



GOVERNMENT OF THE REPUBLIC OF MALAWI

**INTERGRATED SOCIAL PROTECTION FOR RESILIENCE AND
OPPORTUNITY (INSPIRE-O)**

RESETTLEMENT POLICY FRAMEWORK

National Local Government Finance Committee
Red Cross House, Area 14
Private Bag 352 Lilongwe 3
Tel: +265 1 755 666
Fax: +265 1 755 949
E-mail: nlgfc@nlgfc.gov.mw

MAY, 2026

TABLE OF CONTENTS

A.	Introduction	1
B.	Project Objectives and Description	1
D.	Policy and Regulatory Framework	5
E.	INSPIRE-O Approach to implementation of activities requiring use of Land.....	12
F.	Guiding rules for use of Voluntary Land Donation or Temporary Landuse Agreements under INSPIRE-O.....	13
G.	Preparing a Resettlement Plan.....	13
	ANNEXES	17
	Annex A - Suggested Outline for Preparation of RP Entitlements Matrix under INSPIRE-O	17
	Annex B: VOLUNTARY LAND DONATION/USE AGREEMENT FORM	21

A. Introduction

1. This document constitutes a simplified Resettlement Policy Framework (RPF) which is consistent with requirements of the World Bank Environmental and Social Framework. It has been prepared for the Integrated Social Protection for Resilience and Opportunities Project (INSPIRE-O), a Low and Moderate Risk project. The fundamental purpose of this RPF is to establish terms of agreement between the Republic of Malawi and the World Bank regarding principles and procedures to be used in subsequent preparation of Resettlement Plans (RPs) when and where need arises. World Bank approval of RPs is required before project authorities invite bids for any contracts in which works are expected to involve physical or economic displacement as a result of land acquisition or restrictions on access or use of natural resources.

2. The RPF is intended to avoid or minimize any adverse impacts associated with physical or economic displacement, and to ensure arrangements are in place to mitigate any adverse impacts that may occur. The Republic of Malawi hereby agrees to apply the principles, procedures, and standards incorporated in ESS5 of the World Bank ESF if obtaining any sites for project use would cause economic displacement¹ or physical displacement.²

3. This RPF is intended to utilize the existing legal and policy framework of the Republic of Malawi, incorporating any supplementary measures necessary to achieve consistency with ESS5 principles and standards.³

B. Project Objectives and Description

4. The objective of the Integrated Social Protection for Resilience and Opportunities Project (INSPIRE-O), is to strengthen the resilience to climate and economic risks and enhance job opportunities for the poor and vulnerable in Malawi.

5. The project will have 3 components as follows: **Component 1:** Adaptive Safety Nets and Delivery Systems, **Component 2:** Jobs NOW- Creating Job Opportunities through entrepreneurship support, **component 3:** Institutional Strengthening and Project Management.

Component 1: Adaptive Safety Nets is designed to contribute to the risk resilience strengthening objective through three (3) key sub-components of Social Cash Transfer Program (SCTP), Labour intensive Public Works for Resilient Catchments and Infrastructure (PWP-RCI) and Adaptive Shock Response Financing

Sub-component 1.1-Social Cash Transfer

The tentative budget for this sub-component is US\$59.9 million (US\$21 Million from IDA and complemented by US\$38.9 million from the Malawi Social Protection Multi-Donor Trust Fund (MDTF). Based on revised donor and government commitments, SCTP coverage is projected to decrease by approximately 70 percent, from 381,735 households in 2025 to 115,000 in 2027. This reduced coverage will represent approximately 3 percent of the population of Malawi. INSPIRE-O, leveraging both IDA and MDTF resources will provide support to approximately two-thirds of the projected coverage, equivalent to 77,000 SCTP beneficiary households. SCTP will target the poorest and most vulnerable households without labour capacity, prioritizing child-headed households, the elderly, and people with disabilities. Recognizing the impact of high inflation and currency depreciation on the current benefit level, which now falls below the recommended threshold of 20 percent of household consumption needs,

it is anticipated that the average transfers per household will increase from the current MK16,000 to MK32,000 beginning in 2027.

Sub-component 1.2: Labor-intensive PWP for Resilient Catchments and Infrastructure (PWP-RCI)

PWP-RCI will be a successor to the Climate-smart Enhanced Public Works Program (CS-EPWP) under the ongoing SSRLP. In addition to providing short term employment for the poor and vulnerable with labour capacity, the program will focus on restoration of soil, water and land resources in strategic catchment areas that contribute to resilience of critical national infrastructure, including national main roads, irrigation infrastructure for commercial agro-production, and hydropower generation infrastructure. It will also pilot a payment for ecosystem services (PES) model to strengthen partnerships with the private sector and mobilize complementary private sector financing towards scaling up PWP-RCI. The tentative budget from both IDA and MDTF is estimated at US\$51 million over three years, with the program expected to reach approximately 83,000 households (approx. 373,500 individuals). Participants will engage in three phases of paid work per year, each lasting 40 days, at a daily wage of MWK 2,500, equivalent to MWK 100,000 per phase. In addition, participants and communities will contribute up to 40 additional days of voluntary community work across the three phases per year. The program will continue to prioritize catchment restoration through activities such as riverbank protection, tree planting, promotion of natural regeneration, and runoff management. Given the labour-intensive nature of these activities, the program will deliberately target youth and women of working age.

Sub-component 1.3: Adaptive Shock Response Financing

will build on the successes of the scalable component under SSRLP to allow additional transfers to be paid to households facing acute shocks, in a timely and equitable way. The sub-component has two key objectives, firstly to serve as a platform for channelling funds from INSPIRE O or other programs for additional cash transfers to shock affected communities, and secondly to implement the pre-financed, rules-based Scalability Mechanism that triggers additional transfers when rainfall conditions are meaningfully below normal. The Mechanism will target the same eight districts as under SSRLP and focus primarily on drought risk, increasing support for existing PWP and SCT participants in districts where both programs will be implemented, and some non-program participants identified through the social registry. An operational handbook will be prepared ahead of effectiveness. The total budget for this subcomponent is US\$15.2 million, with US\$6 million in IDA financing, used to capitalize the contingency fund, and a US\$9.2 million grants from the Global Shield Financing Facility, where US\$6 million is for risk transfer, and US\$3.2 million for implementation support and delivery systems strengthening.

