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KERICHO COUNTY BILLS, 2020

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CONTENT

Bill for Introduction into the County Assembly of Kericho—

PAGE

The Kericho County Kabianga Tea Farm Bill, 2020

1

THE KERICHO COUNTY KABIANGA TEA FARM BILL, 2020
ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY PROVISIONS

- 1—Short title and commencement
- 2—Interpretation
- 3—Objects and purpose of the Act

**PART II —ESTABLISHMENT OF KABIANGA TEA FARM AS A
COUNTY AGENCY**

- 4—Establishment of a County Agency
- 5—Functions of the Agency
- 6—Agency continued as body corporate
- 7—Board of the Agency
- 8—Powers of the Board
- 9—Conduct of Business and Affairs of the Agency
- 10—Delegation by the Agency
- 11—Remuneration of Members of the Board
- 12—Manager
- 13—Staff of the Agency
- 14—The common seal of the Agency
- 15—Protection from Personal liability
- 16—Liability from damages
- 17—Corporate governance

PART III—FINANCES OF THE AGENCY

- 18—Funds of the Agency
- 19—Financial Year
- 20—Annual Estimates
- 21—Accounts and Audit

**PART IV—INVESTMENT PROMOTION, PARTNERSHIP AND
DIVIDENDS POLICY**

22—Investment promotion strategy

23—Partnership

24—Dividends policy

PART V—MISCELLANEOUS PROVISIONS

25—Regulations

26—Transfer of Assets

27—Dispute Resolution

SCHEDULES

**FIRST SCHEDULE—CONDUCT OF BUSINESS AND AFFAIRS
OF THE AGENCY**

**SECOND SCHEDULE—THE INVESTMENT PRIORITY AREAS
– (Business Case for Kabianga Tea Farm)**

THIRD SCHEDULE—TRANSITION PROVISIONS

THE KERICHO COUNTY KABIANGA TEA FARM BILL, 2020

A Bill for

AN ACT of the County Assembly of Kericho to make provision for the establishment of a County Agency for the management of Tea Production and allied products, processing, and for related purposes

ENACTED by the County Assembly of Kericho, as follows—

PART I— PRELIMINARY PROVISIONS

Short title and commencement

1 This Act may be cited as the Kericho County Kabianga Tea Farm Act, 2020 and shall come into operation on such a date as County Executive Committee Member may, by notice in the *Gazette* appoint

Interpretation

2 In this Act, unless the context otherwise requires—

“Agency” means the County Agency established under section 4,

“Board” means the Kabianga Tea Farm Board established by section 6,

“County Executive Committee” means the County Executive Committee of County Government of Kericho,

“County Government” means the County Government of Kericho,

“Executive Committee Member” means the County Executive Committee Member for the Agriculture, Livestock and Fisheries,

“financial year” means the financial year of the Agency as provided for under section 19,

“Governor” means Governor of Kericho County,

“Manufacturing” means the processing of agricultural products and includes the packaging, labeling, distribution or importation of scheduled agricultural products for sale,

“tea” means the plant or part of the plant of the species *known* botanically as *camellia spp* or of any inter-specific hybrid involving this species or of any progeny of such hybrid, and

“tea product” means any product, extract or substance obtained or derived from tea by any treatment or process

Objects and purpose of the Act

3 The objects and Purpose is to—

- (a) invest in business of growing tea and allied products,
- (b) accumulate profits and capital arising from any of the activities of the Agency and invest and deal with the moneys of the company or upon such securities and purchases of land (improve or otherwise) and to realize, vary, reinvest or deal otherwise with such moneys as from time to time be determined
- (c) apply for, purchase, take out or otherwise acquire any patents, patent rights, licenses concessions or intentions, copyright or secret processes which may be useful for the Agency's objects and to grant licenses to use the same or to sell outright or on any terms which may, in the opinion of the Directors, be to the interest of the Agency, and to make, subsidize or assist in experiments, investigations and researches,
- (d) carry on any other business, whether financial, manufacturing or otherwise, which may seem to the Agency capable of being conveniently carried on in connection with any business of the Agency,
- (e) acquire and take over the whole or any part of the business property and liabilities of any Company or person carrying on any business which the Agency is authorized to carry on, or possessed of any property or assets suitable for the purposes of the Agency,
- (f) adopt such means of making known the products of the agency as may seem expedient and in particular by advertising in the press, by circulars, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes, rewards and donations,
- (g) do all such other things as are incidental or the agency may think conducive to the attainment of the above objects or any of them

