



FINAL REPORT

FREE PRIOR INFORMED CONSENT PROCESS & SENGWERR INDIGENOUS COMMUNITY ACTION PLAN ON The Eldoret-Iten Water Fund Project for Tropical Water Towers Conservation, Kenya

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LIST OF ACRONYMS AND ABBREVIATION

CFA	Community Forest Association
CIDP	County Integrated Development Plans
EIA	Environmental Impact Assessment
EIWF	Eldoret-Iten Water Fund
ESMP	Environment and Social Management Plan
ELDOWAS	Eldoret Water and Sanitation Company Limited
FPIC	Free Prior and Informed Consent
GEF	Global Environmental Facility
GRC	Grievance Redress Committee
GRM	Grievance Redress Mechanism
IFAD	International Fund for Agricultural Development
IFIs	International Financing Institutions'
IGAs	Income Generating Activities
IPs	Indigenous Peoples
IPAP	Indigenous Peoples Action Plan
IPLCs	Indigenous Peoples and Local Communities
ITEWASCO	Iten-Tambach, Water and Sewerage Company
KAM	Kenya Association of Manufacturers
KEFRI	Kenya Forestry Research Institute
KFS	Kenya Forest Service
KWTA	Kenya Water Towers Agency
NEMA	National Environment Management Authority
NLC	National Land Commission
PELIS	Plantations Establishment & Livelihoods Improvement
PMU	Project Management Unit
PSC	Project Steering Committee
SECAP	Social, Environmental and Climate Assessment Procedures
SICT	Sengwer Indigenous Community Trust)
SSC	Stakeholder Steering Committee (SSC)
TJRC	Truth Justice & Reconciliation Commission
TNC	The Nature Conservancy
WRMA	Water Resources Management Authority
WRUA	Water Resources Users Association

I. Background

a) Project Overview

1. The Eldoret-Iten Water Fund (EIWF) for Tropical Water Towers Conservation, Kenya, project is an environmental sustainability and sustainable natural resource management focused project, aspiring to enhance global environmental benefits and improve community's livelihoods.
2. The EIWF project is a co-financing initiative with funds from national and county¹ governments being supplemented by GEF's and/IFAD's funding, local corporate partners², and tariffs from Water utility companies. The project has so far received an initial co-financing commitment of up to USD 24,848,000.
3. The Project is being implemented within three of Kenya's most important water towers: Cherangany Hills, Elgeyo Hills, and the northern Mau Forest—the main sources of water for small-scale farming activities and the downstream cities of Eldoret and Iten in Uasin Gishu and Elgeyo Marakwet Counties respectively.
4. The project arises as response to emerging environmental, social and economic challenges such as increasing demands for land and water, worsening land degradation and deforestation, biodiversity loss, climate change and weak institutional infrastructure which is impacting the supply of clean water to fast-growing urban centers. Farmers have encroached on cloud forest reserves and are practicing intensive grazing and farming on steep slopes, resulting in reduced soil fertility and uncontrolled soil erosion.
5. Water quality is being compromised by siltation, and competition for water and the cost of water treatment have increased. Growing demand for charcoal and lumber, and a stretched capacity of law enforcement agents to enforce forest protection, is hastening the rate of deforestation. Groundwater levels are falling faster than they can be replenished by rain.
6. The project taps from the over 20 years experiences and successes of The Nature Conservancy (TNC) in implementing water funds - innovative tools that protect water at its source. The approach entails bringing together downstream water users, infrastructure developers, and conservation partners to invest in upstream conservation initiatives that improve water quality and quantity.
7. The Eldoret-Iten Water Fund (EIWF) will address the threat of forest degradation and work with local farmers to implement sustainable soil and water conservation measures.
8. The targeted EIWF project landscape is experiencing environmental pressures which is impacting agricultural, forestry, and water resources. Prolonged droughts and serious floods, contribute to food insecurity due to loss of crops and livestock, loss of biodiversity, land degradation etc.
9. Prioritized activities to be implemented under the project include: Replanting and conserving indigenous and natural forests, and improving plantation forest management; Conserving soil and water through good agricultural practices; agroforestry, and riparian and wetlands restoration; supporting alternative livelihoods for farmers such as *bee-and poultry-keeping*, digging farm ponds,

¹ Uasin Gishu County & Elgeyo-Marakwet

² E.g Coca Cola

and developing value chains for forest and non-forest products; promoting alternative energy sources and developing sound governance structures to ensure sustained investment in the EIWF.

10. The project presents an innovative opportunity for Government agencies, private sector, and communities to work collaboratively and in a participatory and community-driven manner to conserve biodiversity, restore landscapes and secure livelihoods.

b) Kenya's Legal & Policy Context for Citizen consultation & FPIC for Indigenous Communities

Kenya's National Context

11. From its preamble, the 2010 constitution underscores the need to respect the environment as the country's collective heritage and to utilize associated resources sustainably for the well-being of the individual, the family, *communities*, and the nation. It recalls and recognizes the essential values of human rights, equality, freedom, democracy, *social justice*, and the rule of law.³
12. Kenya's legal and policy environment has acknowledged the glaring realities of historical and contemporary social, political, and economic marginalization suffered by indigenous peoples' communities in the Country and has entrenched corrective measures, including calling for affirmative action measures⁴ (targeted funds, social protection, cash transfers, programmes and projects) and regional development⁵ to address social exclusion in development practice.
13. Article 260 of the 2010 constitution provides an elaborate definition of marginalized communities and groups in a way that recognizes their uniqueness and disadvantaged position. The article defines indigenous communities with regards to livelihoods practices (pastoralist, hunter gatherers), lifestyles/culture, minority status and geographical remoteness, and art. 204 identifies marginalization based on regional/geographical disparities.
14. The Bill of rights art. 19(1) commits to promote social justice and the realization of the potential of all human beings. Article 21(3) directs state organs to address the needs of the vulnerable groups within society, including women, older members of the society, persons with disability, children, members of minority and marginalized communities and members of ethnic, religious, or cultural communities.
15. Article 56 provides for affirmative action to remedy the situation and grants opportunities for these groups to among other things; enable them to participate in all aspects of development and governance and access opportunities which were hitherto inaccessible to them.
16. Rights to direct representation, participation, and consultation including through Free Prior and Informed Consent (FPIC) and through legally binding agreements for marginalized communities,⁶ including rights of access to benefits such as employment, investment, corporate social responsibility, royalties from investments in their lands, are provided for.⁷

³ The constitution of Kenya (2010), art. 3

⁴ The National Government Constituencies Development Fund (NG-CDF) Act, 2015 (amended in 2016); Policy on the Criteria for Identifying Marginalized Areas and Sharing of the Equalization Fund 2011 and Second Policy and Criteria For Sharing Revenue Among Marginalized Areas; Third Medium Term Plan 2018 – 2022 (MTP III)

⁵ The National policy framework for nomadic education 2010; National Policy for the Sustainable Development of Northern Kenya and other Arid Lands, 2012

⁶ Climate change Act 2016,

⁷ The Mining Act No. 12 of 2016; National Land Commission Act No. 5 Of 2012; Wildlife Conservation and Management Act No. 47 Of 2013