Component 2: Jobs NOW-Creating Job Opportunities through entrepreneurship support is designed to contribute to the ‘enhance job opportunities for the poor and vulnerable’ part of project development objective. The component will have three sub-components: (1) Jobs NOW mobilization and Savings Promotion; (2) Sustainable Enterprise Development for Youth and Women; and (3) Financial and Market Access and Linkages (FAMA). In addition to supporting rural beneficiaries enrolled in the SCTP and PWP-RCI, the component will also support vulnerable urban women and youth, to ensure that economically at-risk urban populations are not left behind. Guided by evidence from the SSRLP livelihoods support impact evaluation midline survey, the component design is guided by the ultra-poor graduation approach, aimed at promoting jobs for the vulnerable population through entrepreneurship

support. Specifically, the component will promote digital savings and entrepreneurial skills development, provide start-up tools and productive matching grants (for both individuals and groups), and facilitate product certification as well as linkages to microfinance, insurance, and markets. Supported enterprises under this component will align with priority growth sectors including agriculture (supporting Agri-Connect agenda), artisanal manufacturing, and tourism for sustainability, job creation potential, and market relevance. The component will require a comprehensive management information system to ensure transparent beneficiary identification and monitoring of supported households and incorporating mechanisms for recognizing prior learning and existing skills in the beneficiaries. The tentative budget from both IDA and MDTF is estimated at US\$30 million over three years, with the program expected to reach approximately 17,600 households (approx. 80,000 individuals), with a focus on women and youth entrepreneurs.

Component 3: Institutions, Systems, and Management, is an integrating component, contributing to both parts of the PDO. It will provide capacity-building, learning, and operational support for the setting up of the institutional structure necessary for project implementation. The tentative budget for this component is US\$10.8 million over three years and it will also support sector coordination and domestic agenda reshaping of a sustainable and adaptive social protection sector and active labour market policies for Malawi. Component 3 will have three sub-components: (1) Digital Delivery Systems prioritizing digital payments of SCTP and PWP-RCI benefits, dynamic Malawi Social Registry and COREMIS; (2) Institutional Strengthening and Coordination for Social Protection and Active Labour Market Policies and (3) Project Management.

6. Although INSPIRE-O is not infrastructure-intensive, certain activities, particularly under Component 1 and certain aspects of Component 2, may necessitate minor land acquisition, temporary access restrictions or cause some physical or economic displacement. Catchment management activities under the labour intensive public works for resilient catchments and infrastructure (PWP-RCI) subcomponent such as off-farm and on-farm soil and water conservation interventions, riverbank protection, tree planting and natural forest regeneration may require the temporary occupation of land or restricted access to communal resources. While these impacts are expected to be temporary and localized, they could affect agricultural activities, grazing lands, or access to water sources for affected households. On the other hand activities under the Jobs NOW component such as sustainable enterprise development for youth and women and financial access and linkages may involve use of land, either communally or privately owned by targeted project participants/beneficiaries. Based on similar interventions, no large-scale or permanent physical resettlement is anticipated. The primary risks are temporary inconveniences, restricted access, and minor economic impacts that can be effectively mitigated through the procedures outlined in this RPF.

At the RPF preparation stage, specific sites are not yet known, and subprojects will be identified through community-based planning and district-level screening processes. Therefore, preparation of site-specific Resettlement Plans (RPs) is not yet technically feasible. Based on similar interventions in Malawi, impacts are expected to be small in scale, often affecting a limited number of households, informal users, or customary landowners.

The overarching operational policy of the INSPIRE-O project shall be to AVOID involuntary resettlement at all cost by undertaking due diligence during environmental and social risk assessment of

proposed interventions and dropping out all activity sites which require permanent acquisition of land or have potential to trigger involuntary resettlement. Where land acquisition is unavoidable, screening, census surveys, valuation, and RP preparation will follow the ESS5 procedures outlined in this RPF

C. Key Principles and Definitions

7. In World Bank-assisted projects, borrowers are expected to take all feasible measures to avoid or minimize adverse impacts from land acquisition and restrictions on land use associated with project development. The fundamental objective of ESS5 is to ensure that, if physical or economic displacement cannot be avoided, displaced persons (as defined below) are compensated at the replacement cost for land and other assets, and otherwise assisted as necessary to improve or at least restore their incomes and living standards.

8. Other ESS5 objectives include:

- a) To avoid forced eviction⁴
- b) To improve living conditions of poor or vulnerable persons who are physically displaced, through provision of adequate housing, access to services and facilities, and security of tenure⁵
- c) To conceive and execute resettlement activities as sustainable development programs, providing sufficient investment resources to enable displaced persons to benefit directly from the project, as the nature of the project warrants
- d) To ensure that resettlement activities are planned and implemented with appropriate disclosure of information, meaningful consultation, and the informed participation of those affected.

9. Displaced persons (ESS5, Para. 10) are defined as any persons subjected to project-related adverse impacts who (a) have formal legal rights to land or assets; (b) have a claim to land or assets that is recognized or recognizable under national law; or (c) who have no recognizable legal right or claim to the land or assets they occupy or use. The term incorporates all potential categories of persons affected by land acquisition and associated impacts; all of those adversely affected are considered “displaced” under this definition regardless of whether any relocation is necessary.

10. Replacement cost (ESS5, Para. 2, footnote 6) is defined as a method of valuation yielding compensation sufficient to replace assets, plus necessary transaction costs associated with asset replacement. Where functioning markets exist, replacement cost is the market value as established through independent and competent real estate valuation, plus transaction costs. Where functioning markets do not exist, replacement cost may be determined through alternative means, such as calculation of output value for land or productive assets, or the undepreciated value of replacement materials and labor for construction of structures or other fixed assets, plus all transaction costs associated with asset replacement. In all instances where physical displacement results in loss of substandard shelter, replacement cost must at least be sufficient to enable purchase or construction of housing that meets minimum community standards of quality and safety.

11. ESS5 also establishes key principles to be followed in resettlement planning and implementation. These include:

- a) All displaced persons are entitled to compensation for land and attached assets, or to alternative but equivalent forms of assistance in lieu of compensation; lack of legal rights to the assets lost will not bar displaced persons from entitlement to such compensation or alternative forms of assistance.

- b) Compensation rates refer to amounts to be paid in full to the eligible owner(s) or user(s) of the lost asset, without depreciation or deduction for fees, taxes, or any other purpose.
- c) Compensation for land, structures, unharvested crops, and all other fixed assets should be paid prior to the time of impact or dispossession.
- d) When cultivated land is to be taken for project purposes, the NLGFC and the concerned District Council shall seek to provide replacement land of equivalent productive value if that is the preference of the displaced persons.
- e) Community services and facilities will be repaired or restored if affected by the project.
- f) Displaced persons should be consulted during preparation of the RP, so that their preferences are solicited and considered.
- g) The RP (in draft and final versions) is publicly disclosed in a manner accessible to displaced persons.
- h) A grievance mechanism by which displaced persons can pursue grievances will be established and operated in a responsive manner.
- i) Negotiated settlement processes are acceptable as an alternative for legal expropriation if appropriately implemented and documented.⁶
- j) Land donation is acceptable only if conducted in a wholly voluntary manner and appropriately documented.⁷
- k) The Government of Malawi bears official responsibility for meeting all costs associated with obtaining project sites, including compensation and other considerations due displaced persons. The RP includes an estimated budget for all costs, including contingencies for price inflation and unforeseen costs, as well as organizational arrangements for meeting financial contingencies.
- l) Monitoring arrangements will be specified in the RP, to assess the status and effectiveness of RP implementation.

