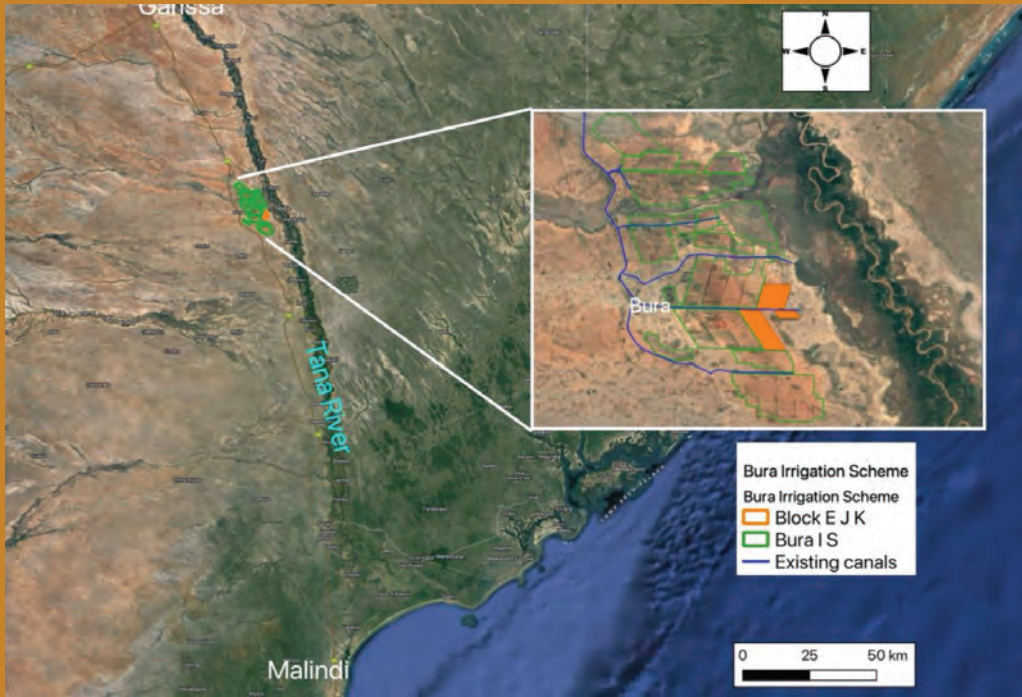
- Site is equipped with a range of essential machinery including tractors, combine harvesters, subsoilers, disks, seeders, boom sprayers, trailers, grain dryers, spreaders, and forklifts
- Site features buildings that include an Operations Centre housing a farm office, maintenance shed, spare parts storage, and staff offices/housing, as well as a Logistics Centre with an equipment shed and storage facilities for produce and chemicals.

Legal Status

Encumbrances
 Existing cases on the overall land do not interfere with the leaseability of the land.

Survey Status
 The allocated site requires proper demarcation to establish clear boundaries

4.2 Bura Irrigation Scheme



Site Profile

Bura Irrigation Scheme, established in 1978, draws water from the Tana River through a canal powered by a pumping station. Currently, 2,245 farmers share approximately 10,000 acres of irrigated land. The scheme has a total developable area of around 25,000 acres, of which 12,000 acres have been developed so far. This includes the 10,000 acres cultivated by small-scale farmers. The allocated site for LCI represents 1,500 acres.

Site Summary

The site is suitable for a medium scale investor keen on contributing to food production based on a combination of own crop with out-growers production in the local vicinity.

| | | | |
|--|---|--|---|
| | Location Tana River County | | Sector Crop production (cereals, vegetable and fruit); Livestock products production |
| | LCI Land Site 1,500 acres | | |
| | Land Owner National Irrigation Authority (NIA) | | |

Land Suitability

Soil

The soil is well-suited for flood irrigation, characterized by red soils with a balanced pH, offering a wide range of possibilities for crop cultivation.

Energy

Site currently relies on generators for power, with ongoing high voltage line building work for a more reliable and sustainable source of electricity.

Climate

The site features a semi-arid climate, which, with the installation of proper irrigation, is highly suitable for agriculture.

Water

- Site river flow is effectively matched with the installed pumping capacity, ensuring an optimal utilization of water resources.
- Site benefits from high-quality water suitable for irrigation, with limited silt accumulation.

Accessibility

Site enjoys close proximity to a well-maintained asphalt road.

Legal Status

Encumbrances

The site is free from any registered encumbrances or active litigations.

Survey Status

Overall land requires titling and specific demarcation needed for the allocated LCI site.

4.3 Egerton University



Site Profile

Egerton University, situated in the north-west region, is globally recognized for its outstanding achievements in agriculture and science. With a vast expanse of 2,600 acres of farmland, including a dedicated 200-acre block within the agro-science park for the Land Commercialization Initiative, the site holds exceptional quality that appeals to private investors seeking opportunities for value-added production, experimentation, and processing.

Site Summary

Egerton University proposed land is suitable for an investor willing to participate to the development of an agroscience park in a dynamic region, providing scalable knowledge in value addition, agro-processing, seed production or agricultural research and innovation.

| | | | | | |
|--|----------------------|--------------------|--|--------------------------------------|------------------------------|
| | Location | Nakuru County | | Sector | Crop production and pastures |
| | LCI Land Site | 200 acres | | Available land for investment | 200 acres |
| | Land Owner | Egerton University | | | |

Land Suitability

Soil

The soil at the site is highly conducive to cultivation, characterized by favorable attributes such as absence of pH and salt issues, ample organic matter content, and excellent texture and fertility.

Energy

Site benefits from the presence of a power grid, providing a reliable and readily available source of electricity.

Climate

Site is highly conducive to agriculture and supports a wide range of production types, without any need for irrigation.

Water

Site supports rainfed agriculture practices, eliminating the requirement for irrigation, and benefits from a potential connection to the University dams..

Accessibility

Site is conveniently located from Nairobi and is accessible to various vehicles including trucks, cars, and tractors via a well-maintained asphalt road..

