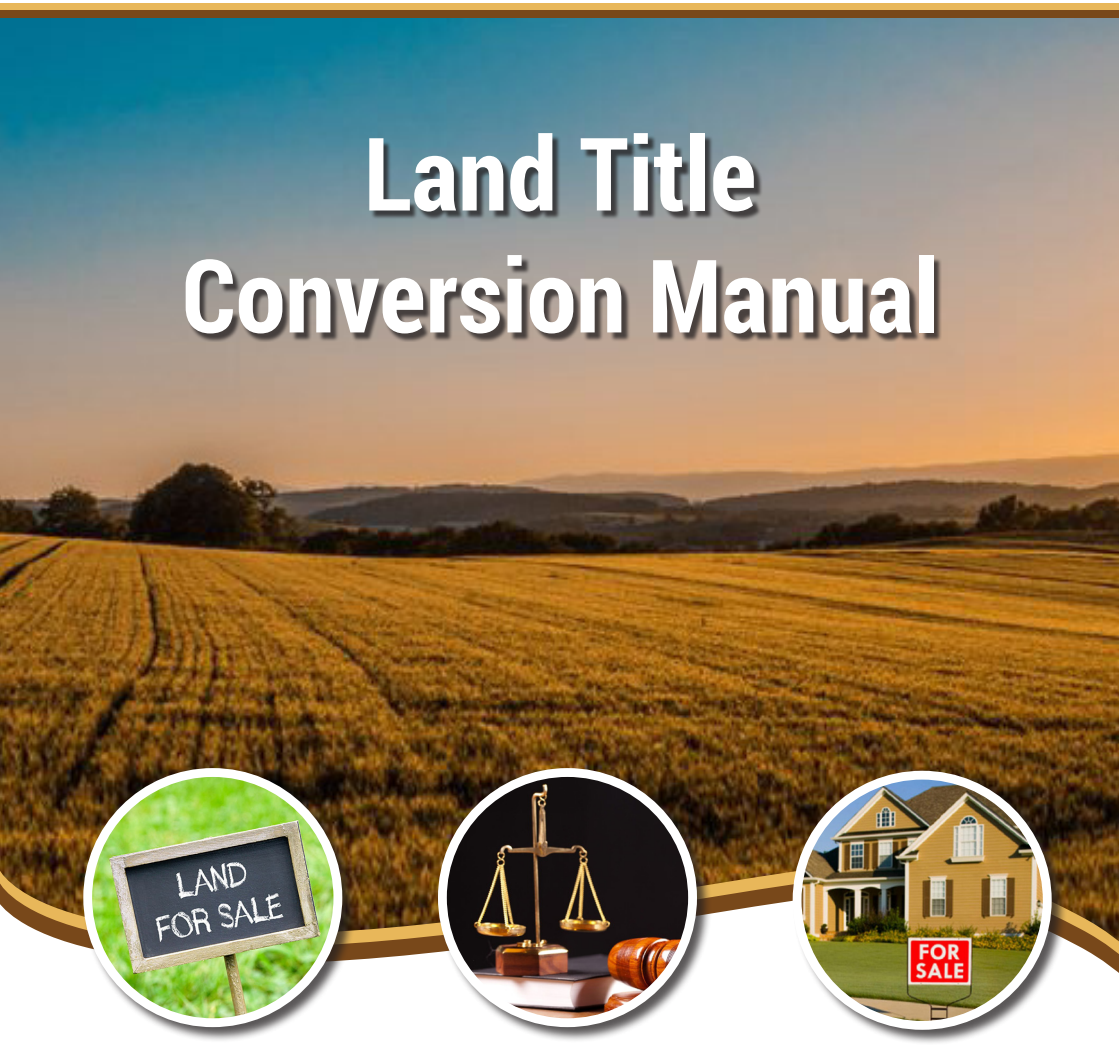
Republic of Kenya

Ministry of Lands & Physical Planning

Institution of Surveyors of Kenya

Land Title Conversion Manual



Food and Agriculture Organization of the United Nations

Law Society of Kenya
Nairobi Branch

Hanns Seidel Foundation

APRIL 2021

Land Title Conversion Manual

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Partners

1. Ministry of Lands and Physical Planning.
2. Institution of Surveyors of Kenya.
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Preface