D. Policy and Regulatory Framework

12. The policy, legal and administrative framework governing resettlement in Malawi is anchored in the Constitution and supported by a range of national policies, legislation, and institutional arrangements. These frameworks collectively guide land acquisition, compensation, and resettlement processes, and provide the basis for managing social risks associated with development interventions such as the INSPIRE-O Project

The Constitutional Framework

The Constitution of the Republic of Malawi is the primary basis for all the legal and policy frameworks on resettlement in Malawi and incidental matters. Section 207 vest all land in the Republic thereby establishing the doctrine of eminent domain which empowers the State to acquire land for public purposes. Another fundamental provision is Section 44 which places limitation on the expropriation done devoid of public interest; it requires adequate notification and the payment of adequate compensation for the acquired property.

Section 28 of the constitution reads; ‘every person shall be able to acquire property alone or in association with others and that, no person shall be arbitrarily deprived of property’. Every statute and or policy should therefore be drafted with the sole purpose of putting the constitution and the statutes to effect, mutatis mutandis and those contradicting it by application of Section 5 ;are invalid to the extent of their inconsistency .

Malawi Vision 2063

Malawi vision 2063 (MW2063) outlines the vision for the country's long-term development, influencing the way resettlement, land acquisition, and compensation are managed, especially in relation to infrastructure and development projects. Section 2.3 of MW2063 emphasizes the goal of inclusive development, ensuring that no one is left behind. In the context of resettlement, this means that relocation should be fair, equitable, and voluntary. Affected persons (PAPs) should be consulted and compensated adequately, with particular attention to vulnerable groups who must be specifically protected that notwithstanding INSPIRE-O 0 activities will depend on the land donated to the project

Malawi National Social Protection Policy (2019)

This policy promotes equity, inclusion, and protection of vulnerable populations. It is particularly relevant to resettlement as it requires that Project Affected Persons (PAPs), especially vulnerable households, are supported through compensation and livelihood restoration measures.

Malawi National Land Policy (2002)

The policy aims to ensure tenure security, equitable access to land, and sustainable land use. Furthermore, this policy also provides guiding principles for resettlement, emphasizing fairness, voluntary relocation, protection of livelihoods, and consideration of socio-economic impacts

Malawi Land related Laws

Malawi has enacted several land related laws that govern land administration, acquisition and compensation including; Land Act, 2016; Customary Land Act, 2016; Land Survey Act, 2016; the Lands Acquisition and Compensation Act, 2016; Physical Planning Act, 2016; Land Survey Act, 2016; the Forestry (Amendment) Act, 2016; Malawi Housing Corporation (Amendment) (No.2) Act, 2016; Registered Land (Amendment) Act, 2016; Public Roads (Amendment) Act, 2016; and Local Government (Amendment) Act, 2016, Environmental Management Act 1996 and Registered Land Act 2016 The Ministry of Lands, Housing and Urban Development is currently preparing the regulations for the implementation of these laws, which should adequately protect the PAP's and other stakeholders' interests. The following paragraphs highlight the resettlement related policies and the statutes for the purpose of INSPIRE-O implementation:

The Land Act 2016

The Land Act 2016 and its subsequent amendment of 2022 form the the principal legal basis regulating land tenure and land use. It repealed the Land Act 1965. Sections 6 and 8 of the Land Act reiterate the Constitutional provisions that all land is vested in perpetuity in the Republic . The Act provides that all land is administered by the Commissioner of Lands on behalf of the Republic and the Minister responsible for land matters may delegate any of the powers and duties conferred on him to the Commissioner. Section 7 of the Act recognises two categories of land, namely, public land and private land.

Public Land

The Act defines public land as held in trust for the people of Malawi and managed by Government, a local government authority and a Traditional Authority. Public land includes: Any land held by Government or a local government authority consequent upon a reversion thereof to the Government or local government authority on the termination, surrender or falling in of any

freehold or leasehold estate therein pursuant to any covenant or by operation of law; Land acquired and privately owned by Government or a local government authority used for dedicated purposes such as Government buildings, schools, hospitals and public infrastructure; Land gazetted for national parks, recreation areas, forest reserves, conservation areas, historic and cultural sites; Land vested in Government as a result of uncertain ownership, abandonment or land that cannot be used for any purposes; and Unallocated and communal land within the boundaries of a Traditional Land Management Area.

Private Land

Private land is defined as all land which is owned, held or occupied under a freehold title, leasehold title or as a customary estate or which is registered as private land under the Registered Land Act. Customary estate means any customary land which is owned, held or occupied as private land within a traditional land management area, and which is registered as private land under the Registered Land Act. Customary land means all land used for the benefit of the community and includes unallocated customary land within the boundaries of a traditional land management area. Freehold is defined as an estate which is held in perpetuity and a lease includes an agreement for lease

Customary Land

The Land Act 2016 did not include customary land as a category of land , the assumption was that all the customary land will be registered within the shortest possible time as customary estates , the pilot projects conducted in various places suggested a need to retain customary land category as a transitioning mechanism , this was therefore provided for under section 2 (a) of the Land (amendment) Act 2022 ; and is defined as ‘Land held ,occupied and used in accordance to customary law .

Relevant Provisions

Section 12 of the Act empowers the Minister responsible for lands to make and execute grants, leases or other dispositions of public land classified as Government land for any such estates, interests or terms and for such purposes and on such terms as and conditions as he may think fit. Section 21 of the Act enables the Minister, upon application by any person in a prescribed manner, to grant or allocate leasehold or customary estate on terms and conditions as he may determine. However, according to section 22 he cannot grant freehold title.

Section 36 places restrictions on a person to sell or otherwise to convey, lease, transfer or assign any private land without prior written consent of the Minister or local government authority to sell, convey, lease, transfer or assign the land. The granting or refusal of consent must be communicated to the person who intends to sell within 30 days of receipt of the written notice. The provisions of this section do not apply to sale, conveyance, lease, transfer or assignment by or direct to the Government; any agreement to lease for a non-renewable term of not more than 3 years; a sale pursuant to an order of court by any officer in the public service acting in his official capacity and pursuant to any written law and any mortgage or other hypothecation for repayment of money lent in good faith.