Legal Status

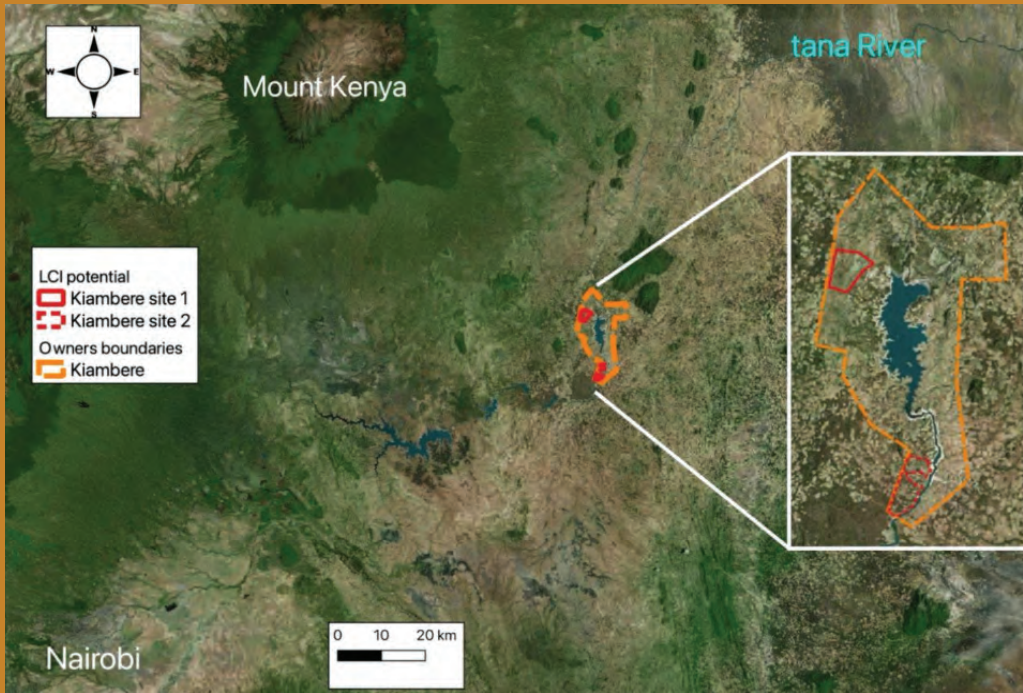
Encumbrances

Verification efforts on-going to ascertain that the allocated site is free from any litigation.

Survey Status

Allocated site is well demarcated

4.4 Kiambere Farm



Site Profile

The Tana and Athi River Development Authority (TARDA) has owned the site since 1984 when dam construction commenced. Between 1996 and 2005, a 350-acre irrigated farming project was established around the dam, featuring a variety of crops. However, declining reservoir water levels led to discontinuation due to prohibitive costs. TARDA now seeks new development prospects, including agricultural leases, solar panel installations, or tree plantations, for the surrounding land.

Site Summary

Kiambere farm land dedicated to LCI is suitable for an investor willing to develop a reforestation project (trees or fruits under irrigation), a wildlife conservancy park, or a solar energy production unit.

| | | | |
|--|---|--|-------------------------------|
| | Location Embu County | | Sector Crop production |
| | LCI Land Site 1,000 acres | | |
| | Land Owner Tana and Athi River Development Authority (TARDA) | | |

Land Suitability

Soil

Topsoil is adapted to a large scope of crops and is easy to cultivate.

Energy

The site enjoys close proximity to a power plant, ensuring readily available energy resources.

Climate

Kiambere Farm is located in a semi-arid climate, suitable for agriculture with proper irrigation .

Water

Tana River, the site's water source has a substantial catchment area, and its water quality is highly suitable for irrigation purposes.

Accessibility

The site benefits from connectivity with a well-constructed asphalt road providing convenient access to both Thika and Nairobi, as well as facilitating easy reach to the Kiambere 1 site..

Legal Status

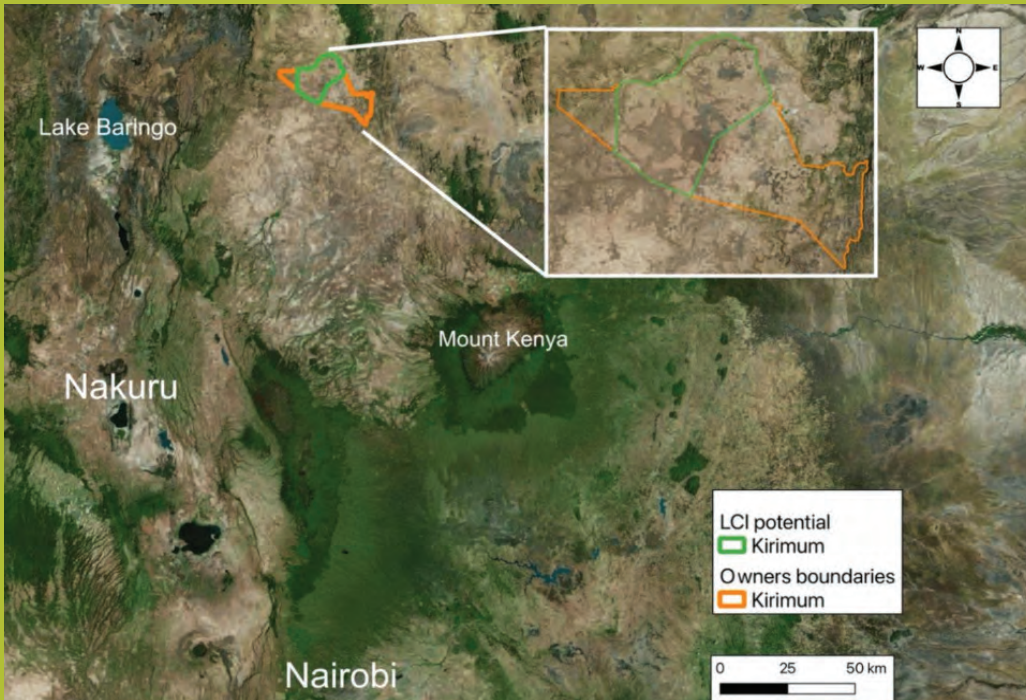
Encumbrances

Verification efforts on-going to ascertain that the allocated site is free from any litigation.

Survey Status

Allocated LCI site requires proper demarcation to establish clear boundaries.

4.5 Kirimum Field Unit



Site Profile

The Kirimum Field Unit is the biggest out of 22 agricultural sites owned by the National Youth Services (NYS), a semi-autonomous state corporation focused on training young individuals about crucial national matters. This unit specializes in livestock production, tree planting initiatives, and preservation of wildlife.

Site Summary

The Kirimum Field Unit LCI site offers a suitable environment for an organization aiming to develop food production for the Kenyan market, specifically focusing on livestock grazing. The site requires strong management capabilities to effectively navigate the pasture production conditions.

| | | | |
|--|--|--|------------------------------------|
| | Location Laikipia County | | Sector Livestock production |
| | LCI Land Site 20,000 acres | | |
| | Land Owner National Youth Service (NYS) | | |

Land Suitability

Soil
Allocated site has black cotton soil with very high clay content and is best for pasture.