PART II— ESTABLISHMENT OF THE KABIANGA TEA FARM AS AN AGENCY

Establishment of a County Agency

4 (1) There is established a County Agency to be known as the Kabianga Tea Farm

(2) The Agency shall be a body corporate with perpetual succession and with a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued,

- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property,
- (c) borrowing money or making investments,
- (d) entering into contracts, and
- (e) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate

(3) The provisions of the Third Schedule shall apply upon commencement of this Act

(4) The Agency shall be owned by the County Government

Functions of the Agency

5 The Agency shall, in consultation with the County Government, perform the following functions—

- (a) administer the management of tea processing and its infrastructure in the County in accordance with the provisions of this Act,
- (b) promote best practices in, and regulate, the production, processing, grading, storage, collection, transportation and warehousing of tea and allied products,
- (c) collect and collate data, maintain a database on tea products documents and monitor,
- (d) be responsible for determining the research priorities in tea and allied products and to advise generally on research thereof,
- (e) advise the County government on tea and allied product dealing levies for purposes of planning, enhancing harmony and equity in the sector,
- (f) carry out such other functions as may, from time to time, be assigned by the County Executive Committee

Agency continued as body corporate

6 The Kabianga Tea Farm Company Limited incorporated under the Companies Act (Cap 486) is hereby continued as a body corporate under this Act to be known as the Kabianga Tea Farm

Board of the Agency

7 (1) The Agency shall consist of a Board responsible for governance and a secretariat headed by a Manager responsible for the day to day execution of the affairs of the Agency

- (2) The board of the Agency shall consist of the following—
- (a) a non-executive Chairperson who shall be appointed by the Governor,
 - (b) two persons nominated from farmers' organizations or co-operative societies' representing farmers in the major tea sub-sector in Kericho,
 - (c) an Officer in the County Department responsible for Agriculture,
 - (d) an Officer in the County Department responsible for Trade,
 - (e) not more than three other members, appointed by the Executive Committee Member, with due regard to gender parity, as follows—
 - (i) one who shall have knowledge and experience in matters relating to agriculture,
 - (ii) two who shall have knowledge and experience in matters relating to functions of fast moving consumer goods, and
 - (f) the Manager who shall be the secretary to the Agency
- (3) The Executive Committee Member shall give a criteria for selection of the members of the Board under subsections (1) (b) and (e)
- (4) The rules made under subsection (2) shall provide for mechanisms to ensure that not more than two thirds of the members of the Agency are of the same gender
- (5) The Agency shall have the power to co-opt not more than two other members for purposes of proper performance of its functions
- (6) The quorum at meetings of the Agency shall be four members
- (7) A person appointed as a member of the Agency under subsection (1) (b) shall—
- (a) be a holder of at least Postgraduate training in relevant field from a recognized institution of higher learning,
 - (b) have relevant management experience of at least five years in public or private sector,
 - (c) be appointed through a competitive recruitment process,
 - (d) serve for a term of three years and shall be eligible for re-appointment once for a further term of three years

- (8) A member of the Board, appointed under subsection (1) (b) and (e)—
- (a) may at any time resign from office by notice in writing to the Executive Committee Member,
 - (b) may be removed from office if the member—
 - (i) has been absent from three consecutive meetings of the Agency without the permission of the chairperson,
 - (ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors,
 - (iii) is convicted of an offence involving dishonesty or fraud,
 - (iv) otherwise fails to comply with the requirements of Chapter Six of the Constitution,
 - (v) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding Kenya Shillings ten thousand (KSh 10,000),
 - (vi) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his or her duties as a member of the Board

Powers of the Board

8 The Board shall have all powers necessary for the proper performance of its functions under this Act and in particular, but without prejudice to the generality of the foregoing, the Agency shall have power to—

- (a) enter into contracts,
- (b) manage, control and administer its assets in such manner and for such purposes as best promote the purpose for which the Agency is established
- (c) determine the provisions to be made for its capital and recurrent expenditure and for the reserves of the Agency,
- (d) receive any grants, gifts, donations or endowments and make legitimate disbursements there from,
- (e) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Agency is established,
- (f) open such bank accounts for its funds as may be necessary,

- (g) invest any funds of the Agency not immediately required for its purposes,
- (h) undertake any activity necessary for the fulfillment of any of its functions

Conduct of Business and Affairs of the Agency

9 (1) The conduct and regulation of the business and affairs of the Board shall be as outlined in the First Schedule