Section 39 provides that where a holder of private land under freehold title has not developed the land and not shown his intention to develop or dispose of it within two years from the date of registration, the Minister may in writing demand voluntary surrender of that land to the Government. If there is no voluntary surrender, the Minister may acquire the land under the Lands Acquisition and Compensation Act and its 2022 Amendment or exercise powers under section 64 of the Physical Planning Act 2016.

Part VII deals with trespass or encroachment upon, or unlawful occupation of, land. Section 45 enables a magistrate with relevant jurisdiction, upon complaint by a person claiming to have lawful title to the land, to issue summons against an alleged trespasser, encroacher, or unlawful user or occupier (defendant) requiring him to attend court. If the magistrate is satisfied that the defendant has trespassed, encroached or unlawfully occupied the said land, the magistrate may make an order requiring the defendant to vacate land within 7 days or longer. The number of days to vacate land depends on a number of factors including: how long it would take the defendant to take down or remove structures, buildings, fences or improvements of any kind erected on the land; how long it will take the defendant to harvest, collect, take in or remove crops, plants, trees and shrubs and to how long it will take the defendant to remove any chattels belonging to him. Failure to comply with the court order could lead to forced removal from the land by an authorised officer, police officer or officer of the court. The Land Act emphasises the fact that procedures under Part VII must be in accordance with the Courts Act.

Section 17 enables the Minister to acquire unallocated customary land for public utility purposes. The section provides that where it appears to the Minister that unallocated customary land is needed for public utility, the Minister shall serve notice upon the Traditional Authority within whose traditional land management area the customary land is situated. Section 18 provides that any person who suffers disturbance of, or loss or damage to any interest which he may have or may have had in such land because of the land being acquired for public utility purposes, under section 17, should be paid such compensation for such disturbance, loss or damage as is reasonable.

The Lands Acquisition and Compensation Act 2016

The Lands Acquisition and Compensation Act No. 9 of 2016 has amended some provisions of the Lands Acquisition Act No.21 of 1970, the 2022 amendment also changed the naming of the principle act to Land Acquisition and compensation act.

Section 3 of the Act read with the Amendment Act empowers the Minister responsible for lands whenever he is of the opinion that it is desirable or expedient in the interests of Malawi, to acquire land for public utility, either compulsorily or by agreement, and pay compensation as may be agreed or determined under the Act.

Sections 5-7 of the Act provide for the issuing of notices upon the persons who are possessed of an interest in the land. According to section 12 of the Amended Act, when a notice to acquire land has been issued and published, the land shall revert to the Government as public land within two months of the publication of the notice.

Section 9 as amended provides for the payment of compensation. It provides that where any land is acquired by the Minister under this Act, the Minister shall pay in respect thereof appropriate compensation agreed or determined in accordance with the provisions of this Act. The Amendment Act further provides that compensation shall be paid in one lump sum; therefore, the assumption is that compensation shall only be monetary.

Amended provisions relating to assessment of appropriate compensation provide that an assessment is to be done by an independent valuer appointed by the Minister, unless the parties agree otherwise. The Amendment to the Act also provides information on the grounds on which compensation can be calculated which include; loss of occupational rights, loss of land, costs of professional advice and disturbances which are a natural and reasonable consequence of the disposition of land. The Amendment has inserted substantive provisions on matters to be taken into consideration in assessing compensation for alienated land under section 10A.

Section 11 of the Act deals with the effect of payment of the compensation and states that a person who has been paid compensation for land cannot make further claims in respect of the land. However, this does not prevent any subsequent proceedings against the person to whom the same was awarded by any person claiming to have a better right to the compensation or the right to a share thereof.

The Registered Land Act 2016

The Act makes provision for the registration of title to land and for dealings in land that has been registered. The Act has been amended several times since 1967 with the most current amendments passed in 2016. The Amendment Act amends some provisions in the Registered Land Act including new definitions of customary estate and land to ensure conformity with the Land Act, 2016.

The Customary Land Act 2016

The Customary Land Act 2016 and the amendment of 2022 provides for the management and administration of customary land and for matters connected therewith and incidental thereto. Customary land means all land used for the benefit of the community as a whole and includes unallocated customary land within the boundaries of a traditional land management area, including:

- land within the boundaries of a Traditional Land Management Area other than Government or reserved land;
- land designated as customary land under the Land Act, 2016;
- land and boundaries demarcated as customary land under any written law or administrative procedure in force at any time before this Act came into operation whether that demarcation has been formally approved or published in the gazette;
- land, the boundaries of which have been agreed upon by a land committee claiming jurisdiction over that land.

The Customary Land Act, 2016 is the main act in customary land administration and management in Malawi. The Act establishes “customary estates”, which is customary land owned, held or occupied as private land within a traditional land management area and which is registered as private land under the Registered Land Act 2016. As such, customary land will no longer be treated as valueless commodity, but

will be given equal value as any privately-owned land such as leasehold or freehold (Government of Malawi, 2017).

In terms of operation, the Customary Land Act 2016 creates customary land committees (CLCs) at group village headman (GVH) level to manage land within a Traditional Land management Area (TLMA). The CLC will be chaired by a GVH and will have six elected members from the community, three of which will be women. In discharging its duties, the CLC shall, among others, have regard for the principle of sustainable development and the relationship between land use, natural resources and the environment contiguous to the customary land; seek and consider views of other local government authorities having jurisdiction in the TLMA; and not allocate land or grant a customary estate without the prior approval of the relevant Traditional Authority. Local government authorities shall provide advice and guidance based on the same being originating from the Commissioner of Lands. Local government authorities will oversee the operations of the CLCs (Government of Malawi, 2017).

The Customary Land Act 2016 defines the terms for customary land in a Traditional Land Management Area transfer to Government or reserve land for public interest. It also focuses on the Declaration of Hazardous Land, on grant and management of customary estates, on adjudication of interest in customary land and on dispute settlement.

The essence of community ownership and control is that all members of a particular community have access to land and all its products without exception and that the role of chiefs is to ensure not only political protection for the community but, essentially, a more equitable distribution of that land among current members of the community and future generations.

Land Survey Act 2016

The Land Survey Act provides for land surveys, the establishment of the Land Surveyors Registration Board, the licensing and control of land surveys, survey marks and boundaries and the establishment of the Malawi Geographic Information Council.