The old legal regime on land was anchored on the now repealed Constitution of Kenya, 1963 (the Independence Constitution) and pieces of legislation on land registration that have also since been repealed, such as the Indian Transfer of Property Act, 1882, the Government Lands Act (Cap. 280), the Registration of Titles Act (Cap. 281), the Land Titles Act (Cap. 282) and the Registered Land Act (Cap. 300). The new legal regime on land – the Land Registration Act, 2012 – is informed by the National Land Policy, 2009 and the Constitution of Kenya, 2010. Land-related statutes such as the Land Act, 2012 and the Community Land Act, 2016 complement its implementation. The enactment of new land statutes arises from Article 68 of the Constitution of Kenya, 2010, particularly Article 68(a) of the Constitution of Kenya, 2010 which mandates Parliament to 'revise, consolidate and rationalize existing land laws.' The Land Registration Act, 2012 supplants the old pieces of legislation that now stand repealed.

This manual is centred on the conversion and migration of land titles from the old land regime to the new land regime as a matter of transition, especially following the publication of Gazette Notice No. 11348 of 2020, dated 24 December 2020 and published on 31 December 2020, on 'Notification for Conversion' in respect of Nairobi Land Registration Unit. The development of this manual is driven by the need to streamline operations relating to title conversion in the Country. It proffers guidance to land officers, sector players and professionals in the land sector.

To transition from the old to the new regime on land, land titles have to be converted and migrated from the now repealed land registration statutes under the old land regime to the new land regime, especially as provided under the Land Registration Act, 2012 and the Land Registration (Registration Units) Order, 2017. Conversion and migration of land titles is supposed to be carried out on the basis

of land registration units. The process of conversion and migration of titles to the new land regime is a cause for concern owing to the historical injustices and fraud in land transactions that has plagued land administration in Kenya for a long time. This is one of the reasons the Ministry partnered with the Food and Agriculture Organisation of the United Nations, the Law Society of Kenya, Institution of Surveyors of Kenya to develop this manual.

Land registration units are constituted in accordance with section 6 of the Land Registration Act, 2012. The Cabinet Secretary responsible for matters relating to land, working in consultation with the National Land Commission (NLC) and the county governments, constitutes an area or areas of land to be a land registration unit by way of an order published in the Gazette and in at least two daily newspapers of nationwide circulation. The limits of each land registration unit established in accordance with the Act can be varied by the Cabinet Secretary at any time. Land registration units are established at the county level and at such other levels as may be deemed fit with the aim of ensuring reasonable access to land administration and land registration services.

For purposes of efficient administration and effective land management, the county governments are to have access to all documents maintained in the land registration units. Each land registration unit comprises land registration sections identified by distinctive names. Each land registration section may be further divided into blocks with distinctive numbers or letters or combinations of numbers and letters. The land parcels in each land registration section or block are numbered consecutively. The land parcel reference number thus consists of the name of the land registration section and the number and letter of the block, if any.

Nonetheless, the Land Surveys Department may, if need arises, combine or divide land registration sections or blocks or vary their boundaries and immediately inform the Land Registrar of the changes that are made. Land registration units and land registries have already

been established in respective counties and are set out in the First Schedule of the Land Registration (Registration Units) Order, 2017.

The Ministry acknowledges the commitment of the committee – led by Hon. Alex Mwiru, the Chief Administrative Secretary – that steered this critical process. We also thank the Law Society of Kenya, Institution of Surveyors of Kenya and development partners such as EU-funded Food and Agriculture Organisation of the United Nations, Hanns Siedel Foundation (HSF) and all stakeholders who contributed towards the success of this process.

PART I: PRELIMINARY

01. Introduction

Conversion entails the process of migrating all the parcels of land from the repealed land registration statutes to a unitary regime under the Land Registration Act 2012. The titles issued under the repealed statutes will be cancelled and replaced with titles under the new regime.