(2) Except as provided in the First Schedule, the Board may regulate its own procedure

Delegation by the Agency

10 The Agency may either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Agency, the exercise of any of the powers or the performance of any of the functions or duties of the Agency under this Act or under any other written law

Remuneration of Members of the Board

11 The remuneration payable to members of the Board shall be determined by the Salaries and Remuneration Commission

Manager

12 (1) There shall be a Manager who shall be the chief executive officer of the Agency and shall be appointed by the Board of the Agency through a competitive recruitment process

(2) The appointment of the Manager of the Agency under subsection (1) shall be done in consultation with the Executive Committee Member and the Kericho County Public Service Board

(3) The Manager shall hold office for a period of not more than five years, on such terms and conditions of employment as the Board may determine, and shall be eligible for re-appointment for one further term

(4) The Manager shall be an ex officio member of the Agency but shall have no right to vote at any meeting of the Agency

(5) The Manager shall—

(a) subject to the direction of the Board, be responsible for the day to day management of the tea production and processing,

(b) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Agency, the exercise, discharge

and performance of its objectives, functions and duties and the general administration of the Agency,

(c) be the secretary of the Board

Staff of the Agency

13 The Board may appoint such officers, agents and other staff as are necessary for the proper and efficient discharge of the functions of the Agency under this Act, upon such terms and conditions of service as the Board may determine

The Common Seal of the Agency

14 (1) The common seal of the Agency shall be kept in the custody of the Manager or of such other person as the Board may direct and shall not be used except upon the order of the Board

(2) The common seal of the Agency, when affixed to a document and duly authenticated shall be judicially and officially noticed and unless the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given

(3) The common seal of the Agency shall be authenticated by the signature of the chairperson of the Board and the Manager

(4) The Board shall, in the absence of either the chairperson or the Manager in any particular matter, nominate one member of the Board to authenticate the seal of the Agency on behalf of either the chairperson or the Manager

Protection from Personal Liability

15 (1) No matter or thing done by a member of the Board or by any officer, member of staff, or agent of the Agency shall if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Agency under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any, act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done *bona fide* be paid out of the funds of the Agency, unless such expenses are recovered by him or her in such suit or prosecution

Liability from Damage

16 The provisions of section 15 shall not relieve the Agency of the liability to pay compensation or damages to any person for any injury to

him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works

Corporate governance

17 The Agency shall establish and implement corporate governance principles and practices applicable to similar entities

PART III—FINANCES OF THE AGENCY

Funds of the Agency

18 (1) The funds and assets of the Agency shall consist of—

- (a) such monies as may be appropriated by the County Assembly for the purposes of the Agency,
- (b) revenues realized from investments undertaken by the Agency
- (c) such gifts, grants or monies received from any lawful source
- (d) such profits as may be obtained from the sale of tea and allied products
- (e) all monies borrowed from any other lawful source provided, donated or lent to the Agency

(2) (a) The Agency shall apply the money received under this section for the furtherance of the objects and performance of its functions as prescribed under this Act.

(3) All levies as may legally be levied with authority of the County Treasury

Financial Year

19 The financial year of the Agency shall be the period of twelve months ending on the thirtieth June in each year

Annual estimates

20 (1) At least three months before the commencement of each financial year, the Agency shall cause to be prepared annual estimates of the revenue and expenditure of the Agency for that year. These shall be for purposes of exercising control and audit of the Agency as an entity and for transmission of budget estimates through the County Treasury to the County Assembly in accordance with public finance management Act

(2) The annual estimates shall make provision for all estimated expenditure of the Agency for the financial year and in particular, the estimates shall provide for the—

- (a) green leaf sales, made tea sales, production costs, other operating expenses and other incomes,
- (b) payment of the salaries, allowances and other charges in respect of the staff of the Agency,
- (c) payment of allowances and other charges in respect of members of the Board,
- (d) payment of pensions, gratuities and other charges in respect of members of the Board and staff of the Agency,
- (e) proper maintenance of tea production infrastructure and offices of the Agency,
- (f) maintenance, repair and replacement of processing equipment and other Agency property, and
- (g) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Agency may deem appropriate

(2) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the County Executive Committee Member for Finance and Economic Planning for final approval

(3) No expenditure shall be incurred for the purposes of the Agency except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the Agency given with prior written approval of the County Executive Committee Member for Finance and Economic Planning

