

Voluntary Land Use/Negotiated Settlement Framework

August 2015

PNG: Building Resilience to Climate Change in Papua New Guinea

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Contents

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|---|--------|
| I. INTRODUCTION | 1 |
| A. Outputs..... | 1 |
| II. LEGAL AND POLICY FRAMEWORK | 4 |
| III. PROCEDURES FOR LAND SCREENING, ASSESSMENT AND PREPARATION OF DUE DILIGENCE REPORT | 10 |
| IV. FURTHER DUE DILIGENCE FOR INTERVENTIONS INVOLVING NON-STATE LAND | 11 |
| V. CONSULTATION, PARTICIPATION AND DISCLOSURE | 14 |
| VI. GRIEVANCE REDRESS | 15 |
| VII. COMPENSATION FOR LAND PURCHASE AND PROJECT BENEFITS | 16 |
| VIII. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION | 17 |
| IX. BUDGET AND FINANCING..... | 18 |
| ANNEX 1: Resettlement Laws | 19 |
| ANNEX 2: Outline of Land Screening/Assessment Report..... | 21 |
| ANNEX 3: Outline of Due Diligence Report..... | 24 |
| ANNEX 4: Memorandum of Agreement | 26 |

I. INTRODUCTION

1. In 2011, Papua New Guinea (PNG) received the technical assistance under Phase 1 of the Pilot Program for Climate Resilience (PPCR) administered by the Asian Development Bank (ADB) to develop the country's Strategic Program for Climate Resilience (SPCR). The SPCR seeks to achieve transformational change by supporting implementation of PNG's national strategies¹ to make PNG's development investments climate resilient or to facilitate "climate compatible development" on PNG's own terms. The PNG SPCR was endorsed in 2012 with funding of \$25 million in grants, of which \$750,000 was allocated to prepare a grant project, including conducting the technical, economic, financial, and social due diligence.

2. The proposed Building Resilience to Climate Change (BRCC) in Papua New Guinea (the Project) will support implementation of PNG's SPCR. The impact is expected to be increased resilience to the impacts of climate change and climate variability. The outcome is expected to be improved capacities of communities, government agencies and civil society to plan and respond to the impacts of climate change. To achieve this outcome, the following four outputs will be implemented (i) climate responsive investment approaches identified and implemented by vulnerable communities, (ii) sustainable fishery eco-systems and food security investments piloted in nine vulnerable island and atoll communities, (iii) enabling framework for climate resilient infrastructure established and the communication network extended, and (iv) efficient project implementation and management.

A. Outputs

3. **Output 1: Climate responsive investment approaches identified and implemented by vulnerable communities:** Focusing on the 21 identified vulnerable islands,² the Project will (i) prepare localized climate projections to identify potential climate threats; (ii) based on these projections, undertake climate vulnerability assessments in consultation with provincial administrations and beneficiary communities; (iii) prioritize climate adaptation subprojects in consultation with communities; and (iv) incorporate the climate adaptation subprojects in local level government, district and provincial development plans. Based on these plans, the Project will support communities in preparing financing applications for identified climate adaptation subprojects to either District Services Improvement Program³ or, where appropriate, a Small Grants Facility (SGF)⁴ to be established under the Project.

4. The SGF will be established within CCDA with a total allocation of \$5 million⁵ to finance approved climate adaptation subprojects. The SGF will be supported by a subproject evaluation specialist to assist CCDA in reviewing applications from the 21 vulnerable communities.

5. The Project will finance the installation or rehabilitation of around 190 water collection and storage facilities and around 100 ventilation improved pit latrines that were identified in

¹ These include: Vision 2050, Development Strategy Plan, Medium Term Development Plan, Public Investment Plan, and Climate Compatible Development Strategy.

² Project Administration Manual Linked Document No. 4, Section I.A.

³ The National Government allocated K10 million to each of the 89 districts in PNG to be spent on infrastructure and rehabilitation maintenance projects covering education, health law and justice, water supplies, agriculture, electrification, transport and community infrastructure.

⁴ This SGF will serve as a pilot for the Climate Change and Green Growth Trust Fund which the government intends to establish in due course.

⁵ Inclusive of an administration cost as funds will be disbursed through Project Implementation Support Consultants.

the vulnerability assessments as requiring priority implementation to meet basic community needs.⁶ Also, in response to identified vulnerabilities, the Project will assist the 21 island communities to develop emergency response strategies in the event of an extreme climate event and provide training in actions and procedures to be followed.

6. Output 2: Sustainable fisheries ecosystems and food security investments demonstrated and piloted in nine vulnerable island and atoll communities: To sustain fisheries ecosystems in nine identified vulnerable islands⁷ in three provinces, the Project will (i) support the establishment of locally managed marine areas (LMMA) to enhance and sustain productivity of fisheries through (a) the development of LMMA management plans; and (b) mapping and monitoring of marine environment including fish species, corals and seaweed; (ii) demonstrate the techniques used in the rehabilitation of protective coral reefs surrounding vulnerable islands and degraded mangrove forests in nearby coastal areas; (iii) pilot income generating activities in the marine environment including mari-culture, fish and crustaceans; (iv) pilot localized processing of marine products to extend their shelf life; and (v) demonstrate the ridge to reef approach by stabilizing water catchment areas in island hinterlands by planting commercial tree species.

7. To improve food security in the same nine vulnerable islands, the Project will (i) assess the extent of food insecurity anticipated from climate change and variability impacts; (ii) based on this assessment, identify options to address food insecurities; (iii) hold consultations with local communities to prioritize the implementation of the options identified; and (iv) demonstrate how to implement selected priority options.⁸ The Project will also support food processing and storage initiatives in villages to extend the shelf-life of perishable goods and increase the production of planting material on local agricultural stations. Through these activities, the trading links between vulnerable islands and the mainland will be strengthened and food insecurity reduced in both locations.

8. Output 3: Enabling framework for climate resilient infrastructure established and communication network extended: The Project will support the development of an enabling framework to mitigate the impacts of climate change on coastal infrastructure (ports, wharfs and jetties) through (i) developing relevant policy documents; (ii) upgrading engineering design standards; (iii) incorporating benefits from climate protection in feasibility studies; and (iv) introducing sustainable financing modalities for operations and maintenance. Consultants recruited to develop the enabling framework will also provide training to enhance the capacity of PPCL, provincial administration and Coastal and Inland Fisheries Development Agency personnel to more effectively incorporate climate change considerations into design, construction, operations and maintenance of coastal infrastructure.