Title conversion process is therefore the statutory process in which -

Land registers maintained under the repealed Land Acts (RLA, GLA, LTA and RTA) through the transitional provisions of section 104 and 105 of the LRA will be closed and the particulars in these registers will be migrated to the new land register established under section 7 of the LRA by operation of law.

I. Titles issued under the repealed Land Acts (RLA, GLA, LTA and RTA) are to be phased out and replaced by the new generational titles issued under the LRA.

II. There is no fee payable for this exercise.

III. The land register maintained under section 7 is in physical as well as electronic form. Thus an application for issue of the new title following the conversion exercise may be done online and will not elicit a fee.

VI. The registry shall remain open for business as normal and transactions will continue until the date appointed for the closure and opening of the registers.

1.1 Objectives of this Manual

(a) Provide a roadmap for replacement of titles and issuance of new registration regime.

(b) Standardise and bring consistency in the process of conversion.

(c) Instill confidence in the conversion processes.

(d) Provide a guide to Complaints and Dispute Resolution Methods.

1.2 Legal Framework

The process of conversion is guided by the Constitution of Kenya 2010, the Land Registration Act No. 3 of 2012, the Land Registration (Registration Units) Order 2017, Land Registration (Electronic Transactions) Regulations 2020, the Sectional Properties Act 2020, the Survey (Electronic Cadastre Transactions) Regulations 2020, the Physical Planning Act and the Land Registration Regulations 2017. Article 68 of the Constitution obligated Parliament to revise, consolidate and rationalise existing land law. In that regard, Parliament enacted the Land Registration Act 2012 which repealed the Government Land Act, Cap. 280 Laws of Kenya, Registration of Titles Act, Cap. 281 Laws of Kenya, Land Titles Act, Cap. 282 Laws of Kenya and the Registered Land Act, Cap. 300 Laws of Kenya.

The Regulations to the Land Registration Act were gazetted vide Legal Notice No.278 of 22nd November 2017. They were approved by National Assembly on 25th April 2018. Despite the legal framework being in place, land registries in Kenya continued to operate under the transition provisions and issuing titles under the repealed legislations. The process of conversion is being carried out to comply with the provisions of the Constitution, land registration legislation and the Land Registration Conversion Order and Regulations 2017.

1.3 Overview of the Conversion Process

1. Conversion began by the survey department providing the cadastral maps together with a conversion list indicating the new and (where applicable) the old numbers for parcels of land within each registration unit or registration section to the register.

2. The Cabinet Secretary has begun publishing in the Kenya Gazette and two local daily newspapers for nationwide circulation, conversion list and the cadastral maps.
3. The published conversions have been availed to persons of interest who have been given ninety (90) days to view the list and make complaints to the registrar in regard to any information provided in the register.
4. The registrar is obligated to register a caution pending clarification on resolution of the complaint.
5. Upon the expiry of the 90 days period, the registers maintained under the repealed statutes shall be closed and migrated to the new registry and noted in the new registers established under the Act.
6. The registrar shall publish in two local daily newspapers and announce in radio stations of nationwide coverage, a notice inviting the registered owners to make applications for replacement of title documents issued for the closed registers.
7. Registry Index Maps (RIMs) will replace deed plans as instruments of registration.
8. Sectional units will no longer be registered on the basis of architectural plans registered under the Registration of Documents Act (Cap 285 Laws of Kenya). All sectional units will be geo- referenced and registered on the basis of sectional plans prepared by the Director of Survey. The Sectional Properties Act 2019 shall henceforth apply in respect of all sectional units.
9. Boundaries will not be affected because RIMs are generated from the existing survey plans. Viewing of the cadastre and buying of the RIMs/maps to be done at the Survey of Kenya, Ruaraka.