Accounts and Audit

21 (1) The Agency shall cause to be kept proper books and records of accounts of the income, expenditure, assets and liabilities of the Agency

(2) Within a period of three months after the end of each financial year, the Agency shall submit to the Auditor General the accounts of the Agency together with—

- (a) a statement of the income and expenditure of the Agency during that year, and
- (b) a balance sheet of the Agency on the last day of that year

(2) The accounts of the Agency shall be audited and reported upon in accordance with the provisions of the Public Audit Act, 2015

PART IV— INVESTMENT PROMOTION STRATEGY, PARTNERSHIP AND DIVIDEND POLICY

Investment promotion strategy

22 (1) The Agency shall prepare at least a three-year investment promotion strategy subject to the approval of the County Executive Committee

(2) The investment strategy and plan shall provide among others for—

- (a) targeted sources of investment capital,
- (b) targeted investment opportunities,
- (c) specific investment projects and their respective projects appraisals that should be undertaken by the County Government in order to promote investment in the county,
- (d) estimated cost of the investments,
- (e) any other matter as the Executive Committee Member may prescribe

(2) The Agency shall not undertake any investment promotion activity unless it is stipulated under the plan

(3) The Agency may review the investment promotion strategy after each year in order to align it with the prevailing investment environment and trends

(4) The Agency shall prepare annual plans for implementing the investment promotion strategy

Partnership

23 The Agency may enter into partnership collaboration, co-operation, or union of interest with any entity for the purposes of carrying out the objectives of this Act

Dividend policy

24 (1) The Agency shall, in consultation with the county executive committee establish a dividend policy, which shall be reviewed annually

(2) The dividend policy shall stipulate among others for—

- (a) the prevailing business conditions under which dividend may be paid out,

- (b) minimum percentage of annual dividend payout to the County Government,
- (c) any other matter as the Executive Member prescribe

PART V— MISCELLANEOUS PROVISIONS

Regulations

25 The Executive Committee Member may, on the advice of the Board and with approval of the County Assembly, make regulations generally for the better carrying out of the purposes and provisions of this Act

Transfer of Assets

26 (1) The Executive Committee Member shall identify property or assets owned by the County Government that shall be transferred to the Agency for the purposes of implementing this Act subject to approval by the County Executive Committee

(2) The property and assets transferred under this section shall be registered under the name of the Agency

Dispute resolution

27 (1) In the event of any disagreement regarding any matter on investments in the County, all efforts shall be made through mutual discussion to reach an amicable solution

(2) Any dispute between Agency and investors in respect to which this Act applies, which is not amicably settled through mutual discussions, may be submitted at the option of the aggrieved party to Executive Committee Member who shall make rules to provide the procedure for arbitration of such disputes

FIRST SCHEDULE

[SECTION (s 9)]

**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND
AFFAIRS OF THE BOARD**

Vacation of office

1 A member of the Board other than the County Government officers may—

- (a) at any time resign from office by notice in writing to the Executive Committee Member,
- (b) be removed from office by the Executive Committee Member or the Governor in the case of the chairperson, if the person—
 - (i) has been absent from three consecutive meetings of the Board without the permission of the chairperson,
 - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings,
 - (iii) is convicted of an offence involving dishonesty or fraud,
 - (iv) is adjudged bankrupt or enters into a composition scheme of arrangement with his creditors,
 - (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Board,
 - (vi) fails to comply with the provisions of this Act relating to disclosure,
 - (vii) Commits acts of Gross misconduct, or
 - (viii) is in serious violation of the Constitution or any other written law

Meetings

2 (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting

(2) Notwithstanding the provisions of subparagraph (1), the chairperson and upon requisition in writing by at least three members shall convene a special meeting of the Board at any time for the transaction of the business of the Board

(3) Unless three members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board

(4) The quorum for the conduct of the business of the Agency shall be four members including the chairperson or the person presiding

(5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted have all the powers of the chairperson

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members

Special meetings

3 The chairperson shall, on the written requisition of one third of the board members of the Agency convene a special meeting of the Board

Conflict of Interest

4 (1) If a member is directly or indirectly interested in any contract proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract proposed contract or other matter is the subject of consideration that member shall, at the meeting and as soon as practicable after the commencement, disclose the fact and shall not take part in the consideration or discussion of or vote on any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question

(2) A member of the Board shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board

(3) Where the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the Board shall direct

the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter

(4) If the chairperson has a conflict of interest he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the Executive Committee Member in writing

(5) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Board and the member with the conflict of interest shall not vote on this determination