9. The Project will extend the radio communications network to facilitate early warning for natural disasters and extreme climate events through a very high frequency network linked to PNG's National Disaster Center and provide emergency and general communication services to the target islands and those within the signal coverage of the network. Equipment for five relay stations will be installed on existing towers, one in each

⁶ Water collection, storage and distribution facilities will be located around community facilities - schools, aid posts and churches where there are large collection areas with public access. Focus will be given to improving village hygiene with the introduction of communal composting toilets⁶ to reduce the impact from water-borne disease. About 100 latrines will be introduced on vulnerable islands together with associated training on latrine operational and maintenance requirements.

⁷ Nine islands within the target provinces nominated by the Government to demonstrate replicable approaches.

⁸ Demonstrations will include production techniques, pest resistant, drought tolerant planting material, water management and rehabilitation of sago areas.

province together with receiving equipment and disaster warning sirens on the 21 target islands.

10. An application for additional financing from PPCR is under preparation to be applied to the upgrading of Alotau Government Wharf in Milne Bay estimated to cost \$5 million including feasibility study and associated social and environmental safeguard due diligence. This will serve as a model for the climate proofing of similar structures within PNG that are currently planned in this marine transport dependent environment.

11. **Output 4: Efficient Project Management:** Implementation management and coordination will be provided through a Project Management Unit to be established within CCDA and supported by implementation support consultants recruited under the Project. The PMU will ensure adherence to ADB SPS and procurement procedures, together with the timely progress and financial management reporting to ADB and the Government.

12. The due diligence has assessed that the Project will have no involuntary land acquisition and minor, if any resettlement impacts, as the majority of the project activities under Outputs 1 and 2 will be at a household level (for example, installation of water tanks, relocation of pit latrines, etc.), communication equipment will be located on existing towers, and civil works under Output 1 will be limited to small-scale local works. However, precise interventions and their footprints will not be known until the community and household vulnerability mapping is done in the inception phase of project implementation. Each community will identify its own priorities for interventions and adaptation activities will be community-driven or demand-driven, and only some may require limited small-scale construction work (for example, community water tanks). The Project is expected to have a positive impact on social capital and livelihoods in the pilot islands by encouraging cooperation in undertaking improvements, strengthening social cohesion and building resilience to threats from climate change.

13. If any land is required in support of selected project interventions, and if communities are willing to provide a part of their communal land voluntarily in consideration of project benefits, the land use rights for subprojects will be arranged through a voluntary land use agreement. This Voluntary Land Use/Negotiated Settlement Framework (the framework) has been developed describing procedures for voluntary land use agreements or negotiated settlement (not involving compulsory acquisition), should this be necessary. Although the Project is likely to involve only voluntary land use agreement without the purchase of land title, the framework also describes the procedures for land purchase through negotiated settlement in case any subprojects will require this during implementation.

14. The Executing Agency will be CCDA under the guidance of a Project Steering Committee that shall be co-chaired by a secretary-level officer or designated representative from the Department of National Planning and Monitoring and CCDA. The Steering Committee will be comprised of representatives from Department of Treasury, Department of Health, Coastal and Inland Fisheries Development Agency, National Disaster Centre, PPCL, National Agricultural Research Institute, and representatives from the five participating provinces with ADB as an observer. The Steering Committee shall meet bi-annually or as required to review project implementation performance and approve annual work-plans and budgets. A PMU will be established within CCDA, headed by a part-time Project Director seconded from CCDA who will be supported by a full-time National Project Coordinator and Project Implementation Support Consultants (PISC). The PMU will act as the secretariat for the Project Steering Committee. Implementation arrangements are presented in detail in the PAM.⁹

⁹ Project Administration Manual Linked Document No.4, Section xx.

II. LEGAL AND POLICY FRAMEWORK

15. **PNG Laws:** Most lands in PNG are customarily owned although some lands, mostly in urban areas, are owned by the state or occupied on long term leases by private persons or organizations. The National Constitution (1975) recognizes customary land rights and protects citizens from “unjust deprivation of property.” The Land Act (1996) sets out the procedures for the state to obtain land through negotiated agreement (as well as compulsory acquisition, which is not relevant in this project). The Land Disputes Settlement Act (2000) sets out the procedures for resolution of disputes involving customary land. The Fairness of Transaction Act (1993) ensures the fairness of certain transactions, including those governed by customary law. The Land Group Incorporation (Amendment) Act (2009) and Land Registration (Amendment) Act 2009 recognize the corporate nature of customary groups and allows them to hold, manage and deal with land in their customary names, and for related purposes. These Acts also facilitate voluntary registration of customary land, to be known as “registered clan land” by local land owners, which makes that land available for development through the use of Incorporated Land Groups. A detailed description of relevant PNG laws is in Annex 1.

16. **ADB's Safeguard Policy Statement (SPS)** requires ADB-assisted projects to (i) avoid involuntary resettlement impacts wherever possible; (ii) minimize such impacts by exploring alternatives; (iii) enhance, or at least restore, the living standards of affected persons (APs) in real terms relative to pre-project levels; and (iv) improve the living standards of the poor and other vulnerable groups. It covers both physical displacement (relocation, loss of residential land, or loss of shelter) and economic displacement (loss of land, assets, access to assets, income sources, or means of livelihoods) as a result of involuntary land acquisition or restriction on land use, or on access to parks and protected areas.

17. The SPS has 12 policy principles on involuntary resettlement,¹⁰ but the Project is not expected to involve involuntary acquisition of land and only minor compensation if any, so these are mostly inapplicable here (land will be arranged only through voluntary land use agreement or negotiated agreement; any subprojects involving involuntary land acquisition will not be included in the Project).

18. SPS requires projects to “Develop procedures in a transparent, consistent, and equitable manner if land acquisition is through negotiated settlement to ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status.” For example, negotiated settlements should: (i) completely avoid expropriation i.e. the failure of negotiations should not result in expropriation; (ii) be based on meaningful consultation with APs, including those without legal title; (iii) offer adequate and fair price for land and/or other assets; and (iv) openly address the risks of asymmetry of information and bargaining power of the parties involved. For this, the Project’s

¹⁰ The 12 principles are: (i) Screen early and assess resettlement impacts; (ii) Carry out consultations with APs and develop a grievance redress mechanism; (iii) Improve/restore livelihoods of APs through land-based strategies, replacement of lost assets, compensation at replacement cost, and additional benefits, as appropriate; (iv) Provide appropriate assistance to physically displaced APs; (v) Improve living standards of poor APs and other vulnerable groups; (vi) develop transparent procedures for negotiations; (vii) provide assistance and compensation to non-titled APs for loss of non-land assets; (viii) Prepare Resettlement Plans (RPs) or due diligence reports (DDRs), with necessary provisions; (ix) disclose RPs to APs and other stakeholders and document the consultation process; (x) conceive and execute resettlement as part of the project; (xi) deliver entitlements to APs before their physical or economic displacement; and (xii) monitor and assess resettlement outcomes.

borrower/client should agree with ADB on (i) consultation processes, policies, and laws that are applicable to such transactions, (ii) third-party validation, (iii) calculating the replacement costs of land and other assets affected, and (iv) record-keeping requirements.