17. Respect to, protection and promotion of cultural diversity⁸ and Indigenous knowledge systems especially in the context of natural resource management including right of access to benefits associated to genetic resources are guaranteed.⁹
18. Art. 35 (1) of the Constitution provides the right of access to information by every citizen and the State is to publish and publicize any important information affecting the nation.
19. The Land Act (2012) calls upon the National Land Commission (NLC) to provide incentives for communities and individuals to invest in income generating natural resource management programmes, and establishment of measures to facilitate the access, use and co-management of forests, water and other resources by communities who have customary rights to these resources.¹⁰
20. Under the Forest Conservation and Management Act 2016, Community forests management is predicated on the registration of a Community Forest Association (CFA)¹¹, which allow communities to participate in the joint management of public or community/county forests as well as access associated benefits.
21. Decision-making and resources are devolved through County governments with a corresponding emphasis on equity, efficiency, accessibility, non-discrimination, transparency, accountability, citizen participation¹², and information sharing alongside a focus on basic needs.¹³
22. The County Governments Act No. 17 of 2012 provides that, the rights and interest of minorities and marginalized groups and communities are to be protected and integrated in county planning and development. Unity in diversity (equity and equality for all), enhanced citizen participation and affirmative action to address marginalization, poverty, and discrimination in development planning and actions are some of the primary aspirations of instituting devolution in the country. Pro-active inclusion of indigenous communities in development planning and actions is a primary duty of county governments,
23. Kenya, through the Ministry of Environment and Natural resources has developed and adopted *National guidelines for Free Prior Informed Consent (FPIC)*, primarily targeted at indigenous peoples. The guidelines aim at capturing and accounting for the experiences and the views of indigenous communities potentially affected by policies, programs, and interventions and in addition to safeguarding their interests.
24. National Environment Management Authority (NEMA) has also developed an *Environmental Impact Assessment (EIA), Review Guide For Communities*¹⁴ The guide seeks to enhance public participation in the project cycle management under the Environmental (Impact Assessment and Audit) Regulations, 2003. It targets the communities present in the project areas to assist them in reviewing and commenting on Environmental Impact Assessment (EIA) reports. It emphasizes the importance of participatory approaches in the EIA decision making process for promotion of sustainable

⁸ The National Policy on Culture and Heritage (2009):

⁹ The Kenya Constitution 2010 arts. 11; The Forest Conservation and Management Act of 2016; Climate change Act 2016; The Protection of Traditional Knowledge and Cultural Expressions Act, 2016.

¹⁰ The Land Act (2012); article 19,

¹¹ Gok, Forest Act 2005, section 46

¹² CoK 2010, Schedule Four Part (2), 14

¹³ County government Act 2012

¹⁴ National Environment Management Authority, 2014 – accessible from https://www.unclearn.org/wp-content/uploads/2021/12/Session-6_pre-reading_Environmental-Impact-Assessment-EIA-%E2%80%93-Review-Guide-for-Communities.pdf

development at County and National government levels & ensures that community needs, and aspirations are considered.

Kenya's International Commitments and Safeguards Policies of its Development Partners

25. Kenya has ratified most of the international treaties, conventions, agreements, and protocols related to human rights, environmental protection, conservation of natural resources and sustainable development; most of which have incorporated Indigenous peoples related safeguards, including FPIC.¹⁵ Article 2 (a) of the Constitution (2010), provides that every treaty and convention that Kenya is a party, forms part of the laws of Kenya.
26. Kenya's national development agenda benefits from, and is informed by UN agencies¹⁶, multilateral financing Institutions¹⁷, bilateral¹⁸ development agencies and partners who have entrenched policies for the inclusion of and safeguarding the interests and rights of marginalized or indigenous peoples in their funding modalities.
27. The safeguards policies aspire to ensure social justice for marginalized communities by articulating & supporting measures aimed at preventing, mitigating, and managing adverse impacts of development actions (do no harm) and/or pro-actively address marginalization (do good).
28. In implementing development projects supported by such partners, the country has often triggered application of the respective policies whenever communities that fit the profile stipulated in the respective policies are present within project areas.
29. Increasingly project specific engagement frameworks, founded on constitutional rights and International Financing Institutions' (IFIs) specific policy safeguards¹⁹ related to social, environmental, and indigenous peoples' rights are emerging as good practice in the country.²⁰
30. Consequently, the country has commissioned the elaboration of the Indigenous peoples planning instruments as operational tools for promoting the respect of rights and interests of marginalized communities, as well as for ensuring overall environmental and social sustainability of such development initiatives.
31. The EIWF project is co-financed by the Global Environment Facility (GEF) and the International Fund for Agricultural Development (IFAD). FPIC is a policy requirement for both the GEF's²¹ and IFAD's engagement with Indigenous peoples. The IFAD's Policies on Engagement with Indigenous Peoples including IFAD's Social, Environmental and Climate Assessment Procedures (SECAP, 2021) will particularly be relied on in ensuring safeguards for Indigenous peoples.
32. *Free, Prior and Informed Consent (FPIC)* is one of the nine Guiding Fundamental Principles which are to inform IFAD's country strategies, policy dialogue and project cycle. The other principles which

¹⁵ United Nations Framework Convention on Climate Change (UNFCCC) and the Paris Agreement UN Convention on Biological Diversity' (CBD) & Nagoya Protocol, Sustainable Development Goals (SDGs) The UN Guiding Principles on Business and Human Rights,

¹⁶ UNDP/UN-FAO, UNEP, Indigenous Peoples policies.

¹⁷ World Bank Environmental and Social Standards no. 7 on Indigenous Peoples/ Indigenous Peoples/Sub-Saharan African Historically Underserved Traditional Local Communities, The Green Climate FUND Policy on Indigenous Peoples.

¹⁸ The European Union Policy on Indigenous Peoples

¹⁹ The World Bank Environmental and Social Safeguards, The European Commission policy on IPs; the GCF Indigenous Peoples etc

²⁰ Gok, The National Treasury. Vulnerable and Marginalized Groups Framework (VMGF). Infrastructure Finance and Public, Private Partnership (IFPP) Project Additional Finance (AF). Dec. 2016

²¹ Principles and Guidelines for Engagement with Indigenous Peoples - <https://www.thegef.org/what-we-do/topics/indigenous-peoples>

remain relevant and critical in the EIWF project include cultural heritage and identity as assets, community-driven development, land, territories and resources & associated to customary laws and systems, indigenous peoples' knowledge, environmental issues, and climate change; access to markets; empowerment; and gender equality.

33. The EIWF project's commitment to FPIC resonates well with the aspirations of 'The Nature Conservancy's Human Rights Guide for Working with Indigenous Peoples and Local Communities' (IPLCs).²² The Guide facilitates TNC's efforts towards respect and support for the rights of IPLCs; ultimately improving conservation outcomes for people and nature by integrating human rights into TNC's conservation practice. The Guide is informed by nine Principles and Safeguards related to international human rights law and standards to which TNC has committed to.²³ FPIC is one of the Six Modules articulated in the Guide.²⁴

c) Objective(s) of the FPIC, IPAP Processes and Outcomes

34. FPIC is a global best practice in ensuring that communities understand, question, shape and voluntarily consent to investments. FPIC is critical in efforts towards protection and respect of the rights of affected community members, as well as to the success of the project.

35. The FPIC principles aims to facilitate the participation of indigenous peoples' communities in determining priorities and strategies for their own development and integrates 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.