(6) Where the Board determines that the conflict is likely to interfere significantly with the member's proper and effective performance as provided for in subparagraph (1), the member shall resign unless the member has eliminated the conflict to the satisfaction of the Agency within thirty days

(7) The Board shall report to the Executive Committee Member any determination by the Agency that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report

(9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made

(10) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both

Code of conduct

5 (1) Within twelve months of the commencement of this Act, the Board shall adopt a code of conduct prescribing standards of behavior to be observed by the members of the board and staff in the performance of their duties

(2) Subject to sub-paragraph (1), before adopting any code of conduct or making any substantial amendments to an existing code of conduct the Board shall publish the proposed code or amendments in the Gazette and in a newspaper circulating nationally, inviting public comments

(3) The Board shall include in its annual report a report on

compliance with the code during the period covered by the annual report

(4) The code of conduct adopted or prescribed under this paragraph shall be binding on the Board and its staff

Execution of Interest

6 Any contract or instrument which, if entered into or executed will be construed to have been executed by the Agency as a body corporate Must be under seal and shall be entered into or executed on behalf of the Board only by a person authorized by this Act to be custodian of the seal or with a written delegated authority to do so

Minutes

7 The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose

SECOND SCHEDULE

[SECTION (s 9 (a))]

THE INVESTMENT PRIORITY AREAS

BUSINESS CASE FOR KABIANGA TEA FARM

Executive Summary

Kabianga Tea Farm was formerly owned by the Kenya Tea Growers Association (KTGA). The farm was later surrendered by KTGA to the County Council of Kipsigis (defunct Local Authority) in 1978. In the same year (1978), the County Council of Kipsigis entered into a management contract with the then African Highlands Produce Co Ltd (now James Finlays (K) Ltd).

Kabianga Tea Farm has a total land area of 151 hectares (*Title Deed Number Kericho/Kabianga/2*) which is approximately 377 acres with 9 tea fields. These tea fields cover a total area of 121 Hectares and the other 30 hectares, is planted with trees.

The Kabianga Tea Farm Company Limited will be wound up or dissolved as per Article of association and pursuant to the Companies Act, 2015 and the Companies (General) Regulations, 2015 after a county agency is established through an Act of County Assembly of Kericho, coming into effect on the appointed date in the *Kenya Gazette*.

Project Name	Kabianga Tea Farm
Project Sponsor	County Government of Kericho
Date of Project Approval	2020
Project Background	Kabianga Tea Farm Company Limited was wholly owned by the County Council of Kipsigis until 2013 when the County Government of Kericho took over. The Constitution of Kabianga Tea Farm is governed by Memorandum and Articles of Association with the share capital of the company divided into 5,000 shares where the County Government holds the majority shares of 4,997 and the other 3 shares (not paid-up share capital) held by former employees of the council by virtue of their

	position The former employees have since renounced their shares to the County Council of Kipsigis
Options considered	Options considered included the following 1 Retaining Kabianga Tea Farm as a private company 2 Conversion of Kabianga Tea Farm to a public county agency (selected)
Benefits	1 Make the Tea Farm legible to receive appropriated funds from County Treasury for investments 2 Provide limited liability protection to the County as a shareholder 3 Facilitate entering into contractual agreements 4 The Agency will establish credibility with potential customers, employees, vendors and partners
Timescales	The conversion of Kabianga Tea Farm Limited to a County Agency is expected to be completed by the end of the year 2020, subject to calendar of County Assembly
Risks	(a) Budget Constraints All businesses deal with budget constraints, but public sector organizations must be accountable to stakeholders and must adhere to their directives. It is not uncommon for public organizations to sustain budget cuts on a regular cycle, requiring managers to get creative at preventing a loss of vital services (b) Poor Leadership Poor leadership can seriously affect employee morale and even cause the company's bottom line to plunge. Bad leadership leads to poor employee retention and demotivates the remaining employees causing them to be much less productive than they would otherwise be.