1.4 Title Conversion and Migration Milestones

	ACTION	MILESTONE
1.	The CS (in consultation with the NLC and the County Government)	i. The CS Establishes a Land Registration Unit ("LRU") ii. Initiates action by the Office responsible for Surveys.
2.	The office Responsible for Survey:	• carries out the relevant survey work including - the cadastral maps and the conversion list for the affected LRU which should indicate new and old numbers for parcels of land within a LRU • ensures accuracy and completeness of the conversion list • submits the conversion list to the Registrar
3.	The Registrar	• Verifies details on the conversion List • Hands over the Conversion List and the Cadastral Map to the CS
4.	The CS	• Within 30 days of receipt of Conversion List and Cadastral Map- o Publishes the Conversion List and Cadatral Map in the Gazette and in two newspapers o Specifies a date (not more than 4 months) for commencement of transaction or dealings at the LRU. o Copy of Conversion List and Cadastral to the County Government
5.	Action by Aggrieved Persons	• The Right to file a complaint to the Registrar using Form LRA 96; or • Apply to the Registrar for registration of a caution on the title pending resolution of any complaint -using Form LRA 67
a.	The Registrar	i. Right of Registrar to registrar a restriction pending a resolution of a complaint. ii. To resolve the dispute and make approriate orders to remove or vary the restriction or caution - within 90 days iii. Right of Appeal in the Land Act-within 30 days

b.	Date of commencent of transactions or dealings at the LRU	1. Previous registers for the properties converted/ migrated closed closed 2. All susbsisting entries and documents in the old register migrated to the new register under LRA 3. Closing of previous registers and the commencement of the new register shall be carried out simulataneously and expeditiously to avoid inconveniences to the public
c.	The Registrar	Notice by Radio and at least two newspapers inviting registered owners to apply for new Titles
d.	The Registered Proprietors	• Application for new titles using Form LRA 97 • Required to attach the old original titles and owners identification papers
e.	The Registrar	• Cancels the old titles • Keeps submitted titles in safe custody

PART II - DETAILED CONVERSION PROCEDURES

02. General procedure for conversion

a) Gazettement of the Land Registration (Registration Units) Order 2017.

b) Preparation of the cadastral map and conversion list containing old and new numbers where applicable and the acreage.

c) Publishing in the Kenya Gazette by the Cabinet Secretary and two daily newspapers of nationwide circulation.

d) Closure of the old registers and commencement of transactions on the new registers as per the Gazette Notices published. This will apply to all ongoing transactions and subsequent presented documents affected by the Gazette Notice(s). The registers to be opened both manually and digitally through the National Land Information Management System (NLIMS). The Registrar shall make an endorsement on the property section of the old register that it has been closed on conversion and a concurrent endorsement in the property section of the new register that it has been opened on conversion quoting the Gazette Notice.

e) All subsisting particular entries and documents in respect of the old register shall migrate to the new register.

f) The Registrar shall publish in at least two (2) daily newspapers of nationwide circulation and announce in radio stations of nationwide coverage a notice inviting the registered owners to make applications for replacement of title documents issued from the closed registries.

g) Upon application for replacement of title by the proprietor under Form LRA 97 (the original title and owner's identification documents), the Registrar shall issue new titles. The requisite notifications will be made before the registered proprietors are invited to replace the old title documents.

h) The registers for absolute titles shall be as per Form LRA 2 while those for leasehold titles shall be as shown in Form LRA 3. The Certificate of Title and the Certificate of Lease to be issued shall be as shown in Forms LRA 20 and LRA 21 respectively.

i) The replaced title documents shall be cancelled and kept in the newly opened parcel files in safe custody.

j) Upon presentation of Form LRA 97 and the supporting documents, the Registrar shall upon verification issue the registered owner with the title within seven (7) days.

This procedure shall be applicable to the next processes subject to the variations set out.

2.1. Conversion for Missing Deed Files/ Lost Original Titles

1. Undertake the reconstruction of the land register.
2. Reconstruction of destroyed or lost land register is done pursuant to Section 33(5) of the Land Registration Act No. 3 of 2012 and the Land Registration (General) Regulations, 2017. This is where the land register in the registry cannot be found and where the presumption is made that the land register is destroyed or lost. The gazette notice for reconstruction of lost land register shall make reference to the old and new reference numbers for the parcel of land in question.
3. Upon the completion of the reconstruction process, the Registrar shall close the old reconstructed register and open a new land register.