36. The FPIC process ensures that Indigenous communities are informed about, and comprehend the full range (short, medium, and long-term) of social and environmental impacts – positive and negative – that can result from the proposed project.

37. FPIC ensures that IPs understand their rights to self-determined development and that their aspirations are considered in project planning so that they have ownership of and participate fully in decisions about development programs and initiatives undertaken in their localities.

38. Overall, the Indigenous Peoples Action Plan (IPAP) articulates measures that aim to ensure that the IPs receive social and economic benefits that *are fair, equitable & culturally appropriate, support for mitigation measures on potential negative impacts* arising from the project so as ensure the project has the broad on-going support of IPs, with their voices heard and accounted for. The specific objectives include:

- Identify/harvest and share with project partners any concerns that IPs have with regards to potential impacts for redress, facilitate building of trust, and realization of mutual understanding and respect between project partners, Indigenous Peoples, and other stakeholders.
- To give room for traditional knowledge, value systems & practices to inform the design, implementation, and impacts mitigation strategies; & ensure respect and support for the IPs' traditional social organizations, cultural heritage, traditional political and community organizations.

²² https://www.nature.org/content/dam/tnc/nature/en/documents/TNC_IPs_LCs_TraditionalKnowledge.pdf

²³ Free Choice and Self-Determination, Prior Engagement and Collaborative Relationships, Informed Decision-Making; Right to Withhold Consent; Meaningful Consultation; Equity; Inclusion; Accountability; Overarching Good Faith

²⁴ Learning & Early Discussions; Free, Prior & Informed Consent (FPIC); Conflict Resolution; Implementation; Documentation; Monitoring, Evaluation & Adaptation

- To ensure allocation of appropriate *budgetary resources & technical assistance* for the IPAP implementation, establishment of an *accountability mechanism* to ensure the planned benefits of the project are received by IPs and provide an effective mechanism for *monitoring implementation* of the aspirations of the IPAP. This includes agreement on a mechanism to resolve disputes or grievances in order to proactively address the likelihood that differences of opinion will arise.

II. Key Elements of the Action Plan

a) Consultation and FPIC processes with Indigenous Peoples within the Project Area

39. Through the EIWF project feasibility studies, the project had identified and acknowledged the presence of Indigenous peoples within the project landscape among whom are the Sengwer.
40. The EIWF Project implementing partners have undertaken several community engagements exercises to familiarize with the project's ground realities and to harvest community insights and concerns to help shape the design and implementation of the project.
41. A field Visit was undertaken to Moiben Catchment January 24th -26th 2020.²⁵ In addition, a project stakeholders meeting was held between February 15th – 19th 2020 which involved a visit and engagement with the Upper Sosiani Water Resources Users Association (WRUA) watershed, along river Sosiani and National Bamboo Demo Site supported by the Kenya Water Towers Agency.²⁶
42. A stakeholder assessment and engagement processes has been undertaken during project preparation phase. A Stakeholder Steering Committee (SSC) has been established, bringing together representatives of key stakeholders in the context of the EIWF project. Indigenous peoples' community groups present in the project areas are recognized as one of the key stakeholders of the EIWF project and hence are to be represented in the SSC. The SSC provides oversight in ensuring overall commitments made under the EIWF project in terms of deliverables and safeguards are adhered to.
43. EIWF project & its stakeholders also acknowledged the historical negative experiences of Indigenous peoples with respect to their role in forest conservation and general development practice.
44. A Consultative meeting between EIWF Project partners²⁷ and members of the Sengwer indigenous community was held on May 11th 2023 at Eldoret Nobal Hotel and thereafter at the community resident.²⁸ The consultation session was hosted by The Nature Conservancy (TNC) and was attended by 47 Sengwer indigenous peoples led by representative of their Council of Elders.
45. The Chairman reiterated self-identification of Sengwer as indigenous peoples and the affirmation by several local and international human rights bodies. The Chairman expressed the Sengwer community's disappointment with lack of involvement in the FPIC process in the initial stages the EIWF thus far & demanded for their community's involvement.
46. Sengwer community members expressed their concerns over the failure to raise their awareness on the EIWF project, lack of representation in SSC, and overall anticipated project benefits. Project partners present guaranteed the community of an opportunity for direct representation within SSC and further elaboration on EIWF project activities.

²⁵ The visit entailed convening meetings at Kaptalamwa Wetland, Kerrer forest block in the Tenderwa area, Kimnai and Yemit areas and Cheptongei area of the Moibem river.

²⁶ The EIWF Project Stakeholder meeting was held at Kaptagat Hotel

²⁷ The Ministry Of Environment, Climate Change & Forestry (MoECCF), And The Nature Conservancy (TNC)

²⁸ Ministry of Environment, Climate Change and Forestry (MoECCF); Kenya Water Towers Agency (KWTA).

47. The meeting explored the place of Sengwer communities within the EIWF project.²⁹ Project objectives, implementation arrangements, the role of the stakeholders steering committee (SSC) and the place of Free, Prior and Informed Consent (FPIC) were elaborated. More exchanges on nurturing tree seedlings were shared during a visit to a farm in the Stobag area in Kapkatet.
48. FPIC process with the Ogiek and the Cherangany, two other indigenous communities residing in the project area was already completed leading to consent and adoption of respective Indigenous Peoples Action Plans (IPAPs).
49. The TNC representative present elaborated the possible misunderstanding that led to the assumption that the Sengwer were consulted in the Cherangany targeted FPIC process. Dialogue meetings were to be set between the Sengwer community and KFS to alleviate any apprehensions in order enhance collaborative approaches under the EIWF.
50. Consultations were also undertaken with officials of Elgeyo Marakwet County government³⁰, and national government agencies³¹ to explore their role in the EIWF project and the place of Indigenous Communities present in the project area. The county government officials shared their reflections on how indigenous communities will be engaged and facilitated to benefit from project.
51. Under Activity 3.1.1.4 of the EIWF project document, commitment is made to proactively promote Indigenous communities' participation through the Free Prior Informed Consent (FPIC) process and the participatory development of an Indigenous Peoples Action Plan (IPAP) to facilitate access to project benefits as well as to respond to their interests and concerns.
52. A Free Prior Informed Consent (FPIC) consultation process with the Sengwer indigenous community was undertaken on 30th May 2023.³² The FPIC sessions were attended by representatives of Sengwer Indigenous community, representatives of the EIWF project Stakeholders Steering Committee (SSC) and facilitated by the IFAD's consultant on the FPIC process (See Annex for list of participants).
53. Engagement with Indigenous communities in the project site will continue in planning conservation activities, benefits sharing and monitoring arrangements. These consultations and engagement are part of the stages towards development of a participatory indigenous peoples' action plan (IPAP).

b) Brief profile of the Sengwer Indigenous community

54. The Sengwer is a traditional ethnic minority hunter gatherer forest Indigenous People totaling about 33,187 according to the 2009 census. Historical evidence indicates the existence of a location by the name Sengwer in 1939.³³ The community asserts that the name "Cherangani/ny" is a nickname given to them by Maasai – a derogatory name used interchangeably with term 'Dorobo' meaning, 'a people without' cattle.³⁴

²⁹ The FPIC engagement exercise took place at Pearl Lounge, Kachibora Trading Centre

³⁰ Meeting with Elgeyo Marakwet held on 19th December 2022, at County government officers, attended by Deputy Governor, CEC Environment, County Secretary, Director Environment

³¹ A focused Group Discussion attended by the KWTA regional coordinator and 2 officers, and KFS officer held at Sirikiwa Hotel, Eldoret on December 1st, 2023

³² FPIC Consultation meeting held on 30th May 2023 with IFAD's Consultant on FPIC, two representatives of the Stakeholders Steering Committee (SSC), TNC and ELDOWAS representatives.