The Physical Planning Act 2016

The Act repeals the Town and Country Planning Act. It provides for physical planning and the orderly and progressive development of land in both rural and urban areas and for issues relating to the grant of permission to develop land and for other powers of control over the use of land. The Act is administered by the Commissioner for Physical Planning and also provides for the establishment of the Physical Planning Council. The Act provides for development permission including application forms, processing and revocation. Section 54 provides that a person shall not commence the development of any subdivision of any land unless he first obtains a grant of development permission. In addition, a person applying for the registration of any land under the Registered Land Act must attach a copy of the grant of development permission in order for his documents to be considered.

Part VII of the Act deals with acquisition of land and compensation. The section provides that the Minister may acquire any land, either compulsorily or by agreement if it is considered desirable or expedient in the interests of the implementation of any plan of the proper control and furtherance of development of any land under the Act. Compensation will be paid in accordance with the Lands

Acquisition Act as amended. Section 68 of the Act provides for occasions when compensation is payable for planning actions, section 69 deals with how compensation can be assessed and section 70 provides for how a claim for compensation can be made. The Second Schedule of the Act is on the calculation of compensation under section 68.

The Act provides for circumstances when an appeal can be made and the fact that an appeal can be made to the Council. A person aggrieved by a decision of the Council may apply to the High Court for judicial review.

The Local Government (Amendment) Act 2017

The Local Government Amendment Act, 1998 consolidates the law relating to local government. Section 34 of the 1998 Act provides for the acquisition of land by Agreement. It states that for the purpose of (a) any of its functions under this Act or any other written law; or (b) the benefit, improvement or development of its area, the Assembly may acquire whether by way of purchase, lease, exchange or gift, any land, whether situated inside or outside its area. Subsection 2 of section 34 of the 1998 Act has been deleted and substituted with a new subsection 2 that provides that subject to the provisions of the Land Acquisition Act, the Council may acquire land to be used for any of the Council's functions.

The Amendment Act also amends the principal act by providing that the Council may dispose of land held by it in accordance with the Land Act 2016 and the Registered Land Act 2016.

Public Roads (Amendment) Act 2017

The Public Roads Act of 1962 as amended was enacted to consolidate and amend the law relating to Public Roads. In this Act, the highway authority is assigned responsibilities for the construction, care and maintenance of any road or class of road in accordance with the Act.

The Public Roads Act provides for various instances when compensation may or may not be paid. Sections 44-50 of the Act provide for issues relating to compensation including assessment of compensation generally and for surface rights, compensation for land which becomes public land, matters to be taken into consideration in assessing compensation for alienated land and claims for compensation. The part also provides for procedures to be followed before a Land Tribunal and the right to apply to the High Court for judicial review if the claimant of highway authority is unhappy with a decision of the Land Tribunal.

Environment Management Act (2017)

The Environment Management Act No.23 of 2017 (EMA) was enacted to make provision for the protection and management of the environment and the conservation and sustainable utilisation of natural resources. The Act provides for Environmental Impact Assessment to be done in certain circumstances. Malawi has developed Guidelines for Environmental Impact Assessment (EIA). The purpose of these Guidelines is to facilitate compliance with Malawi's EIA requirements by Government, project developers, donor partners and the public. The guidelines help to integrate environmental concerns in national development and will be applicable to all types of projects in the public and private sectors for which EIA studies may be or are required.

The Forestry (Amendment) Act 2017

The principal legislation that governs forestry matters in Malawi is the Forestry Act No. 11 of 1997. The Act provides for participatory forestry, forest management, forestry research, forestry education, forest industries, protection and rehabilitation of environmentally fragile areas; and international co-operation in forestry and for matters incidental thereto or connected therewith.

The purposes of the Act include: promoting community involvement in the conservation of trees and forests in forest reserves and protected forest areas and protection of fragile areas such as steep slopes, river banks, water catchment and to conserve and enhance biodiversity.

The Forestry (Amendment) Act amends some provisions in the Forestry Act of 1997 including the inclusion of a new definition of customary land committee which is in accordance with the Customary Land Act, 2016. The Amendment Act also amends section 30 of the Forestry Act so that it provides that 'any customary land committee may, with the advice of the Director of Forestry, demarcate on unallocated customary land a village forest area which shall be forest areas protected and managed in the prescribed manner for the benefit of that village community.

13. The Government of Malawi agrees to take all actions necessary to ensure full and effective implementation of RPs prepared in accordance with the RPF, and to otherwise take actions necessary to achieve all relevant provisions of ESS5.

E. INSPIRE-O Approach to implementation of activities requiring use of Land

14. As highlighted previously, activities requiring use of land under INSPIRE are mainly anticipated from the PWP-RCI subcomponent and the Jobs Now component. Under the PWP-RCI, most of the activities will be community demand driven subprojects largely to be undertaken on communal and customary owned farm land or degraded landscapes. To avoid involuntary resettlement, the INSPIRE-O operation shall do the following:

- i. Seek informed and voluntary consent of use from farmers and custodians of pieces of land targeted for the implementation of catchment management activities of the INSPIRE-O project
- ii. Where consent is voluntarily granted to use the proposed sites for INSPIRE-O PWP-RCI activities then a Voluntary Land donation or Land use agreement form will be administered accordingly. The voluntary Land Donation/Use agreement form shall among other things clearly stipulate the details of the land and terms of the agreement including:
 - Landowner (name, address, occupation)
 - Purpose and context of voluntary land donation
 - Duration of voluntary land donation
 - Title, status, address and dimensions (length, width and total area) of land to be voluntarily donated
 - Current use of land to be donated
 - Proportion of total land owned by landowner
 - Site map and photos of land to be donated
 - Names and dated signatures of landowner, of head of village, and of witnesses
 - Designation of applicable grievance mechanism(s).

- iii. Where a community, a farmer, or a land owner refuses to grant consent, their decision will be respected and the concerned site will be dropped from being used for implementation INSPIRE-O activities.
- iv. All beneficiaries of the Jobs Now component requesting support to undertake and enterprises requiring use of land will be requested to demonstrate availability of legally owned or acquired land as a precondition for eligibility under INSPIRE-O project support. Due diligence will be done to validate land ownership claims to avoid any forms of fraud, coercion or involuntary resettlement.
- v. Any proposed sub-project that is expected to cause involuntary resettlement will not be approved for implementation
- vi. Where circumstances emerge within the project which cause or require physical or economic displacement of affected persons through then the National Local Government Finance Committee shall prepare a resettlement plan in accordance with the guidelines provided in **Section G** of this RPF for World Bank approval.

