

Legal Notice No.....

LAND REGISTRATION ACT

(NO. 3 OF 2012)

IN EXERCISE of the powers conferred by section 110 of the Land Registration Act, 2012 the Cabinet Secretary for Lands and Physical Planning in consultation with the National Land Commission, makes the following Regulations—

Land Registration (Electronic Transactions) Regulations, 2020.	
Part I—Preliminary	
Citation	1. These Regulations may be cited as the Land Registration (Electronic Transactions) Regulations, 2020
Interpretation	<p>2. In these Regulations, unless the context otherwise requires—</p> <p>"Act" means the Land Registration Act, 2012;</p> <p>"user" means a person capable of accessing services under these regulations by electronic means and through the system, and may include a property owner or a professional on the instructions of a property owner.</p> <p>"authorized staff" means an officer assigned administrative rights by the administrator (in this case the chief registrar) to undertake specific functions aimed at receiving, processing and approving applications and transactions;</p> <p>"authorized user" means a person who has been granted permission to access, query on any information or submit any documents in relation to any transaction under these Regulations;</p> <p>"Chief Land Registrar" means the Chief Land Registrar appointed under section 12 of the Land Registration Act;</p> <p>"Document" has the meaning assigned to it in the Interpretation and General Provisions Act;</p> <p>"Electronic Appeals Committee" means an appeals committee appointed by the Cabinet secretary under regulation 14 to hear and determine appeals arising from termination of user's access to National Land Information System.</p> <p>"Electronic form" has the meaning assigned to it in the Kenya Information and Communication Act;</p>

	<p>“Instrument” has the meaning assigned to it in the Act;</p> <p>“Electronic” has the meaning assigned to it in the Kenya Information and Communication Act;</p> <p>"system" means the electronic registry system in which all documents that are registered or recorded under the Act are maintained;</p> <p>“Unauthorised user” means a person who is illegally given access to the system by an authorised user.</p> <p>"user account" means an online account created by a user to allow access or submission of information in the registry.</p>
Application	<p>3. (1) These Regulations shall apply to the system in the registries set out in the First Schedule.</p>
<p>Part II—Electronic Land Registry</p>	
Electronic Registry	<p>4. (1) The Chief Land Registrar shall maintain an electronic land registry established in accordance with section 7 of the Act.</p> <p>(2) The electronic land registry shall be part of the National Land Information System established in accordance with section 6(h) of the Land Act.</p> <p>(3) The Registrar may by electronic means through the system —</p> <ul style="list-style-type: none"> (a) issue a notice, certificate or any document which is required to be issued by the Registrar under the Act; (b) certify a form, document or extract of a document required to be certified by the Registrar under the Act; or (c) send any document issued or certified by the Registrar to the electronic addresses provided by a user for that purpose.
Form of Register	<p>5. The Registrar shall maintain an electronic register containing such particulars as contemplated under section 7(4) and 9(2) of the Act.</p>
Access to the Cadastral Map	<p>6. Cadastral maps shall for purposes of registration under these Regulations, be maintained in electronic form.</p>
Authorized User	<p>7. (1) A person shall be an authorised user on signing up to the system by providing the following information in the case of natural person:</p> <ul style="list-style-type: none"> a) Name; b) National /Alien Identity Number; c) KRA Personal Identification Number; d) Telephone Number; e) E-mail address;

	<p>f) Postal Address;</p> <p>g) Passport photo as profile picture;</p> <p>h) Physical Address.</p> <p>(2) In the case of a legal person;</p> <p>a. the information listed in 1(a), (c), (d), (e), (f) and (h);</p> <p>b. Incorporation/Registration Number</p> <p>c. authorised representative's details as in 1 above.</p>
Access by Professional	<p>8. A professional transacting in the system on behalf of another person shall provide further information in the prescribed form eLRA 1 set out in the Second schedule and as may be adopted for use in the system.</p>
User Account	<p>9. (1) There shall be a user account created in the system for every authorised user.</p> <p>(2) An authorized user shall from their user account, in paragraph (1) above, electronically make an application or submit any instrument or document for registration or recording under the system as provided for in the Act and these Regulations.</p>
User obligations	<p>10. A person being an authorized user shall in addition to the terms of conditions set out in the Third Schedule to these Regulations: -</p> <p>(a) carry out such transactions as may be authorized under these Regulations;</p> <p>(b) be responsible for the security of his/ her/its details for purposes of any transaction under these Regulations;</p> <p>(c) not distribute, sell or combine any information accessed through the system; and</p> <p>(d) not copy, exchange, disclose or use the land related information accessed from the system for any other purpose other than for purposes of the transactions under these Regulations.</p>
Suspension of a user's access to the system	<p>11. (1) The Chief Land Registrar may immediately suspend a user's access when it comes to his/her notice that the user –</p> <p>a. has contravened the obligations or the terms and conditions of access</p> <p>b. is suspected to have committed any fraud, identity theft or system misuse;</p> <p>c. allows an unauthorised/unqualified person to <u>access the system</u>;</p> <p>d. in the case of professionals, is not in good standing;</p> <p>e. <u>is dead</u>;</p> <p>f. <u>is declared insolvent</u>;</p> <p>g. <u>is declared of unsound mind</u>.</p>

	<p>(2) The Chief Land Registrar shall on making the decision under Paragraph (1) (a), (b), (c) and (d) immediately inform the user of that decision and shall specify in the notification -</p> <ul style="list-style-type: none"> (b) the grounds of suspension; (c) the facts which, in the opinion of the Chief Land Registrar, justify each ground of suspension and intention to terminate; and (d) the period within which the user shall be required to respond to the notification. <p>(3) Subject to Paragraph (2), the Chief Land Registrar shall serve notification by—</p> <ul style="list-style-type: none"> (e) an electronic transmission to any electronic address specified in the user agreement as the user's through SMS Notification, email notification or any other form of electronic transmission; (f) post, to any postal address specified in the user agreement as the user's address of service; <p>(4) A user may respond to a suspension notice in writing or in electronic form stating the reasons why the suspension of access should be withdrawn and the response served upon the Chief Land Registrar before the expiry of the period specified in Paragraph (2)(c).</p> <p>(5) The Chief Land Registrar shall upon receipt of a response under Paragraph (4) if satisfied that it is no longer appropriate to suspend the user's access withdraw the suspension and send a notification to that effect to the user within 7 days.</p>
<p>Termination of a user's access</p>	<p>12. (1) Subject to Regulation 11(1), the Chief Land Registrar shall immediately terminate the user's access to the system upon confirming that the user is dead, is declared insolvent or is of unsound mind.</p> <p>(2) The Chief Land Registrar shall terminate the user's access if –</p> <ul style="list-style-type: none"> a. not satisfied with the user's response given under Regulation 11 (4) b. the user does not respond within the specified period in Regulation 11(2)(c) <p>(3) The Chief Land Registrar shall communicate the decision under Paragraph (2) to the user within 7 days.</p> <p>(4) The user may file an appeal to the Electronic Appeals Committee, through the Cabinet Secretary, within 14 days of the decision to terminate the user's access.</p>
<p>Appeals against the decision to terminate a user's access</p>	<p>13. (1) The Cabinet Secretary in consultation with the National Land Commission shall appoint an Electronic Appeals Standing Committee to hear appeals against the termination of user's account.</p> <p>(2) The membership of the Electronic Appeals Standing Committee shall comprise of:</p> <ul style="list-style-type: none"> (a) Three representatives from the Ministry; (b) One representative from National Land Commission;

	<ul style="list-style-type: none"> (c) One representative from Council of Governors; (d) Four representatives from the private sector provided that one of them shall be an Information Technology Specialist well versed with system forensic audit and cybercrime. <p>(3) The Electronic Appeals Standing Committee shall nominate from among the members of the Committee one member from the Ministry and one member from the Commission who shall serve as the secretariat.</p> <p>(4) The Electronic Appeals Standing Committee shall hear and determine any matter referred to it within 30 days and notify the user of its decision within 7 days.</p> <p>(5) A user aggrieved by the decision of the Electronic Appeals Standing Committee may appeal to the court within 30 days from the date of such decision.</p>
Search	<p>14. (1) A person shall access information in the electronic register by conducting an official search in the system after payment of the prescribed fees.</p> <p>(2) A person may under paragraph (1) undertake the following categories of searches –</p> <ul style="list-style-type: none"> (a) a current status search of which the result from the search shall include the ownership, size, user, encumbrances, inhibitions, unregistered dealings and annual ground rent payable (if applicable) for that parcel of land; or (b) a historical search of which the result shall provide a history of computer folio and list all transactions that should be availed in a chronological order together with the status and status date for each entry. <p>(3) The registrar shall furnish the applicant with the details requested through an electronic certificate of official search.</p> <p>(4) The Certificate in paragraph (3) shall be made available for download by the applicant.</p>

PART III— Pre-Registration Process

Preparation of instruments and documents	15. (1) For purposes of preparation of an instrument or document for electronic registration or filing, an authorized user shall -- (a) enter the required information in the applicable electronic form. (b) Cause the instrument or documents to be executed by use of electronic signatures of parties. (c) Attach the relevant supporting documents as may be required under the Act. (2) Where it is not possible to execute the instruments/documents by way of electronic signature, the user may download the duly filled form for execution and attestation and uploading into the system.
Valuation for Stamp Duty	16. (1) Where applicable, the authorised user shall submit the instrument or document for Valuation in electronic form. (2) Upon submission under of the instrument under sub regulation (1), the user shall receive an electronic notification indicating the date and time when the request was received. (3) The authorised user shall be notified of the assessed duty payable.
Payment of Stamp duty	17. The authorised user shall pay stamp duty through KRA's payment platform.

PART IV — Registration Process

Application for registration	18. (1) A user shall lodge documents for registration by filing an application in the system and attach the documents in support of the application for registration. (2) An applicant under paragraph (1) shall pay the duly prescribed fee by electronic means (3) An instrument or document shall be deemed to be received for registration when the system generates a notice of electronic filing with a tracking number to the electronically filed document. (4) A document that is lodged electronically outside the business hours specified in Regulation 2 of the Land Registration (General) Regulations, 2017 will be deemed to have been received in the next business day.
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Effect of instruments filed electronically	19.	<p>(1) An instrument filed electronically at the registry under these Regulations has the same effect as if that instrument were in the form of a paper document.</p> <p>(2) If an instrument is electronically signed in accordance with these Regulations, the;</p> <p>(a) instrument is to be taken to be in writing for the purposes of registration under the Act; and</p> <p>(b) requirements of any other law relating to the execution, signing, witnessing, attestation or sealing of documents must be regarded as having been fully satisfied.</p>
Priority of registration	20	<p>(1) Subject to Regulation 8 of the Land Registration (General) Regulations, 2017, the tracking number assigned to the application or instrument by the system shall determine the priority of registration of the instrument.</p> <p>(2) The Registrar shall ensure that applications for registration are dealt with in the order of the tracking number assigned at the time of lodging of the instrument.</p>
Lodging of Physical Documents	21	An Authorized user shall when required manually present documents that cannot be lodged electronically which the Registrar requires the production of the original.
Registrar's source of information	22	The Registrar shall, for the purposes of processing the applications, rely on the documentation and data available within the system and may, where necessary, refer to the backup of manual records.
Rejection of instruments	23	<p>(1) The Instruments shall be scrutinized against entries in the register and to assess their conformity with the provisions of the relevant law.</p> <p>(2) The Registrar may return the instruments or documents to the applicant pointing out the minor errors for correction.</p> <p>(3) Upon making the necessary corrections on the instruments or documents returned under paragraph 2 the user shall lodge the documents under the same tracking number.</p> <p>(4) If the error apparent on the instrument or document is substantially defective, the Registrar shall reject the instrument or document with reasons thereof.</p> <p>(5) The instrument or document rejected under paragraph (4) above shall be lodged afresh as though it were a new transaction upon correction of errors.</p>

Registration	24.	<p>(1) Registration shall be completed upon approval of the transaction and making of corresponding entries into the register by the Registrar.</p> <p>(2) Upon approval by the Registrar there shall be an electronically generated notice to the effect that the document has been registered.</p> <p>(3) The date indicated on any registered instrument shall be the date on which the application was received.</p>
Electronic certificate of title or lease	25.	The Registrar may pursuant to section 30 of the Act issue an electronic certificate of title or lease as prescribed in Regulation 31(1) or (2) respectively in the Land Registration (General) Regulations, 2017.
Availability of documents	26.	The Registrar shall make the registered instruments and documents available for download by the applicant or any person conducting a search under Regulation 15 of these Regulations.
PART V — Miscellaneous		
Manual transactions	27	Where a transaction cannot be carried out using the electronic registration system, the person seeking to carry out the transaction shall carry out the transaction through such other means as the Chief Land Registrar may determine.
Manual Payment of fees	28	Where payment of fee cannot be made electronically, the user shall be allowed to make payment through such other alternative means the Chief Land Registrar may determine.

FIRST SCHEDULE

Registries

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1. Nairobi

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SECOND SCHEDULE

Form eLRA1
 The Chief Land Registrar
 Ardhi House
 Nairobi

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Name/Partnership/LLP:		Id no./Reg. No./P.105			
Tel. No.		E-Mail Address:			
Physical Address:		Postal Address: Postal Code: Town:			
Contact Person Name:		P.105/			
Tel No.		Email Address			
In case of Partnership/LLP, individual authorised users:					
S/NO.	NAME	ID NO.	P.105/	TEL NO.	EMAIL
I have read and understood the terms and conditions of use. I AGREE TO BE BOUND BY SAID TERMS AND CONDITIONS					
Name		Signature		Date	

THIRD SCHEDULE

TERMS AND CONDITIONS OF USE

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1. Introduction

- (i) The National Land Information System is an online system developed by the Government of Kenya through the Ministry of Lands and Physical Planning in collaboration with the National Land Commission. It is a system created for convenience in conducting land transactions.
- (ii) Upon registration to the system, a user is deemed to have accepted the terms and conditions and will equally be bound by the same. Once the user has completed the sign up process, a contract detailing the terms and conditions for use is entered into between the user and the system operators.
- (iii) The National Land Information System is a service-based platform upon which fees and charges may be preferred from time to time as stipulated in the relevant statutes.

2. Access and Use

- (i) Upon signing up; a username and a password will be created for the User's use in logging into the system.
- (ii) As an additional security measure, a One Time Password (OTP) in the form of a text message shall be sent to the user's Telephone Number to authenticate every log-in. The user of the system shall be required to keep the log in credentials, particularly the password, confidential to avoid unauthorized access to the system.
- (iii) A user shall access the system either in an individual capacity or through an authorized representative.
- (iv) The system shall allow electronic land transactions under the following Acts: Land Act; Land Registration Act; Physical and Land Use Planning Act; Survey Act; Community Land Act and County Government Act.

3. Availability of service and support

- (i) The Government of Kenya aim is to ensure accessibility to NLIS at all times, however there could be service interruption to allow for upgrading or maintenance of the system.
- (ii) The system shall be available around the clock for searching for the copy or image of any instrument, dealing, or document in the system or the lodgment of documents through the system.
- (iii) Processing of electronic documents shall be done during the business hours when the *back-end processes shall be available*.
- (iv) The system support and back-end processes shall be available during the business hours set out in Regulation 2 on the business days set out in Regulation 4 of the Land Registration (General) Regulations, 2017.
- (v) The Cabinet Secretary reserves the right to suspend the system in whole or in part in the circumstances where a significant breach of security has occurred or that a security

system has failed that compromises or that could compromise the integrity or security of the system's databases or service until such security breach or failure has been rectified.

- (vi) The Ministry will endeavour to provide you with the services at all times or at any specific times or will be able to operate at all times error-free. Ministry makes no warranties in regard to the availability of services but all reasonable efforts will be made to provide the best possible service to you. Notices regarding planned system outages will be made available on the Ministry's website.

4. Obligations

a) User obligations

The user shall;

- (i) carry out authorized transactions;
- (ii) complete such formalities as are required to become a registered user before accessing the system;
- (iii) meet the eligibility criteria at all times;
- (iv) be responsible for the security of his or her login credentials and for any access made using the login credentials;
- (v) use the information obtained for the intended purpose only.
- (vi) be responsible for the accuracy and completeness of all information provided or submitted by you when applying to join or when using the system
- (vii) Surrender/deactivate accounts for persons no longer in their employ
- (viii) Change his log in credentials from time to time

The User shall not;

- (i) impersonate another person or entity,
- (ii) distribute or sell any information accessed through the system;
- (iii) collect information about other users
- (iv) make available disruptive commercial messages or advertisements or communications which are prohibited by law
- (v) reverse engineer or otherwise attempt to extract any source code.
- (vi) use any robot, spider, site search/retrieval application, or other device to retrieve or index any portion of the system
- (vii) copy, exchange, sell, disclose or use the land related information accessed from the system for any other purpose other than what is stated in the user agreement without prior written approval of the Cabinet Secretary.
- (viii) Without prejudice to (i) and (ii); the user shall not use the system or its products and services in any manner that violates/infringes the provisions of the Kenya

Information and Communication Act, 1998, the Computer Misuse and Cybercrimes Act, 2018 or any other written law.

b) Organizations

In case of organizations (legal persons), the person in charge of the organization shall be responsible:

- (i) For selection and nomination of the users accessing the system on behalf of their organization;
- (ii) For ensuring compliance of the terms and conditions by the users as appointed in (i) above;
- (iii) For notification of revocation of access for any user in their organization at any time;
- (iv) For notification upon discontinuance of employment of any user appointed in paragraph (i).

c) Ministry obligations to User (Our obligation to you)

The Ministry shall;

- (i) Endeavour to maintain this system (NLIS) in good operational condition throughout the term of this agreement.
- (ii) Endeavour to inform the users in cases of scheduled and/or unscheduled system maintenance.
- (iii) Assist you to understand the operational requirements and any protocols adopted from time to time for use in the system.
- (iv) Comply with all statutory and regulatory requirements imposed on the Ministry regarding the implementation and functionality of the system.

5. Security of the System

- i. The User is responsible for maintenance of the confidentiality and control of all Security Measures associated with the use by the user (s). These Security Measures involve the use of digital signatures and digital certificates and are managed the Ministry.
- ii. You are responsible for the selection and nomination of those of your people who you intend to be Subscribers and, therefore, users of the Security Measures.
- iii. The Ministry reserves the right to reject with reasons thereof an application by any Applicant.
- iv. You must promptly notify the Cabinet Secretary in the Ministry if a Subscriber stops working for you.
- v. You are solely responsible for ensuring that the users comply with the User Obligations.

- vi. Any use of the NLIS by any person with access to the Security Measures used or made available to you or any of your people (whether authorised by you or not) constitutes sufficient authority for the Ministry to:
- vii. act on any enquiries, provide such information, update its registers or to otherwise transact such dealings, with or under the instruction of that person; and
- viii. charge fees for the use of the products and services associated with NLIS.
- ix. You shall promptly notify the Cabinet Secretary in the Ministry as soon as you become aware that any of the Security Measures used or available to you or any of your people are or have been compromised, or if you are aware of circumstances which give rise to a risk that those Security Measures have been compromised.
- x. You agree to help the Ministry with any investigation of any suspected or actual compromise of any of those Security Measures.
- xi. Any activity by a user in the system shall be catalogued and an audit trail of such activity created in the system.
- xii. You may request revocation of any of the Security Measures available to or being used by any of your people. Your people may also request revocation of their own Security Measures. The Ministry reserves the right at any time to revoke the Security Measures being used by you or any of your people in order to safeguard the integrity and security of NLIS databases

Disclaimer

Security is important to ensure NLIS functions effectively and efficiently. Although NLIS uses encryption security, there is no guarantee that personal or proprietary information and transactions on the NLIS portal or on the internet will be maintained confidential or secure. The Ministry will be held liable to the extent permissible in the relevant statute but will not be liable for acts of omission or commission out of its control.

6. Data Privacy Statement

1. The Ministry collects the applicant's personal information with the applicant's consent when the application is made for authorization to access the National Land Information System.
2. The Ministry does not on-board minors (any person under 18 years of age) except where an applicant additionally registers on their behalf as their parent and/guardian.
3. The information the Ministry collects and stores about the applicant includes but is not limited to the following: applicant's identity including name, photograph, address, location, phone number, identity document type and number, date of birth, email address, age, and gender.
4. The applicant consents to the Ministry making and retaining photocopies of personal information and all other documents provided in support of the application which will be kept for the term of the agreement for the purpose of enforcing the agreement.
5. The Ministry may make inquiries deemed necessary to verify the information provided in the application.

6. The information and documentation provided will be used to administer the authorization to access and use the system.
7. The Ministry may disclose your information to:
 - a. Law enforcement agencies, regulatory authorities, courts or other statutory authorities in response to a demand issued with the appropriate lawful mandate and where the form and scope of the demand is compliant with the law;
 - b. Publicly available and/or restricted government databases to verify applicant's identity information in order to comply with the regulatory requirements;
 - c. Any other person that the Ministry deems legitimately necessary to share the data with.
8. The Ministry shall not release any information to any individual or entity that is acting beyond its legal mandate
9. The Ministry has put in place technical and operational measures to ensure integrity and confidentiality of the applicant's data via controls around: information classification, access control, cryptography, physical and environmental security and monitoring and compliance.
10. Subject to legal and contractual exceptions, the applicant has rights under data protection laws in relation to their personal data. These are listed below:
 - a. Right to be informed that the Ministry is collecting personal data about the applicant
 - b. Right to access personal data that the Ministry holds about the applicant and request for information about how the Ministry will process it;
 - c. Right to request that the Ministry correct the personal data where it is inaccurate or incomplete;
 - d. Right to request that the Ministry erase the personal data noting that the Ministry may continue to retain the information if obligated by the law or entitled to do so;
 - e. Right to object and withdraw the consent to processing of personal data. The Ministry may continue to process it if it has a legitimate or legal reason to do so;
 - f. Right to request restricted processing of the personal data noting that the Ministry may be entitled or legally obligated to continue processing the data and refuse the request;
 - g. Right to request transfer of the applicant's personal data (in an electronic format).
 - h. The Ministry may need to request specific information from the applicant to help it confirm the applicant's identity and also ensure their right to access their personal data (or to exercise any of the other rights). This is a security measure to ensure that personal data is not disclosed to any person who has no right to receive it. The Ministry may also contact the applicant to ask for further

information in relation to the applicant's request in order to speed up the response.

7. Copyright

The Government of the Republic of Kenya is the owner of all rights in and to the National Land Information System. The complete content of the National Land Information System platform is protected by the Copyright Laws of the Republic of Kenya and reproduction or redistribution of that content without the permission of the Government of the Republic of Kenya is strictly prohibited.

8. General Terms

- (i) The parties commit to a cooperative environment in the performance of the respective obligation to ensure any system difficulty and/or improvement is addressed.
- (ii) The Ministry reserves the right to change and adjust these terms and conditions without any further reasons as long as it is necessary due to legal adjustments or technical progress.
- (iii) The Ministry reserves the right to block the authorized user from the ability to upload content to National Land Information System if a violation of this agreement exists.
- (iv) These terms and conditions are to be read and construed according to the laws of the Republic of Kenya, and you agree to submit to the jurisdiction of this country.
- (v) These terms and conditions record the entire agreement. If any provision of these terms and conditions are held by a court to be unlawful, invalid, unenforceable or in conflict with any rule of law, statute or regulation it is to be severed so that the validity and enforceability of the remaining provisions are not affected.

9. User feedback

1. Feedback on user experience in the use of the system and specifically any complaints, complements and suggestions for improvement are highly encouraged.
2. The feedback in paragraph 1 can be channelled through the feedback portal in the system or through the address below:

Cabinet Secretary

Ardhi House

1st Ngong Avenue, off Ngong Road

Email: info@ardhi.go.ke

Tel: +254 202718050 / 204803886

P.O. Box 30450-00100

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I have read and understood the provisions of these terms and obligations and hereby agree to be so bound.

Name.....Sign.....Date.....

Made on the.....2020

FARIDA KARONEY,
Cabinet Secretary for Lands and Physical Planning

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