³³ referred as the old name, also refer to Sir Willam Morris-Carter during 1932–1933 Kenya Land Commission evidence by Sengwer headmen Arap Kamussien and legend of Kipteber Kipteber

³⁴ The Kenya Land Commission Report 1932.

55. The Sengwer Indigenous communities is composed of seventeen subtribes³⁵. Further, the community is socially organized into eleven (11) clans based on their kinship relations. The indigenous traditional governance arrangement is based on age-set system (See Annex 1)
56. Despite historical land injustices that took place during colonial and post-colonial governments, Sengwer consider Cherangani Hills Ecosystem their ancestral lands and territories.
57. The Sengwer indigenous communities had submitted their historical and ancestral land rights claims over Embobut forest to the National Land Commission (NLC). The community still awaits a response from the NLC, which is vested the constitutional mandate for addressing historical land related claims.

c) Project Actors, Institutional Arrangements and Respective Responsibilities

58. The Project Steering Committee (PSC) provides oversight for overall project implementation, ensuring alignment of the Project to ongoing national and county programmes and activities. The committee has representation from national and county governments and Development partners including the PS Environment, IFAD, Elgeyo Marakwet and Uasin Ngishu county government representatives and TNC.
59. IFAD has responsibility for overall supervision of the project, financial management and reporting to the GEF. It is the fund manager and will undertake supervision, mid-term review and final evaluation of the project. IFAD also has responsibility for undertaking the social, environmental and climate risks and impacts assessments and for instituting the requisite mitigation measures.
60. The Nature Conservancy (TNC) has delegated responsibility from the National Treasury to serve as Lead project executing agency. TNC undertakes this role with support from other relevant state agencies present on the project area.³⁶ It will host and coordinate activities of the Project Management Unit (PMU) on behalf of the EIWF and undertake day-to-day management and implementation of the Project.
61. Financial management of the project will be a responsibility of TNC. The project will be implemented following TNC procurement regulations, complemented by the IFAD Project Procurement Guidelines. The PMU will be supported by the requisite administrative and technical staff.
62. A *Stakeholder Steering Committee (SSC)* is in place to provide guidance and support to implementation of day-to-day project activities. The SSC brings together major stakeholder groups and implementation partners (State Agencies³⁷, Academia³⁸, private sector³⁹ and community⁴⁰) to ensure effective and inclusive stakeholder engagement and coordination.

³⁵ Kamesiu, Kaplema, Kamengetiony, Kipsirat, Kapteeteekke, Kapsorme, Kimarich, Kaasango, Kaptapkitiny, Kapcherop, Kaptogom, Kapumpo, Kapcheper, Kapchepororwo, Kitony, Kamaron/Kaptokol, Kimala

³⁶ Water Resources Authority (WRA), Water Services Regulatory Board (WASREB) and the National Environment Management Authority (NEMA)

³⁷ County Government - Elgeyo-Marakwet and Uasin Gishu County; ELDOWAS, ITEWASCO, National agencies KWTA, KFS,

³⁸ University of Eldoret, Moi University

³⁹ Kenya Association of Manufacturers (KAM), Kenya National Chamber of Commerce & Industry (KNCCI)

⁴⁰ Water Resource User Associations (WRUA) and Community Forest Associations (CFAs) Indigenous Peoples and Local communities (IPLCs)

63. *County government:* Forest Conservation and management⁴¹, and promotion of cultural heritage and Indigenous knowledges are devolved functions. Counties remain strategically placed to impact indigenous peoples' rights and livelihoods securities. The County Integrated Development Plans (CIDPs) and associated Annual plans and budgets are the foundational development planning and operational tools upon which all development actions within the County are undertaken. Activities to be supported under the EIWF project are envisioned to align with priority interventions identified within the participating county's current CIDPs.
64. Other critical institutions with oversight, regulatory and operational functions working within the natural resources sector identified to be relevant in the context of implementation of EIWF project include Kenya Forest Service (KFS), Kenya Forestry Research Institute (KEFRI)", Kenya Water Towers (KWTA), National Environment Management (NEMA), Water Resources Management Authority (WRMA), and the Water Resources Users Associations (WRUAs). Each of these institutions has a designated role in the implementation of the EIWF project, hence the need for a proactive arrangement for engaging with Indigenous communities present in the project area.
65. In addition, other participating stakeholders whose work has a bearing on Indigenous communities' rights and livelihoods include the University of Eldoret, Kenya Association of Manufacturers (KAM), Kenya National Chamber of Commerce, and Industry and the Iten-Tambach, Water and Sewerage Company (ITEWASCO) and ELDOWAS, Capacity building on knowledge and perspective of these actors towards Indigenous communities needs to be enhanced.

d) Representation, Decision-making Arrangement & Communication

66. The overall goal of the representation and communication aspects of the project is to promote meaningfully effective interactions between project implementors and Indigenous communities in the project site. This will facilitate and ensure that all parties have project related details such as the process, frequency, or triggers for ongoing information sharing; decision making protocols, roles, and timelines.
67. The communication framework elaborates principles, strategies, and structures on how the EIWF Project partners and Indigenous communities in the project area should interact at each stage of the project to satisfy the aspiration of free, prior, and informed consent.
68. A *Sub project steering committee* will be formed where project activities will be implemented in indigenous communities' areas. The committee will comprise of TNC, County/Subcounty relevant sector ministries and Indigenous communities' representatives.
69. This committee will provide linkage between TNC as lead executing entity/PMU, the County administration and Indigenous communities present in the project area. It should meet quarterly and work as focal point for all Indigenous communities related issues during the implementation of the Indigenous Peoples Action plan (IPAP).
70. The committee will be informed about all relevant EIWF Project activities and should communicate such information through the Indigenous community's representatives to the SSC and the Sengwer Council of Elders. It should also gather information and feedback from the Sengwer communities to channel back to the SSC and the relevant project partners.

⁴¹ CoK 2010, Schedule Four Part (2), 10(b)

71. TNC and other project partners will make all relevant information available to the Sengwer indigenous communities present in the project area in an appropriate form, manner, and language. This information could be in the form of brochures, leaflets, or booklets, using local languages.
72. Summary of the Indigenous Peoples Action Plan will be made available in hard copies at: (i) Offices of the TNC; (ii) Sub County or County Office; and (iii) Sengwer Council of Elders. An electronic version of the IPAP agreed upon by the Sengwer community and Project Implementers will be placed on the official website of TNC and the official website of IFAD.

e) Affirmed Channels of communication with Sengwer Indigenous Community

73. EIWF project recognize and engage with the Sengwer as a separate and distinct indigenous community of the Cherangany Hills with its own structures of social organization including leadership & decision-making arrangements and clan system.
74. The Sengwer indigenous community consultative forum resolved that their primary channel of communication in the context of EIWF Project is the Sengwer Council of Elders. The Communication is to be delivered through the office of the Chair of the Council: official email: sengwer@sengwer.org. This is the platform through which Sengwer Indigenous Peoples' targeted future FPIC related activities are to be coordinated.
75. The Second layer of communication at the community level is through the Sengwer Indigenous Community Trust (SICT). SICT's official contacts: email address sengwertrust@gmail.com. P.O. BOX 3894-30100, Kitale – Kenya. The community held that the NGO has a legitimate voice and requisite competence in areas of Indigenous peoples' rights and interests, especially with respect to natural resources conservation and management within the Cherangany hills ecosystem.
76. Sengwer community requested direct representation in the EIWF project's Stakeholders Steering Committee (SSC) - at least two persons (a male and a female) identified by the community – and direct representation and engagement in project monitoring and evaluation & reporting activities.
- 77.
78. The link between the Sengwer Council of Elders and the EIWF project coordination and implementation units is the two Sengwer community representatives to the EIWF Project Stakeholders Steering Committees (SSC).
79. The Sengwer community representatives nominated: Mr Elias Kimaiyo Kibiwot, - 0722158158 and Ms Albina Jemasop Cheboi -0705972005 as their designate representatives within the EIWF Stakeholders Steering Committee. All necessary efforts should be made by the EIWF project Lead-agency to fully orient the nominated representatives on the EIWF project visions and activities.
80. The Sengwer indigenous community was equivocal in asserting that the present nominee said to represent IPs in the SSC doesn't represent their aspirations and shouldn't speak or act on their behalf.

f) Social and Environmental Risks

81. EIWF project Implementors, financiers and affected communities are committed to develop a shared understanding of the environmental, social, and cultural impacts of the project and how such impacts will be managed.
82. The project applied IFAD's Social, Environmental and Climate Assessment Procedures (SECAP) tool to identify project-specific social, environmental and climate risks and impacts, and in ensuring that preventive actions and mitigation measures are incorporated into project design and implementation.
83. Through a collaborative and partnership approach - the EIWF project has assessed the social and environmental risks associated with the project, rating it as moderate (category B). The main stakeholders relevant in mitigating identified challenges within the project areas include - KFS, KWTA, NEMA, WRA, WRUAs, The TNC and counties.
84. Some of the identified environmental risks included: Farming along riparian and wetlands leading to siltation and sedimentation of water sources, ii) pollution of water sources through environmentally unfriendly practices such as agrochemicals upstream, washing effluent, discharge into water sources, planting of eucalyptus tree species near wetlands or water sources; iii) land and mudslides arising from poor land use practices such as farming and/construction on steep slopes, iv) land degradation and deforestation associated with overreliance on fuel wood & charcoal, abuse of the Shamba/PELIS system, overstocking and overgrazing in forests, v) Weak local NRM institutions (CFAs, WRUAs) and their poor coordination, and vi) weak or lack of environmental policies and insufficient resources at county.
85. Some of the potential social risks identified included i) unclear benefits sharing mechanisms ii) conflicts over lack of clarity on access, ownership and control over natural resources, iii) absence of FPIC where Indigenous communities are present in the project area, iv) failure to account for gender disparities and inequalities in areas of women participation in beneficial livelihood activities and decision-making arrangement, and v) Youth unemployment among others.
86. The social assessment ultimately aims to ensure that the proposed project interventions are supported by institutions including - Indigenous communities' - with adequate capacities, that activities supported are socially and culturally acceptable in the context of IPs; mitigate adverse impacts, optimize equitable benefit sharing and promote environmental sustainability.
87. Responsibility of developing and implementing safeguards measures would lie with the TNC as lead implementing agency with oversight role resting with IFAD. Dedicated individual(s) will be identified within the TNC to advance and monitor implementation of the IPAP.

g) Safeguards: Mitigating against Potential adverse impacts

88. An Inception workshop was organised by the PMU, IFAD and TNC together with the GEF focal person in the Ministry of Environment and Forestry to share the objectives, obtain a full buy-in from all stakeholders and launch the project. The sharing entailed orientation by IFAD on M&E and reporting procedures and processes, including safeguards requirements.
89. IFAD will provide safeguards training to the PMU, project implementing partners, private sector entities implementing the project, and other relevant stakeholders. The training will be focused on various risk management tools, including on outcomes of the FPIC process & IPAP and opportunities to enhance positive outcomes, monitoring of actions and reporting progress, including collaborative action with NEMA.

90. The project will undertake an environmental impact assessment (EIA) and develop an environment and social management plan (ESMP) for each of the participating counties to ensure that potential and existing risks identified during the design period are addressed,
91. The proposed ESMP will provide mitigation actions for dealing with conflicts and risks around land, and in managing collaboration with relevant national government agencies, county governments and Indigenous communities.
92. IFAD will provide oversight over transparency and accountability throughout the project life cycle by:
(i) disclosing draft and final Environmental and Social Impact Assessments, ESMPs, and other relevant documents to stakeholders in easily accessible formats; and (ii) responding to all concerns and complaints in a timely manner.
93. The project commits to comply with good practice on Labour and working conditions as informed by national laws and ILO best practices, ensuring prevention of all forms of forced labour, child labour and discrimination in project sites, including considering affirmative action arrangements for marginalized communities in access to opportunities presented by the EIWf project.
94. The project will promote acceptable standards of occupational health and safety for example, Best practices on community health, safety and security in areas of water quality, safe use of water pans to prevent injuries from falls, or vector diseases, safe use of agrochemicals and the disposal of related waste, Soil and water conservation measures (landslides and mudslides) and energy saving cook stoves and biogas (to address respiratory diseases), will be promoted.
95. A grievance, complain and redress mechanism for the project will be established to ensure compliance with IFAD's social and environmental policies, TNC guidelines on human rights, and relevant national and county safeguards.
96. IFAD in collaboration with TNC and other key project partners will carry out periodic reviews of beneficiary and grievance data to ensure targeted locations where indigenous communities are present are reached and recurring complaints investigated to ensure mitigation measures to avoid, minimize, mitigate, or compensate for these adverse effects are undertaken. Number and type of complaints lodged with the program and the actions taken will be tracked, and appropriate mitigation measures planned and implemented.
97. Special attention will be given to other vulnerable and marginalized groups such as women, unemployed youth, including among Indigenous communities. Project Gender and Youth Action Plans will be developed. Safeguards monitoring indicators for indigenous communities will be embedded in the project's M&E framework.

h) Securing Project Benefits for Indigenous Communities within Project Area(s)

98. The Sengwer Council of Elders having consulted with their broader Sengwer Indigenous Peoples of Cherangany Hills proposed the following principles and livelihoods activities as potential areas in which the EIWf project should invest in to facilitate respect for rights, community ownership and support, security of local livelihoods and optimization of benefits to be derived from the EIWf project.
99. The Community looks forward to working closely with the EIWf project partners for effective and efficient restoration, rehabilitation and protection of Cherangany Hills Water Tower while respecting the land rights of Sengwer indigenous peoples.
100. Overall, the community welcomed the Free Prior and Informed Consent (FPIC) process undertaken under the EIWf project and called for sustained engagement of the Sengwer community in all project

activities and the integration of a human rights-based approach (HRBAs) in all stages of project as a key pillar to safeguarding against any potential human rights violations. The EIWF project should therefore provide resources for:

- *Conservation and land restoration activities:* Support activities towards restoration, rehabilitation and protection of Cherangany Hills Water Tower including areas around Koropkwen, Kapkok and Kaptirbai glades in Embobut forest. To this end, the EIWF project in collaboration with KFS should set aside 10 acres of land close to Tanguk KFS Camp in Embobut forest for Sengwer community to establish indigenous trees and bamboo nursery and Sengwer Cultural and Information/Research Centre to promote indigenous knowledge systems and practices & ecotourism related activities to diversify community income streams. During the life of the EIWF project support the hosting and undertaking of an *annual climate justice and tree planting week* at the start of long rains in April, to help the community's participation in restoration and conservation of degraded forests and fragile ecosystems in Cherangany hills.
- *Income Generating Activities:* Support implementation of sustainable income generating initiatives for the Sengwer community including improved livestock (dairy cows and sheep) breeds, Beehives for beekeeping, herbal medicine, water bottling by enabling production, value addition, branding, patenting, and marketing so as to reduce the issue of overgrazing and overstocking in Embobut forest and other forest blocks in Cherangany hills.
- *Improved & Sustainable Land use:* Support activities towards improved sustainable land use and management including zonation i.e., zone areas for habitation, grazing, conservation and restoration (fragile ecosystems, water springs, swamps, riverbanks); cultural and spiritual sites; herbal sites; wildlife areas; beekeeping areas and restricted zones in Embobut forest and other Cherangani forest blocks. Consider Kapkok, Kaptirbai and Koropkwen glades in Embobut forest for habitation under conservation conditions.
- *Facilitate uptake of Indigenous knowledge systems and practices related to nature conservation:* That EIWF project consults with the Sengwer Council of Elders and Sengwer Indigenous Community Trust on indigenous conservation approaches, water spring and riverbank protection and selection of appropriate tree species suitable for the diverse ecological zones within the Cherangany ecosystem. EIWF project to recognize Sengwer Bio-Cultural Community Protocol & integrate Sengwer by-laws on forest conservation and land use practices.
- *Capacity Building:* Support efforts towards enhanced governance and administrative capacities of the Sengwer Council of Elders in the context of the EIWF project to contribute to conservation and land restoration efforts including playing a key role in dispute & conflict resolutions and management.
- *Forest monitoring:* Empower Sengwer community forest scouts by training, provide uniform and small monthly allowance to supplement KFS manpower on conservation matters or whatever is needed to help on matters of conservation under supervision of the Sengwer council of elders.
- *Employment opportunities:* Enable realization of the aspirations of constitutional provisions on affirmative action in access to services and opportunities by marginalized communities by pro-actively availing employment opportunities to members of the Sengwer community within the EIWF project.

101. Other overarching principles and approaches requested by the Sengwer indigenous peoples under the EIWF Project. The EIWF project should:

- Recognize, respect, and promote human rights, including indigenous peoples' rights as enshrined in the Constitution of Kenya and other relevant international Human rights instruments for which Kenya is committed to. This is in addition to promoting unity and respect for all stakeholders to ensure harmony and minimize conflict.
- Devise *cost-accounting and benefit sharing frameworks* to ensure members of the Sengwer indigenous communities benefit directly from project activities and future anticipated benefits associated with ecosystems services derived from their ancestral homes of the Cherangany hills ecosystem such as royalties and carbon credit among others.
- Create special dispute resolution committees drawn from project stakeholder groups and representatives of Sengwer Indigenous communities (independently nominated by the community) within the project area to oversee and deal with disputes arising from the project activities and ensuring cordial relations with actors within the project area.
- EIWF project facilitate dialogue between Sengwer indigenous peoples and the community groups identifying themselves as Cherangany to help resolve dispute and misunderstanding and promote ownership, cordial and collaborative implementation of the project activities.

102. The requested support and activities of interests shared (par. 100 above) by the Sengwer indigenous communities generally resonates with the stated outcomes under the EIWF project. This includes, improved management of over 85,000 hectares in forest-protected areas⁴², conservation of riparian land for the benefit of all stakeholders, enhanced sustainable alternative livelihoods options (beekeeping, potato value chain, and addressing diminishing water volumes and quality) and increased farm and household productivity and income among other aspirations.⁴³

103. Consultation with the Elgeyo Marakwet County Government officials, including the Deputy governor and the CEC environment revealed the County government i) is fully supportive of the aspirations of the EIWF project, ii) has committed some funds for related activities through its department of environment and climate change, and iii) is familiar and committed to address the plight of indigenous communities within the County.

104. Focused group discussion with some of the national government EIWF Project stakeholders - KWTA and KFS – revealed the inherent strategic opportunities and their willingness to partner with Indigenous communities in the project area to facilitate optimal positive project outcomes for communities. These agencies acknowledge the priceless contribution of indigenous communities in catchment protection and forests conservation. KFS expressed the urgent need to pro-actively provide support to enable CFAs compliance to legal requirements in the Country, as at the time of the discussion only 30% of those present in the landscape were compliant.

105. The agencies (KWTA & KFS) are committed to support the indigenous communities in awareness raising on relevant policies, enhancing their engagement in catchment protection & participatory forest management, including through strengthening the role of CFAs to promote a balance between the aspiration of nature conservation and livelihoods needs of communities.

⁴² The protect forest blocks include: Cheboit, Chemurokoi, Kaisungor, Kaptagat, Kerrer, Kipkabus (Uasin Gishu), Kipkabus (Elgeyo-Marakwet), Kipkunurr, Northern Tinderet, Sogotio, Toropket

⁴³ Eldoret-Iten Water Fund Project Fact Sheet

106. Sengwer is of the view according to article 63 (2)(d)(ii) that Embobut and other mentioned blocks in Cherangani hills is their ancestral Lands, therefore as they pursue their historical claims in court⁴⁴ and through NLC there is need to recognise Sengwer by-laws and customary ways of conservation instead of adopting CFA that discriminates against them while recognizing access & user rights of forest adjacent communities.

i) Capacity building and enhancing opportunities for project benefits.

107. Relevant regulatory agencies such as WRA and NEMA, KWTA will undertake capacity building activities targeted at indigenous communities to promote and enforce wetland protection measures e.g. appropriate farming practices such as terraces and conservation agriculture and promotion of alternate livelihoods for communities around wetlands.

108. Relevant County departments WRA, NEMA, will undertake sensitization and training activities with the farmers on appropriate and safe use of agrochemicals, prevention of water pollution and training on safe water use, construction of livestock watering troughs and fencing off water sources.

109. Relevant County department, WRUAs, KFS, KWTA, NEMA will proactively and consistently engage Sengwer indigenous communities through their Council of Elders, and CBOs to develop & implement their ecosystem conservation plans including establishment of nurseries to supply required tree seedling and in promotion of alternative household energy sources such as biogas, solar energy and improved cook stoves or energy saving stoves.

110. Relevant County departments, KWTA, WRA, WRUAs will engage indigenous communities in activities aimed at promoting protection of riparian land including through establishment of nurseries and planting of indigenous trees along riparian land.

111. Relevant County departments, KWTA, WRA, will undertake capacity assessment and training of WRUAs and the Sengwer Council of Elders to facilitate the strengthening of their governance and management structures, development of participatory forest management plans for any existing CFAs and sub-catchment management plans for WRUAs. These stakeholders will also explore, identify, and promote opportunities for sustainable livelihoods diversification options or Income generating activities associated with the forestry sector to be implemented in partnership with indigenous communities such as planting and sale of tree seedlings, bee keeping and fruit trees.

112. TNC, KWTA, WRA, KFS, and relevant County departments will proactively involve Sengwer indigenous community present in the project area in the planned sensitization and exchange learning activities related to farm forest activities such as agroforestry, fruit trees and other livelihood benefits – bee keeping, establishment and sale of honey and seedlings to facilitate fair and equitable access to benefits.

⁴⁴ Conservatory stopping further evictions of the Sengwer community out of Embobut forest pending full determination of the matter by the Court. Ref. Civil Application No. 150 Of 2020 Between David Kiptum Yator & 23 Others Applicants and Hon. Attorney General & 14 Others Respondents (Being an appeal from the judgment of the Environment and Land Court at Eldoret (Kibunja, J.) delivered on 13th May, 2020 in ELC Petition No. 15 Of 2013 ***** (Consolidated With ELC PETITION NO. 3 OF 2018)

113. WRA, NEMA, KWTA, KFS, security agencies, and relevant county departments in collaboration with already established government multiagency unit dealing with resource use conflicts, will promote and support pre-emptive approaches in addressing resource use conflicts. Such effort will entail promotion of rainwater harvesting (e.g. water pans at household level;) minimize or stop illegal and over abstraction of water, water pollution, farming on riparian land and on wetlands; Rehabilitation of dams, water sources and building on and strengthening indigenous community based grievance redress.
114. TNC, KWTA and relevant county departments will promote income generation activities aimed at addressing glaring youth unemployment and associated insecurity among indigenous communities including activities such as bee keeping, tree nursery establishment, youth engagement in information communication technology (ICT) based monitoring techniques such as use of Drones among others.
115. TNC, through enhanced beneficiary outreach and communication delivery - will support efforts towards raising awareness of Indigenous communities in the project area on their rights and what they are entitled to constitutionally. These include right to development, representation, to be heard at different levels of governance, protection of cultural heritage including language and participation in leadership.

j) Grievance Redress Mechanism

116. IFAD requires that projects are carried out in compliance with its policies, standards, and safeguards. It also requires that recipient of its funding implement project-level grievance redress mechanisms that are accessible and inclusive in order to receive and facilitate the resolution of concerns and grievances related to the environmental and social performance of projects.
117. IFAD has an established complaints procedure to receive and facilitate the resolution of concerns and complaints regarding alleged non-compliance of its environmental and social policies, and the mandatory aspects of SECAP in the context of IFAD-supported projects.
118. The objective of the grievance redress mechanism (GRM) is to provide arrangements for accessible procedures appropriate to the project to address grievances by the affected indigenous communities arising from project implementation. The mechanism also considers the availability of judicial recourse and customary dispute settlement mechanisms among the Indigenous communities.
119. Consulted Sengwer Indigenous community representatives present in the project area expressed their desire for an arrangement for resolution of grievances and conflicts at the lowest level, i.e. at the community level, using their traditional dispute resolution systems to the extent possible.
120. The GRM in the context of the EIWF will seek to integrate both indigenous and corporate ways of resolving problems into the complaint's mechanism to ensure mutually acceptable processes and outcomes.
121. The GRM in the context of the EIWF project is designed with the objective of solving disputes at the earliest possible time for the sake of all parties concerned. This will ultimately minimize referring such matters to the law courts for resolution which would otherwise be costly and take a considerably

longer time. Yet, access to the mechanism is without prejudice to the complainant's right to legal recourse.

122. A GRM integrated within existing structures at national, county and community levels will be established to ensure that persons affected by the project have an avenue to raise and have their grievances resolved.
123. A Grievance Redress Committee (GRC) will be established at the project area. The GRC will comprise of; - Sengwer Indigenous community, an CBOs/NGOs active in the area, Women and youth representative present in the project area, relevant department of the national & county government and Project lead agency representatives. The GRC is to be formed and activated during the IPAP implementation process to allow indigenous communities sufficient time to lodge complaints and safeguard their recognized interests.
124. The grievance procedure will be simple and administered as far as possible at the local levels to facilitate access, flexibility and ensure transparency. Traditional dispute resolution structures existing among the Sengwer Indigenous communities will be used as the first step in resolving grievances experienced at the community level informed by a thorough investigation of the facts.
125. As a proactive measure, the TNC in consultation with the community will designate an independent person/focal point with regularized schedules to monitor incidences of complaints experienced among vulnerable groups within indigenous communities such as women and youth, to ensure that their concerns have been identified, articulated, and promptly addressed.
126. As part of the GRM, the Indigenous communities will be provided with a variety of options for communicating issues, grievances, and concerns, including in writing, orally, by telephone, over the internet or through more informal methods.
127. To facilitate uptake of the GRM services, when needed, requisite capacity building/awareness raising will be undertaken among Sengwer Indigenous communities present in the project area. Assistance will also be given to Indigenous communities to document and record the complaint, whenever need arises.
128. A grievance log will be maintained by TNC documenting and recording how complaints are logged, assessed, assigned to an individual for management, tracked and closed out or "signed off" when resolved, ideally with the complainant(s) being consulted, where appropriate, and informed of the resolution. In addition, provision will be made for confidentiality of information or anonymity of the complainant (s) whenever necessary.
129. Capacity of the existing interagency team dealing with conflicts and security issues within the Elgeyo Marakwet County and community level mechanism on resolving disputes and conflicts will be strengthened.
130. IFAD is committed to working with the affected parties to resolve complaints; (i) provisions for project-level grievance redress mechanisms to complement IFAD's Complaints Procedure;⁴⁵ which commits to responding to all concerns and complaints in a timely manner, (ii) ensuring that the complaints procedure and project-level grievance mechanism are easily accessible to affected persons, culturally appropriate, responsive and efficient; and (iii) maintaining records of all complaints and their outcomes.

⁴⁵ <https://www.ifad.org/en/accountability-and-complaints-procedures>

131. In all cases, if the complainants disagree with IFAD's response, they may submit a request to SECAPcomplaints@ifad.org and request that an impartial review be carried out by the Office of the Vice-President.
132. All the grievances that will not be successfully resolved by the GRC, IFAD's complain procedure, or which the Indigenous communities are dissatisfied with in terms of resolution will be channelled to the existing structures in Kenya for handling grievance. The Constitution of Kenya (CoK) has provided for issue-specific courts (Labour, land, and environment etc). Courts will serve as the ultimate stop in the event of disputes or complaints that cannot be resolved through other alternative means.