F. Guiding rules for use of Voluntary Land Donation or Temporary Landuse Agreements under INSPIRE-O

The guidelines to be followed when applying voluntary land donation agreement forms under INSPIRE-O projects will include the following:

- Land to be donated must be identified by the community through a participatory approach
- Impacts of proposed activities on donated land must be fully explained to the donor
- The potential donor is aware that refusal is an option, and that right of refusal is specified in the donation document the donor will sign
- The act of donation is undertaken without coercion, manipulation, or any form of pressure on the part of public or traditional authorities
- The donor may request monetary or non-monetary benefits or incentives as a condition for donation
- The proportion of land that may be donated cannot exceed the area required to maintain the donor's livelihood or that of his/her household
- Donation of land cannot occur if it requires any household relocation
- For community or collective land, donation can only occur with the consent of individuals using or occupying the land
- Verification must be obtained from each person donating land (either through proper documentation or through confirmation by at least two witnesses)
- The implementing agency establishes that the land to be donated is free of encumbrances or encroachment and registers the donated land in an official land registry
- Any donated land that is not used for its agreed purpose is returned to the donor.

G. Preparing a Resettlement Plan

15. All projects causing physical or economic displacement through land acquisition or project-related restrictions on resource access or use are required to prepare a resettlement plan for World Bank approval. Responsibility for preparation and implementation of the RP (or RPs) rests with the National Local Government Finance Committee. As necessary, The NLGFC and the target district council will

exercise its authority to coordinate actions with any other involved agencies, jurisdictions, or project contractors to promote timely and effective planning and implementation.

16. RP preparation begins once the physical footprint of a proposed investment has been determined, establishing that a particular site (or sites) must be acquired for project use. The NLGFC working through the target district council screens proposed sites to identify current usage and tenurial arrangements and identifies the site (or sites) that will minimize physical and economic displacement. The NLGFC and the target district council subsequently carries out, or causes to be carried out, a census survey to identify and enumerate all displaced persons on the selected site (or sites) and to inventory and value land and other assets that are to be acquired for project use.

17. Each RP is based on the principles, planning procedures, and implementation arrangements established in this RPF,⁸ and normally includes the following contents:

- a) Description of the project (with appropriate maps and illustrations), including explanation for the necessity of acquiring particular sites for project use and efforts undertaken to avoid or minimize the amount of land acquisition or other potential impacts deemed necessary
- b) Results of a census survey of displaced persons and inventory and valuation of affected land and assets
- c) Description of any project-related restrictions on resource use or access
- d) Description of tenure arrangements, including collective, communal, or customary use or ownership claims
- e) Review of relevant laws and regulations pertaining to acquisition, compensation, and other assistance to displaced persons, and identification of gap-filling measures needed to achieve ESS5 requirements
- f) Description of land and asset valuation procedures and compensation standards for all categories of affected assets
- g) Eligibility criteria for compensation and all other forms of assistance, including a cutoff date for eligibility
- h) Organizational arrangements and responsibilities for RP implementation
- i) Implementation timetable
- j) Estimated budget and financial contingency arrangements
- k) Consultation and disclosure arrangements
- l) Description of grievance mechanism
- m) Arrangements for monitoring implementation progress.

The RP should be complemented by a separate set of individual compensation files for each displaced household or persons. These files are to be handled confidentially by the borrower to avoid any prejudice to displaced persons. In fragility, conflict, and violence (FCV) environments, RPs should also clarify procedures to be applied to ensure the security of displaced persons when they receive compensation payments.

Eligibility criteria for compensation and all other forms of assistance should be clearly summarized in a table that can be used for consultation with displaced persons (see example provided in Annex).

Additional planning measures must be incorporated into RPs for projects causing physical displacement, or significant economic displacement, as described below.

18. For projects causing physical displacement,⁹ the RP should include planning measures relating to the following, as relevant for project circumstances:

- a) Description of relocation arrangements, including options available to displaced persons, and including transitional support for moving or other expenses
- b) Description of resettlement site selection, site preparation, and measures to mitigate any impacts on host communities or physical environment, including environmental protection and management
- c) Measures to improve living standards and otherwise address particular needs of relocating poor or vulnerable households, including measures to ensure that replacement housing is at least consistent with minimum community standards and is provided with security of tenure
- d) Description of project design measures to improve living standards, access to or functioning of community services or facilities, or for providing other project-related benefits
- e) Any measures necessary to address impacts of resettlement on host communities.

19. For projects causing significant economic displacement,¹⁰ the RP describes (as relevant):

- a) The scale and scope of likely livelihoods-related impacts, including agricultural production for consumption or market, all forms of commercial activity, and natural resource use for livelihoods purposes
- b) Livelihoods assistance options (for example, employment, training, small business support, assistance in providing replacement land of equivalent productive value, other) available to persons losing agricultural land or access to resources
- c) Assistance measures available to commercial enterprises (and workers) affected by loss of assets or business opportunities directly related to land acquisition or project construction
- d) Project measures to promote improvement of productivity or incomes among displaced persons or communities.

H. Consultation and Disclosure Arrangements

20. The RP summarizes results of measures taken to consult with displaced persons regarding the project, its likely impacts, and proposed resettlement measures. It also summarizes the meetings held with displaced persons (dates, locations, number of participants), including comments, questions, and concerns expressed by displaced persons during these meetings as well as responses provided to them. The NLGFC discloses a draft RP to the displaced persons (and the public) after Bank review and solicits comments from displaced persons regarding the proposed plan. Disclosure of the final RP occurs following consideration of comments received and following Bank acceptance.

I. Monitoring and Evaluation

21. The NLGFC will make arrangements for monitoring implementation and will provide periodic monitoring reports to the Bank regarding the status of land acquisition and implementation of the RP. For projects with significant impacts, competent resettlement monitoring professionals will monitor implementation progress and provide advice on any necessary corrective actions and will conduct an implementation review when all mitigation measures in the RP are substantially complete. The implementation review evaluates the effectiveness of mitigation measures in achieving RP and ESS5 objectives and recommends corrective measures to meet objectives not yet achieved.

J. Grievance Mechanism

22. To ensure that displaced persons can raise complaints regarding the land acquisition process, calculation or payment of compensation, provision of assistance, or other relevant matters, the RP provides for an accessible and responsive grievance mechanism. The RP describes submission

procedures, organizational arrangements, and responsive performance standards for handling grievances, and measures to be taken to inform displaced persons or communities about grievance initiation and response standards. The grievance mechanism does not preclude displaced persons from pursuing other legal remedies available to them.

23. The NLGFC keeps a record of all complaints referred to the grievance mechanism, including a description of issues raised and the status or outcome of the review process.