19. ADB's Involuntary Resettlement Sourcebook clarifies that the voluntary land donation/contribution is not within the scope of the SPS, but the Project should conduct due diligence to avoid adverse impacts on APs and possible risks. Such due diligence should also (i) verify that the voluntary contribution is in fact voluntary and did not result from coercion and confirmation through an independent third party; and (ii) ensure that this does not severely affect the living standards of APs; the activity should benefit them directly. The Sourcebook further clarifies that the voluntary contribution option is appropriate in a project (like the proposed project) that is not location specific and interventions can be built somewhere else if the landowners do not agree.

20. **Gap Analysis and Gap Filling Measures:** The following table provides an analysis of PNG laws and SPS requirements on negotiated settlements. The gap analysis is focused on purchase of land through negotiated agreement. The voluntary contribution/land use is not included in the ADB's SPS; in PNG context also such voluntary contributions operate informally or under custom.

Comparison of PNG Laws and ADB SPS Requirements on Negotiated Settlement

| ADB SPS Objectives and Principles - Negotiated Settlement | PNG Laws | Gaps between ADB SPS and PNG Laws | Gap-filling Measures |
|---|---|--|---|
| Avoid involuntary resettlement wherever possible. Minimize involuntary resettlement by exploring project and design alternatives. | The National Constitution National Goal 5(4) calls for 'traditional villages and communities to remain as viable units of Papua New Guinean society'. Section 53 protects citizens from 'unjust deprivation of property' by limiting the justification for compulsory acquisition by the State. | No explicit reference to the need for avoidance or minimizing involuntary resettlement impacts. | The project has adopted the objective of avoiding all involuntary land acquisition and resettlement. |
| Ensure that those people who enter into negotiated settlements will maintain the same or better income and livelihood status | General principles of compensation for damage or destruction of physical and economic assets are set out in National Constitution and Land Act. | No specific requirements on maintaining income and livelihoods. | The framework includes measures to ensure APs will be able to maintain or improve living standard. |
| The failure of negotiation should not result in expropriation | Land Act sets out procedures for land purchase or lease through agreement. | PNG laws do not specifically state that expropriation should not result from the failure of negotiation. | The project will completely avoid involuntary land acquisition and resettlement. The framework includes measures on this. |
| Negotiated settlements should be based on meaningful consultation with | National Constitution National Goal 2(9) calls for 'every citizen to be able to participate, either directly or through a representative, in the | PNG laws do not require consultation with those APs without legal | The framework includes the provision that all APs, regardless of their legal status, will be meaningfully consulted. |

| ADB SPS Objectives and Principles - Negotiated Settlement | PNG Laws | Gaps between ADB SPS and PNG Laws | Gap-filling Measures |
|---|---|--|---|
| APs, including those without legal title | consideration of any matter affecting his interests or the interests of his community'. The Land Act's procedures for purchase or lease through negotiation include consultation with landowners. | interests in land. (i.e. untitled APs) | |
| Negotiated settlements should offer adequate and fair price for land and/or other assets | General principles of compensation for damage or destruction of physical and economic assets are set out in National Constitution and Land Act. | No specific requirement for compensation at replacement cost. Valuer General's Schedule is from 2013. | The project will ensure that any negotiated purchase of land will offer compensation at replacement cost for affected land and assets. Any waiver of compensation claims by landowner communities under the voluntary land use agreement will be documented in respective agreements and verified by a third party. |
| Negotiated settlements openly address the risks of asymmetry of information and bargaining power of the parties involved. | The Fairness of Transaction Act sets out rules on fairness of transactions. | No specific requirement for third-party validation. | The project will engage a third-party to verify and validate the fairness and veracity of negotiated agreements under the project. The framework describes the process for this. |
| Agree on (a) consultation processes, policies, and laws that are applicable to such transactions, (b) third-party validation, (c) mechanisms for calculating the replacement costs of land and other assets affected and (d) record-keeping requirements. | National Constitution National Goal 2(9) calls for 'every citizen to be able to participate, either directly or through a representative, in the consideration of any matter affecting his interests or the interests of his community'. Land Act sets out procedures for land purchase or lease through agreement. The Fairness of Transaction Act sets out rules on fairness of transactions. | No explicit requirement on third-party validation and calculation of compensation at replacement cost. | The framework includes measures on consultation process, documentation and third-party verification of voluntary land use or negotiated land agreements and the provision of compensation at replacement cost for any purchase of land title. |

21. **Project Principles:** The Project's principles in respect of land acquisition and resettlement is to (i) avoid involuntary land acquisition and resettlement impacts; and (ii) minimize land requirements and if needed, to use when possible, government land or obtain other land through voluntary means or negotiated agreements. In compliance with PNG laws and ADB SPS, the Project shall adopt the following policy principles:

- (i) Priority for construction will be given to interventions that are to be constructed on state land free of customary or private uses or claims.

- (ii) The Project will not finance interventions that involve compulsory land acquisition and/or involuntary resettlement impacts.
- (iii) If suitable state land is not available in the proposed area and the non-state land is the only available suitable option, such land will be obtained through voluntary land use agreement or negotiated purchase. It will be ensured that the failure of the negotiation will not result in compulsory acquisition.
- (iv) Local communities, stakeholders and any APs regardless of their legal status will be meaningfully consulted over the project cycle.
- (v) If the project involves any land purchase, the state will offer compensation at replacement cost based on current market price for affected land and assets to ensure that APs will not be financially disadvantaged. Such compensation will be paid to APs prior to commencement of civil works. For voluntary agreement on land use (without purchasing land) or any voluntary waiver of compensation claims by landowner communities, this will be documented in respective agreements and verified by an independent third-party.
- (vi) The project will employ a third-party (e.g. NGO) to document and verify the voluntary land use agreement and any purchase through negotiated agreement.
- (vii) Absence of formal title will not be a bar to any due compensation and assistance for loss of non-land assets. Particular attention will be paid to women, women-headed households, elderly and other vulnerable people.
- (viii) A due diligence report (DDR) will be prepared and submitted to ADB for clearance before start-up of civil works involving use of non-state land. The DDR will document the process and outcome achieved for respective interventions according to its requirements and appropriate land arrangement.
- (ix) The DDR will be disclosed locally and posted on website.
- (x) All costs related to land assessment and development of agreements for voluntary land use agreement or any negotiated purchase will be included in the project cost and funded by the project. The cost of any land purchases will be borne by the state or its agents.
- (xi) The project will monitor implementation of land aspects, submit semi-annual reports to ADB and address any unforeseen impacts that may occur during implementation in line with the framework and ADB SPS.