Energy
Works for connection to national grid to be completed in 2023.

Climate
With sufficient irrigation, agriculture is viable on the site which is situated in an arid climate.

Water
The site has rainwater harvesting capacity with dams.

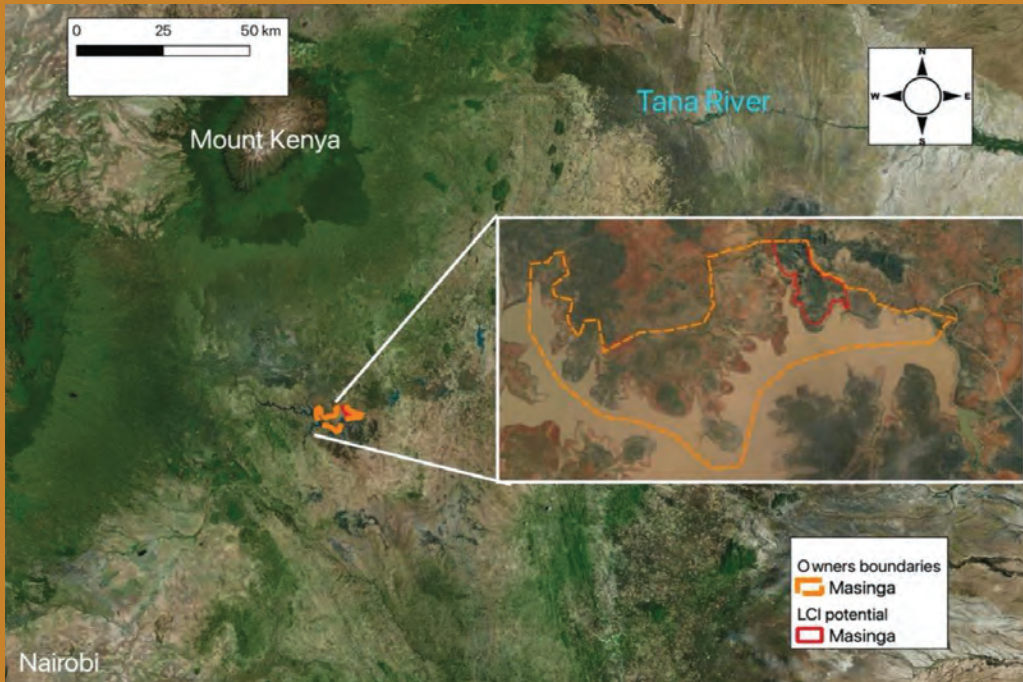
Accessibility
The Kirimum Field Unit is easily accessible with connection to a good asphalt road.

Legal Status

Encumbrances
There are no registered encumbrances against the Land.

Survey Status
Allocated LCI site requires proper demarcation to establish clear boundaries

4.6 Masinga Farm



Site Profile

The scenic Masinga Multipurpose Reservoir commissioned in 1982 is situated 150 km from Nairobi via Nairobi-Kangonde-Embu Highway. The Tana and Athi River Development Authority (TARDA) has set aside approximately 3,000 Ha classified as arable and suitable for agricultural development in Embu County. The allocated site for LCI represents 1,000 acres.

Site Summary

The site is well-suited for an investor who wishes to make a significant contribution to agricultural production by utilizing a local out-grower production scheme..

- Location** Embu County
- LCI Land Site** 1,000 acres
- Land Owner** Tana and Athi River Development Authority (TARDA)

Land Suitability

Soil

The topsoil at the site is attractive and possesses a broad adaptability to support a wide range of crops on a large scale.

Climate

The site features a semi-arid climate, which, with the installation of proper irrigation, is highly suitable for agriculture.

Accessibility

The site benefits from its convenient location along a well-maintained asphalt road facilitating smooth transportation of agricultural inputs and produce.

Energy

The site enjoys the advantage of being in close proximity to a major power production plant, providing easy linkage and access to reliable electricity supply.

Water

Irrigation is essential for supporting two (2) crop cycles per year.

Legal Status

Encumbrances

The site is free from any registered encumbrances or active litigations.

CSR

The site requires dedicated Corporate Social Responsibility (CSR) aimed at engaging the local community in a mutually beneficial relationship while fostering sustainable social and economic growth.

Survey Status

The site requires proper demarcation to establish clear boundaries.

4.7 Tana Delta Irrigation Project (TDIP)



Site Profile

The project spans across Tana River and Lamu County, covering a total area of 31,000 hectares and situated 110 km north of Malindi on the left bank of the Tana River. It offers gravity-fed irrigation, supporting diverse agricultural production such as corn, rice, watermelon, green grams, onions, and pasture. Sourcing water from the Tana River, one of Kenya's major rivers with a 1,000 km course, the LCI project's allocated Blocks 7 & 8 are conveniently located between the main water canal and the Garissa-Malindi asphalt road.

Site Summary

The Tana Delta Irrigation Project presents an ideal opportunity for a private investor to operate and leverage the vast surface area available, utilizing the existing facilities for efficient rice marketing and sales. TARDA could benefit from the success of this type of enterprise and would thus succeed brilliantly in its primary mission of developing the territory.

| | |
|--|--|
| <p>Location Tana River & Lamu Counties</p> | <p>Sector Agricultural production</p> |
| <p>LCI Land Site 1,000 acres</p> | |
| <p>Land Owner Tana and Athi River Development Authority (TARDA)</p> | |

Land Suitability

Soil

The topsoil at the site is highly versatile, suitable for a wide range of crops and flood irrigation, featuring adequate pH levels, well-balanced nutrient content, and the absence of stones, making the site generally favorable for agricultural productivity.

Energy

The LCI site is conveniently equipped with access to a reliable power grid, offering a readily available and stable source of electricity.

Climate

The site features a climate ranging from semi-arid to semi-humid, which is conducive to agriculture with adequate irrigation.

Water

Tana River, the site's water source has a substantial catchment area while the water quality is highly suitable for irrigation.

Accessibility

Tana Delta Irrigation Project is easily accessible with good asphalt roads.

