ICT SECTOR
INVESTMENT PROFILE

KENYA

2020
ACKNOWLEDGEMENTS

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Table of Contents

KENYA: AN OVERVIEW

WHY KENYA?
   A THRIVING ECONOMY
   IMPROVED BUSINESS ENVIRONMENT
   RISING FOREIGN DIRECT INVESTMENT (FDI) DRIVING GROWTH
   A ROBUST BANKING AND FINANCIAL SECTOR
   RENOWNED TALENT POOL
   WIDE MARKET ACCESS
   GROWING INFRASTRUCTURE AND LOGISTICS
   A FACILITATIVE TAX STRUCTURE
   INDUSTRIAL ZONES STRATEGY FOR INVESTMENT

THE ICT SECTOR IN KENYA
   A CENTRAL SECTOR FOR KENYA’S ECONOMY
   THE ICT AUTHORITY AS A CATALYST FOR ICT INVESTMENT

INVESTMENT OPPORTUNITIES

USEFUL CONTACTS

ANNEXES
   ANNEX 1: STARTING A BUSINESS IN KENYA
   ANNEX 2: INVESTOR REGISTRATION AND OBTAINING INVESTMENT CERTIFICATE FROM KENINVEST
   ANNEX 3: FOREIGN TAXPAYER (PIN) REGISTRATION THROUGH KENINVEST
   ANNEX 4: OPENING A BANK ACCOUNT
   ANNEX 5: LAND PROCEDURES
   ANNEX 6: LABOUR LAWS IN KENYA
   ANNEX 7: HEALTH INSURANCE AND SOCIAL SECURITY FUNDS
   ANNEX 8: IMMIGRATION LAWS ON HIRING OF FOREIGN NATIONALS
   ANNEX 9: ELECTRICITY CONNECTION
   ANNEX 10: WATER CONNECTION
   ANNEX 11: EPZ OPERATIONS COST SUMMARY
   ANNEX 12: INDICATIVE LISTS OF ICT OPERATORS
### Acronyms

<table>
<thead>
<tr>
<th>CA</th>
<th>Communications Authority of Kenya</th>
</tr>
</thead>
<tbody>
<tr>
<td>COMESA</td>
<td>Common Market of East and Southern Africa</td>
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<td>EAC</td>
<td>East African Community</td>
</tr>
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<td>EPZA</td>
<td>Export Processing Zone Authority</td>
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<td>FDI</td>
<td>Foreign Direct Investment</td>
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<tr>
<td>GDP</td>
<td>Gross Domestic Product</td>
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<td>ICT</td>
<td>Information and Communications Technologies</td>
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<td>ICTA</td>
<td>ICT Authority</td>
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<td>ITES</td>
<td>Information Technology Enabled Services</td>
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<td>KenInvest</td>
<td>Kenya Investment Authority</td>
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<td>KNBS</td>
<td>Kenya National Bureau of Statistics</td>
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<tr>
<td>KOTDA</td>
<td>Konza Technopolis Development Authority</td>
</tr>
<tr>
<td>KRA</td>
<td>Kenya Revenue Authority</td>
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<tr>
<td>LAPSSET</td>
<td>Lamu Port South Sudan Ethiopia Transport</td>
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<tr>
<td>MNC</td>
<td>Multinational Corporation</td>
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<tr>
<td>MVNO</td>
<td>Mobile Virtual Network Operator</td>
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<tr>
<td>SME</td>
<td>Small and Medium Enterprise</td>
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<tr>
<td>VAT</td>
<td>Value Added Tax</td>
</tr>
<tr>
<td>WB</td>
<td>World Bank</td>
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</table>
Kenya: An Overview

With a new Constitution promulgated in 2010 and under the auspices of the Kenya Vision 2030 plan, an ambitious blueprint to transform Kenya into a Newly Industrialised Country by 2030, Kenya is currently on a path to long-term and sustainable growth, which is a favourable environment for any investor. Indeed, with Kenya’s governance architecture and the individual roles of its executive, legislative, and judicial branches well-defined and established, investors can be secure in the knowledge that both the country’s national and local government organs will provide a stable environment for their long-term projects.

Of particular importance for investors, Kenya’s independent judiciary has been reformed to enhance speedy access to justice, with an emphasis on alternative dispute resolution. In the ICT sector, the 1998 Kenya Communications and Information Act has created an Appeals Tribunal to address disputes arising from its implementation. As such, and depending on the issues at hand, actors in the ICT sector have a variety of channels at their disposal to resolve disputes: the Appeals Tribunal, arbitration and, ultimately, the courts.

Three pillars

- Economic - 6% GDP growth rate
- Social - investing in quality lifestyle
- Political - Unity for the future

**Key facts**

- Capital: Nairobi
- Area: 580,370 km²
- Population: 41.4 million (2018)
  - 0–14 years: 40%
  - 15–64 years: 58%
- Population growth: 2.3% (2018)
  - Male: 85%
  - Female: 78%
- Urban population: 27.33% (2018)
- GDP at current market prices: $88 billion (2018)
- GDP per capita (current): $1,776 (2018)
- GDP growth: 6.3% (2018)
- Inflation rate: 5.56% (Nov 2019)
- FDI inflow: $394 million (2016)
- Exports: $6.03 billion (2018)
- Imports: $17.34 billion (2018)
- Govt. expenditure: $29.8 billion (2018)
- Govt. revenue: $18.5 billion (2018)
- Currency: Kenyan shillings (KES)
- Other major cities: Mombasa, Kisumu, and Nakuru
- Language: English, Swahili

Sources: AfDB, 2018; KNBS, 2018; International Trade Centre, 2018; Trading Economics, 2018; World Bank, 2017; CIA, 2016.
Why Kenya?

A THRIVING ECONOMY

Kenya belongs to the top 10 biggest economies in Africa. Its gross domestic product (GDP) rose from $25,800 million in 2006 to $88,000 million in 2018. With an average real growth rate of 6.3%, Kenya is gradually emerging as one of the economic powerhouses of the Global South. The key drivers for growth include a vibrant services sector, currency stability, low inflation, low fuel prices, a growing middle-class and rising incomes, a surge in remittances, and increased public investment in energy and transportation. Its position as the economic, commercial and logistical hub in Eastern and Central Africa places the country as one of the best investment destinations globally.

Growth in Agriculture Value Added at constant prices increased to 6.6% in 2018 from 1.8% recorded in 2017. The improved performance was due to favourable weather conditions for both crops and livestock production, occasioned by the long rains in 2018. Agriculture, forestry and fishing contributed 34.2% to GDP in 2018, followed by manufacturing at 7.7%.

The Information and Communication Technologies (ICT) sector continued to be a key enabler of growth across most sectors of the economy as economic agents leverage on availability of technologies to grow their businesses and maximize returns from their investments. The sector grew by 11.4% in 2018 compared to 11% in 2017. The sector’s growth was bolstered by the continued expansion of the telecommunications sub-sector especially mobile telephony and internet services that have been integrated into most personal and business activities.

IMPROVED BUSINESS ENVIRONMENT

To ensure a conducive business environment, the government has instituted key reforms and infrastructural frameworks that support investment, viz;

a) Presidential roundtables to address emergent issues in the business arena championed by Kenya Private Sector Alliance (KEPSA),

b) An established Cabinet Committee on ease of doing business to follow up on investors’ concerns,

c) Business Environment Delivery Unit to address challenges facing investors in the country and focuses on reducing the bureaucratic steps related to setting up and doing business in the country,

d) A One Stop Centre for facilitation of investors is also operational at Kenya Investment Authority (KenInvest) to provide pre-establishment support to investors,

e) Digitization of government processes;

- e-Citizen https://www.ecitizen.go.ke/: an official online payments platform for government services.
- iTax https://itax.kra.go.ke/KRA-Portal/: an online tax payment and filing system.
- Single window system for electronic submission of customs entries.

As a result of these initiatives by the government, Kenya has improved considerably in the World Bank’s Ease of Doing Business ranking from position 170 in 2012 to position 56 out of 190 economies globally, and 3rd in Sub Saharan Africa after Mauritius and Rwanda.
RISING FOREIGN DIRECT INVESTMENT (FDI) DRIVING GROWTH

Kenya’s FDI inflow has maintained a steady rise over the years. Business facilitation measures and investment-ready EPZs and Industrial parks contribute to the trend. FDI inflows increased by 25.6% from $1,139 million in 2016 to $1,430 million in 2017 and accounted for 33.7% and 34.1% of the total inflows, in 2016 and 2017, respectively. FDI inflows to all industries increased except to construction and human health and social work. Foreign Direct Investment inflows to finance and insurance economic activity, grew by 8.9% to $391 million in 2017, and contributed the highest share of total FDI inflows at 27.4%. FDI inflows to information and communication industry grew by 77.3% to $365 million, and accounted for 25.5% of the total FDI inflows in 2017. Foreign Direct Investment inflows to manufacturing industry increased by 21.8%.

Europe was the dominant source of FDI inflows contributing more than half of the total FDI inflows in 2017. These inflows were largely from the EU accounting for 87% of the total inflows. FDI inflows from EU were predominantly from the United Kingdom accounting for over half of the total inflows. Asia ranked second contributing 28.9% and 19.2% of the total FDI inflows in 2016 and 2017, respectively, largely supported by inflows from Far East.

Kenya has opened itself to foreign investors with increased leeway in ownership and access to market and information. The law allows for 100% foreign ownership in most sectors such as Manufacturing and Agriculture. The government’s focus on improving the business environment makes Kenya a destination of choice for foreign investors and multinational companies that have made Kenya their African headquarter.

Kenya’s combination of stable government fostering business growth, fast growing young and innovative population and its strategic location is an attraction for international business investment. Global ICT companies have taken note of Kenya’s and have not only established offices in Nairobi, but also use the country as a base for their regional or Africa-wide operations. The long list of global ICT operators and vendors based in Nairobi, which includes IBM, Microsoft, CISCO, HP, Bharti Airtel, Oracle, SAP, Google, Nokia Siemens, Huawei, and Samsung, is a recognition of the major strides which Kenya has made to create an attractive environment for FDI and investments in general.

A ROBUST BANKING AND FINANCIAL SECTOR

Domestic lending has been on an upward trend in Kenya, contributing immensely to economic performance. New credit lines and products to support short-term and medium-term investments have been developed in tandem with the improved sophistication of the Kenyan financial sector. As a result, the Kenyan financial sector is one of the most sophisticated and strongest in the East African region and the African continent at large.

Indeed, the annual growth rates of money supply and private-sector credit were consistent with the developments in the financial sector, in particular, the enforcement of the Banking (Amendment) Act 2016. While money supply (M1) expanded by 6.6% in 2018, the extended broad money supply (M3) grew by 8.9% in December 2017. Credit to the private sector expanded by 2.4% in 2017 and total domestic credit grew by 10.1% in 2018. The Central Bank of Kenya pursued accommodative monetary policy by lowering the Central Bank Rate (CBR) twice in 2018. The CBR was 9.50% at end of March 2018 and 9% in July 2018.

In 2018, the CBK commenced distribution of new generation coinage for the country following a notice in the Kenya Gazette.

In 2018, the International Accounting Standards (IAS) Board issued guidelines, International Financial
Kenya prides itself on its large pool of highly educated, skilled and sought-after workforce in Africa, trained from within the country and Institutions around the world. According to the 2018 Human Capital Index report by the World Bank, Kenya is ranked 4th in Africa and 94th globally. With an average population growth rate of 2.2% between 2009 and 2019, and a population density of 82 people per km², and a greater concentration of the youthful, productive workforce in the urban centers, Kenya offers ready talent pool for investors.

The country has one of the highest literacy rates at 81.5% among youth aged 15 years and above in the region. Its 43 universities produce 60,000 graduates annually (KNBS 2018). The country is also improving the youth population’s technical skills that could transition into wage and salaried jobs in the formal sector. There are approximately 1,417 registered Technical and Vocational Education and Training (TVET) Institutions (http://www.tveta.go.ke/institutions/). The working class in Kenya currently stands at 47.5% of the total population, thus giving investors access to numerous professionals with diverse skill sets at competitive wages. Investors looking for an innovative, well-educated and multilingual professional workforce can easily find it in Kenya.

### Table 1: Nominal interest rates (2014-18)

<table>
<thead>
<tr>
<th></th>
<th>2014 December</th>
<th>2015 December</th>
<th>2016 December</th>
<th>2017 December</th>
<th>2018 June</th>
<th>2018 December</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>CENTRAL BANK OF KENYA</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>91-day Treasury Bills Rate</td>
<td>8.58</td>
<td>9.81</td>
<td>8.44</td>
<td>8.01</td>
<td>7.87</td>
<td>7.34</td>
</tr>
<tr>
<td>Central Rate</td>
<td>8.50</td>
<td>11.50</td>
<td>10.00</td>
<td>10.00</td>
<td>9.50</td>
<td>9.00</td>
</tr>
<tr>
<td>Repo Rate</td>
<td>8.29</td>
<td>9.23</td>
<td>7.75</td>
<td>6.16</td>
<td>7.72</td>
<td></td>
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<tr>
<td>Inter-bank rate</td>
<td>6.91</td>
<td>7.27</td>
<td>5.92</td>
<td>7.27</td>
<td>5.03</td>
<td>8.15</td>
</tr>
<tr>
<td><strong>COMMERCIAL BANKS¹</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Average deposits</td>
<td>6.81</td>
<td>8.02</td>
<td>7.33</td>
<td>8.22</td>
<td>8.04</td>
<td>7.41</td>
</tr>
<tr>
<td>Savings deposits</td>
<td>1.85</td>
<td>1.56</td>
<td>6.37</td>
<td>6.91</td>
<td>6.60</td>
<td>5.13</td>
</tr>
<tr>
<td>Loan and Advances (max)</td>
<td>15.99</td>
<td>18.30</td>
<td>13.69</td>
<td>13.64</td>
<td>13.22</td>
<td>12.51</td>
</tr>
<tr>
<td>Overdraft</td>
<td>15.86</td>
<td>18.48</td>
<td>13.49</td>
<td>13.54</td>
<td>13.23</td>
<td>12.17</td>
</tr>
<tr>
<td>Loans-Deposits Spread</td>
<td>9.18</td>
<td>10.28</td>
<td>6.36</td>
<td>5.41</td>
<td>5.18</td>
<td>5.09</td>
</tr>
</tbody>
</table>

Source: Central Bank of Kenya

¹ Weighted average commercial bank internet rate

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WIDE MARKET ACCESS

Kenya has signed Preferential Trade Agreements with a total population of over 1.4 billion people and a market value of over $29 trillion. Kenya is a signatory and beneficiary to trade-enhancing schemes that include the Africa Growth and Opportunity Act (AGOA) with the USA, the Economic Partnership Agreement (EPA) with the European Union and the Generalized System of Preferences (GSP) scheme that grants preferential duty treatment to more than 3,000 of Kenya’s export products across different markets. Under the provisions of AGOA, more than 6,000 Kenyan products are allowed duty free, quota free access into the USA. Under the EPA, Kenyan products to the European Union are entitled to duty reductions or exemptions and freedom from all quota restrictions. Trade preferences include duty free entry of all industrial products and a wide range of agricultural products.

Kenya has ratified Double Taxation Agreements with Canada, Denmark, France, Germany, India, Iran, Norway, Sweden, United Kingdom, UAE, Zambia and South Africa. In Africa, Kenya is a signatory to a Tripartite Agreement integrating three of Africa’s Regional Economic blocs; EAC-COMESA-SADC, with a membership of 26 countries and a population of more than 650 million people. The recently ratified African Continental Free Trade Agreement (AcFTA) upon commencement from July 2020, will create a single continental market of more than 1.3 billion people, with a combined annual output of $2.2 trillion, encouraging intra-African trade.

In 2018, both the values of domestic exports and imports rose at the same rate of 2%. The leading exports were tea, horticulture, articles of apparel and clothing accessories; coffee, titanium ores and concentrates, collectively accounting for 62% of the total domestic export earnings.

Total export earnings rose by 3.2% to KSh 612.9 billion in 2018, mainly due to an 11.4% growth in exports to Asia. The value of exports to Asia amounted to KSh 180.9 billion and accounted for 29.5% of the total exports in 2018.

The value of exports to the European Union (EU) increased by 4.4% and accounted for 21.4% of total exports at KSh 131.2 billion in 2018. Export earnings from the Netherlands and United Kingdom improved to KSh 46.4 billion and KSh 40.2 billion, respectively, on account of increased exports of horticultural products in 2018.
GROWING INFRASTRUCTURE AND LOGISTICS

Together with a high level of competence in logistics, Kenya’s rapidly improving communication and transportation infrastructure make the country, and the city of Nairobi in particular, an excellent regional logistics and transport hub for East Africa. Various international corporations have already made Nairobi their regional headquarters in order to facilitate access, not only to regional EAC markets, but also to the Common Market for Eastern and South Africa (COMESA).

Key areas of Kenya’s logistics infrastructure include:

- **A highly developed air transport hub:** There are four international airports in Kenya: Mombasa International Airport (MOI), Jomo Kenyatta International Airport, Eldoret International Airport, and Kisumu Airport. Nairobi’s Jomo Kenyatta International Airport is Kenya’s largest airport and serves most of the international destinations. Commercial passenger traffic handled at the airports increased by 16.8% to 11.8 million in 2018. Domestic and international passengers handled increased by 22.5% and 13.1% to 4.9 million and 6.9 million, respectively in 2018.

- **A quickly growing rail infrastructure:** Freight traffic more than tripled from 1,147 thousand tonnes in 2017 to 3,544 thousand tonnes in 2018, mainly due to introduction of freight transportation services on the Standard Gauge Railway (SGR). As a result, revenue from freight increased substantially from KSh 3.0 billion in 2017 to KSh 9.8 billion in 2018. Similarly, passenger journeys increased by 45% from 3,096 thousand in 2017 to 4,489 thousand in 2018. Consequently, earnings from passenger traffic stream more than doubled to KSh 1.7 billion in 2018.

- **A vastly enhanced road network:** Kenya has witnessed a significant improvement in highway connectivity in recent years. Resurfacing and improvement of the Mombasa-Nairobi highway has reduced the transit times. Also, the introduction of High Speed Weigh-in-Motion, which weighs the vehicle while it is moving, has speeded the flow of traffic. In 2013, reduction in police roadblocks and weighbridges have reduced the transit times from 18 days to five days from Nairobi to Mombasa’s port.

- **A robust electrical infrastructure:** Kenya has one of the most well-established power sectors in Sub-Saharan Africa. Total installed capacity increased by 13.7% to 2,711.7 MW in 2018. Kenya’s reliance on renewable energy sources that are significantly less input intensive and favourable to the sector’s performance continued to grow in 2018 with the introduction of additional power from wind and solar to the national grid.
A FACILITATIVE TAX STRUCTURE

The Government of Kenya uses taxation as a tool to direct and create incentives for investment in order to achieve its long-term goal of job creation, wealth creation and skills transfer. Consequently, it has implemented a number of tax relief measures involving income tax, custom tax and VAT in order to encourage investment in key economic sectors. Thus, industrial zones and export processing zones have a range of tax incentives that cut across all of the country’s tax areas.

The range of taxation also varies (table 2), with the government applying taxation incentives as stimuli for specific sectors, such as ICT. Applied incentives include tax holidays, investment allowance, accelerated depreciation, investment subsidies and indirect taxes, all of which are intended to facilitate investment. Meanwhile, to support exports, export goods and services are currently zero-rated.

<table>
<thead>
<tr>
<th>Tax</th>
<th>Personal</th>
<th>Corporate</th>
<th>Withholding tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>Context</td>
<td>Applied on income generated from employment or from self-employment profits, dividends, etc.</td>
<td>This applies to limited liability corporate entities and is chargeable on their profit.</td>
<td>These taxes are deductible at source and include interest income, dividends, royalties and commissions. Other services include management and professional fees, consultancy and training fees.</td>
</tr>
<tr>
<td>Tax Rate</td>
<td>Tax bands apply to assess the tax due. The maximum rate is 30%.</td>
<td>Chargeable at 30% with no graduated structure. Non-resident rate is 37.5%.</td>
<td>Currently charged at varying rates (i.e., 5% to 30%) on a range of payments to residents and non-residents. Non-resident WHT is a final tax.</td>
</tr>
<tr>
<td>Comment</td>
<td>A number of relief measures are potentially available.</td>
<td>EPZs have a 10-year tax holiday, with a 25% tax rate applicable for the next 10 years. SEZs enjoy a tax rate of 10% for the first 10 years, with a 15% tax rate applicable for the next 10 years.</td>
<td></td>
</tr>
</tbody>
</table>

*Source: Kenya Revenue Authority

Since ITES has been identified by the Government of Kenya as a key driver to realise the objective of the Vision 2030 Plan, a range of preferential taxation measures have been put in place under the EPZA and Konza Technopolis in order to support this emerging sector, as discussed further in this report.
INDUSTRIAL ZONES STRATEGY FOR INVESTMENT

Kenya’s investment code, articulated in the Investment Promotion Act of 2004, is designed to shape the administrative and legal procedures to achieve a more effective investment climate. The Investment Promotion Act’s goal is to attract and facilitate investment by assisting investors in obtaining the licences necessary to invest and providing other assistance and incentives.

Konza Technocity (www.konzacity.co.ke) is a key Kenya Vision 2030 flagship project and consists of a 5,000 acre ITES-focused industrial park located 60 km to the south east of Nairobi. The Konza Technopolis Development Authority (KOTDA) is mandated to oversee the development of the Technocity, whose first phase is slated to include 1.5 million square metres of real estate development and over $billion in investment in both on and off-site infrastructure to support the City.

One of the main achievements of the efforts to promote investment is the establishment of export processing zones (EPZs) and special economic zones (SEZs). The objective is to support the transformation of Kenya into a newly industrialized middle income country providing a high-quality life to all its citizens by 2030. The smooth regulation of these zones is ensured by the Export Processing Zones Authority (EPZA) and Special Economic Zones Authority (SEZA). EPZs and SEZs offer a variety of advantages, which are summarized below.

### Export processing zones (EPZs)
- Corporate tax holidays of 10 years
- Corporate tax of 25% for another 10 years
- Withholding tax holidays of 10 years on remittances to non-residents
- Stamp duty exemption
- Import duty and VAT exemption on raw materials, machinery and other inputs
- Investment deduction of 100% over 20 years on building and machinery

### Special economic zones (SEZs)
- Corporate tax of 10% for the first 10 years
- Corporate tax of 15% for another 10 years and 30% for the 21st year
- Withholding tax holidays of 10 years on remittances to non-residents
- Stamp duty exemption
- Import duty and VAT exemption on raw materials, machinery and other inputs
- Investment deduction of 100% over 20 years on building and machinery

### Other benefits
- Fully operational in under one year
- Project approval and licensing within 30 days
- Foreign currency account and offshore borrowing allowed - no exchange controls
- Unrestricted investment by foreigners
- One-stop shop service for facilitation and aftercare

### EPZA tax benefits
- 10-year corporate income tax holiday and a 25% tax rate for a further 10 years thereafter (except for EPZ commercial enterprises);
- 10 year withholding tax holiday on dividends and other remittances to non-resident parties (except for EPZ commercial licence enterprises);
- Perpetual exemption from VAT and customs import duty on inputs: raw materials, machinery, office equipment, certain petroleum fuel for boilers and generators, building materials, other supplies. VAT exemption also applies on local purchases of goods and services supplied by companies in the Kenyan customs territory or domestic market. Motor vehicles, which do not remain within the zone, are not eligible for tax exemption;
- Perpetual exemption from payment of stamp duty on legal instruments;
- 100% investment deduction on new investment in EPZ buildings and machinery (150% for qualifying investment exceeding KES 200 million outside Nairobi, Mombasa and Kisumu cities), applicable over 20 years.

### SEZA Tax Benefits
- First 10 years, the corporate income tax rate is 10% and 15% tax rate for next 10 years, thereafter the rate is 30%.
- Dividends paid to non-residents by the SEZ entity, exempt from tax. Withholding tax rate of 5% on payments made to non-residents (royalties, interest, management fees);
- Perpetual exemption from VAT and customs import duty on inputs: raw materials, machinery, office equipment, certain petroleum fuel for boilers and generators, building materials, other supplies. VAT exemption also applies on local purchases of goods and services supplied by companies in the Kenyan customs territory or domestic market. Motor vehicles, which do not remain within the zone, are not eligible for tax exemption;
- Perpetual exemption from payment of stamp duty on legal instruments;
- 100% investment deduction on new investment in EPZ buildings and machinery (150% for qualifying investment exceeding KES 200 million outside Nairobi, Mombasa and Kisumu cities), applicable over 20 years.

*Source: KenInvest, 2017.*

*Source: Export Processing Zone Authority*
The ICT Sector in Kenya

A CENTRAL SECTOR FOR KENYA’S ECONOMY

Kenya has a robust and competitive ICT sector with international connectivity provided by multiple optic fibre submarine cables, a nationwide optic fibre cable linking the main towns and near-national cellular coverage provided by multiple operators. This competitive ICT supply has ensured that the services are not only of high quality, but also have among the lowest costs in Africa, with high capacities for both local and international services.

The foundation for this thriving market lies in the reformed ICT policy and regulatory environment of the sector. Indeed, in a paradigm shift, the government reformed the ICT sector from narrowband to broadband in 2006. To entrench this new broadband environment, the government launched a National Broadband Strategy in 2013, calling for a nationwide high capacity broadband network with a minimum of 40Mbps in urban areas and 5Mbps in rural areas to be installed between 2013 to 2017. The government’s latest National Broadband Strategy 2018-2023 takes into account recent technological and industry trends as well as market realities to transform Kenya into a globally competitive knowledge-based society enabled by affordable, secure and fast broadband connectivity. By implementing NBS 2023, the government aims at increasing access to broadband coverage of 3G to 94% of the population by 2020; and increase digital literacy in schools to 85%, expand broadband to the 47 counties and especially to have 50% digital literacy amongst the workforce. This broadband network will cement the foundation for the increased application of ICT in education, governance and agriculture, among other sectors. It forms a foundation to catalyse the Kenyan economy, premised on an enabling business environment addressing the policy, regulatory and licencing needs of both the population and investors.

To underscore the importance of the ICT in national development, the government has established the Ministry of Information Communications and Technology, dedicated to overseeing national ICT development. Through policy statements, administrative guidance and oversight over independent ICT entities, in recent years the ministry has catalysed the growth of the ICT sector.

Two major policy statements have set the pace for growth: the 1997 reform of the sector, which ushered in a competitive ICT environment, and the 2006 move towards broadband applications, which set the stage for the National Broadband Strategy, launched in 2013.

*Source: Communication Authority of Kenya*
THE ICT AUTHORITY AS A CATALYST FOR ICT INVESTMENT

A key innovation by the government is the establishment of the ICT Authority (ICTA) (www.icta.go.ke), a public agency with a mandate to catalyse investment in the ICT sector in unique spaces in which the private sector has yet to venture. It also sets the standards for government services.

In its 2013-2018 Master plan, the Authority has set out a clear agenda detailing the ways in which it will drive ICT. This agenda prioritizes three broad areas, namely:

- e-government services to support national effort on productivity, efficiency, effectiveness, and governance
- ICT industry drivers to transform various Kenyan economic sectors, particularly small and medium enterprises (SMEs)
- developing Kenyan ICT businesses to deliver product and services of exportable quality and help develop the local ICT sector

As the authority currently in charge of the County connectivity programme, ICTA supports the emerging ITES with initiatives to drive innovation, local content development, and shared services in government. Additionally, it is working to build the capacity of County governments to develop strategic plans for ICT.

For its part, the ICT regulator, the Communications Authority of Kenya (CA) (www.ca.go.ke) has reformed the ICT market structure into three broad areas: infrastructure, content and applications. Within these areas, investors have established businesses that are providing services under a competitive regime. Indeed, CA has several licenced operators, including Business Processing Outsourcing (BPO) services providers (Annex 2).

Cognisant of the challenges for rural and disadvantaged areas, CA is implementing a programme on universal access, putting in place a spectrum of preferential cost schemes for enterprises operating in rural areas.

Access and use of Information and Communication Technology (ICT) continues to be on an upward trend due to rapid developments in the sector, as a result of service providers investing in the latest technologies and infrastructure. In 2018, output of the ICT sector expanded by 12.9% to KSh 390.2 billion supported mainly by growth in the digital economy which includes; mobile telephony, uptake of e-commerce and penetration of internet. The establishment of a common platform where subscribers can send money across networks has increased mobile money interoperability boosting financial inclusion. The continued roll out of metropolitan fibre backbone and wireless access networks across the country by internet service providers has been driving the growth of internet usage.

In 2018, mobile cellular penetration was 103.45 per 100 inhabitants as a result of subscribers having more than one subscription, to take advantage of the competing voice or data plans offered by the operators. However, this does not imply that everybody in the country is connected. The number of fourth generation (4G) technology mobile transceivers grew from 3,873 in 2017 to 7,469 in 2018 due to continued distribution in the country. Total mobile money transfers recorded a slight increase, from KSh 3,638 billion in 2017 to KSh 3,984 billion in 2018.

Source: Communication Authority of Kenya/Central Bank of Kenya
### Table 3: Telecommunications indicators

<table>
<thead>
<tr>
<th></th>
<th>2014</th>
<th>2015</th>
<th>2016</th>
<th>2017</th>
<th>2018*</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fixed Telephony</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Fixed line Capacity ('000)'</td>
<td>340</td>
<td>75</td>
<td>179</td>
<td>144</td>
<td>144</td>
</tr>
<tr>
<td><strong>Total Connections</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Wireline Connections</td>
<td>180,000</td>
<td>85,000</td>
<td>72,774</td>
<td>69,897</td>
<td>22,567</td>
</tr>
<tr>
<td>Wireless Connections</td>
<td>48,000</td>
<td>85,000</td>
<td>72,400</td>
<td>69,600</td>
<td>21,520</td>
</tr>
<tr>
<td><strong>Mobile Telephony</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mobile Telephone Capacity ('000)</td>
<td>65,077</td>
<td>62,800</td>
<td>71,600</td>
<td>70,000</td>
<td>85,950</td>
</tr>
<tr>
<td>Connections ('000)</td>
<td>33,633</td>
<td>37,716</td>
<td>38,982</td>
<td>42,815</td>
<td>49,502</td>
</tr>
<tr>
<td>Post Paid Subscriptions ('000)</td>
<td>8543</td>
<td>1,009.6</td>
<td>1,413.4</td>
<td>1,414.5</td>
<td>1,240.5</td>
</tr>
<tr>
<td>Pre Paid Subscriptions ('000)</td>
<td>32,778</td>
<td>36,706</td>
<td>37,569</td>
<td>41,401</td>
<td>48,261</td>
</tr>
<tr>
<td>Mobile Numbers Ported</td>
<td>2,340</td>
<td>2,207</td>
<td>1,315</td>
<td>2,575</td>
<td>1,916</td>
</tr>
<tr>
<td><strong>Mobile Money</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mobile Money Transfer Agents</td>
<td>123,703</td>
<td>143,946</td>
<td>165,908</td>
<td>182,472</td>
<td>205,745</td>
</tr>
<tr>
<td>Mobile Money Transfer Service Subscribers ('000)</td>
<td>26,023</td>
<td>26,753</td>
<td>31,997</td>
<td>30,006</td>
<td>31,627</td>
</tr>
<tr>
<td>Total Deposits through Agents (KSh Billion)</td>
<td>1,269</td>
<td>1,347</td>
<td>1,536</td>
<td>2,194</td>
<td>2,464</td>
</tr>
<tr>
<td>Total Transfer from Subscriber to Subscriber (KSh Billion)</td>
<td>1,339</td>
<td>1,818</td>
<td>2,204</td>
<td>2,780</td>
<td></td>
</tr>
<tr>
<td>Total Transfers (KSh Billion)</td>
<td>2,372</td>
<td>2,816</td>
<td>3,356</td>
<td>3,638</td>
<td>3,984</td>
</tr>
<tr>
<td>Number of Total Transactions in Million</td>
<td>911.3</td>
<td>1,114.2</td>
<td>1,526.2</td>
<td>1,543.2</td>
<td>1,739.6</td>
</tr>
<tr>
<td>Value of Mobile Commerce Transactions (KSh Billion)</td>
<td>-</td>
<td>-</td>
<td>1,750</td>
<td>3,246</td>
<td>6,007</td>
</tr>
<tr>
<td>Number of Mobile Commerce Transactions ('000)</td>
<td>-</td>
<td>-</td>
<td>928,174</td>
<td>1,400,715</td>
<td>2,098,627</td>
</tr>
</tbody>
</table>
Investment Opportunities

The government has prioritized certain areas of investment for strategic growth over the next two years. Some priority areas in Kenya’s National Broadband Strategy and ICT Authority Master Plan are listed below.

Infrastructure and Connectivity

- National Fibre Backbone: to develop a robust ICT backbone infrastructure intended to
  - Extend the National Optic Fibre Backbone Infrastructure (NOFBI) to all County headquarters
  - National Data Centres: To host local content reliably and build two neutral national data centres
  - Increase investment by private sector to extend ICT Backbone Infrastructure to achieve target of 50,000KM of fibre optic cables across the country
  - Provide affordable and quality broadband to underserved areas and hotspots in both rural towns and public spaces

- Digitization of core Government Registries: to;
  - Digitize core government registries in order to achieve the digital delivery of critical public service data and develop applications to enhance access to government services
  - Digitize of Health networks: Integrated national health management system, integrating all health centres
  - Development of a County Management Information System to develop a robust management information system for Counties

Innovation

- Establish open-access ICT Incubators in public universities and special economic zones across the country

Capacity Building

- Increase the number of Kenyans trained in ICT literacy to 10 million

In addition to the projects noted above, Kenya’s shared time zone with Western Europe means that the country also has several significant opportunities for BPO service providers, not only for the European market, but also for the American market, whose day traffic takes place during the Kenyan night hours. In fact, Kenya has established a Centre of Excellence for BPO based at the University of Nairobi in order to ensure a steady supply of high quality workforce for the sector. The country also boasts numerous training institutions for relevant skills in BPO, which have continually developed since the introduction of BPO operations in Kenya over a decade ago. Safaricom, to name but one organization, is currently operating a 1,600-agent captive call centre to service its customer base.

Useful contacts

Below are the key contacts in Kenya for the ICT sector and for investment facilitation:

**Ministry of Information, Communications & Technology**
Telposta Towers, Kenyatta Ave. Koinange Street
P.O. Box 30025-00100, Nairobi Kenya

- **Telephone:** +254 492 0000
- **E-Mail:** info@information.go.ke
- **Website:** https://ict.go.ke/

**Communications Authority of Kenya**
P.O. Box 14448, Nairobi, 00800

- **Mobile:** +254 703 042000, +254 730 172000
- **Telephone:** +254 (20) 4242000 2441081-4
- **Email:** info@ca.go.ke
- **Website:** www.ca.go.ke

**Export Processing Zone Authority**
Administration Building, Viwanda Road, off Nairobi-Namanga Highway, Athi River, Kenya
P.O. Box 50563 Nairobi 00200 Kenya

- **Telephone:** +254 45 6621000
- **Email:** info@epzakenya.com
- **Website:** www.epzakenya.com

**Kenya Revenue Authority**
Times Tower Haile Selassie Avenue
P.O. Box 48240 - 00100 PO Nairobi

- **Telephone:** 020-310900, 020-2810000
- **Fax:** 020-341342
- **Email:** callcentre@kra.go.ke
- **Website:** www.kra.go.ke

**ICT Authority**
Telposta Towers 12th Floor, Kenyatta Avenue
P.O. Box 27150-00100 Nairobi Kenya

- **Telephone:** +254 20 2211960/61
- **E-Mail:** Communications@ict.go.ke
- **Website:** www.icta.go.ke

**Konza Technopolis Development Authority (KoTDA)**
5th Floor, Capital West Business Centre
P.O. Box 30519-00100
Nairobi, Kenya

- **Telephone:** +254(0) 204343013/4
- **Email:** konza@konza.go.ke
- **Website:** www.konza.go.ke

**Kenya Investment Authority**
UAP Old Mutual Tower, 15th Floor, Upper Hill Road
P.O. Box 55704 - 00200 City Square
Nairobi, Kenya.

- **Telephone:** +254 (730) 104-200
- **Email:** enquire@invest.go.ke
- **Website:** www.invest.go.ke
Annexes

ANNEX 1: STARTING A BUSINESS IN KENYA

1. Registering a branch of a foreign company
The Companies Act under Section 995 provides for registration of foreign companies. A foreign company is a company that has been incorporated outside Kenya. Registration is done online through the eCitizen portal;

a) Register with the eCitizen portal [http://www.ecitizen.go.ke/](http://www.ecitizen.go.ke/)
b) Apply and pay for foreign company registration. The applicant will be required to fill in the eCitizen online forms and then download them for the Directors of the company to sign, then scan them back into the system together with;
   i. Certified copy of certificate of incorporation – duly certified by a notary public from the country of origin;
   ii. Certified memorandum and articles of association– duly certified by a notary public from the county of origin;
   iii. Passport – for each foreign Director and the local representative if foreign;
   iv. Passport photo – for each foreign Director and the authorized local representative

For local representative if Kenyan;
   i. PIN certificate;
   ii. Identity card

The foreign company is required to have a local representative in Kenya, which can be either a Kenyan or a resident foreigner. Certified professionals capable of acting as local representatives such as lawyers and accountants are available and the investor can contact them directly via the associations’ websites: [http://online.lsk.or.ke/](http://online.lsk.or.ke/) for lawyers or [https://www.icpak.com/cpa-directory/](https://www.icpak.com/cpa-directory/) for certified public accountants firms.

c) Next, the certificate of compliance must be obtained. The applicant will be issued with the certificate of registration and the list of shareholders (CR12) after three to five days.

The cost of registration of a foreign company is **KSh 8,650**.

2. Registering a local company

a) Register with the eCitizen portal using a Director’s account or the agent’s account (lawyer or secretary): [http://www.ecitizen.go.ke/](http://www.ecitizen.go.ke/) (business registration service).

b) Apply and pay for company registration. The applicant will be required to pay **KSh. 10,650** for the company registration, then fill in the eCitizen online forms in the portal and download them for signing, and then upload them back into the system. These forms include;
   i. Proposed company name for name search approval.
   ii. Objectives of the company. The nature of business/activities the company shall undertake.
   iii. Full names of the shareholders.
   iv. Full names of the directors if different from the shareholders.
   v. Postal addresses, e-mail addresses and telephone numbers of the shareholders and directors. The address of the directors can be foreign or Kenyan depending on the residence of the investor.
vi. **Number of shares to be held by each shareholder.**

vii. **Proposed Kenyan physical address of the company and the directors**, since the company shall be operating in Kenya. If the investor doesn’t have a physical address at the time of incorporating the company, he or she can procure the services of an advocate to help in incorporating the company, then use the advocate’s physical address as the initial physical address.

viii. **Copy of ID or passport biodata page of the shareholders and directors if they are foreigners.**

ix. **Passport photos of the shareholders and directors.**

c) **Obtain certificate of incorporation and CR12 form with a list of shareholders.**

### ANNEX 2: INVESTOR REGISTRATION AND OBTAINING INVESTMENT CERTIFICATE FROM KENINVEST

Kenya Investment Authority (KenInvest) is a state corporation established under the Investment Promotion Act (2004) mandated with promoting and facilitating private investment in Kenya. Among the pre-establishment support offered at KenInvest’s One Stop Center are:

<table>
<thead>
<tr>
<th>Company Registration</th>
<th>Tax/PIN Registration</th>
<th>Obtaining a Work Permit</th>
<th>Obtain an EIA certificate</th>
<th>EPZ or SEZ Set Up</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Registration of Land</td>
<td>Power Connection</td>
<td>Social Security Registration</td>
</tr>
</tbody>
</table>

Source: Kenya Investment Authority

For effective pre-establishment and post-establishment facilitation, the Investors are encouraged to register their investment with the Authority through the below steps;

a) **Apply to be a registered investor** at KenInvest with the following requirements;

i. **Filled and signed Investment application form**, which can be downloaded from KenInvest’s website: [Investment Application Form-2018.pdf](http://www.invest.go.ke/wp-content/uploads/2016/10/Investment-Application-Form-2018.pdf)

ii. **Cover letter with company’s letter head** addressed to the Managing Director of Kenya Investment Authority indicating the company’s activities.

iii. **List of shareholders** (CR12).

iv. **Company registration certificate.**

v. **Proof of investment** of at least US$100,000 which can be either through money already in a Kenyan bank or assets purchased/imported towards initiating the project. In case of a bank statement, it should be in the sole names of the applicants or the company.

Upon submission of the application to be registered as an investor, KenInvest reviews the application and issues the applicant with an acknowledgment letter within one to two days.

b) **Apply for an investment certificate by writing a request letter to the Authority**: the letter should be addressed to the Managing Director of the Kenya Investment Authority requesting an investment certificate.

c) **Inspection of premises**. KenInvest will inspect the premises to ascertain the existence of the project or the company and whether the housing use of the registered premises is consistent with
the operation activities of the enterprise. Before the inspection, the Authority notifies the investor of the scheduled date of the visit. (The investor can lease premises from the industrial parks or private persons or even buy land. See Annex 5

d) **Obtain investment certificate:** KenInvest issues the applicant with the certificate after one to two days.

**ANNEX 3: FOREIGN TAXPAYER (PIN) REGISTRATION THROUGH KENINVEST**

Kenya Investment Authority has a desk officer from the Kenya Revenue Authority, sitting at the One Stop Center. All investors are required to file and submit tax returns by June 30th, before the end of each financial year. Kenya Revenue Authority (KRA) issues the personal identification number (PIN) to citizens and investors to enable them to make transactions such as opening accounts with financial institutions and investment banks, importation of goods and customs clearing and forwarding, registration of titles, stamping of documents and paying of taxes. Below is the procedure for Tax PIN registration.

a) **Apply for a Directors’ PIN online at iTax:** [https://itax.kra.go.ke/KRA-Portal/](https://itax.kra.go.ke/KRA-Portal/). Upon completing the online form, the applicant will obtain a KRA acknowledgment receipt. This will take 5 to 15 minutes. The investor will be required to submit Passport number and contact details such as e-mail address and physical address.

b) **Apply for investor facilitation and request PIN facilitation at KenInvest.** The application will be assessed by KenInvest and the investor issued with an acknowledgment letter with the following requirements;
   i. Investment application form which can be downloaded from KenInvest’s website ([http://www.invest.go.ke/](http://www.invest.go.ke/)).
   ii. PIN acknowledgment receipt.
   iii. Cover letter addressed to the Managing Director of the Kenya Investment Authority requesting for investor registration and foreign taxpayer PIN facilitation.
   iv. Company/business registration certificate.
   v. Memorandum and articles of association.
   vi. Passport showing biodata and visa page.
   vii. Proof of investment of at least US$100,000, which can be either through money already in a Kenyan bank or assets purchased towards initiating the project. In case of a bank statement, it should be in the sole names of the applicants or the company and must show that the amount to be invested by a foreign investor is at least US$100,000 or the equivalent in any other currency. See annex 4
   viii. List of shareholders (CR12).

In addition, **for Representatives;**
   i. Agent’s current practicing certificate – the agent can be either an advocate or an auditor.
   ii. Letter of authority – for the designated representative of the branch – signed by the CEO or similar of the foreign company.

c) **Obtain endorsement letter from KenInvest.** This is issued within one to four days upon the authority vetting the application. The applicant will then collect the endorsement letter and submit to KRA for PIN processing. Applicants can be physically present or contract a Kenya Revenue Authority tax agent to submit the application for them. Tax agents are licensed representatives who are authorized to present documents for PIN processing, and even file tax returns for the company. Upon submitting the required documents, applicants will be issued with an individual PIN free of charge, which will allow them to apply for the company PIN.
d) **Apply for company PIN online through the iTax portal:** https://itax.kra.go.ke/KRA-Portal/. The applicant will be issued with a PIN acknowledgement receipt. Requirements include:
   i. Director’s PIN
   ii. Certificate of Incorporation/compliance of the company

e) **Obtain Company PIN.** The PIN is sent to the applicant’s registered email.

**ANNEX 4: OPENING A BANK ACCOUNT**

a) **Identify the bank with which one wants to open an account.** A list of banks operating in Kenya can be found on the Kenya Bankers Association website: http://www.kba.co.ke/members.php. International banks offering China banking desks in Kenya include:
   - Stanbic Bank: https://www.stanbicbank.co.ke/kenya/Business/China-Desk

b) **Identify the type of account one intends to open** by paying a visit to the respective bank and submit application for account opening.

<table>
<thead>
<tr>
<th>Business Account Requirements</th>
<th>Personal Account Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>ii. Company’s KRA PIN</td>
<td>ii. Passport photo.</td>
</tr>
<tr>
<td>iii. Copies of Directors’ identity card/valid passport</td>
<td>iii. Individual’s KRA PIN</td>
</tr>
<tr>
<td>v. Memorandum and articles of association (CR2)</td>
<td></td>
</tr>
<tr>
<td>vi. Contact details</td>
<td></td>
</tr>
</tbody>
</table>

**ANNEX 5: LAND PROCEDURES**

Land in Kenya is categorized as:

- **Public land:** held by the National and County governments and administered by the National Land Commission.
- **Private land:** held by legal persons (company or an individual) either by leasehold tenure or freehold tenure.
- **Community land:** held by communities

Under the laws of Kenya, non-citizens can only hold land on a leasehold basis, and the lease should not exceed 99 years. However, the company is required to be legally registered, with a company PIN. Dealings in agricultural land are controlled in Kenya by the Land Control Act, from which, consent must be obtained from the Land Control Board for any transaction involving the sale, transfer, lease, mortgage, exchange, partition or other disposal of or dealing with any agricultural land.

The Ministry of Lands is responsible for registration of interests in land. Below is the procedure of land transfer:

a) **Identify the land the company wants to buy.** Negotiate the price with the seller and get a copy of the title deed.

b) **Contract an advocate to conduct due diligence on the land:** [http://online.lsk.or.ke/](http://online.lsk.or.ke/).

c) **The advocate will then proceed to conduct an official land search** at the Ministry of Lands and Physical Planning offices to identify the owner of the land and check whether the land has any encumbrances.
d) The directors of the company and seller will then execute (sign) the sale agreement.

e) Obtain land registration documents from the seller. The seller and his advocate are required to give the buyer’s advocate the following documents.

i. Consent to transfer land. This consent is issued by the Ministry of Land and Physical Planning (for leaseholds) or the district land control boards if the land being transferred is freehold. There are 47 land control boards in Kenya (http://www.ardhi.go.ke/?page_id=344).

ii. Land rate clearance certificate issued by the county government.

iii. Land rent clearance certificate from the Ministry of Lands and Physical Planning.

f) Execution (signing) of land transfer document by both the seller and the buyer (company). The seller is required to sign the transfer document and forward it to the buyer’s advocate, together with the following: the original title of the parcel of land, land consent, certificate of incorporation/compliance of the company (if the seller is a company), Company PIN and the Directors’ PINs (see annex 3), identification document/passport for the directors of the company/individual, and three colour passport photos for each Director.

Note: non-citizens need to have a KRA PIN in order to effectively transfer the land.

g) The buyer’s advocate will then submit the transfer document for valuation by the Ministry of Lands and Physical Planning offices. A government valuer will value the land, then the buyer will be required to pay stamp duty. Stamp duty is charged at the following rates;

- For leasehold land: 4% of the valued amount, and
- For freehold land: 2% of the valued amount.

h) Submit the transfer document to the Ministry of Lands offices for franking. This can take one to three days.

i) Upon franking of the documents, the buyer’s advocate will submit them for registration upon payment of KSh 500. The registration of the transfer takes two weeks to four weeks.

j) Upon registration of the transfer, the certificate of title/lease will bear the name of the buyer/investor, who will be considered as the legal and beneficial owner of the land.

ANNEX 6: LABOUR LAWS IN KENYA

Employment in Kenya is governed by the Employment Act, 2007, Work Injury and Benefits Act and Occupational Safety and Health Act. The forms of employment in Kenya include the following;

a) Casual employment: where the employee is engaged for not more than 24 hours at a time and wages are paid on a daily basis. However, the contract will convert into a monthly contract if the casual employee works continuously for a period or a number of continuous working days in the aggregate of not less than one month or if the employee performs work that cannot reasonably be expected to be completed within a period of three months.

b) Fixed-term/temporary employment: where an employee is employed for a period of more than a day and for a specific term.

c) Permanent employment: where an employee is employed for an indefinite period or until a set retirement age. The employee will be paid at the expiration of each month. This kind of employment is usually preceded by a probationary employment for six months, which can be extended by a further period of six months only with the agreement of the employee.

d) Contracts for services: where the employer may hire the services of a consultant or independent contractor to execute some work. The consultant or independent contractor will supply the necessary labour and the employer will not be involved in anything to do with the employment contracts of workers under such a relationship.
Guidelines for employment;

i. A contract for service, whether oral or written, must conform to the requirements of employment. These requirements constitute minimum terms and conditions of employment.

ii. An employee can be engaged in an oral or written contract, provided always that a contract for a period of more than three months must be put in writing.

iii. It is upon the employer to prepare the contract and to have the employee signify his consent by signing the contract within two months of starting work.

The payment of the worker will depend on the negotiations between the employer and the employee. The government has, however, provided for minimum rates of remuneration or conditions of employment for certain industries, e.g. the agriculture and construction industries. These minimum rates are established in a Wages Order, published under a gazette notice by the Cabinet Secretary in the Ministry of Labour: https://cotu-kenya.org/wp-content/uploads/2019/02/Legal-Notice-No.-1-wage-2-1.pdf. They constitute a term of employment of any employee to whom the wages order applies and may not be varied by agreement.

Pension and Benefits

Kenya has a mandatory statutory National Social Insurance Pension Scheme for employers engaging Kenyan citizens which provides the employee with a lump sum retirement benefit. Under the National Social Security Fund (NSSF) Act, employers are required to register with the Fund and remit the employees’ contributions monthly using an employer’s code. Deductions have to be remitted by the 15th of the following month or last working day before the 15th where this falls on a Saturday, Sunday or a public holiday.

Working Hours

The normal working hours in a week are 52 for day employees and 60 for night duty employees. In addition, the employee is entitled to at least one day of rest per week.

Overtime

Employers are at liberty to engage employees for extra hours, but with compensation. The Regulation of Wages (General) Order provides for the criteria of calculation of the additional wages (overtime pay). This is paid at the rates of one and one-half times the basic hourly rate on weekdays, and twice the basic hourly rate on rest days and public holidays. The overtime plus time worked in normal hours for employees engaged in night work should not exceed 140 hours per week and 116 hours for all other employees in any two consecutive weeks.

Employees’ Leave

In every 12 consecutive months of service, an employee is entitled to 21 working days (excluding public holidays) of leave with full pay. In addition to annual leave, female employees are entitled to three months maternity leave with full pay. Male employees are entitled to two weeks paternity leave with full pay. After two consecutive months of service, an employee is entitled to sick leave of not less than seven days with full pay and thereafter another seven days with half pay, in each period of 12 consecutive months of service. Compassionate leave of up to five days may also be taken without pay.

Dismissal of Employees

Before the employee can be dismissed, the employer is required to give a notice of termination in accordance with the contract of service, except for casual employment, which can be terminated without notice at the close of any day. Probationary contracts may be terminated with a seven-day notice. In case of termination or resignation without notice, the employer/employee is required to pay in lieu of notice according to the terms stipulated in the contract.

Dispute Resolution in Employment

Disputes between an employer and employee may be resolved through conciliation. As a last resort, a complaint or suit may be lodged in the Employment and Labour Relations court, which is the only court that is mandated to hear and determine matters of this nature. It may, therefore, be futile to attempt an arbitration or mediation if the matter could still possibly end up in the Employment and Labour Relations Court.
ANNEX 7: HEALTH INSURANCE AND SOCIAL SECURITY FUNDS

Registration for National Social Security Fund (NSSF).

a) **Apply for NSSF Employer registration** [https://www.nssf.or.ke/employers/](https://www.nssf.or.ke/employers/). The application can be submitted to the Huduma centers (one-stop centers for government services) or the NSSF offices [http://www.nssf.or.ke](http://www.nssf.or.ke).

b) **Obtain NSSF certificate of registration.** The certificate will contain an employer’s code where the employer will be able to remit contributions for his Kenyan employees.

**Duration:** 1 day.

**Cost:** Nil.

Registration for National Health Insurance Fund (NHIF).

Kenya also has a mandatory statutory National Hospital Insurance Fund (NHIF) to which everyone with an income (except those excluded by national or international laws) should be registered as a contributing member. Employers engaging Kenyan citizens are required to register with the fund and remit employees’ contributions to the Fund monthly. All contributions are due by the 9th of the following month or the last working day before the 9th where this falls on a Saturday, Sunday or a public holiday.

**Procedure of registration with NHIF;**

a) **Apply for NHIF employer registration:** [http://www.nhif.or.ke/healthinsurance/registeronline/](http://www.nhif.or.ke/healthinsurance/registeronline/)

b) **Obtain employer’s code** with which the employees’ contributions shall be remitted by the employer based on income, by Cheque or through E-banking.

**Duration:** 1–2 days.

**Cost:** Nil.

In most cases, the medical benefits from the Fund can only cover a fraction of the actual medical costs. Hence, most companies provide employees with private medical insurance. The provision of other benefits as a minimum requirement under the law, such as water, food, housing and medical attention, is the employer’s responsibility.

ANNEX 8: IMMIGRATION LAWS ON HIRING OF FOREIGN NATIONALS

The Department of Immigration Services has partially automated application of Work Permits through the electronic Foreign Nationals Services portal (eFNS) [https://fns.immigration.go.ke/](https://fns.immigration.go.ke/). Investors are able to apply and pay for the processing fees online, then submit the application to the Department of Immigration Services offices for processing. The requirements and related fees for different classes of permits (Class B for Investors in Agriculture, Class F for Special manufacturing, Class D for Expatriate employees, Special Passes and Alien cards) can be obtained within the eFNS portal upon logging in. Foreign employees on short-term assignments not exceeding six months should obtain a special pass to enable them to carry out their employment functions. Foreign employees intending to work for a longer period will need work permits. Apart from obtaining permits directly from the Immigration Department, investors can also be facilitated by Kenya Investment Authority.

**Note:** All citizens of the East African Community (Uganda, Tanzania, Rwanda and Burundi) are exempt from payment of the processing and permit fee.

Where the holder of a Work Permit ceases to engage in employment in respect of which the Permit was issued, the employer specified in the Work Permit shall, within 15 days from the date of such cessation, inform the Department of Immigration.

**Disclaimer:**
- Processing fee is non refundable
- Incomplete applications will not be accepted
- Engaging in any form of business or employment without a requisite permit or pass is an offence.
- Application print-outs must be presented to the Immigration headquarters

**Work Permit and Special Pass Facilitation through Kenya Investment Authority (KenInvest)**

In order to streamline the process of obtaining Work Permits and Special Passes for foreign investors in Kenya, the One Stop Center at KenInvest has an Immigration officer who assists with facilitating and obtaining these permits. The investor will first be required to register with the Authority and then request the Work Permit/Special Pass facilitation. (See annex 2)

The investor will then submit the application to KenInvest for Work Permit/Special Pass facilitation and processing with all the required documents as listed above for each segment. KenInvest will notify the investor once the Work Permit/Special Pass application has been approved and request the investor to pay the required fees for the Work Permit. Once the fees are paid, the investor will then be called or e-mailed to collect the Work Permit/Special Pass from KenInvest’s offices.

**Duration:** For special pass facilitation: 3 to 5 days. For work permit facilitation: 21 to 40 days.

**Facilitation cost:** Nil.

**ANNEX 9: ELECTRICITY CONNECTION**

a) Submit application for supply of electricity to Kenya Power offices;
   i. **Filled application form for supply of electricity**, downloaded from the institution’s website: https://www.kplc.co.ke/img/full/GOSS9XbK72N_ENQUIRY%20FOR%20SUPPLY%20OF%20ELECTRICITY.pdf
   ii. **Copy of ID/passport.**
   iii. **Copy of PIN certificate.**
   iv. **Route sketch map to the facility**
   v. **Copy of title deed and land search documents** for owner of property (to support wayleaves’ consent).
   vi. **Signed Supply Contract form**, which can be downloaded from the Institution’s website: https://kplc.co.ke/img/full/U88i0Y93YK22_Supply%20Contract.pdf
   vii. **Wiring certificates.** The investor will need to contract a licensed electrical technician who will install electrical cables in the building. A list of licensed technicians is available from the Energy and Petroleum Regulatory Authority’s (EPRA) website: (https://www.epra.go.ke/services/electricity/electricians-register/). The cost of installation depends on the negotiations made between the investor and the technician.

b) **Visit site to survey and design quotation:** Kenya Power locates the building using geographic information system (GIS) technology and makes the site visit in order to design the price quotation.

c) **Pay the quoted amount or estimate.**

d) **Await the completion of the external works, meter installation and connection to supply.**

**Duration:** On average, it takes 97–165 days to get power supply.

**Cost:** The cost is dependent on the demand (kVA) required and the proximity of the premises to the existing electricity network. The cost will be determined after the application is made and a site visit is carried out.

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1 Wayleave is a permission granted to Kenya Power by the land owner to enable them to construct and lay electric poles on the land.
Electricity Connection through Facilitation by Kenya Investment Authority (KenInvest)

Kenya Investment Authority operates a One Stop Center facility which has an officer from Kenya Power whose mandate is to facilitate investors in obtaining power connection. This is done at nil costs. The procedure to obtain a power connection is similar as outlined above, only that under KenInvest facilitation, the investor will be required to first apply for investor registration (see Annex 2) and request the power connection by submitting the documents to the Kenya Power officer at KenInvest who will proceed to facilitate the process of obtaining the power connection which would now take 72–159 days to get the power supply.

ANNEX 10: WATER CONNECTION

a) Submit application for water connection at the Nairobi City Water and Sewerage Company offices: https://www.nairobiwater.co.ke/index.php/en/ with the following requirements;
   i. Application form, which can be obtained from the Nairobi City Water and Sewerage Company. The investor will be required to pay KSh 2,500 for a survey and attach the stamped receipt of payment to the application form.
   ii. Company's certificate of registration.
   iii. Company PIN.
   iv. Land ownership documents.

b) Visit site to assess the connection cost. Two to three weeks after the application has been received, Nairobi City Water and Sewerage Company will send a team to assess the connection cost.

c) Payment of the quoted connection price. The connection fee for industrial customers is KSh 50,000.

d) Obtain water connection. Once payment has been made, it will take an estimated 30 days to have a water connection.

ANNEX 11: EPZ OPERATIONS COST SUMMARY2

1. FEES:

<table>
<thead>
<tr>
<th>EPZ LICENSES</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application Fees</td>
<td>• US$ 250 for EPZ licenses both Developer/Operator and Enterprise license</td>
</tr>
<tr>
<td>License Fees</td>
<td>• US$ 1,000/year for Enterprise License</td>
</tr>
<tr>
<td></td>
<td>• US$ 5,000/year for Developer/Operator License</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EPZ BUSINESS SERVICE PERMITS</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Application Fees</td>
<td>• Ksh. 2,000 for sole proprietorship</td>
</tr>
<tr>
<td></td>
<td>• Ksh. 6,000 for partnership</td>
</tr>
<tr>
<td></td>
<td>• Ksh. 20,000 for company</td>
</tr>
<tr>
<td>Permit Fees</td>
<td>• Ksh. 6,000/year for sole proprietorship</td>
</tr>
<tr>
<td></td>
<td>• Ksh. 10,000/year for partnership</td>
</tr>
<tr>
<td></td>
<td>• Ksh. 20,000/year for company</td>
</tr>
</tbody>
</table>

2 Costs as at 2019 by the Export Processing Zones Authority
2. COST OF LAND & BUILDINGS:

Athi River EPZ:

- **Industrial Buildings:**
  - Annual rent of US$ 2.50 - 3.50/sq. ft. (0.092903 sq. m) + 15% service charge
  - Length of lease: 6 years

- **Serviced Plots:**
  - Initial Payment of US$ 10,000/ ha. (10,000 sq. m)
  - Annual rent of US$ 6,000/ha + 15% Service charge
  - Length of lease is a minimum 30 years (Renewable)

- **Un-serviced plots:**
  - Initial payment US$ 8,000/ha (10,000 Sq. m)
  - Annual rent of US$ 4,000/ha.
  - Length of lease is a minimum 30 years (Renewable)

Kipevu EPZ

- **Un-serviced plots:**
  - Initial payment US$ 8,000/ha (10,000 Sq. m)
  - Annual rent of US$ 4,000/ha.
  - Length of lease is a minimum 30 years (Renewable)

Other Zones i.e. Samburu, Kinanie & Homa-bay

- **Serviced Plots:**
  - Initial Payment of US$ 8,000/ ha. (10,000 sq. m)
  - Annual rent of US$ 4,000/ha + 15% Service charge
  - Length of lease is a minimum 30 years (Renewable)

- **Un-serviced plots:**
  - Initial payment US$ 6,000/ha (10,000 Sq. m)
  - Annual rent of US$ 4,000/ha.
  - Length of lease is a minimum 30 years (Renewable)
## ANNEX 12: INDICATIVE LISTS OF ICT OPERATORS

### TELECOMMUNICATIONS OPERATORS:

<table>
<thead>
<tr>
<th>Operator</th>
<th>Address</th>
<th>Telephone</th>
<th>Fax</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>Safaricom Limited</td>
<td>P.O. Box 66827, 00800 Nairobi</td>
<td>+254 722 00 3272</td>
<td></td>
<td><a href="http://www.safaricom.co.ke">www.safaricom.co.ke</a></td>
</tr>
<tr>
<td>Airtel Networks Kenya Limited</td>
<td>P.O. Box 73146 Nairobi 00200</td>
<td>+254 734 110 000</td>
<td>+254 734 111 114</td>
<td><a href="http://africa.airtel.com/wps/wcm/">http://africa.airtel.com/wps/wcm/</a></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>connect/africarevamp/Kenya/</td>
</tr>
<tr>
<td>Telkom Kenya Limited</td>
<td>Telkom Plaza Ralph Bunche Road</td>
<td></td>
<td></td>
<td><a href="https://telkom.co.ke">https://telkom.co.ke</a></td>
</tr>
</tbody>
</table>

### OTHER OPERATORS AT:
Communications Authority of Kenya, 2018, Register of Unified Licensing Framework Licensees

### BUSINESS PROCESSING OUTSOURCING:
Communications Authority of Kenya established licensing category for the BPO services providers with 26 are licensed as at May 2018. Below is an indicative list of some of the BPO service providers

<table>
<thead>
<tr>
<th>Operator</th>
<th>Address</th>
<th>Telephone</th>
<th>Fax</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADEC Kenya Services EPZ Ltd.</td>
<td>Athi River Export Processing Zones Authority Nairobi, Kenya</td>
<td>+254 785 656 473</td>
<td></td>
<td><a href="http://www.adec-kenya.com/">www.adec-kenya.com/</a></td>
</tr>
<tr>
<td>Techno Brain Group</td>
<td>P.O. Box 57666-00200</td>
<td>+254 738770186</td>
<td>+254 734770187</td>
<td><a href="http://www.technobraingroup.com">www.technobraingroup.com</a></td>
</tr>
</tbody>
</table>

### FULL LIST AS MAY 2018 AT:
Communications Authority of Kenya, 2018, Register of Unified Licensing Framework Licensees