22. Principles for Voluntary Land Use or Land Purchase through Negotiated Agreement: For most community-driven projects in PNG, the project agencies often consult with landowner communities and obtain land-use rights as a voluntary contribution or purchase land through negotiated settlement. The project will follow this tradition. Any land purchase, if required, will be undertaken through negotiated agreement following relevant provisions of the Land Act. To ensure that the voluntary land-use or the negotiated purchase is truly voluntary, the project will follow adequate safeguards, including: (i) consultation with local communities on the purpose of the project intervention, the selection of sites and options to avoid or minimize impacts; (ii) applicable national laws and regulations will be followed; (iii) landowners or any other people will not experience major adverse impacts i.e. the proposed site should be free of any private residential structures or major sources of livelihoods to APs; (iv) APs will receive compensation for land if purchased or any losses/damages to non-land assets and (v) a written memorandum of agreement (MOA) will be signed with representatives of landowner communities and the MOA will be verified by an independent third-party NGO.

23. **Entitlements and Benefits:** Many communities or clans have expressed their willingness to provide voluntarily a part of their communal land for project activities. Landowner communities/groups are expected to waive compensation claims in consideration of benefits of project to their community members and the fact that landownership will still remain with them. However, in the case of any negotiated purchase, the date of signing of a land investigation report (LIR)¹¹ will be the “cut-off” date for eligibility for compensation. APs that have either documented claims to the purchased land/assets or are able to demonstrate that the land/assets belong to them as of the cut-off date will be eligible for compensation. Those APs who cannot demonstrate that they are the rightful owners/users but are using the land anyway as of the cut-off date will receive compensation only for assets attached to the purchased land and other assistance as required. Any person or group that occupies or uses the land identified for the project’s purchase after the cut-off date would not be eligible for any compensation or assistance. Table 2 (below) summarizes eligibility and entitlements for APs, particularly in case of purchase or transfer of land title.

Table 2: Entitlement Matrix

| Type of Impact | Entitled Person | Entitlements |
|--|--|---|
| Land used temporarily or under voluntary land use agreements (without purchase of title) | Customary land: Land owners/users as recognized by clan leaders | Use of the land will be obtained through voluntary land use agreement. Compensation at replacement cost will be paid by contractors for any damages on project-affected land and assets during construction. The land remains in the ownership of the customary landowners. |
| | State-owned land: Users or occupants | State land is expected to be free of customary or private use or occupation. If any users or occupants are found during implementation, compensation at replacement cost will be paid for any damages of non-land assets during construction. |
| | Church lands: Owners/Users | Use of the land will be obtained through voluntary land use agreement. Cash compensation at replacement cost will be paid for any damages on project-affected land and assets during construction. |
| | Informal settlers/land users without legal rights | Compensation at replacement cost for any affected non-land assets during construction. |
| Land used permanently or transfer of land title | Customary land: Land owners/users as recognized by clan leaders | Land will be obtained through voluntary agreement or negotiated purchase following the Land Act. Compensation at replacement cost based on current market price will be paid in case of purchase of land title. |
| | State-owned land: Users | State land is expected to be free of customary or private use or occupation. If any users or occupants are found during implementation, compensation at replacement cost will be paid for any damages of non-land assets. |

¹¹ Undertaken by the Department of Lands and Physical Planning before any land purchase by the state

| Type of Impact | Entitled Person | Entitlements |
|----------------------------------|---|---|
| | Church lands: Owners/Users | Land will be obtained through voluntary agreement or negotiated purchase following the Land Act. Compensation at replacement cost will be paid in case of purchase of land title. |
| | Informal settlers/land users without legal rights on any type of land | Compensation at replacement cost for any affected non-land assets. |
| Loss of trees, crops | APs and households | It will be agreed with APs, that any crops and trees will be harvested by them before site clearance. If APs are not able to harvest, they will be paid compensation at replacement cost. In the case of perennial crops and trees, the compensation will also include loss of income for a period until new crops or trees produce an equivalent income. |
| Structures | All APs (whether having legal title to land or not) | The project is not expected to impact on any structures. In the unlikely event that any structures are affected, APs will be provided compensation at replacement cost without deductions for depreciation or salvaged materials. APs will also receive transportation allowance and assistance in locating to an alternative site. |
| Employment | All APs | APs will be provided priority employment in civil works if local labor is required. |
| Unforeseen or unintended impacts | Concerned affected people | These will be determined as per the principles of this framework and ADB's SPS. |

III. PROCEDURES FOR LAND SCREENING, ASSESSMENT AND PREPARATION OF DUE DILIGENCE REPORT

24. **Screening/Assessment:** To avoid involuntary land acquisition and resettlement, the Project will screen all proposed interventions for their land aspects and will prioritize those which are on government land. Interventions on customary or private land will also be considered only if communities/landowners have expressed their willingness to enter a voluntary land-use agreement or purchase through negotiated agreement. For this, the screening will be undertaken based on the preliminary design of the intervention after site visits, and as relevant, in consultations with potential APs in order to understand local land use and ownership arrangements. The Project will follow the following steps for the screening of land aspects for proposed subproject activity:

- (i) Preparation of a location map identifying the concerned land and its boundaries.
- (ii) Coordination with the DLPP for verification of the land ownership.
- (iii) Consultations with local administration offices (e.g. lands, courts, etc.) about any ongoing disputes or litigation.
- (iv) Visit to and observation of the proposed construction sites.
- (v) Consultations with local residents to assess if the proposed works will adversely affect any person(s) or communities.
- (vi) Preparation of a land assessment/screening report summarizing the main findings, including (i) brief description of the proposed site including a location map; (ii) description of intervention and types of works; (iii) description of proposed land, status of ownership and use; (iii) findings of the field visit and observations; (iv) process and outcome of consultations with communities and stakeholders (records of meetings, etc.); and (v) confirmation of whether any further actions are required or not. An outline of screening/assessment is in Annex 2.

25. The Project will organize a public consultation meeting in the respective pilot sites to verify the information. The project team will prepare minutes of the meetings, which will be kept in the project office and their copies attached to the land assessment/screening report.

26. If the screening/assessment report has confirmed the clear state ownership of the required land for project interventions, there will be no further assessment needed. The procurement of any civil works on state land will start after such report has been finalized.

IV. FURTHER DUE DILIGENCE FOR INTERVENTIONS INVOLVING NON-STATE LAND

27. If the initial assessment/screening ascertains that a suitable state land is not available for the proposed intervention and non-state lands are the only available suitable options, the project will follow the steps described in following paragraphs to obtain such land through one of two options.