3. Lost Original Titles

1. Undertake the process of replacement of the lost original title as provided by Section 33(3) of the Land Registration Act No. 3 of 2012 and the Land Registration (General) Regulations, 2017. In addition to the application for replacement of lost title, the applicant shall complete and attach Form LRA 97.

2. The gazette notice for replacement of lost title shall make reference to the old and new reference numbers for the parcel of land in question.
3. The Registrar shall issue the replacement title under the newly opened register.

4. Conversion for titles for parcels of land undergoing succession

The Registrar shall issue a replacement title upon receiving application for transmission together with the supporting documentation under Land Registration Act, the Land Registration (General) Regulations, 2017 and/or Court Order.

The old registers will be closed and new registers opened awaiting presentation of the Grants of Letters of Administration, Grants of Probate and Confirmations of Grant. New titles will be issued to the beneficiaries of the estates upon presentation of the court documents and replacement of the old titles/application of provisional certificates of title.

4.1 Conversion of titles held under Trust or Community Land

1. The general procedure for replacement and issuance of new titles to apply. The Community Land Management Committee shall make the necessary application for issuance of a replacement title.
2. The authorized persons in respect of the Trust to make necessary applications as provided for by the relevant statutes.

4.2 Conversion for titles in respect of Sectional Properties

The general procedure for replacement and issuance of new titles to apply.

05. Conversion of Long Term leases (Existing Long-Term Leases)

a. The registered proprietor of the head title, developer, management company or the owner of a lease of a unit shall make an application for a replacement of a title on Form LRA 97 attached with a sectional plan (georeferenced and duly authenticated by the Director of Survey).

b. Pursuant to (a) above, the registered proprietors/ unit owners shall make an application for replacement of long-term leases on Form LRA 97 for issuance of new certificate of lease.

c. Where a title is held by an encumbrancer (financial institutions, banks and/or other creditors) the procedure outlined in Part 2.6 shall apply.

d. Where a title is subject to succession, the procedure outlined in Part 2.2 shall apply.

5.1 Conversion of titles held in court as security

6 The registered owner (surety) shall either in person or through an Advocate write a letter to the Court Administrator requesting that the criminal case be mentioned before a Judge or Magistrate for the making of an application to release the original title deed for purposes of submission to the Land Registry for conversion of the title.

Note: Recommendation to Judiciary to put restrictions on the properties.

7 The letter shall be accompanied by the Gazette Notice declaring the title for conversion together with the original duly executed form LRA 97 and certified copies of the identification documents.

8 Where the surety is represented by an Advocate the Court may order that the original title deed be released to the Advocate upon his professional irrevocable undertaking in terms acceptable to the court to only use the title for purposes of replacement for conversion and to return the original title to Court after conversion for custody.

9 In all other cases the Deputy Registrar or the Administrative Officer shall transmit the original form LRA 97 together with the original title and certified copies of the identification documents to the respective land registry for conversion of the title.

10 The Land Registrar shall upon conversion and issuance of a new title submit back the original title deed to the Deputy Registrar or the Court Administrator for safe keeping and notify the surety of the issuance of the title.

5.2. Conversion of titles held as security by financial institutions, banks and/or other creditors

It is important to note the following:

- Conversion and migration of titles do not affect the rights of the encumbrancers howsoever.
- Migration of the old register will include migration of all the encumbrances to the new register by statutory action and without the need for any new instrument.

1. The registered owner shall make an application under Form LRA 97 and the encumbrancer or appointed representative shall present the application for issuance of a new title.
2. Failure to comply with (1) above does not invalidate the security being held by the chargee.
3. In the event of the chargee exercising its statutory power of sale, the Registrar shall issue a new title in the name of the transferee upon registration of transfer by chargee.

PART III - PROCEDURE ON HANDLING COMPLAINTS

0.6. Complaints and Dispute Resolution Mechanisms

6.1 Any complaint in respect of the conversion list or the cadastral map shall be submitted in writing to the Registrar in Form LRA 96.

6.2 The law requires a Registrar to resolve the complaints submitted within ninety (90) days of receipt. A complainant can also apply to the registrar in Form LRA 67 for registration of a caution pending the clarification or resolution of any complaint.