ANNEXES

Annex A - Suggested Outline for Preparation of RP Entitlements Matrix under INSPIRE-O

PROJECT SPECIFIC IMPACTS AND ENTITLEMENT MATRIX:

IMPACTS & PROJECT AFFECTED PERSONS (APS):	MITIGATION STRATEGY:	ENTITLEMENT / RESOLUTION MECHANISM:
LOSS OF AGRICULTURAL OR RESIDENTIAL LAND (Permanent Acquisition)		
<p>1.1.Loss of Private, Formal/Registered Land</p>	<p>Avoidance through planning: Reroute PWP-RCI activities (e.g., riverbank protection, tree planting) prior to commencement to public/common lands or degraded areas not owned by private persons.</p>	<p>Land-for-Land Exchange: Identification and allocation of equivalent communal/state land for affected private owners; project support to coordinate formalization activities e.g. .Registration/filling of donation agreement.</p> <ul style="list-style-type: none"> • Project Affected Persons to be prioritised in relation to : <ul style="list-style-type: none"> (a) Skills Development Training (b) Priority employment in PWP-RCI activities (c) Allocation of rehabilitated land from catchment restoration activities where feasible.
<p>1.2.Loss of Customary/Communal Land Use Rights.</p>	<p>Participatory planning: List all activities (tree planting, runoff management etc.) on agreed, less-critical communal zones.</p>	<p>Communal Asset Replacement/Enhancement:</p> <p>Restoration of equivalent/better communal assets elsewhere (e.g., new community woodlot, protected water source, communal irrigation plot).</p> <ul style="list-style-type: none"> • Community Benefits: Affected user groups receive collective donation of a productive asset (e.g., Maize mills,boreholes, solar appliances) • Individual Skills & Livelihood Donation: Affected individuals integrated into skills training and MSME/cooperative development with start-up support.

<p>1.3.Loss of Public Land used for Livelihoods</p>	<p>Integrate users into project design: Where public land is essential for works, formalize the status of users and design works to minimize disruption (e.g., phased planting).</p>	<p>Formalized Access Rights: Where possible, facilitate formal, recognized access agreements to alternative public land.</p> <ul style="list-style-type: none"> • Livelihood Transition Donation: Direct linkage to Job programs as the primary remedy—offering skills, tools, and linkages to transition from vulnerable public land use to more secure self-employment or wage work. • Priority for New Project Assets: Priority access to use rehabilitated catchment areas for sustainable agriculture or agroforestry.
<p>LOSS OF STRUCTURES AND OTHER ASSETS</p>		
<p>1.4.Loss of Residential, Commercial, or Productive Structures</p>	<p>Strategic siting to avoid habitation and permanent structures. The project may use geotagging during planning.</p>	<p>In-Kind Reconstruction: Provision of equivalent or improved building materials and labor to reconstruct on alternative land (found through community-led land search).</p> <ul style="list-style-type: none"> • Relocation Support: Project-facilitated identification of alternative community-accepted sites and logistical support for moving.
<p>1.5.Loss of Crops, Trees, or Other Fixed Assets</p>	<p>Early community engagement & harvest notice: Schedule works post-harvest or allow for salvage/transplanting.</p>	<p>In-Kind Replacement: Direct provision of seedlings/saplings of equivalent or higher-value species for replanting on alternative land.</p> <ul style="list-style-type: none"> • Integration into PWP-RCI nursery and tree management teams, receiving wages and skills while replanting their own and community assets.
<p>TEMPORARY OCCUPATION OR USE OF LAND/ASSETS</p>		
<p>1.6.Temporary Loss of Land Access (e.g., for worksites).</p>	<p>Opt for linear/corridor works (e.g., riverbanks) rather than block areas. Use seasonal timing (dry season for farm access).</p>	<ul style="list-style-type: none"> • Offer guaranteed PWP-RCI employment slots for the duration of the temporary occupation, providing wages exceeding potential land income. • Post-Use Enhancement: Commit to and deliver land

		improvement (soil conservation, minor irrigation) after temporary use, increasing its value for the owner.
LOSS OF INCOME AND LIVELIHOODS		
1.7.PAPs with Formal/Licensed Businesses	Business continuity planning: Design works to maintain customer/supplier access (e.g., temporary business relocation support within community).	Business Development: Linkage to Jobs- MSME value-addition support, cooperative registration, and market linkage facilitation to upgrade and diversify the business as compensation for disruption. • Skills Training Donation: Opportunity to participate in advanced entrepreneurship or technical skills training to expand business scope.
1.8.PAPs with Informal Livelihoods (vendors, laborers)	Phasing works near market areas; create temporary vending zones during implementation.	Direct Integration into Project: This is the primary remedy. Priority enrollment in: a) PWP-RCI for immediate wage employment. b) Skills training & mentorship. c) Savings & Loan Groups for capital access.
VULNERABLE AFFECTED PERSONS		
1.9.Households eligible for SCT or PWP (the project's primary beneficiaries)	Proactive Safeguards Screening: The Dynamic MSR will be used <i>ex ante</i> to identify if planned works impact registered vulnerable individuals, triggering automatic redesign to avoid impact.	Enhanced Graduation Package Donation: If avoidance is impossible, PAPs receive support package : a) Extended duration in Adaptive SCT or PWP-RCI. b) Comprehensive job package (skills + kit + mentorship). c) Case-managed pathway to graduation with asset-building support. • This group is <i>donated</i> a pathway out of vulnerability as compensation for project impact.
COMMUNITY-WIDE IMPACTS		
1.10. Disruption of Access to Resources/Infrastructure	Community-based ESIA: Identify and protect critical access routes during the planning phase.	Infrastructure Donation as Compensation: Project commits to constructing/improving a community-prioritized asset (e.g., footbridge, water point, feeder road) in exchange for temporary disruption, using PWP-RCI labor. • Community Asset Development: Use the disruption as an

		opportunity to co-design and build better, more climate-resilient community infrastructure.
1.11. Use of Community Resources (sand, stone, water)	Resource mapping & agreements: Formalize sustainable extraction rates and locations with community structures.	Payment in Community Assets: Extraction fees are paid not in cash but by funding a community-managed project (e.g., school block repair, clinic supplies) . <ul style="list-style-type: none"> • Skills Donation: Train community members in sustainable resource management.