28. **Voluntary Land-Use Agreement.** For interventions where local landowner communities are willing to provide voluntarily part of their communal land for project activities, in consideration of benefits of the Project to their community members, the land (user right) will be obtained through a voluntary land use agreement for construction or other activities. The Project will undertake the following steps and prepare a due diligence report (Annex 3):

- (i) A land survey will be undertaken and a land investigation report (LIR) will be prepared with the help of Provincial Land Officer (PLO) that will identify the land boundary, landowners, and any improvements on the land;
- (ii) It will be confirmed based on the survey, that landowners or any other users/occupants will not experience major adverse impacts from land use i.e. (i) the site should be free of any residential structures; and (ii) it should not result in APs losing 10% or more of their income generating assets. It will be ensured that the size of the land use will not exceed the amount necessary to undertake the intervention;
- (iii) Local communities/landowners/APs will be meaningfully consulted on the purpose of the Project, the selection of sites and options to avoid or minimize impacts;
- (iv) Applicable policies, laws and regulations will be explained to communities and they will followed as relevant;
- (v) Terms and conditions of voluntary land use agreement will be discussed and agreed with communities. It will be ensured that it is, in fact, voluntary and no one will be forced to provide their land or assets;
- (vi) The agreement will be confirmed in writing in the form of a voluntary land use agreement and this will be verified by an independent third-party NGO. An outline agreement and verification format is in Annex 4. CCDA will coordinate with DLPP in case it or provincial governments prefer to register such agreements with DLPP; and
- (vii) People will be provided with relevant project information, (in a language they understand), including the grievance redress mechanism.

29. **Land-Purchase through Negotiated Agreement.** For interventions that require purchase of land title and where landowners are willing to sell part of their land for such interventions, the land may be purchased through negotiated agreement following the Land Act. As with the voluntary land use agreement, the project will follow all relevant steps set out in para 15 (i-vii) and prepare a due diligence report. In addition, the project will also need to follow the steps prescribed in the Land Act to purchase land through agreement, including:

- (i) CCDA employs surveyors to determine boundaries, location, size and area of the land to be purchased. The surveyor must register the surveys with the Surveyor-General as part of his/her contract.
- (ii) CCDA requests the DLPP to issue an official land file number for the site to be purchased.

- (iii) At the same time, CCDA will request the Valuer-General's Office (VGO) to send a valuer to value the land and any improvements (for example, garden crops, food trees, timber trees, structures). His/her report is sent to the VGO.
- (iv) CCDA will also request the DLPP to ask the Provincial Land Officer (PLO) to do the land investigation for land purchase and to produce the LIR.
- (v) PLO will prepare LIR including ownership genealogy, rights and interests held in the land, and, estimated value of improvements to land in consultation with the landowners, the Valuer-General and other relevant government offices.
- (vi) The LIR is then submitted to the respective province for Provincial Administration's signed approval for the land to be purchased.
- (vii) The completed LIR is sent back to DLPP who compiles the land file made up of: the registered survey plan, the valuation certificate, and the PA-approved LIR.
- (viii) DLPP then sends the land file to national Department for Provincial and Local Level Government Affairs (DPLLG) who will prepare a certificate of alienability confirming that there is no impediment to land purchase.
- (ix) This is then sent back to the DLPP, who prepares the purchase documents and advises CCDA when it is ready for payment. The DLPP executes the purchase of the land.
- (x) CCDA receives the land file with the survey plan, the LIR including the valuation report, and certificate of alienability. Any land payment to the landowners is the responsibility of the government.
- (xi) Copies of the signed documents are also sent to PLO for their records.
- (xii) CCDA keeps records of community consultation minutes, land titles, survey plans, valuations, approvals and agreements.

30. As market rates for land are largely absent in rural areas in PNG where interventions will be undertaken, the Project will consult with affected landowners/users to determine compensation amounts for land to be purchased and assets on such land. This will be based on (i) information about recent land transactions – if any; (ii) land types; (iii) cropping patterns and crop production; and (iv) availability of land in pilot areas. The Project will ensure that compensation amounts are based on the replacement cost principle.

31. **Third-Party Verification.** The voluntary land use agreement and negotiated purchase agreements will both be verified by a third party NGO. CCDA will employ a third-party NGO, who will provide the independent verification of the agreements that; (i) the local community and landowners support the Project intervention and have agreed to provide the respective land; (ii) consultations with landowners have been undertaken meaningfully, freely and in good faith and the landowners have made informed decisions on use of land, and (iii) terms and conditions of the agreements have been explained to them and understood and agreed by the landowners. For this, the third-party will perform following tasks:

- (i) Review of the documentation on the identification of affected landowners and the consultation and negotiation process leading up to the signing of the agreements;
- (ii) Validate that consultations with the landowners have been undertaken and that they were provided with relevant information as per this framework;
- (iii) Validate that the agreement is voluntary (free of coercion) and that the landowners have fully understood and agreed to the agreement's terms and conditions;

- (iv) Validate that the landowner representatives signing the agreement duly represent the landowners;
- (v) Validate that landowners or any other users/occupants will not experience major adverse impacts from land use or purchase by the Project;
- (vi) Validate that any minor impacts have been identified, sufficiently addressed and documented by the Project;
- (vii) Validate that compensation for any land purchase represents a fair and reasonable replacement cost based on market prices; and
- (viii) Validate that the agreement is in compliance with safeguard requirements stipulated in this framework.

V. CONSULTATION, PARTICIPATION AND DISCLOSURE

32. Meaningful consultation, participation and information disclosure will be undertaken to maintain transparency, raise awareness, reduce potential conflicts and delays, and achieve the objectives of this framework. These will include (i) identification of stakeholders, who will be involved in planning and implementation; (ii) general community consultations and dissemination of information about the subproject and appropriate mechanisms for feedback; (iii) specific meetings with landowners, clans and APs; (iv) separate meetings with women and vulnerable groups, as needed; (v) various surveys (land surveys, LIR, participatory compilation of inventory of losses, etc.); (v) setting up of a grievance redress mechanism and procedures; and (vi) disclosure of due diligence reports.

33. The local communities and other relevant stakeholders will be consulted during subproject preparation and implementation. Community level consultation meetings involving both women and men from all clans living in the village will be facilitated. The subproject will be introduced to meeting participants, the probable positive and possible negative impacts explained, and land issues discussed (where applicable). Participants at the meeting will be afforded the opportunity to discuss amongst themselves and with facilitators the issues that concern them. All meeting will be minuted and documented.

34. Additional meetings will be held with landowners and APs, as needed, and when necessary: they will involve ward councillors, DLPP staff and/or local level, district or provincial authorities. The project's national safeguard specialist (NSS) will also visit all communities, as part of the initial mapping and vulnerability assessments, which will afford communities the chance to raise any concerns they may have. The NSS will also be able to use these visits as opportunities to conduct any training or awareness raising that may be necessary.