	(c) Misappropriation of Funds Intentional or illegal use of funds for unauthorized purpose is very rampant in public institutions occasioning loss of public funds (d) Weak Regulatory Framework Public organizations are often marred by bureaucracies and weak enforcement of existing policies and laws This may greatly hamper operations of the Agency leading to poor performance
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THIRD SCHEDULE

[SECTION (s 4(3))]

TRANSITIONAL PROVISIONS

Interpretation

1 In this Schedule—

“Agency” means Kabianga Tea Farm,

“appointed day” means the date appointed by Executive Committee Member as the date on which this Act comes into force

“assets” include all property moveable or immovable and all assets easement and rights whether equitable or legal in or over or out of property

“former Company” means the Kabianga Tea Farm Company Limited company existing immediately before the appointed day

“Liabilities” means liabilities, debts, duties and obligations of every description

Assets and liabilities

2 On the appointed day all the funds, assets and other property both moveable and immovable which immediately before such day were vested in the former Company shall by virtue of this paragraph vest in the Agency

Rights and obligations

3 All rights, obligations and contracts which Rights and immediately before the coming into operation of this Act obligations were vested in or imposed on the former Company with respect to the tea sector shall by virtue of this section be deemed to be the rights, obligations and contracts of the Agency as the case may be

Precious authorizations

4 All directions, orders and authorization given or licences or permit issued, or registrations made by the former Company in relation to tea and subsisting or valid immediately before the appointed day, shall be deemed to have been given, issued or made by the Agency as the case may be under this Act

Staff

5 (1) Any person who at the commencement of this Act, is a member of staff of the former Company shall on the appointed day become a member of staff of the Agency on the same or improved terms and conditions of service as may be specified by the County Executive Committee

(2) A member of staff of the former Company may retire on the basis of abolition of office as the Agency may determine

Disciplinary proceedings

6 (1) Where on the appointed day—

- (a) any disciplinary proceedings against any member of staff of the former Company are in the course of being heard or instituted, or have been heard or investigated by the former Company but no order or decision has been made thereon,
- (b) any such member of staff is interdicted or suspended, the Agency shall—
 - (i) in the case of paragraph (a), carry on and complete the hearing or investigation and make an order or render a decision, as the case may be, and
 - (ii) in the case of paragraph (b), deal with such member of staff in such manner as it deems appropriate having regard to the offence committed by him or her, including the completion of disciplinary proceedings that have been commenced against that member of staff

(2) Where on the appointed day, any penalty, other than dismissal, has been imposed on any member of staff of the former Company pursuant to disciplinary proceedings and the penalty has not been, or remains to be, served by such member of staff, the member shall upon transfer to the Agency, serve or continue to serve such penalty to its full as if it had been imposed by the Agency

Pension

7 (1) A member of staff of the former Company who becomes a member of staff of the Agency shall continue to be governed by the existing Government pension scheme

(2) Where any person whose services are transferred to the Agency is, on the appointed day, a member of any statutory voluntary pension scheme or provident fund, the person shall for the purpose of this Act, continue to be governed by the same regulations under those schemes or funds, as if the person had not been so transferred, and for purposes of the regulations governing those schemes or funds, service with the Agency shall be deemed to be service in the former Company

MEMORANDUM OF OBJECTS AND REASONS

The Bill aims at establishing the legal and institutional framework for county investments in order to inter alia enhance financial and economic prudence in the County and create an efficient and effective Agency. The Bill therefore, establishes the Kabianga Tea Farm for the purposes of promoting and coordinating investments undertaken in the tea farm.

PART I of the Bill provides for the preliminary, which include the short title of the proposed investment legislation and the interpretation of terms used in the Bill.

PART II of the Bill proposes to establish the Kabianga Tea Farm as an Agency, a body corporate, its composition, objects, functions and powers. The Part also vests the management of the Agency to the Board of Directors, which consists of seven members including the Manager who is an *ex-officio* member. It also provides for the administration of the Agency and also imposes a requirement for the Agency to prepare an annual report in order to enhance accountability.

PART III of the Bill provides for the finances of the Agency. It stipulates that the finances of the Agency include moneys appropriated by the county assembly, loans, grants or revenues realized from the Agency's investments. The Part also obligates the Agency to maintain accounting and financial records as well as preparing financial records for auditing.

PART IV of the Bill provides for the finances of the agency. It provides for investment principles that shall guide the Agency as well as investment powers of the Board. It goes further to provide for capitalization, investment strategy and plan, dividend policy as well as partnership. It also provides for sustainability, profitability, and competitiveness of investments.

PART V of the Bill provides for miscellaneous provisions. It empowers the Executive Committee Member to make regulations for better implementation of the Act. The Part also provides for the transfer of assets that may be set aside for investments for the purposes of investing under the Act and dispute resolution mechanism.

Dated the 8th October, 2020

PHILIP MASON,
*County Executive Committee Member
for Agriculture, Livestock and Fisheries*