Annex B: VOLUNTARY LAND DONATION/USE AGREEMENT FORM



GOVERNMENT OF THE REPUBLIC OF MALAWI

**INSPIRE-O PROJECT VOLUNTARY LAND USE AND COMMUNITY BENEFIT
AGREEMENT FORM**

Project Component: PWP-RCI / Resilient Catchments and Infrastructure

Agreement Reference No: _____

District: _____

Village: _____

PARTIES TO THIS AGREEMENT

This Agreement is made on ____ day of _____ 20____ between:

1. The Affected Person(s)/Landholder(s) ("Landholder")

- Full Name(s): _____
- National ID(s): _____
- Contact: _____

2. The Community, represented by the Village Development Committee

Committee Name: _____

Chairperson: _____

3. The INSPIRE-OO Project ("the Project")

Implementing Agency: _____

Authorized Officer: _____

ARTICLE 1: ACKNOWLEDGEMENT OF IMPACT AND AGREEMENT PRINCIPLES

- 1.1. The Parties acknowledge that Project activities under Component 1.1 (PWP-RCI) unavoidably require the use of the land described below, resulting in temporary/permanent disturbance to the Landholder.
- 1.2. This Agreement is made in accordance with the INSPIRE-OO Project's RPF and the laws of the Government of Malawi.
- 1.3. The Landholder enters this Agreement voluntarily, having been fully informed of its terms and their rights including (a) being informed that refusal is an option, and that right of refusal is specified in the donation document the donor will sign; (b) donation occurs without coercion, manipulation, or other pressure on the part of public or traditional authorities; and (c) the donor may negotiate for some form of payment, partial use rights, or alternative benefits as a condition for donation

ARTICLE 2: DESCRIPTION OF LAND AND TERM OF USE

2.1 Land Details

- Location/Description: _____
- Approximate Size: _____ Hectares
- Current Use: _____
- Attached is a sketch map of the land.

2.2 Term of Project Use (Select one option)

FIXED-TERM USE: The Project is granted the right to use the land for a period of __ years, starting from ____/____/_____. Upon completion, the rehabilitated land will revert to the Landholder.

INDEFINITE / PERMANENT COMMUNITY DONATION: The Landholder irrevocably donates the use rights of this land for the Project's purpose in perpetuity. The improved land will become a permanent community-managed asset. The Landholder retains a symbolic right to be consulted on its management. _____(Tick)

ARTICLE 3: INDIVIDUAL AND COMMUNITY BENEFITS

In the course of using the land and after, the project agrees to contribute the following beneficial improvements to the overall health and productivity of the pieces of land:

3.1. Benefits for the Landholder's Household (Select and specify all that apply).

- Improved soil erosion management measures
- Improved water retention and infiltration
- Improved vegetative cover through donation of agro-forestry trees and grasses to be planted on the piece of land
- Improved productivity of the piece of land

Other: _____

3.2. Community Benefits

The Project activities on the land will provide:

- Estimated _____ months of additional employment for other vulnerable community members.
- The development of a community climate resilience asset (e.g., restored catchment, protected bank)_____

ARTICLE 4: REPRESENTATIONS AND SIGNATURES

We, the undersigned, confirm our understanding and acceptance of the terms above.

Landholder(s) Signature(s):

Name: _____ Date: ____/____/____

Signature:_____

Name: _____ Date: ____/____/____

Signature:_____

Name: _____ Date: ____/____/____

Signature:_____

Witness (Community Representative):

Name: _____ Date: ___/_____/_____
(Traditional Authority)

Signature: _____ and official Stamping.

Name: _____ Date: ___/_____/_____
(GVH/VH)

Signature: _____ and official Stamping.

Name: _____ Date: ___/_____/_____
ADC Chair/Councillor)

Signature: _____ and official Stamping.

Name: _____ Date: ___/_____/_____
Director for Lands/ Lands Officer)

Signature: _____ and official Stamping.

For the INSPIRE-OO Project:

Name: _____ Date: ___/_____/_____
(Program Coordinator)/Any Program In-charge

Endnotes

¹ As described in ESS5, Paras. 33–36.

² As described in ESS5, Paras. 26–32.

³ The RPF does not supersede provisions of ESS5 or the ESF, and the World Bank remains solely responsible for determining what is required to achieve consistency with those requirements throughout the course of project implementation.

⁴ Defined as the removal against the will of individuals, families, and/or communities from the homes and/or land which they occupy without the provision of, and access to, appropriate forms of legal and other protection, including all applicable procedures in ESS5.

⁵ Security of tenure means that displaced persons are resettled to a site that they can legally occupy, where they are protected from the risk of eviction and where the tenure rights provided to them are at least as robust as those they had prior to displacement.

⁶ Appropriate principles for negotiated settlement transactions include (a) intended project sites are screened to identify competing claims to ownership or use, or other encumbrances that would impede two-party negotiations; (b) if the site is collectively or communally owned or used, the negotiation process includes those individuals or households who directly occupy or use it; (c) prior to negotiations, owners or users are informed by project authorities of their intent to obtain relevant land (and other assets) for project use; (d) owners or users are informed of their rights and options to pursue legal remedies or other actions, and sign a declaration indicating willingness to negotiate; (e) at the onset of negotiations, project negotiators present the owner or user with a proposed package of compensation or other beneficial considerations, along with an explanation as to the basis of this initial offer; (f) owners or users are informed that they may make counterproposals as they may see fit; (g) negotiations are conducted without resort to coercion or intimidation in any form; (h) an agreement establishing payment amounts or other agreed considerations is written, signed, and recorded; (i) payment of compensation and provision of any other agreed considerations is completed prior to taking possession for project use; and (j) owners or users retain the right of access to the grievance mechanism if they have complaints regarding any aspect of the negotiated settlement process.

⁷ Any land or asset donation for project use will be consistent with these principles: (a) the potential donor is informed that refusal is an option, and that right of refusal is specified in the donation document the donor will sign; (b) donation occurs without coercion, manipulation, or other pressure on the part of public or traditional authorities; (c) the donor may negotiate for some form of payment, partial use rights, or alternative benefits as a condition for donation; (d) donation of land is unacceptable unless provision is made to mitigate any significant impacts on incomes or living standards of those involved; (e) donation of land cannot occur if it were to necessitate any household relocation; (f) for community or collective land, donation can only occur with the consent of individuals directly using or occupying the land; (g) the land to be donated is free of encumbrances or encroachment by others who may be adversely affected; (h) any donated land that is not used for its agreed purpose by the project is returned to the donor in a timely manner; and (i) each instance of land donation is documented, including a statement identifying the land or assets donated and terms of donation, which is signed by each owner or user. Persons donating land or assets for project use may use the project grievance mechanism to raise complaints regarding any aspect of the donation process.

⁸ Additional details regarding preparation of an RP are included in ESS5, Annex 1.

⁹ Additional details regarding planning measures for physical displacement are provided in ESS5, Annex 1, paras. 17–23.

¹⁰ Consideration of scale of loss of productive assets as well as changes in institutional, technical, cultural, economic, and other factors may be important in determining the significance of economic displacement. In general practice, however, loss of 10 percent or more of productive land or assets from a household or enterprise often is considered significant. Additional details regarding planning measures for economic displacement are provided in ESS5, Annex 1, paras. 24–29.