35. The Project will ensure that separate meetings will be organized with women, as needed, so that their concerns can be discussed. Consultations will be undertaken at venues and times that are suitable for women do not disadvantage them.

36. A summary brochure containing relevant information from this framework and safeguard due diligence reports will be disclosed to APs at each pilot site. Copies of the framework and DDRs will be made available in English, the official administrative language in PNG, in accessible public locations, such as the subproject office. Village leaders and AP households will be provided with a brochure prepared in Tok Pisin or local language(s) as appropriate.

VI. GRIEVANCE REDRESS

37. The Project's safeguard officers/specialist will assist APs in registering their any complaints with PMU at CCDA or its site office in relevant province. The PMU Project Manager or his/her representative will consider the complaint and within one month will convey a decision to the APs. The PMU staff, along with local government officials, will assist the Project Coordinator or his/her representative in reviewing and addressing the complaint. The safeguards officers/specialist will facilitate communication between the APs and the PMU in this process. If the APs are not satisfied with the PMU decision, or at any other time, they may take the grievance to the PNG judicial system. The Land Disputes Settlement Act (2000) establishes judicial procedures for resolution of landownership disputes on customary land. It has a mediation process followed by court proceedings. Any pilot sites involving a dispute requiring a lengthy legal process will not be considered for funding under the Project.

VII. COMPENSATION FOR LAND PURCHASE AND PROJECT BENEFITS

38. CCDA/PMU will coordinate with the provincial administration and DLPP and will be responsible for disbursement or paying agreed compensation to APs for any purchase of land through negotiated agreements. The safeguard officers/specialists will assist in identifying entitled persons and delivering the compensation amounts.

39. There should be no relocation of APs necessary under the Project, nor is there likely to be need for income restoration since the interventions are not expected to involve adverse impacts. Communities will retain their rights to access around the land, as long as they do not interfere with the operation of project interventions. Should any trees or crops need cutting down or removing minor structures, those who own them will be compensated at replacement cost.

28. It is anticipated that communities will benefit from interventions. In addition, APs will be given priority employment in any construction and operation of any intervention requiring employees.

VIII. INSTITUTIONAL ARRANGEMENTS AND IMPLEMENTATION

40. CCDA, as executing agency, has overall execution and coordination responsibility. The Provincial Administrations (PAs) have planning and implementation responsibilities at the provincial level. The PMU set up under CCDA will include safeguard specialists, one international (intermittent) and one national (full time) to assist in implementation and monitoring safeguard activities. The detailed tasks of the CCDA/PMU include:

- (i) Collaborating with DLPP and PAs to implement the project and this framework.
- (ii) Providing qualified personnel to conduct the surveys and preparing due diligence reports, etc.
- (iii) Collaborating with DLPP and PAs for land use for interventions (Land Investigation Reports, valuations, and community/clan agreements, etc.);
- (iv) Ensuring that all requirements are carried out concerning consultation and disclosure, and grievance redress
- (v) Preparing and submitting DDRs and monitoring reports to ADB
- (vi) Ensuring that all land related activities are completed in a timely manner
- (vii) Monitoring implementation of this framework, including disbursement of relevant payment; and
- (viii) Coordinating with civil works during any construction.

41. The DLPP through Provincial Land Officer (PLO) will collaborate with CCDA/PMU to plan, implement and monitor land related activities for interventions in the province. The DLPP/PLO's responsibilities include: (i) conducting land surveys; (ii) negotiating with the community leaders and affected landowners; (iii) cooperating to help facilitate resolution of disputes and grievances; and, (iv) consulting with and advising affected communities about the Project, its policies and procedures on land aspects.

42. CCDA/PMU and PAs will monitor the provisions mentioned in this framework to ensure that they are complied with during implementation. CCDA will prepare semi-annual monitoring reports on land activities and submit to ADB. The other progress reports will also include a section on the status of land. In addition, land assessment/screening reports and DDRs will be submitted to ADB before award of the civil works contract.

IX. BUDGET AND FINANCING

43. Necessary costs for the project's land aspects will be financed by the Project as counterpart funds. Actual costs for such activities under each pilot site will be prepared and incorporated in each component budget after detailed design of relevant interventions and detailed assessment of land aspects. The Government will release sufficient budget for implementation of land related activities in an appropriate and timely manner.

ANNEX 1: RESETTLEMENT LAWS

A. Relevant PNG Laws

44. The **PNG Constitution** adopts customary law as part of the underlying law of the country and recognizes the property rights attached to customary land. According to the 2000 Underlying Act, customary law comprises the rules, rights and obligations pertaining to an individual or group by custom and tradition. Customary law applies and the courts recognize it where it is not inconsistent with written law. The Constitution also guarantees the right of the citizens to protection from unjust deprivation of property. No land or interest in land may be acquired compulsorily by the government except as it is required for public purposes or other justifiable reasons. In the event of expropriation of land, just compensation must be made by the expropriating authority.

45. The **Land Act (1996)** deals with ownership and use rights of customary land.¹² It also sets out the procedures for the government to acquire customary land required for public purposes. The key provisions of the Act are (i) the government may acquire land, including improvements on land; (ii) usually the government negotiates agreements with the customary landowners for purchase of required land, but it can also compulsorily acquire the land; and (iii) the acquisition process involves several steps, including initial investigation, land survey, land investigation report, determination of compensation value of land and improvements, payment of compensation, registration of land for state ownership and transfer of title.

46. The **Land Disputes Settlement Act (2000)** sets out the procedures for resolution of disputes involving customary land. The Act provides for a land disputes committee at provincial level and land courts at local, district and provincial levels. The committee can appoint land mediators. The Act promotes resolution of disputes through mediation based on the principles of traditional dispute settlement. If mediation fails, it is followed by appeal to the courts. The registration of customary landowners as an ILG has been used a lot in private sector projects in PNG. While it is not a mandatory requirement for acquisition of land in case of public sector projects, registration of ILGs may be helpful in dispute resolution and negotiation with landowners. On the other hand, ILGs in the past have often been fraudulently used for the interests of a small group, rather than the whole land owning clan.