6.3 Where appropriate, the registrar may register a restriction or a caution upon receipt of a complaint, and order the removal or variation of the same upon resolution of the complaint.

Note: All prescribed forms under the Land Registration Act, 2012 can be downloaded from the Ministry's website at https://www.lands.go.ke/

Conversion of land title deeds at a glance

Steps

1. Preparation of Cadastral maps together with a conversion list indicating the new and (where applicable) the old numbers for parcels of land within each registration unit or registration section.

2. Publication of the conversion list and the cadastral maps in the Kenya Gazette and two local daily newspapers of nationwide circulation.

3. Specification of the date for opening of transactions or dealings relating to parcels within the registration unit.

4. Sending of copies of publication to relevant county governments for further dissemination to the public.

5. Lodging of complaints within ninety (90) days to the Registrar in regard to any information provided in the register (form LRA 96).

6. Resolution of complaints/ registration of a caution (form LRA 67) or registration of a restriction pending resolution.

7 Removal/ variation of caution or restriction.

8 Lodging of appeals to the Court within 30 days.

9 Closure of the old registers and commencement of transactions/dealings in the new register.

10 Invitation (published in two local daily newspapers and announcements in radio stations of nationwide coverage) of applications for replacement of title deeds issued under the old registers.

11 Applications for replacement (form LRA 97)

12 Replacement of title deeds issued under the old registers.

Conversion for titles in respect of Sectional Properties

1. Surveying (geo-referencing) of sectional units.
2. The registration of the sectional units on the basis of sectional plans prepared by the Director of Surveys.
3. Closure of the mother title and issuance of individual title deeds to owners of sectional units.

Conversion if the deed files are missing

1. Necessary inquiries (after a 60-day notice) by the Registrar.
2. Reconstruction of destroyed or lost land register.
3. Closure of the old reconstructed register.
4. Opening of a new land register.

Conversion if the original titles are lost

1. Application for replacement of lost title (Form LRA 97).
2. Publication of gazette notice for replacement of lost title (making reference to the old and new reference numbers).
3. Issuance of the replacement title under the newly opened register.

Conversion for titles for parcels of land undergoing succession

1. Application for transmission.
2. Closure of the old registers
3. Opening of new registers awaiting presentation of the Grants of Letters of Administration, Grants of Probate and Confirmations of Grant.
4. Issuance of new titles to the beneficiaries of the estates.

Conversion of titles held under Trust or Community Land

1. Application for replacement by the CLMC or person(s) authorised.
2. Issuance of new titles (in the usual manner).

Conversion of existing long term leases where the reversionary interest vests in the lessees

1. Application for a replacement of title in Form LRA 97 (a sectional plan georeferenced and duly authenticated by the Director of Surveys is attached).
2. Issuance of new certificate of lease

Conversion of existing long term leases where the reversionary interest vests in the lessor

1. Application for replacement of title in Form LRA 97 (sectional plan showing the leases registered on the head title attached).
2. Assigning a unique number for every lease which is registered on the head title.
3. Closure of the old register for the head title
4. Opening of a new register
5. Issuance of a replacement title for the head title.

Conversion of titles held in court as security

1. Application for release of the original title deed for purposes of submission to the Land Registry for conversion of the title.
2. Putting of restrictions on properties by the judiciary.
3. Return of the original title to the Court after conversion for safe keeping.
4. Notifying the surer of the issuance of the new title.

Conversion of titles held as security by financial institutions, banks and/ or other creditors

1. Application by the registered owner (Form LRA 97)
2. Presentation of the application by the encumbrancer or appointed representative.
3. Issuance of a new title in the name of the transferee upon registration of transfer by chargee in the event of the chargee exercising its statutory power of sale.

Date Received	Presentation Book No	Official Fees Paid Kshs.

REPUBLIC OF KENYATHE LAND REGISTRATION ACT

THE LAND REGISTRATION (GENERAL) REGULATIONS, 2017

CONSENT BY CHARGEE FOR REPLACEMENT OF TITLE

ISSUED FROM THE CLOSED REGISTER

TITLE NUMBER:.....