Legal Status

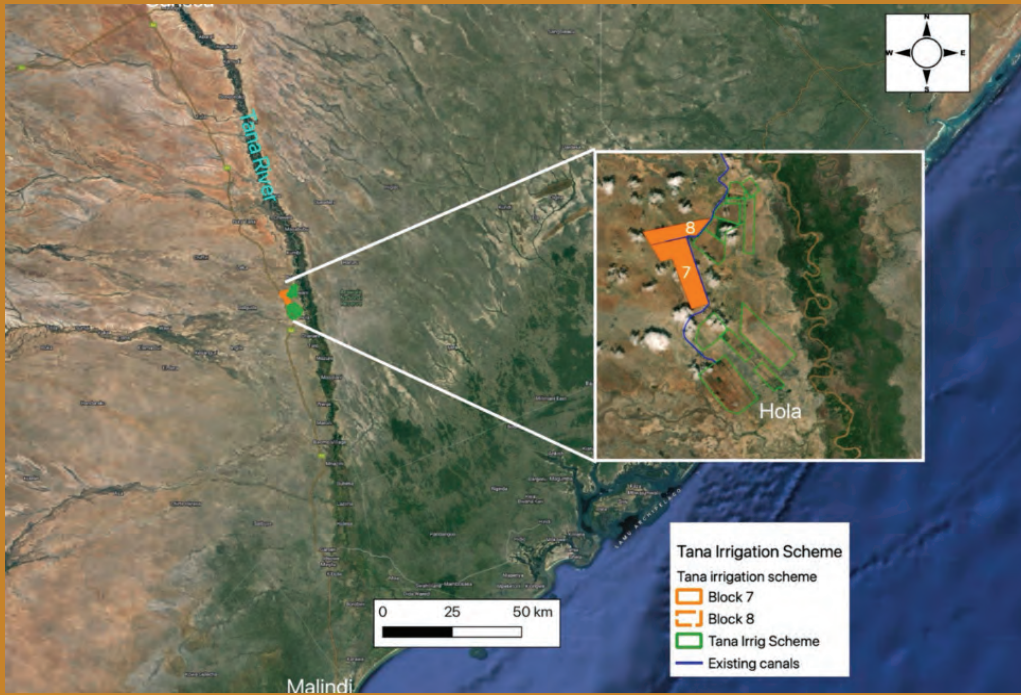
Encumbrances

Verification efforts on-going to ascertain that the allocated site is free from any litigation.

Survey Status

Allocated LCI site requires proper demarcation to establish clear boundaries.

4.8 Tana Irrigation Scheme



Site Profile

The Tana Irrigation Scheme, one of Kenya's oldest, is situated in the northern part of Hola Town. Spanning 9,000 acres, it utilizes a gravity-fed system drawing water from the Tana River, which stretches 1,000 km. The scheme supports diverse crops like rice, corn, watermelon, green grams, onions, and pasture. Blocks 7 & 8, allocated to the LCI project, lie between the primary water canal and the Garissa-Malindi asphalt road. Designed for future expansion, the scheme holds immense potential for bolstering production and ensuring food security in Kenya.

Site Summary

Tana Irrigation Scheme LCI site is suitable for a medium scale investor willing to develop food production for local market based on a combination of its own crop with outgrowers production sources in the local vicinity.

| | | | | | |
|--|----------------------|-------------------------------|--|---------------|-------------------------|
| | Location | Tana River County | | Sector | Agricultural production |
| | LCI Land Site | 1,533 acres | | | |
| | Land Owner | National Irrigation Authority | | | |

Land Suitability

Soil

Soil is suitable for flood irrigation and offers a vast range of possibilities for crop cultivation..

Energy

Ongoing construction is taking place for the high voltage power line to meet the area's growing demands.

Climate

With adequate irrigation , the site presents a favorable environment for agriculture, offering great potential for successful crop cultivation and productivity.

Water

The river flow at the site matches the installed pumping capacity, ensuring an efficient supply of water, while the water quality is highly suitable for irrigation purposes.

Accessibility

The site is conveniently situated along a well-maintained asphalt road, making it easily accessible.

Legal Status

Encumbrances

Site has no encumbrances/ litigations against it.

Survey Status

Allocated LCI site requires proper demarcation to establish clear boundaries.

Investment Protection and Guarantees

Protection of all investors in Kenya is governed primarily by the Kenya Constitution (2010), including contracts and domestic legislation. These instruments provide substantive protections and allow private enterprises to freely establish, acquire, and dispose of interest in business enterprises. These instruments provide foreign investors with key guarantees in their relationship with the Kenyan national and county governments: Currency conversion and transfer restrictions; expropriation which is not for a public policy purpose (public safety or public interest) and not fairly compensated; breach of contract and arbitrary state action including discrimination and denying basic procedural fairness/treatment. Foreign investors have international law-based rights granted to them under international investment agreements to which Kenya is a party, or other special provisions of domestic law such as the Foreign Investor Protection Act. Additionally, there exist procedural avenues to enforce protections accorded to foreign investors, such as recourse to the International Centre for Settlement of Investment Disputes (ICSID), ICSID Additional Facility and, UNCITRAL as Kenya is a member. Only foreign investors are granted this right pursuant to a specific IIA (i.e., “covered” investors), a specific contract, or relevant law. Kenya is also a member of the public multilateral system, Multilateral Investment Guarantee Agency (MIGA), which allows foreign investors to seek cover for currency transfer risks, expropriation, breach of contract or war and civil disturbance, among other risks, and a member of Africa Trade Insurance Agency, that insures against commercial and non-commercial risks. Other avenues also include liberalization commitments through the GATS and bilateral public systems like OPIC.

5.1 Right to Property and Life under the Constitution of Kenya

The Constitution of Kenya, under its Bill of Rights, guarantees the safety of life and property.

The Bill of Rights asserts that:

- Every person has the right to life;

Section 40(1), subject to Article 65, stipulates that every person has the right either individually or in association with others, to acquire and own property of any description and in any part of Kenya. Parliament shall not enact a law that permits the State or any person:

- o To arbitrarily deprive a person of property of any description or of any interest in, or right over, any property of any description;
- o To deprive a person of property of any description, or of any interest in, or right over, property of any description, unless the deprivation:
- o Results from an acquisition of land, or an interest in land, or a conversion of an interest in land, or title to land, in accordance with chapter 5;
- o Is for public purpose or in the public's interest and is carried out in accordance with the Constitution and any Act of Parliament that requires prompt payment in full of just compensation to the person and allows any person who has an interest in or right over that property a right of access to a court of law.

Furthermore:

- o Provision may be made for a compensation to be paid to occupants in good faith, for land acquired under clause (3), who may not hold title to the land;
- o The State shall support, promote, and protect the intellectual property rights of the people of Kenya;
- o The rights under this article do not extend to any property that has been unlawfully acquired.