47. The **Fairness of Transaction Act** of 1993 relates to the effect of certain transactions, to ensure that they operate fairly without causing undue harm to, or imposing too great a burden on, any person, and in such a way that no person suffers unduly because he is economically weaker than, or is otherwise disadvantaged in relation to, another person. The purposes of this Act are to (a) ensure the overall fairness of any transaction which (i) is entered into between parties in circumstances where one party is for reasons of economic or other advantage predominant and the other is not able to exercise a free choice; or (ii) for one reason or another, without attaching any evil design or bad faith, appears to be manifestly unfair or not to be genuinely mutual; and (b) allow for the re-opening and review of any transaction irrespective of fault and validity, enforceability or effect of any agreement;

¹²The customary land includes land owned, used or occupied by a person or community in accordance with current customary usage. Access to land and resources is embedded in social relationships and expressed as customary land rights to utilize resources. Small clan-based groups live in the villages, managing their own resources, and exercising the right to utilize them. These groups (matrilineal or patrilineal clans which are composed of sub-clans, lineage groups, and at the lowest level extended households) are typically made up of “primary rights holders” – the recognized traditional leaders of the group – who collectively have the authority to allocate use rights through their spokesperson(s). Different cultures have different ways of allocating land between primary and secondary rights holders.

and (c) ensure the fair distribution and adjustment of rights, benefits, duties, advantages and disadvantages arising out of a transaction. Transaction means any contract, promise, agreement, dealing or undertaking of an economic or commercial nature whether supported by consideration or not entered into between parties, and includes (a) an informal, complete or incomplete transaction; and (b) a transaction governed by customary law.

48. Land Group Incorporation (Amendment) Act (2009) and Land Registration (Amendment) Act (2009). These Acts were brought into effect in 2011, following recommendations from the National Land Development Taskforce. The Acts recognize the corporate nature of customary groups and allow them to hold, manage and deal with land in their customary names, and for related purposes. These also facilitates the voluntary registration of customary land, to be known as “registered clan land”, and makes that land available for development through the use of Incorporated Land Groups (ILGs). These laws encourages (i) greater participation by local people in the national economy by the use of the land; (ii) better use of such land; (iii) greater certainty of title; (iv) better and more effectual settlement of certain disputes; (v) legal recognition of the corporate status of certain customary and similar groups, and (vi) conferring on them, as corporations, of power to acquire, hold, dispose of and manage land, and of ancillary powers; and (vii) encouragement of the self-resolution of disputes within such groups.

ANNEX 2: OUTLINE OF LAND SCREENING/ASSESSMENT REPORT

| | | | |
|---|--|------------------|--|
| Province: | | District: | |
| LLG: | | | |
| Name of Pilot site: | | | |
| Type of intervention proposed | | | |
| Brief Description of Site and Proposed Infrastructure/Intervention (provide as much detail as possible including location map, boundaries and surrounding area): | | | |
| | | | |

| Screening Checklist | | | |
|---|------------|-----------|--------------------|
| | Yes | No | Description |
| Will the intervention require additional land? | | | |
| If yes, is the land plot and area (square meter) of additional land required known? If yes, describe the plot number and area needed and measures adopted to avoid or minimize land. | | | |
| Is the ownership status of additional land known? If yes, what are the ownership arrangements? Attach DLPP verification. | | | |
| Is the current usage of the land known? If yes, describe such usage or occupation. | | | |
| Are there any houses or structures on land? If yes, describe them including number of households/ persons living there who might be affected. | | | |
| Are there any trees, crops or economic activities on land? If yes, describe them including number of households/persons and their potential losses. | | | |
| Are there non-titled people who live or earn their livelihoods at the site? If yes, describe this including number of households/persons and potential impacts to them. | | | |
| Are there any other issues concerning proposed land (e.g. historical claims by landowners or previous lease arrangements, inter-agency coordination issues, taboo sites, etc.) If yes, describe them in detail | | | |

A narrative summary of the screening/assessment, including methodology (field visit, observation, etc.), key findings and documentation of consultations. Attach records of meetings, disclosure, etc.

Conclusion

Based on the initial screening/assessment the project intervention will:

| | |
|--|---|
| | Use state-owned land only, without involving any issues or impacts to people. This screening/assessment report is adequate and no further due diligence required. |
| | Involve issues on state, non- state or customary land, so further due diligence is required. |

The report has been reviewed and agreed with by:

| | | | |
|---|--|-------|--|
| Name & Signature (Project Manager) | | Date: | |
| Name & Signature (Safeguards Specialist) | | Date: | |

ANNEX 3: OUTLINE OF DUE DILIGENCE REPORT

(Voluntary Land Use Agreement or Land Purchase through Negotiated Agreement)

1. A due diligence report will be required for all interventions involving non-state land. Its level of detail may vary according to site specific conditions and nature of issues. The following outline will serve as a guide:

- A. **Executive Summary.** A concise statement of key findings.
- B. **Subproject and Intervention Description:** This section provides descriptions of the proposed subproject, and relevant land area. Alternatives considered to avoid or minimize the use of non-state land and a rationale for the final decision.
- C. **Scope of Land Use/Purchase:** This section includes a map of the area of the proposed facilities; scope of proposed use/purchase of non-state land; descriptions of land (type, size, plot no, etc.), its current ownership, usage. A description whether there are any houses/structures/trees/crops/economic-activities/non-titled-persos, etc. on the land. If yes, description about their owners/users/occupants.
- D. **Socioeconomic Information:** This section identifies and enumerates landowners/APs and assesses any impacts to them from proposed land use/purchase.
- E. **Information Disclosure, Consultations, and Participation:** This section describes activities undertaken to disseminate information, results of consultations with landowners/APs; confirms disclosure of the due diligence report; describes any further planned measures during implementation. Attach records of consultations and disclosures.
- F. **Grievance Redress Mechanism:** This section describes mechanisms to receive and facilitate the resolution of concerns and grievances at project level.
- G. **Applicable Policies and Laws:** This section describes or references the applicable national laws and ADB policies and how they have been applied in the given context.
- H. **Agreements on Land Use:** This section describes the process for arriving at the land use or purchase agreement and terms and conditions of such agreements. It also describes the process and outcome of third-party verification of the land use agreement. Attach signed and verified copies of agreements in appendix.
- I. **Compensation and Benefits (applicable mainly in case of land purchase):** This section defines agreed compensation and/or benefits that will be provided to landowners/APs. Describe how compensation at replacement cost was calculated in case of any land purchase. Any assistance to vulnerable groups and sharing of project benefits with communities.
- J. **Budget and Sources of Funds:** This section provides an estimate of costs for the land use/purchase agreement and its further implementation. Specifies sources of funding.
- K. **Institutional Arrangements:** This section describes the responsibilities to implement land related activities during implementation.

- L. **Implementation Schedule:** This section includes an implementation schedule of land related activities, if any, in coordination with civil works construction.
- M. **Monitoring and Reporting:** This section describes the monitoring and reporting arrangements, as appropriate.