DATE OF ISSUE	
CHARGOR	
BORROWER	
CHARGEE	

The above named Chargee in respect of the Charge dated …….…… and registered as IR No……..…… of the property comprised in the above noted Title HEREBY acknowledges and declares that it

a. has full knowledge of the intended application for conversion; and
b. CONSENT to the application for Replacement of Title issued from the closed Register

IN WITNESS the Chargee has executed this Consent as a deed.

EXECUTION:

SEALED with the Common Seal of the Chargee in the presence of: Director ..... Director/Secretary in the presence of …….. Advocate of the High Court of Kenya	Common Seal
Certificate of Verification under Section 45 of the Land Registration Act	
I CERTIFY that the above named directors being the persons witnessing the affixing of the Common seal of the Chargee appeared before me on …….. day of …….. 20 ….and being known to me / being identified by ……..acknowledged the above signature or mark to be theirs and that they had freely and voluntarily executed this instrument and understood its contents. …….. Name and signature of person certifying	

SIGNED by the duly authorised attorneys of the Chargee under and by virtue of Powers of Attorney registered at the District Lands Registry as number ..... and ..... and at the Registry of Documents at Nairobi as Number ..... and ..... respectively in the presence of in the presence of …….. Advocate of the High Court of Kenya	…… Attorneys' signatures …… Attorneys' signatures

Certificate of Verification under Section 45 of the Land Registration Act

I CERTIFY that the above named being the duly constituted Attorneys of the Chargee appeared before me on …… day of …….. 20 ….and being known to me / being identified by ……..acknowledged the above signature or mark to be theirs and that they had freely and voluntarily executed this instrument and understood its contents.

……..
Name and signature of person certifying

Date Received	Presentation Book No	Official Fees Paid Kshs.

REPUBLIC OF KENYA

THE LAND REGISTRATION ACT

THE LAND REGISTRATION (GENERAL) REGULATIONS, 2017

PARTIAL DISCHARGE OF CHARGE FOR REPLACEMENT OF TITLE

ISSUED FROM THE CLOSED REGISTER

TITLE NUMBER:.....

DATE	
CHARGOR	
BORROWER	
CHARGEE	
The Principal Amount secured under the Charge	

The above named Chargee in respect of the Charge dated ……. and registered as IR No…… of the property comprised in the above noted Title HEREBY discharges the Charge in relation to the Application for Replacement of Title issued from the closed register

This is a Partial Discharge

IN WITNESS Whereof this Partial Discharge has been executed as a deed

EXECUTION:

SEALED with the Common Seal of the Chargee in the presence of: Director ..... Director/Secretary in the presence of …….. Advocate of the High Court of Kenya	Common Seal

Certificate of Verification under Section 45 of the Land Registration Act

I CERTIFY that the above named directors being the persons witnessing the affixing of the Common seal of the Chargee appeared before me on …… day of …….. 20 ….and being known to me / being identified by ……..acknowledged the above signature or mark to be theirs and that they had freely and voluntarily executed this instrument and understood its contents.

……..
Name and signature of person certifying

SIGNED by the duly authorised attorneys of the Chargee under and by virtue of Powers of Attorney registered at the District Lands Registry as number ..... and ..... and at the Registry of Documents at Nairobi as Number ..... and ..... respectively in the presence of in the presence of …….. Advocate of the High Court of Kenya	…… Attorneys' signatures …… Attorneys' signatures
Certificate of Verification under Section 45 of the Land Registration Act	
I CERTIFY that the above named being the duly constituted Attorneys of the Chargee appeared before me on …… day of …….. 20 ….and being known to me / being identified by ……..acknowledged the above signature or mark to be theirs and that they had freely and voluntarily executed this instrument and understood its contents. …….. Name and signature of person certifying	

REGISTERED this ……...day of ……..20……..

ENTRY in encumbrances section Number ……..…..

Seal

LAND REGISTRAR

Name :……. Registrar's stamp/no……

Signature …….

Drawn By : ……..

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