5.2 Foreign Investment Protection Act (FIPA) Rev.2016

The Government of Kenya passed an Act of Parliament for the protection from deprivation of property. No property shall be compulsorily taken possession of except where:

- The acquisition is necessary in the interests of defense, public safety, public order, public morality, public health, town and country planning or the development or utilization of any property in such manner as to promote the public benefit; and
- The necessity therefore is such as to afford reasonable justification for the causing of any hardship that may result to any person having

an interest in or right over the property; and

- Prompt payment of full compensation is made

Every person having an interest or right in or over property which is compulsorily taken possession of or whose interest in or right over any property is compulsorily acquired has the right of direct access to the High Court for the determination of his interest or right, the legality of the action and the amount of compensation to which he is entitled.

5.3 Investment Guarantees and Dispute Settlement Mechanisms

a) Investment Promotion and Protection Agreements (IPPAs)/Bilateral Investment Treaties (BITs)

BITs/IPPAs provide a reciprocal arrangement for protection and promotion of investments and are intended to provide investors of one state investing into the territory of the other state with special protections under international law. As a measure of strengthening investor confidence, Kenya has negotiated and signed various BITs with a number of countries. Some of the key provisions covered by these BITs include Expropriation; Convertibility and repatriation; National treatment; Treatment of Investors and Dispute resolution. Kenya negotiates these agreements through an ad hoc negotiating committee chaired by the National Treasury and comprising of representatives from the Ministry of Foreign Affairs, Attorney General's Office and Kenya Investment Authority. Kenya has signed and ratified BITs with the Burundi, Finland, French, Italian, Netherlands, Korea, Kuwait, Qatar, Swiss Confederation, United Kingdom of the Great Britain, Ireland governments and republics and the OPEC Fund. Other BITs have been negotiated and signed but not yet ratified. Landowners should also consult National Government when signing contracts with investors where the Kenyan government has already signed BITs.

b) Multilateral Investment Guarantee Agency (MIGA)

Kenya is a signatory to the Multilateral Investment Guarantee Agency (MIGA), which insures private investment against non-commercial risks. MIGA helps investors and lenders deal with political risks by insuring eligible projects against losses relating to:

- Currency inconvertibility and transfer restriction;
- Breach of contract;
- Non-honoring of sovereign financial obligations.

MIGA also benefits investors and lenders by:

- Deterring harmful actions: MIGA's status as a member of the World Bank Group and its relationship with shareholder governments provides additional leverage in protecting investments;
- Resolving disputes: As an honest broker, MIGA intervenes at the first sign of trouble to resolve

potential investment disputes before they reach claim status, helping to maintain investments and keep revenues flowing;

- Providing environmental and social expertise: MIGA helps investors and lenders ensure that projects comply with what are considered to be the world's best social and environmental safeguards;
- Accessing funding: MIGA guarantees can help investors obtain project finance from banks and equity partners;
- Lowering borrowing;
- Increasing tenors: The agency can provide insurance coverage for up to 15 years (in some cases 20), which may increase the tenor of loans available to investors. Providing extensive country knowledge - MIGA applies decades of experience, global reach, and knowledge of developing countries to each transaction.

c) African Trade Insurance (ATI) Agency

Kenya is a member of ATI. The African Trade Insurance Agency (ATI) is Africa's export credit agency. ATI provides political risk and trade credit risk insurance products with the objective of reducing the business risk and cost of doing business in Africa.

d) International Centre for Settlement of Investment Disputes (ICSID)

Kenya is also a member of the International Centre for Settlement of Investment Disputes (ICSID) that guarantees arbitration of disputes between government and investors in a third-party country. ICSID is an autonomous international institution with over one hundred and forty member States. Today, ICSID is considered the leading international arbitration institution devoted to investor-State dispute settlement.

e) Other Mechanisms

- Industrial Court

In pursuance of Article 162(2) (a) of the Constitution, the Kenyan Government established the Industrial Court for settling employment and industrial relations.



SUPREME
BERRY PARVUS



Annexes

Annex 1: Procedures and Requirements to Invest in Kenya

To invest in the LCI, standard procedures and requirements for investment in the country apply to both local and foreign investors as summarized below:

Any investor in Kenya, local or foreign, is required by law to register a company in Kenya. This can take the following forms:-

1

- ◆ Registration of business name in Kenya;

- **Company registration form (Form CR1)**
- **Application for reservation of a company name (Form CR14): The name search process and company registration have been combined into one process and the applicant is no longer required to have form CR14 (Application for reservation of company name)**
- **Applicant must submit at least 3 names and then proceed to apply for company registration. The registrar of companies will register the approved name (amongst the minimum of 3 submitted for reservation)**
- **Memorandum of Association**
- **Particulars of the directors and secretary (Form CR2 and Form CR10)**
- **Statement of nominal capital**
- **Articles of association (however if model articles are adopted in entirety, there is no need for a copy to be lodged at the Companies Registry for filing)**
- **Notification of the residential address of directors and company secretary (Form CR8 and CR12)**
- **Kenyan national identification numbers of each director and secretary or, Kenyan foreigner certificate number, or in the case of a director who is not a Kenyan citizen and is not a resident of Kenya, the director's passport number will suffice**
- **A passport-sized photograph of each director and the company secretary**

- ◆ Incorporation and registration of a company in Kenya;
- ◆ Registration of a foreign-incorporated company as a branch office in Kenya.

2

The investor requires the approval of the project from competent authorities in health, environment, water and security, as deemed necessary.

After the approval of the National Environment Management Authority (NEMA), Health, Water and Security vetting has been received, KenInvest issues the investor with an Investment Certificate.

3

4

Immigration
• Special passes, work permits, and dependents passes from the Ministry of State for Immigration & Registration of Persons.



5

General requirements:

- **Registration with KRA to obtain a personal identification number and VAT number;**
- **Registration with the National Social Security Fund and the National Hospital Insurance Fund;**
- **Single business permit from the relevant county government;**
- **A business premises occupation license from the county government, for any building to be used for any commercial purpose.**

6

Special sector-specific licenses:

- ◆ **Agricultural production and distribution:**
 - Food and cash crops license;
 - Fisheries license;
 - Livestock license;
 - Animal breeding license;
 - Plant breeding license.
- ◆ **Manufacturing:**
 - Licenses, as required depending on the nature of the product being produced. All products require by the Kenya Bureau of Standards (KEBS) to ensure product quality.

To ensure efficiency and rapidity throughout the process of advertisement of sites for investment to the issuing of leases to investors, the Kenya Investment Authority - KenInvest (the national investment promotion and investor facilitation vehicle) will facilitate the onboarding of LCI investors. For local and foreign investors in the LCI, KenInvest shall provide pre-investment and aftercare services including the issuance of an investment certificate, which provides investors with pre-liminary and mandatory operational licenses.

Similarly, the LCI is working with the following authorities among others to further ease the process of investment in the LCI for all types of investors:

| # | Agencies/Institution | Role |
|---|--|---|
| 1 | Office of the Attorney General (OAG): Business Registrar | <ul style="list-style-type: none"> • Register businesses. • Oversee movable property security rights registry |
| 2 | Kenya Revenue Authority (KRA) | Ensure tax compliance |
| 3 | National Treasury | Advise on applicable tax incentives |
| 4 | Kenya Bureau of Standards | Product quality certification |
| 5 | National Environmental Management Authority | Approval of Environmental Impact Assessments |

Annex 2: LCI's Enabling Legislations and Relevant Sections

| # | Statute/Regulation | Relevant Section(s) |
|---|--|--|
| 1 | <p>The Constitution of Kenya (2010)</p> | <p>Article 40 guarantees everyone the right to own property, including land, anywhere in Kenya. However, this right is limited by Article 65 that limits noncitizens to owning land by leasehold tenures only, and not exceeding 99 years.</p> <p>Article 42 guarantees everyone the right to clean and healthy environment.</p> <p>Article 60 outlines principles that guide the land policy in Kenya, notably equity, efficiency, productiveness, and sustainability. The Article also guarantees security of land rights, protection of ecologically sensitive areas, among others, as regularly reviewed in the existing land policy.</p> <p>Article 62 defines public land and empowers county governments to hold different parcels of public land in trust for the people.</p> <p>The Article also designates part of public land that shall be administered by the National Land Commission (NLC), as established under Article 67.</p> <p>The Article also dictates that public land can only be disposed or used as specified by an Act of Parliament.</p> <p>Article 66 which allows the state to regulate any land in terms of interests and rights for the sake of defense, public safety, order, morality, health, and land use planning.</p> <p>The Article also requires parliament to legislate on how investments in property benefit the economies of local communities.</p> <p>Article 69 obliges the state to ensure that the environment is exploited, utilised, managed, and conserved equitably for the benefit of the people of Kenya.</p> <p>Article 69 also obliges every person of entity to cooperate with state organs and officials in ensuring he protection and ecologically sustainable development and use of natural resources.</p> |



Land Related Statutes

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| 2 | <p>Land Act No 6 of 2012</p> | <p>Section 4 outlines the Guiding Values and Principles for land management and administration – notably security of land rights, equitable access, technical and financial sustainability.</p> <p>Section 8 provides for management of public land via the National Land Commission whose mandate entails identification, evaluation, information sharing and recommendations on most optimal use of land.</p> <p>Section 9 addresses the procedures for conversion of land from one category to another – public to private use for this case. Specifically, Section 9(3) stipulates the need for approval from county or national assembly when converting public land to private use, subject to other valid and approved conditions set by the NLC.</p> <p>Section 12(1), (3), (7), (9), (20), (34) addresses various aspects touching on allocation of public land. These include:</p> <ul style="list-style-type: none"> • (Involvement of the CS or CEC under whose authority the land falls in seeking NLC's approval for the allocation NLC setting aside identified land for investment; • Conditions for the allocation of public land; • Reversion of allocated but undeveloped public land; • Licences for temporary purposes; • Possible subdivision of leasehold land subject to continuing interests. |
| 3 | <p>Land Laws Amendment Act of 2016</p> | <p>Section 39 of the Act repeals Section 18 of the NLC Act and Amends section 54 of the Land Act.</p> |
| 4 | <p>Community Land Act of 2016</p> | <p>Part Five of the Act deals with conversion of Community Land. It highlights the following key issues.</p> <ul style="list-style-type: none"> • Section 22; conversion of community land into public land. • Section 23; conversion of community land to private land. • The process of leasing unconverted community land (Section 32). |

| Land Related Statuses | |
|-----------------------|---|
| 5 | <p>Land Control Act (CAP 302)</p> <p>Part 4 of the Act deals with the control of dealings in agricultural land. Key issues entail:</p> <ul style="list-style-type: none"> • Obtaining consent from the Land • Control Board for transactions affecting agricultural land. • Procedure for application of such consent |
| 6 | <p>Physical Land Use Planning Act of 2019</p> <p>Part 2 identifies various institutions of involved in land use planning and outlines their functions. These institutions include the National Physical and Land Use Planning Consultative Forum, the National Land Commission, etc.</p> <p>Part 3 describes:</p> <ul style="list-style-type: none"> • Types of physical and land sue development plans, including the National Physical and Land Use Development Plan (NPLUD); • The process of preparation of a development plan; • The contents of a local physical land use development plan under Section 48; • How to obtain development permission and the prescribed form to be filled (Contained in Part 4 and the 3rd Schedule, respectively). <p>Responsible public institutions are required to prepare status reports to be submitted to the concerned CS (National Government) and CEC (County Government).</p> |
| 7 | <p>Land Registration Act NO 3 of 2012</p> <p>Section 6 of the Act outlines the procedure to be followed in establishing land registration units.</p> <p>Section 24 identifies implications of registration of land.</p> <p>Section 30 provides for the process of issuing of certificate of title and certificate of lease.</p> <p>Section 37 identifies the rights of a landowner.</p> |



Statutes on Agriculture

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| 8 | Agricultural Development Corporation Act (CAP 444) | The Authority is established under Section 3 and has the power to hold, manage and dispose of land; authentication of documents under Section 10 ; and the power to lease or otherwise acquire, and lease any movable or immovable property under Section 13(d) . Section 21 states that the corporation is exempted from stamp duty. |
| 9 | Plant Protection Act, 2012 | Section 3 of the Act specifies the duty of a land occupier or owner to take actions to stop the spread of pests or diseases attacking plants. It also addresses the right of inspectors and their agents to enter into buildings to destroy infected plants; check compliance with existing laws & regulations; the power of concerned cabinet secretary to order compensation for anyone whose produce is destroyed in line with the above, and the power to control importation or exportation of articles likely to spread pests or diseases. |
| 10 | Pyrethrum Act No. 22 Of 2013 | Part 3 establishes the Pyrethrum Development Fund to support pyrethrum producers and processors and the Pyrethrum Development Levy. Part 4 provides for licensing of entities interested in pyrethrum production and processing. |
| 11 | Kenya Agricultural and Livestock Research Organization (KALRO) Act | Investors can obtain the most current region specific findings about suitability of given crops and animals for agribusiness. |
| 12 | Agriculture and Food Authority (AFA) Act, 2013 | Applies to investments in food crops for commercial purposes, and to defining the scope of involvement by national and county governments' corresponding roles and responsibilities. |
| 13 | The Crops Act | Introduces pro-investment measures: <ul style="list-style-type: none"> i) How to reduce / circumvent unnecessary regulatory bureaucracy in crops subsector; ii) How to reduce unnecessary levies, taxes and other barriers to free movement of crop products and provide for a rationalized taxation system; iii) How to promote competitiveness in the crops sub-sector and develop diversified crop production and market opportunities; iv) How to attract and promote private investment in crop agriculture. |
| 14 | The Seed and Plant Varieties Act, 1972 | Provides testing and certification of seeds; control the importation of seeds. authorize measures to prevent injurious cross-pollination; authorize the grant of proprietary rights to persons breeding or discovering new varieties |

Statutes on Possible Financing

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| 15 | Agriculture Finance Act | The AFC assists in developing agriculture by, among other measures, making available loans to private companies and other persons who may be interested in Agriculture |
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Statutes on Agriculture

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| 16 | National Museums and Heritage Act | Section 5 of the Act gives the National Museums the power to lease, sale or exchange immovable property; Part VI of the Act is with respect to protected areas. It gives the minister the power to declare an area as a protected area under the Museum Act. Where such declaration is made the parties affected are entitle to compensation |
| 17 | Water Act of 2016 | Controls ways in which investors may divert or otherwise use waterways |
| 18 | The Irrigation Act of 2019 | The Act establishes of the National Irrigation Authority under Section 7(1) . The authority is able to take, purchase or otherwise acquire movable and immovable property (7(2)) . |
| | | Section 8(2) of the Act outlines the functions of the Authority, including to: (j) provide land in national irrigation schemes for public purposes. Section 9 composition of the board, while Section 12 provides for the establishment of the office of the Chief executive officer |
| 19 | Warehouse Receipt System Act | Enables government agencies to: i) Inspect warehouses for standards, security, and safety and inspection of stored commodities. ii) Secure the rights of transferors and transferees |
| 20 | The Investments Promotion Act, 2004 | The investor will as of right be issued with these licenses, upon payment of required fees |
| 21 | Labour Relations Act of 2007 | Part II of the Act provides for freedom association. It gives the employees the freedom to form, join and register a trade union. Section 6 gives the employer the freedom of association to join an employer's association. |
| 22 | Employment Act of 2007 | Part II provides for employment relations. It seeks to establish a relationship between the employer and the employee. Part V is with respect to the protection of salaries and wages, it obligates the employer to pay the entire wages to the employee with respect to work done. Part V provides for the rights and duties in employment. |



Government and Oversight Related Statuses

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| 23 | The County Governments Act No. 17 of 2012 | <p>Section 103 of the CGA outlines the objectives of county planning, among them to “facilitate the development of a well-balanced system of settlements and ensure productive use of scarce land, water and other resources for economic, social, ecological and other functions across a county.”</p> <p>Section 108 provide for the development of the County Integrated Development Plans to set the development agendas for various counties</p> |
| 24 | National Land Commissions Act of 2012 | <p>Section 3 of the Act mandates the NLC to manage public land on behalf of the County and National governments; and to assess tax on land and premiums on immovable property in any designated area. Section 3(2) empowers the NLC to alienate and monitor the registration of all rights and interests in land and ensure that public land under the management of the designated state agencies are used sustainably</p> <p>Section 18 gives the county Land Management Board the power to administer public land falling within their various jurisdiction</p> |
| 25 | Urban Areas and Cities Act No. 13 of 2011 | <p>Section 39 repeals section 18 of the NLC Act and then Amends Section 54 of the Land Act. Worth noting is that (The Urban Areas and Cities (Amendment) No. 3 Of 2019, only changes the membership of a ministerial ad hoc committee to delineate cities and municipals boundaries)</p> |
| 26 | Survey Act of 2012 | <p>Part 5 of the Act provides for steps to be followed in licensing and regulation of operations of surveyors, including disciplinary procedures against surveyors. Part 5 also outlines the conduct of surveys and government indemnity.</p> <p>Part 6 requires stakeholders to ensure proper preservation of survey marks</p> <p>Part 7 provides guidelines on management of survey plans and records</p> |
| 27 | Valuers Act (CAP) 532 | <p>Part 2 of the Act establishes the Valuers Registration Board that registers and regulates valuers</p> <p>Section 5 of the Act allows for registration of a valuer who is not an ordinary resident of Kenya</p> |
| 28 | Environmental Management and Coordination Act (CAP 387) of 2012 | <p>Part VI of the Act outlines the procedure for the application for an Environmental impact assessment test</p> |
| 29 | Environmental Land Court Act of 2011 | <p>Section 13 of the Act establishes original and appellate jurisdiction of the court to hear and determine disputes relating to:</p> <ul style="list-style-type: none"> (c) Land administration and management; (d) public, private and community land (e) Contracts, choses in action or other instruments granting enforceable interests in land. |

Government and Oversight Related Statuses

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| 30 | Employment and Labour relations Court | <p>Part II of the Act establishes the employment and labour relations court in accordance with Article 162(2) of the Constitution.</p> <p>Part III of the Act stipulates the jurisdiction of the Court with respect to labour relations.</p> |
| 31 | States Corporations Act Cap 446 | <p>Section 3 of the Act empowers the president to establish state corporations that can, according to Section 3 (c), hold and alienate immovable property such as land.</p> <p>Part IV of the Act requires every state corporation to:</p> <ol style="list-style-type: none"> i) prepare an estimate of the corporation's revenue and expenditure for every financial year, and ; ii) prepare proposals for of all projects to be undertaken by the state corporation, all of which are approved by the cabinet secretary responsible |
| 32 | Public Procurement and Asset Disposal Act of 2015 | <p>Section 3 of the Act requires public entities, including lessors to the LCI investors, to adhere to the principles of public procurement; Part VII similarly outlines the rules of public procurement that public entities should follow, while Part XII stipulates the requirement for preferences and reservation in procurement</p> |
| 33 | Price Control (Essential Goods) Act | <p>Section 2 of the Act empowers the cabinet secretary responsible to declare any goods to be essential commodities and determine the maximum prices of the commodities. However, this shall be in consultation with the industry and in consideration of any relevant treaty or convention ratified by Kenya.</p> |
| 34 | The Science, Technology and Innovation Act No. 28 of 2013 | <p>Part 2 Section 3 establishes The National Commission for Science, Technology and Innovation (NACOSTI) which is empowered to licence any research involving plants (among other things), including bringing in or taking out any object that may impact on the environment or culture of a place. The Section also provides for a ministerial exemption for licence to conduct the research</p> |
| 35 | East African Customs Management Act, 2004 | <p>Section 3 of the Act establishes the Directorate of Customs; appointment of Commissioner of Customs, and provides for goods subject to or exempt from taxation and other barriers</p> |
| 36 | The Biosafety Act | <p>Provides potential leeway for investors:</p> <ol style="list-style-type: none"> i) Under Section 28 for waiver of risk assessment ii) Section 7 offers a relatively short period of 90 to 150 days for making a decision on Environmental Release |
| 37 | Occupation Health and Safety Act of 2007 | <p>Part II provides that every employer has the general duty to ensure the safety, health and welfare at work of all persons. It provides that the employer has:</p> <ol style="list-style-type: none"> i) The duty to prepare a safety and health policy statement. ii) Establish a safety and health committee where the occupier has more than 20 persons employed in the workplace <p>Part V makes it mandatory for a work place to be registered. The occupier has the duty to ensure that the workplace is properly light, not overcrowded clean, properly ventilated and has proper drainage system. This is in accordance with Part VI.</p> |



Statutes on Tax and Related matters

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| 38 | Finance Act 2018 | Provision for VAT exemptions for equipment used in construction of grain storage. (Exemptions) |
| | | VAT exemption for raw materials used in the manufacture of animal feeds. |
| | | Common seeds (maize) are now subject to VAT at the standard rate of 16%. (Standard Rating) |
| | | Maize flour, cassava flour, wheat or meslin flour are now zero rated since they are considered staple foods. |
| 39 | Tax Laws (Amendment) Act 2018 | The while Act amends the VAT Act by moving certain items from being taxable at zero rate to being exempt. For example, Agricultural pest control products now subject to 16% VAT. |
| 40 | Income Tax Act CAP 470 | Section 11 of the Act provides for incomes that are exempted from tax and the extent of such exemption; the duration of such exemption; and the circumstances under which such an exemption may be reversed and the process to be followed. |
| 41 | Land Registration (General) Regulations of 2017 | Section 76 captures directives on leases and the procedures to be followed in leasing; the documents accompanying a lease for the purposes of registration. |
| | | Section 76(2)(f) on the information expected in sectional plans as further spelt out in the Sectional Properties Act. Such include a duly prescribed form to be filled is provided for under the sixth schedule. |
| | | Section 40(1) on ascertainment of missing or contested boundaries; Section 41(l) allows any interested person to apply to the Registrar for the ascertaining and fixing of boundaries of land under Section 19(1) of the land. |
| | | Section 42 that empowers the Registrar to order a registered proprietor to demarcate and maintain boundaries. Section 43 that allows a proprietor to apply to the Registrar for combination or subdivision of land under Section 22(1) . |
| 42 | Land Regulations of 2017 | Procedure for application for change of use or extension of user on leasehold land (Provided for under Section 19). |
| | | Section 31 which provides for the issuance of certificate of lease, and Section 76 on documents to accompany lease agreements. |
| 43 | Land (Extension and Renewal of Lease) Rules of 2017 | The Regulation provides for the procedure for extension of leases as stipulated under Part I , and the Procedure for renewal of leases as stipulated under Part III . |

Statutes on Tax and Related matters

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| 44 | Physical Land Use Planning (Classification of strategic and Inter-County Project) Regulations of 2019 | Section 4 (g) defines the types of projects that can be undertaken on public land that is held by the GoK including on reserved lands, and so on Section 5 (a-h) on understandings of strategic and inter-county projects. |
| 45 | Land Control Regulations 1967 | Section 2 has guidelines on obtaining consent in dealings affecting agricultural land under Part IV , procedure and the requisite documents accompanying such applications in Part V . Specifically, Section 2(a) guides on how to obtain the necessary exemptions from the Office of the Commissioner of Lands. |
| 46 | Environmental (Impact Assessment and Audit) Regulations 2003 | Section 3 provides for the application of the regulations to projects that touch on the environment; while Section 4 dictates the requirement to only initiate projects for which EIA has been concluded and approved. The Second Schedule has details on sustainable land use (securing soil fertility, biodiversity, social considerations, landscapes and land uses, and protection of water sources) |
| 47 | Public Procurement and Asset Disposal Regulations 2020 | Section 3 (b) has details on the entities – including county government and county government ones – that are subject to the Regulations. Section 90(1) on direct procurement by an accounting officer, guided by the threshold matrix in the 2nd Schedule. On its part, Section 132(1) contains details of procedure on amendments or variations to contracts owing to unforeseen circumstances at the stage of project design. Section 148(1) provides for terms under which a foreign contractor may apply for and benefit for a preference. |
| 48 | Physical and Land Use Planning (General Development Permission and Control) Regulations, 2021 | Section 7 captures the regulations which require developers to apply to the planning authority for approval of any proposed subdivision where these regulations apply, including public land. Section 13(3) requires submission of EIA & audit reports for planned developments together with the development application. On its part, Section 15(2)(a) requires that an application for development permission be accompanied with a certified copy of Title Deed or Certificate of Title or Certificate of Lease or other documents of ownership recognised under the laws of Kenya. Another relevant part is Section 15(2)(f) which allows an applicant who is not the registered owner of the land to lodge an application for development accompanied by a written consent of the registered owner of that land as per the provisions of Section 58 (4) of the Act. There is also Section 22 (1) that permits various forms of development subject to provisions in the Second Schedule and other lawful limitation, and Section 26(1) that allows relevant authorities or agencies to conduct site inspection and either authorise continuation of the development; require compliance with standards or conditions of approval, or issue demolition orders when buildings fall short of safety standards. |
| 49 | Physical and Land Use Planning (Planning Fees) Regulations 2021 | Section 4(1) outlines factors to be considered in determining the chargeable service fees for planning services, while Section 6 (2) has details on the powers of the county government planning authority to levy planning fees for physical and land use plans; Section 7 on waivers and exemptions from payment of the fees. |
| 50 | The Physical and Land Use Planning (Building) Regulations 2021 | Section 4(1) has details on the requirements to submit building plans for development permissions regarding any construction of new buildings or alterations of existing ones. Section 4(2) has details on exemptions from the application of these regulations, while Section 5(1) on expected standards and considerations when making any application under this regulation. |