k) Monitoring and Evaluation

133. Output 3.1.1 of the EIWF project document commits to development and adoption of a M&E system for and with local stakeholders and county decision makers within the two participating counties. Key indicators generated from the FPIC/IPAP reports and ESMPs will be embedded into the project's operational monitoring framework and the PMU tasked with ensuring progress in its implementation over the project period.
134. The M&E system will be deployed at two levels of project management: PMU, and county implementation and support teams, including relevant partner organizations. M&E will also be designed on the basis of the indicators and means of verification specified in the EIWF project results framework.
135. The implementation of the IPAP will be monitored by all implementing agencies and a monitoring system involving own staff, partner implementing agencies, county governments, and Indigenous communities will be established to ensure effective implementation of the IPAP.
136. A set of monitoring indicators have been determined during FPIC and IPAP development process. An independent M&E expert/consultants will be engaged by the implementing agencies to verify monitoring information of the IPAP, as necessary.
137. The monitoring and evaluation indicators for Indigenous peoples includes: i) compliance of activities undertaken to the objectives and methods identified in the IPAP ii) process and threshold of consultation at the community level; (ii) direct representation of IPs in decision-making arrangements and relevant activities; (iii) any potential negative impacts of the project and mitigation measures; (iv) accessibility, use and outcomes of the grievance redress mechanism, v) impact of the project on income and standard of living within the communities inter alia access to project benefits i.e. support for alternate livelihoods, enhanced opportunities for Income Generating Activities (IGAs), capacity building, access to employment opportunities vi) incorporation of Indigenous knowledge systems and practices on natural resources management and the inclusion of women and youth.
138. The external agencies will collect baseline data, including qualitative information and analyze the same to assess the impacts of the project on Indigenous communities. External experts will advise on compliance issues, and if any significant issues are found.
139. TNC will collect required data/information and regularly analyze project outputs and impacts considering impact on Sengwer Indigenous communities, and periodically report the results to the IFAD, as deemed appropriate.

140. Annual Project progress reports will be prepared by TNC in collaboration with IFAD, as part of the overall M&E reporting requirements including assessment of project performance within IPs' territories against the set indicators and aspirations of the IPAP.

I) Costs & Budgetary Implications for IPAP Implementation:

141. All costs for implementation of the IPAP will be financed by the EIWF project. Activities costs will be estimated through consultation with designated representative of Sengwer. indigenous peoples. Project resources will therefore be made available to support consultation/meetings, information dissemination, capacity building efforts, livelihoods diversification & IGAs. implementation & monitoring, operationalizing the grievance redress mechanisms as described in the IPAP. In addition, efforts will be made to proactively consider provision of employment opportunities for members of the Sengwer community within the EIWF project.

Table 1: Indicative Budget - Sengwer Indigenous community Action Plan

	Indicative Budgetary Item	Unit cost (Kshs)
1.	Consultation/meetings, information dissemination - Facilitate inclusive participation of IPs with adequate gender and intergenerational representation; customary/traditional IPs organizations	250,000.00
2.	Capacity Building & skills development - Capacity assessment and training of WRUAs & Sengwer Council of Elders - Support for development & implementation of ecosystem conservation plans, participatory forest management plans for CFAs and sub-catchment management plans for WRUAs	500,000.00
3.	Promotion of Environmental-friendly alternate livelihoods, IGAs & self-employment training - Establishment of nurseries. - alternative household energy sources (biogas, solar energy, improved cook stoves/energy saving stoves - promotion of rainwater harvesting (e.g. water pans and water) to minimize natural resource conflict - Planting and sale of tree seedlings, bee keeping and fruit trees - Climate justice week – Tree planting exercise	3,500,000.00
	Addressing identified social and environmental risks – Sensitization & support - Wetland protection, - appropriate farming practices, - appropriate and safe use of agrochemicals, - prevention of water pollution & safe use - construction of livestock watering troughs and fencing off water sources	500,000.00
4.	Implementation & monitoring, GRM (Participation in SSC - Establishment & operationalization of the GRM including support activities of the GRC, - Monitoring and reporting	250,000.00
5.		
	Total	5,000,000

III. Other Issues of Interest raised by the Sengwer Indigenous communities.

142. These are issues raised by the indigenous community, which might be beyond the scope of the current reach of EIWF Project but remain of critical interest for Sengwer indigenous peoples.
- 143.
144. The Sengwer called for recognition of Kipteberr, Sogotio, Kerer, Chemurgoi, Koisungor, and other gazetted forests as Sengwer ancestral lands and community forests for conservation – in tandem with Article 63(2)(ii)(d) of the Constitution of Kenya.
145. Support gazettelement, recognition and promotion of Kipteberr Mountain as Sengwer spiritual and cultural site – and that an ecotourism centre be established to promote its conservation to serve as an additional revenue stream for Sengwer peoples (Kipteberr is a legendary Mountain to Sengwer people with attachment since time immemorial).
146. Support Tangu and Maron primary schools to be elevated to boarding schools facilities to help Sengwer children study peacefully while their parents struggle with recognition of their land tenure rights claims.
147. Establishment of a community fund: Beyond direct EIWF project associated benefits, in the long-term, the EIWF project and ELDOWAS should set up a community fund (based on Corporate social responsibility) capitalized from funds collected from the established Eldoret-Iten Water Fund and ELDOWAS to annually support Sengwer community social & economic activities such as bursaries, scholarships. The community have continued to serve as faithful stewards of the Water Catchment within the Cherangany hills.

ANNEX 2: SENGWER CLANS, TOTEMS AND AGE SETS

a) Sengwer Sub-Tribes: The Sengwer Indigenous Community is comprised of seventeen subtribes⁴⁶

b) Sengwer Clans And Totems

Sengwer Clans	Totems	Daughters Referred As
Toyoi	<ul style="list-style-type: none"> • Ilat Nyowoo Nyipo Rop (Thunder) 	Toyoi
Kapon	<ul style="list-style-type: none"> • Morooroch Nyipo Pei (Frog), • Morooroch Nyipo Sang (Toad), • Cheplaanga (Leopard) 	Kapon
Kaptul	<ul style="list-style-type: none"> • Cheptipi (Jackal)) 	Tula
Talai	<ul style="list-style-type: none"> • Cheprak Nyi Lel Kaat (White neck Crow), • Ngetuny (Lion) 	Talaa
Moi	<ul style="list-style-type: none"> • Soo Kaapumbai (Buffalo), • Soo Kapketieny, (Kongoni) 	Kimoi
Kopil/Kaptoso	<ul style="list-style-type: none"> • Seese (Dog), • Sapit (Porcupine), • Cheprak Nyi Tui (Crow bird with blackneck), • Cheptuke (Dove), • Tora (Wildpig), • Ng'omuyoo (Dig dig) 	Kopilo
Sogom	<ul style="list-style-type: none"> • Chepsiireere (Hawk) 	Sogomo
Sot	<ul style="list-style-type: none"> • Asis (Sun), Mokyoo (Maggot) 	Soti
Saniak	<ul style="list-style-type: none"> • Prech (Safari Ants), • Chereere (Monkey) 	Saniako
Terik	<ul style="list-style-type: none"> • Ilat Nyi Mining (Thunder), • Pelio (Elephant) 	Teriki
Kaptung	<ul style="list-style-type: none"> • Kimaket (Hyena) 	Tungo

⁴⁶ Kamesiu, Kaplema, Kamengetiony, Kipsirat, Kapteeteekkee, Kapsorme, Kimarich, Kaasango, Kaptapkitiny, Kapcherop, Kaptogom, Kapumpo, Kapcheper, Kapcheperorwo, Kitony, Kamaron/Kaptokol, Kimala

c) Sengwer Age-Sets (Ipiinuut)

MEN	WOMEN
Kipnyikeu	Cheptureeru
Nyongi	Cheshewa
Maina	Tepesit
Chumo	Charkina
Sowe	Chesiran
Korongoro	Cheptentur
Kipkoimet	Silingwa
Kapleelach	Sikinkin