ANNEX 4 - MEMORANDUM OF AGREEMENT

This **Memorandum of Agreement (MOA)** entered into by and between;

The Independent State of Papua New Guinea as represented by the Climate Change and Development Authority (CCDA);

---AND---

The community of _____ (Name of Ward), _____ (District), in the Province of _____ represented by its wards leaders, district leaders, leaders of clans and sub-clans, the names of which are enumerated at the end of this document;

---WITNESSETH---

Whereas, the State through the CCDA is implementing the *Building Climate Resilience in PNG Project* (the Project) in order to support achieving goals of the national Climate Compatible Development Strategy, with the financial assistance from the Asian Development Bank (ADB) and other development partners;

Whereas, _____ (the subproject site) has been selected by the State through CCDA which requires the use of non-state/customary land as there are no suitable state lands available in the pilot area;

Whereas, the clans and communities who jointly own the land identified for the subproject intervention are fully (i) aware of the subproject benefits for their communities, mainly improved resilience to climate change impacts; (ii) supportive of the proposed intervention; and (iii) are willing to provide voluntarily the use of identified land for subproject activities.

NOW, THEREFORE, for and in consideration of the foregoing premises and covenants hereinafter stipulated, the Independent State of Papua New Guinea, represented by CCDA and the clans and communities who jointly own the customary land that is required for the subproject intervention have entered into this agreement:

1.0 Identification and Location of the intervention

1.1 CCDA has considered the subproject intervention _____ under the Project. This site has an area of _____ square metres.

1.2 We certify that we, as individuals and representatives of our communities and clans, are the exclusive customary owners of the subproject location. The particulars of our customary land are described below;

Location (name): _____

Ward: _____

District: _____

Province: _____

2.0 Agreement

2.1 Responsibilities and Commitments of Clans and Communities

1. We, members and representatives of the clans and communities who jointly own the customary lands on the above mentioned location agree to permit the Independent State of Papua New Guinea (State), as represented by CCDA, to use the land for the intervention described above under the Project, and guarantee the unimpeded use of the facility/asset by the public.
2. That we enter into this agreement on the basis of our free and prior informed choice and consent, having been provided with full information by the State through the CCDA and DLPP about the project and its requirements and are fully aware of the consequences for our tribes, clans/sub-clans and communities and waive compensation claims over the said land in lieu of benefits.
3. That our full permission for the State to use the said land is premised on the existence of the said subproject intervention and in the event that the use of our customary land for this intervention is discontinued for any cause, our permission will also cease and the use of the land will revert to the former owners and users of the land at the time of taking.
4. That if the State would seek to purchase or acquire the said land in the future, this will require a separate agreement with us following the applicable laws.
5. That if there will be any minor impacts to any member of clans and community because of the land use by the Project, in considerations for the positive effects of the intervention, our clans and communities involved will address this issue based on our customs and traditions and provide for adequate replacement land to such persons from our other community lands.
6. That we are representing all the clans and communities that jointly owned the land as described in Section 1 of this agreement and that we will all be jointly responsible in complying with the terms and conditions of this agreement. We ensure that after the survey, there will be no new improvements within the intervention site.

2.2 Responsibilities and Commitments of the State through the Climate Change and Development Authority:

1. The CCDA has avoided/minimized as far as possible land requirements for any intervention. However, the use of the said land is unavoidable but necessary to improve climate resilience and/or services in the local communities.
2. CCDA has conducted necessary surveys to determine the land area, has prepared a list of all landowners or the affected persons (APs) and confirmed that landowners/APs will not experience any major adverse impacts.
3. CCDA has meaningfully consulted communities/landowners/APs on the purpose of the intervention and the selection of sites and explained about relevant project information, including the grievance redress mechanism. CCDA has ensured that the land use agreement is truly voluntary and no one has been forced; a third party NGO will be employed by the project to verify this agreement.

4. CCDA will avoid damages to assets on the land. If any assets are damaged during construction, it will provide compensation at replacement cost.
5. CCDA will give priority to APs for employment in civil works at the intervention site, provided that APs are qualified to perform the work required.
6. All land activities will be coordinated with the any civil works if needed. Civil works contractors will not be issued a notice of possession of the site until (i) any payment due to APs has been completed; and, (ii) the site is free of all encumbrances.

3.0 General Conditions

1. If the proposed land is not used by CCDA for the subproject intervention for any cause, both parties agree that this MOA will become null and void and unenforceable to any or both parties.
2. The State through the CCDA together with the provincial administrations will conduct periodic consultations and encourage active participation of affected clans and communities covered by this location to inform and update all stakeholders of the development of the project.
3. The State through the CCDA in collaboration with the provincial administration will institute a grievance process based on the accepted practices of mediation to address any complaint or issue regarding the land use.
4. No amendment or additional terms and conditions to this MOA shall be deemed binding between the parties unless mutually agreed upon by them in writing.

IN WITNESS WHEREOF, we have hereunto affixed our signatures this ____ day of _____ 201__.

By and on behalf of the Independent State of Papua New Guinea, Climate Change and Development Authority (CCDA)

(Name and Signature)

(Designation)

By and on behalf of the Landowners

| Name | Signature | Ward/Village | Clan/ Sub-Clan | Date |
|------|-----------|--------------|-------------------|------|
|------|-----------|--------------|-------------------|------|

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Witness:

I, _____, a Provincial Lands Office of _____ Province, a public servant of Papua New Guinea, do hereby certify that the contents of this Agreement were read over by _____ in the _____ language that is understood by the signatories to this Agreement and I further certify that to the best of my knowledge and belief the contents of this Agreement are understood by the signatories hereto.

Dated at _____ this _____ day of _____

Signature: _____

Designation: _____

Third Party Verification Letter

We provide the independent verification of the Memorandum of Agreement (MOA) signed on _____(insert date) between the Government of PNG represented by the Climate Change and Development Authority (CCDA) and landowners clans of _____(insert address of landowners) on the use of _____ha of land for the intervention of the _____(insert name of relevant subproject) under the Building Climate Resilience in PNG (the Project) that (i) the landowners support the intervention and have agreed to provide affected land; (ii) consultations and negotiations with landowners have been undertaken meaningfully, freely and in good faith and the landowners have made informed decisions on use of land, and (iii) terms and conditions of the MOA have been explained to and understood and agreed by the landowners. The verification is based on our independent:

- Review of the documentation on the identification of affected landowners and the consultation and negotiation process leading up to the signing of the agreements;
- Validation that consultations with the landowners have been undertaken and that they were provided with relevant information as per the voluntary land use/negotiated settlement framework (the framework);
- Validation that the agreement is voluntary (free of coercion) and that the landowners have fully understood and agreed to the agreements' terms and conditions;
- Validation that the landowner representatives signing the agreement duly represent the landowners;
- Validation that landowners or any other users/occupants will not experience major adverse impacts from land use by the project;
- Validation that any minor impacts have been identified, sufficiently addressed and documented by the project;
- Validation that compensation represents a fair and reasonable replacement cost based on market prices; and
- Validation that the agreement is in compliance with requirements stipulated in the framework.

Signature:

Date:

Name of NGO:

Official Stamp: