A HANDBOOK FOR DOCUMENTING CUSTOMARY LAND RIGHTS IN GHANA

AUGUST 2019

prepared by

COLANDEF

in partnership with

NATIONAL HOUSE OF CHIEFS,
MINISTRY OF LANDS AND NATURAL RESOURCES,
OFFICE OF THE ADMINISTRATOR OF STOOL LANDS.
Acknowledgement

The idea of developing a Handbook to provide guidance for all Actors in the Customary Land Sector in Ghana, to document customary land rights, as a means of enhancing security of land rights for the many customary land rights holders in Ghana started as a simple conversation between COLANDEF and Omidyar Network. As the idea was shared with stakeholders, questions were raised, ideas were exchanged, there were reality checks to ensure the idea was acceptable and truly workable. From that simple conversation on one sunny day in June 2017, and after working for over 20 months with all the stakeholders, the Handbook is now here.

The desire of having a Handbook would probably not have materialized without the funding support received from Omidyar Network. Peter Rabley, Amy Regas and Yuliya Panfil (who at the time worked with COLANDEF in shaping the proposal that was submitted to Omidyar Network), were especially instrumental in critically analyzing the options and navigating the process, overcoming the constraints and challenges that surfaced along the way.

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- Kumbun Naa Yiri II (Chairman of the Committee)
- Naba Sigri Bewong (Vice Chairman of the Committee)
- Barima Offe Akwasi Okogyeasu II
- Okotwasuo Kantamanto Owarae Agyekum III
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- Naa Puowele Karbo III
- Nii Tetteh Otu II

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- Land Administration Project (LAP)
- Parliamentary Select Committee on Land and Forestry
- Ministry of Food and Agriculture
- Land Use and Spatial Planning Authority (LUSPA)
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- COCOBOD
- Alliance for a Green Revolution in Africa (AGRA)
- Institute of Scientific, Social and Economic Research (ISSER)
- MERIDIA
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Foreword

It is estimated that about 80% of all lands in Ghana are under the customary system and therefore on a daily basis, many land transactions that take place in Ghana, occur in the customary sector. Unfortunately, most of these land transactions are done with limited or no documentation, a situation which has affected the land tenure security for many of the land rights holders in Ghana. The absence of proper documentation in the customary land sector has resulted in threats of dispossession, multiple land sales, boundary disputes, unclarity of the land rights, loss of investments, among others.

The long history of undocumented transactions in the customary land sector in Ghana has resulted in a situation where, even when an individual recognizes the need for documentation and proposes to initiate a process to get his/her land transaction documented, there is some resistance or suspicion. Thus, there is need for, not only a template for documenting customary land rights, but also an established system for documentation, where customary land rights documentation will be considered as an integral part of the customary land system.

This Handbook has therefore been introduced to demystify all the disagreements and misunderstanding surrounding the documentation of customary land rights in Ghana. In summary, it provides the overall framework for customary land rights documentation in Ghana. The Handbook acknowledges that oral agreements are allowed under customary law in Ghana and that different people can hold different rights and interests in the same parcel of land at any point in time. The context of customary land tenure and the changing dynamics in the land market in Ghana make land rights documentation more urgent today than ever.

This, however, need not be a complex endeavor. The concept of documenting customary land rights is simply about translating all that have been agreed between the parties, as well as the accepted practices and obligations under customary law, into writing, to provide clarity for the parties and their next of kin, and serve as public notice of the ownership of those rights and interest. This is the guidance the Handbook provides.

Additionally, the Handbook was prepared with due regard for the existing legal and institutional framework for documenting land rights in Ghana. Therefore, any land rights documented using the guidance provided in this handbook will meet the requirements of the prevailing customary beliefs and traditional practices of the area in question, as well as the statutory requirements of valid land documents in Ghana.

Furthermore, the phases and steps outlined in the Handbook provide practical guidance towards ensuring that any system put in place for customary land rights documentation is institutionalized and embedded in the customary land governance arrangements, so that such efforts do not become one-off interventions.
What is more, it is observed that the extensive stakeholder consultations which the Handbook has been subjected to, guarantees the depth of the guidance it provides and the breadth of its applicability, bearing in mind the different regimes of customary land tenure practiced across the country. It is therefore our genuine hope and expectation that this Handbook will be adopted nationwide, especially by Customary Land Authorities, to provide the much-needed guidance in the documentation of customary land rights in their respective Traditional Areas across the country.

We extend our sincerest gratitude to COLANDEF for leading the preparation of this Handbook. We are also greatly indebted to the National House of Chiefs; the Office of the Administrator of Stool Lands; the Ministry of Lands & Natural Resources, the Lands Commission; and a host of other key institutions in the land sector and in development practice in Ghana, for their immense contribution and support in the successful development of this Handbook.

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9th December 2019

Dear Madam,

DECLARATION OF ENDORSEMENT OF THE HANDBOOK FOR CUSTOMARY LAND RIGHTS DOCUMENTATION IN GHANA

On behalf of the Leadership and Membership of the Queen Mothers’ Council of Ghana, I am pleased to submit this letter as evidence of our endorsement of the Handbook for Customary Land Rights Documentation in Ghana. We recognize that this Handbook has been developed through the collaborative efforts with the National House of Chiefs; the Office of the Administrator of Stool Lands; the Lands Commission; the Parliament Select Committee on Lands and Natural Resources, and many other key institutions in Ghana. We are grateful to have had the opportunity to be part of the consultations under this project and in the development of the Handbook.

The Queen Mothers’ Council of Ghana recognizes the numerous challenges emanating from the absence of documentation of customary land rights in Ghana, and therefore commit to work hand in hand with the National House of Chiefs in facilitating the regional level engagements towards the application of this Handbook in all the Traditional Areas across the country.

We look forward to a sustained collaborative relationship with COLANDEF as it continues to contribute to the development of Ghana’s customary land sector.

Yours Faithfully,

Nana Ampomah Dokua III
President, Queen Mothers’ Council of Ghana
1.0 Background

Land is an asset and the basis of its ownership is quite unique. This is because ownership of land implies ownership of a bundle of rights derived from an interest in land or landed property. Interest in land and the rights that go with each interest in land cannot be held as a tangible asset. It can only be expressed in writing or in the mental frame. Ownership of rights and interests in land therefore implies ownership of an intangible asset. Under the land laws in Ghana, a number of people can simultaneously hold various rights and interests in the same parcel of land at any point in time. For clarity on who holds what rights and interest in a parcel of land at each point in time, these rights and interests are expected to be captured in writing. Translating the understanding of the rights and interests in land from one's mental understanding into writing provides clear understanding of those rights to the individual holding the rights, and also serves as public notice of the ownership of those rights and interest. Documenting one's ownership of rights and interest in land is therefore a means for securing the peaceful and uninterrupted occupation, use and enjoyment of the rights in the land. Ability to capture these rights and interest to serve as evidence of ownership has proven to be one of the most effective ways of securing the rights so acquired in the land.

1.1 Overview of Land Governance in Ghana

Ghana practices a dual system of land administration. There is the formal State system and then there is also the customary system of land administration. The State land system is governed by State laws through designated formal agencies. The customary land system is based on the customary practices of various traditional areas in Ghana. Records indicate that about 80% of the approximately 23.8 million hectares of land in Ghana is governed under the customary land administration system. The remaining 20% is under the State system. This means that a greater number of transactions on land are with the involvement of the traditional leaders of the various traditional areas in Ghana. The fundamental issue is that customary lands in Ghana are governed by the rules defined by the tradition and culture of the area. As a result, one might find some differences in the process and conditions for acquiring an interest in land from one traditional area to another. Despite these differences, one significant commonality in land transactions under the customary land system is the absence of a system for documentation.

As a result, most of the owners of rights and interest in land under the customary system hold those rights and interests with no evidence in writing. In the past when population figures were quite low, this situation did not create many difficulties because there was no pressure on the land and most people could easily identify the owners of land parcels and their spatial extent. The result was that, even though there was very little or no documentation on interests in land, there was a measure of security for people who were granted these rights and interests.

Increase in population, commercial investments and urbanization have increased competition on customary lands and so existing customary arrangements no longer elicit the same kind of security that it brought some decades ago. There have been substantial challenges that have come about in the customary land administration system as a result of these changes. Amongst them are; multiple sale of the land, non-compliance with commitments under oral agreements, absence of information
on land, general indiscipline by people in the traditional area who will want to take advantage of the situation, disregard for obligations towards traditional authorities. The result is that, while land governed by the state has its own measure of challenges, there is a higher measure of security guaranteed due to compliance to the requirement for documentation and registration. Granted that the requirement for documentation and registration is also a requirement even for actors at the customary level, the fact remains that the bilateral negotiation and getting agreement at the customary level is a prerequisite for moving to the next step of registration with the State land agencies. Yet, documentation is not a regular requirement under the customary land system, especially for those who obtain rights under customary tenancies for farming purposes.

1.2 The Challenge in Documenting Customary Land Rights in Ghana

Security of rights and interests in land is crucial for sustained investments in agriculture, especially, for smallholder farmers and rural households in Ghana. Many of them access land through various customary land tenure regimes that are not well regulated and under which transactions in land go undocumented. The absence of documentation on farmlands, unclarified land rights and increasing competition on agricultural land due to increasing population and the emergence of other competing land uses, have rendered the security of land rights for many smallholder agricultural land users in Ghana precarious. The negative impacts of unsecured land rights for smallholder farmers, their households and on the overall national economy cannot be overemphasized. Experiences in some communities in Ghana already demonstrate these negative impacts from unsecured land rights, the most affected being farmers in the cocoa and other perennial crops sector. On the other hand, strengthening customary land tenure systems to deliver secured land rights for smallholder farmers has the potential to contribute to increased agricultural productivity, sustained income of smallholder farmers and increased interest in investments in agriculture. In spite of the challenges undocumented land rights present to farmers and the knowledge of the potential benefits that land rights documentation could bring, should documentation be pursued, there is very limited attention to documentation of land rights for farmers.

The negative experiences and lessons learnt from undocumented land rights have led to most customary land rights holders now desiring to have secured land rights through documentation. However, the institutional arrangement for land governance in Ghana, the structural arrangements at the customary level, the absence of information, lack of expertise, and the cost implications for initiating and facilitating land documentation under customary land tenure regimes where documentation is limited or non-existent, make it difficult for actors in the customary land sector to work through this process on their own.

The challenge of undocumented customary land rights therefore needs to be addressed from an institutional standpoint and not merely on a voluntary basis as one-off interventions. Under the Land Administration Project, the Government of Ghana through the Ministry responsible for lands, initiated the establishment of Customary Land Secretariats (CLSs). At its inception phase, ten pilot CLSs were established by the LAP, one in each administrative region in Ghana. As of now, there are about eighty-eight CLSs across the country with varying levels of institutional capacity and level of activities. COLANDEF, with support from Omidyar Network and in partnership with stakeholders in the land and agricultural sectors, including smallholder farmers, customary land authorities and state agencies, has developed this Handbook to strengthen capacity of customary land authorities, including the CLSs in areas where they exist, and provide the framework for institutionalizing customary land rights documentation in Ghana.
1.3 Purpose of the Handbook

This Handbook is intended to provide the overall framework for customary land rights documentation in Ghana. Although customary land practices differ from one traditional area to another, this Handbook provides the overall framework to guide traditional leaders, customary land rights holders and all other actors in customary land governance in Ghana through the steps needed to initiate and institutionalize customary land rights documentation in their respective traditional areas.

The overall goal is to provide all the information needed to ensure that Traditional Leaders and Customary Land Secretariats are equipped and prepared to manage transactions in customary land rights and support it with documentation in a way that guarantees security of the rights granted.

Above all, it is expected that the implementation of this Handbook will provide opportunities for increased interactions between the land sector agencies and the Customary Land Authorities in Ghana to work towards better integration of their respective land administration services.

1.4 Scope of Applicability

It is acknowledged that in line with the prescription of the Lands Commission Act 2008, ACT 767, the Lands Commission is the only state agency in Ghana that is mandated to undertake registration of rights and interests in land. This Handbook is in no way creating a parallel structure or system for land rights registration. Instead, this Handbook is providing technical guidance for customary land authorities who have the constitutional mandate to administer customary lands, to make documentation of all transactions a part of their mandate in customary land administration. Streamlining customary land practices to include standards for documentation that is tailored to the existing customary land tenure system and also containing all the requisite elements for a proper land rights document as stipulated in formal legislation, will be a first step towards securing registration at the Lands Commission.

Thus, even though the guidance provided in this Handbook does not include the steps for registration at the Lands Commission, it provides the framework for adequately instituting documentation in each traditional area in Ghana. This is because instituting land rights documentation for customary land rights holders provides a significant measure of the guarantees needed to protect the interest held. While acknowledging the requirements for registration as outlined under the Land Registry Act and the Land Title Registration Law, this Handbook is focused on guiding customary land actors to have the needed documentation done in preparation for such formal registration. The Handbook, however, places no obligation on customary land rights holders to proceed to the Lands Commission for registration. Instead, it delivers an output that adequately secures one's customary land interest and at the same time gives opportunity to those who choose to move to the level of registration at the Lands Commission to be qualified to also do so.

1In the context of this Handbook, to institutionalize customary land rights documentation means establishing mechanisms at each customary land area that make documentation of rights an integral part of land transactions. The prospective land user should not be the one to request. Customary land authorities are not the ones to decide when to offer documentation or not. Rather, it is part of the accepted practice in the area without which land transactions cannot be said to have been completed.
Section Two

2.0 Importance of Land Rights Documentation

Documentation of land rights provides benefits not only to the parties in the transaction. Documenting all transactions in land and establishing a mechanism for storing the documentation provides a relevant source of information for prospective purchasers, traditional authorities as well as Government agencies in ensuring effective land governance. Most importantly, land documentation helps in enhancing/improving security of tenure. It provides proof of ownership and basis for defense should this ownership be challenged. By this, the holder of the land rights can protect those rights in the land and avert any possible conflict and subsequent dispossession. In addition, it facilitates effective land governance.

For the state agencies, land rights documentation provides a pool of land information that facilitates effective land use planning and development as well as property taxation. Again, land documentation facilitates access to credit; providing proof of ownership of land for loan acquisitions when a landed property is provided as a collateral. Land documentation facilitates a smooth transfer of interest from one person to the other in that, it provides enough information about who the true owner of the land is, and the type of interest held in the land, thereby providing clarity on the interest that can be transferred.

Finally, land documentation helps to minimizes the risks of boundary disputes and land-related conflicts hence ensuring peaceful co-existence among individuals and communities.

2.1 What is to be Documented?

The types of interests in land that are recognized under the law which should be documented are;

-Fig 1:

Types of Interests in Land in Ghana

- Allodial Interest
- Customary Freehold Interest
- Usufructuary Interest
- Leasehold interest
- Customary tenancies

Funded by Omidyar Network
The details of each type of interest in land in Ghana, as illustrated in Fig.1 above, are explained below:

2.1.a Alloidal Interest

The Alloidal Interest is the highest interest in land at the customary level. It is the ultimate interest in land which confers absolute rights in land. It is a collective interest in land held by a group (Family, Stool, Clan etc.) It is held in perpetuity by the group and held in custody for the group by the Leader, be it the Paramount Chief, Family Head or Clan Head. The Alloidal interest is acquired through conquest, pioneer discovery and settlement, gift and purchase. It is documented through a Statutory Declaration and registration of such a declaration at the Lands Commission.

Documentation of the Alloidal interest involves the determination and confirmation of the boundary of the Alloidal interest. This is to be done by the land-owning group led by the leader/custodian of the Alloidal interest or a representative duly appointed by the custodian. The determination and confirmation of the alloidal interest involves the leadership of the traditional area or family land area working with the adjoining land-owners through a systematic process, to agree on the boundaries of the land held by the alloidal interest holders.

This process should be managed and validated at the local level. It is also required that the validated boundaries be published through a Statutory Declaration and registered at the Lands Commission. It has to be done, not by an individual member of the land-owning group, but by representatives of the land-owning group. The determination and confirmation of the boundaries of the alloidal ownership is also a form of land rights documentation but is non-transactional and does not involve a transfer of an interest, but rather, the affirmation of the alloidal interest in all the land parcels under the jurisdiction of the land-owning group.

Documentation of the Alloidal interest is non-transactional. It is done for purposes of recording and defining the jurisdiction of the Alloidal ownership. The determination and confirmation of the Alloidal ownership can be done through the following process:

1. Procure a qualified Surveyor and hold preliminary discussions on the work involved and cost implications

2. Sensitize members of the land-owning group on the process for determining and confirming the jurisdiction of the Alloidal interest

3. Select and confirm members of the land-owning group who will be acting on behalf of the land-owning group, working with the Traditional Leader to manage the process

4. The land-owning group should consult amongst themselves to compile and validate information on the history of their land ownership

5. Identify and record the boundaries and the neighbours on each boundary as known by the members of the land-owning group

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2 The steps involved in the declaration and registration of alloidal interests are described in Appendix 2.
The Allodial Interest is the highest interest in land at the customary level. It is the ultimate interest in land which confers absolute rights in land. It is a collective interest in land held by a group (Family, Stool, Clan etc.) It is held in perpetuity by the group and held in custody for the group by the Leader, be it the Paramount Chief, Family Head or Clan Head. The Allodial interest is acquired through conquest, pioneer discovery and settlement, gift and purchase. It is documented through a Statutory Declaration and registration of such a declaration at the Lands Commission.

Documentation of the Allodial interest involves the determination and confirmation of the boundary of the Allodial interest. This is to be done by the land-owning group led by the leader/custodian of the Allodial interest or a representative duly appointed by the custodian. The determination and confirmation of the allodial interest involves the leadership of the traditional area or family land area working with the adjoining land-owners through a systematic process, to agree on the boundaries of the land held by the allodial interest holders.

This process should be managed and validated at the local level. It is also required that the validated boundaries be published through a Statutory Declaration and registered at the Lands Commission. It has to be done, not by an individual member of the land-owning group, but by representatives of the land-owning group. The determination and confirmation of the boundaries of the allodial ownership is also a form of land rights documentation but is non-transactional and does not involve a transfer of an interest, but rather, the affirmation of the allodial interest in all the land parcels under the jurisdiction of the land-owning group.

Documentation of the Allodial interest is non-transactional. It is done for purposes of recording and defining the jurisdiction of the Allodial ownership. The determination and confirmation of the Allodial ownership can be done through the following process:

1. Procure a qualified Surveyor and hold preliminary discussions on the work involved and cost implications
2. Sensitize members of the land-owning group on the process for determining and confirming the jurisdiction of the Allodial interest
3. Select and confirm members of the land-owning group who will be acting on behalf of the land-owning group, working with the Traditional Leader to manage the process
4. The land-owning group should consult amongst themselves to compile and validate information on the history of their land ownership
5. Identify and record the boundaries and the neighbours on each boundary as known by the members of the land-owning group
6. Initiate consultations with the leadership of the neighbouring land-owing groups to discuss the plan for determining and confirming the boundaries.
7. Build consensus on the expected outcome from the exercise, discuss the output and mutual benefits to be derived from the outputs
8. Develop a timetable for the boundary demarcation and share with all the neighbours
9. Provide coaching on appropriate language and conduct for a successful demarcation exercise
10. Together with a qualified Surveyor, demarcate the boundaries of the allodial interest
11. The Surveyor produces an initial plan for discussion and validation
12. With support from the Surveyor, hold validation meetings with each of the neighbours to confirm the boundaries
13. Document the outcome of the validation meetings, including information on the participants and outcome achieved in the meeting
14. The Surveyor then prepares the final plan for the land-owning group
15. Land-owning group maintains copies of the plan and the records on the processes in their registry

This Handbook acknowledges that allodial boundary demarcation can be very time consuming and challenging, especially, when it involves a large area of land with a number of different neighbors. The publication and subsequent registration at the Lands Commission can also be complex and expensive. For these reasons, not many allodial owners in Ghana have their allodial boundaries defined and registered at the Lands Commission.

Thus, even though it is an important requirement for establishing an effective customary land documentation system, it is not to be considered as a pre-condition for initiating customary land documentation system in any traditional or family land area. Documentation of individual parcels can still be done for customary land rights holders existing within the jurisdiction of an Allodial interest while the leadership works on a systematic process of confirming the boundary of the allodial interest.

The Customary Freehold Interest is an interest in land which is derived from an owner of Allodial interest. It is acquired from a transaction of outright purchase from a Stool, Family, Skin of Clan. The Customary Freehold interest is subject to the cultural rules and traditional practices of the area. The Customary Freehold interest can be passed on to successors. The owner of a Customary Freehold interest can also give out other interests in land to other people. This should be documented to clearly define the customary rules and traditional practices that the holder of this interest is subjected to.
2.1.b Usufructuary Interest

The Usufructuary Interest is an interest in land which is held by individual members of the group that collectively owns the Allodial interest. It is an inherent interest acquired and held by all who by birth belong to the land-owning group. A member of the Allodial interest holding group acquires the Usufructuary interest through the development of any portion of the group’s land that have yet to be occupied and used by another member. The usufruct is therefore a use right.

The Usufructuary interest can also be acquired by an express grant made by the Head of the Allodial interest, group to a group or an individual who may not belong to the group that owns the Allodial interest. It may also be acquired through settlement for a period of not less than fifty years, with the permission of the Head of an Allodial interest holding group.

Among other things, the documentation of the Usufructuary interest will note the boundaries of the occupation and explain the basis for eligibility to this type of interest to avoid confusion between this and the Allodial interest. The granting and documentation of the Usufructuary interest does not diminish the Allodial interest or the authority of the custodian of the Allodial interest. It will rather provide the needed clarity on the use rights of the usufruct and the limits of these rights in relation to the Allodial interest.

2.1.c Leasehold Interest

The Leasehold interest is an interest in land for a defined duration. It is acquired through a transaction with a person who holds an Allodial interest, Customary Freehold interest, Common Law Freehold interest or Usufructuary interest gives to another person, an interest in land for a specified number of years and is subject to terms and conditions. A person with a Lease could also grant a sublease for the number of years remaining in the Lease. This will, however, have to be done with the permission of the one who granted the Lease. The granting of a Lease does not affect the ownership of the Allodial interest or the other interests from which the lease was granted.

2.1.d Customary Tenancies

Customary tenancies are interests in land which result when a stool, skin, clan or family which holds the Allodial interest or a person who holds a Customary Freehold interest or Usufructuary interest enters into an agreement with another person to grant that other person an interest in land under agreed terms and conditions. The terms and conditions may include the payment of rent, the sharing of the produce of a farm or the sharing of the farm.

This is very common in many customary land areas. Abunu and Abusa are the most recognized types of customary tenancies but are not the only ones. In some cases, farmers are granted surface rights to cultivate their crops until the time the landowner would be ready to use the land. Such arrangements place no obligation on the farmer towards the landowner, except that he/she should be ready to move away from the land once the landowner gives indication of his/her intention to use the land.

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Footnote: 3 Examples of other customary tenancies in Ghana is attached as appendix 7. The Handbook recommends that before instituting the Customary Land Rights Documentation system, each traditional area commits to the compilation and validation of all existing customary tenancies in their area.
Important Points to Note:

1. Apart from the documentation of the Allodial interest, which is non-transactional, the documentation of all the other interests is transactional and involves the recording of the terms and conditions pertaining to the transfer of a particular interest and associated rights, in a parcel of land.

2. Whether documentation is in respect of the declaration of an Allodial interest or the granting of other lesser interests, the documentation should include the preparation of the site plan which defines the parcel of land that is being transferred.

3. This preparation of the site plan is relevant for documentation of land rights of any type, be it transactional or non-transactional in nature.

4. The documentation of any of the interests mentioned above protects the ownership of all rights and interests held in the land. It does not include the ownership of mineral resources which are vested in the state.

This Handbook provides the step by step guide towards establishing a system at the customary level that will allow customary land authorities undertake customary land rights documentation covering the declaration of the Allodial interest, the documentation of individual rights and interests and the preparation of a site plan for either the Allodial interest declaration and/or the individual land parcels that have been granted.

2.2 Legal Framework Governing Land Rights Documentation

Land rights documentation and registration in Ghana are governed by different laws. Table 1.0 presents a summary of relevant portions of each of the laws.

<table>
<thead>
<tr>
<th>Name of Law</th>
<th>Relevant Provisions In The Law</th>
<th>Implications for Customary Land Rights Documentation</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The 1992 Constitution of Ghana</td>
<td>• Every person has the right to own property either alone or in association with others. (Article 18(1))</td>
<td>• It is a fundamental right to own property</td>
</tr>
<tr>
<td></td>
<td>• Customary authorities as custodians of customary lands (Article 36(8); 267(1))</td>
<td>• Customary Land Authorities have the mandate to institute land rights documentation for their area</td>
</tr>
<tr>
<td></td>
<td>• Customary authorities responsible for administering the lands in their custody (Article 267(1); 267(7))</td>
<td>• While documentation is a very important step towards guaranteeing security of tenure, registration adds to that security</td>
</tr>
<tr>
<td></td>
<td>• The Lands Commission Registration is to, among other purposes, receive the consent and concurrence to grant of land rights made by customary land authorities (Article 267(4))</td>
<td></td>
</tr>
</tbody>
</table>
Customary Freehold interest can be passed on to successors. The owner of a Customary Freehold interest is subject to the cultural rules and traditional practices of the area. The interest is acquired from a transaction of outright purchase from a Stool, Family, Skin of Clan. The leadership works on a systematic process of confirming the boundary of the allodial interest. This process should be managed and validated at the local level. It is also required that the validated documentation of the allodial interest involves the leadership of the traditional area or family land area working with the adjoining land owners through a systematic process, to agree on the boundaries of the allodial interest. Declaration and registration of such a declaration at the Lands Commission is required. The Allodial Interest is the highest interest in land at the customary level. It is the ultimate interest in land which confers absolute rights in land. It is a collective interest in land held by a group (Family, Stool, Skin of Clan). The Allodial interest is acquired through conquest, pioneer discovery and settlement, gift and purchase. It is documented through a Statutory Declaration and registration at the Lands Commission.

| 2. The Conveyancing Act, 1973, (NRCD 175) | • All transactions in land must be put in writing (Section 1(1))  
• Any transaction that was done orally can be transferred into writing (Section 4(1))  
• Documentation of land transactions should include some essential elements to make it valid (the parties, the parcel, the price, the period and the signatures of the parties) (First Schedule) | • Customary land rights qualify to be documented  
• Documentation of customary land rights can be accepted as authentic once the essential elements are included in the documentation. |
| 3. The Land Registry Act, 1962, (Act 122) | • A documented land agreement can be further registered under Deed Registration (Section 3)  
• No instrument shall be registered without a plan. The plan must provide the location and boundaries of the subject land for conspicuous identification (Section 4(1a))  
• Transaction of no effect until it is registered  
• Registration provides notice to the public | • Beyond documentation, registration can be done either under Deed Registration or Title Registration |
| 4. Land Title Registration Act, 1986, (PNDCL 152) | • Greater Accra Region, parts of Kumasi, Ewutu Senya and Savelugu have been declared as Title Registration areas and so land agreements prepared in those areas can be registered under title registration  
• Title Registration is compulsory in areas that have been declared Title Registration district |  |
| 5. The Administration of Lands Act, 1962, (Act 123) | • Disposal of land for valuable consideration subject to the provisions of Article 267 of the Constitution (Section 8(1))  
• The Lands Commission will keep and manage all documents relating to land affected by provisions in this Act. (Section 14(1-4))  
• OASL mandated to collect revenue of lands subject to this Act (Section 17(1-2)) | • The OASL has roles to play in facilitating the terms and conditions required for transacting land, which are required for proper documentation |
| 6. The State Lands Act, 1962, (Act 125) | • The state has power to compulsorily acquire land for public interest (Section 1(1))  
• The state compulsory acquisition is different from private acquisition. However, it also needs to be documented (Section 1(1-3)) | • The focus of this handbook is not the compulsory acquisition by Government. Nevertheless, the it is important to establish that documentation of all customary land rights provides the necessary protection from wanton dispossession without due compensation. |
### Customary Freehold Interest

- The owner of a Customary Freehold Interest is an interest in land which is derived from an owner of Allodial interest, while the leadership works on a systematic process of confirming the boundary of the allodial interest.

- Documentation of individual parcels can be complex and challenging, especially when it involves a large area of land with a number of different neighbors. The publication and subsequent registration at the Lands Commission can also be complex and expensive. For these reasons, not many allodial owners in Ghana have their allodial boundaries confirmed.

### Proceedings

1. Procure a qualified Surveyor and hold preliminary discussions on the work involved and cost.
2. Conduct a survey to establish the extent of the land and document the boundaries.
3. Select and confirm members of the land-owning group who will be acting on behalf of the land-owning group, working with the Traditional Leader to manage the process.
4. The Surveyor produces an initial plan for discussion and validation.
5. With support from the Surveyor, hold validation meetings with each of the neighbors to confirm the boundaries.
6. Initiate consultations with the leadership of the neighboring land-owning groups to discuss the plan for determining and confirming the boundaries.
7. The Surveyor then prepares the final plan for the land-owning group.
8. Document the outcome of the validation meetings, including information on the participants.
9. The Land Use and Spatial Planning Act 2016, Act 925
- Spatial planning of land in Ghana is the mandate of the appropriate spatial planning authorities recognized under the Act, at the District, Regional and National levels (Sections 2; 26; 32).
- No person, other than a licensed surveyor may conduct a land survey for the purpose of producing a plan/map to be attached to a land document (Section 6(1)).
- Likewise, survey plans/maps can only be certified by a licensed surveyor (Section 6(2)).
- The presence of adjoining landowners or users is required when a surveyor is demarcating or surveying a land (Section 13(1 - 2))

### Legislative Instruments

8. The Land Bill
- Customary land rights are recognized under law and qualify for documentation and registration (Clause 78(1))
- Customary land authorities have the mandate to grant and document transactions (Clause 13(2))
- All Customary Land Authorities are required to establish a secretariat for administering land in their jurisdiction (Clause 14(1))
- All members of the land-owning group as co-owners of allodial interests. Consultations required in decision making (Clause 13(2))
9. The Land Use and Spatial Planning Act 2016, Act 925
- The focus of this handbook does not extend to spatial planning.
- In matters related to the spatial planning, customary land authorities may be consulted by the appropriate spatial planning authorities.
- However, customary authorities do not have the mandate to spatially plan lands under their jurisdictions.
- The services of licensed surveyors are required to produce all plans/maps that will be attached to land documents.
- All plans/maps produced must be certified by licensed surveyors.
- Boundary sharers must be present to show their boundaries and witness all parcel surveys and demarcation. In this regard, all boundary sharers should be notified before any survey.

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Subject to the acceptance by the Parliament of Ghana, the provisions in the Draft Land Bill as outlined are expected to take effect upon its enactment as law.
2.3 Framework for Customary Land Governance In Ghana

In Ghana, customary lands are governed by customary institutions that have the mandate to make and enforce rules based on the specific customs and traditions prevailing in the respective traditional areas across the country.

The identity, mandate, and legitimacy of the customary land institution of each traditional area in Ghana is derived from the history, background, local customs, and tradition of the people. Therefore, there can be no standard description of the institutional framework for customary land governance in Ghana. As a result, it is not uncommon for two adjacent traditional areas to have different procedures for acquiring land.

While the rules governing customary land remain largely unwritten, they are known by the local people and upheld by formal court systems when land disputes are brought before them for resolution. It is important to mention that customary rules only apply in land acquisition processes, including the determination of one's capacity to transact land and the extent of rights transacted. However, only formal rules (statutes, regulations, and land policies) apply in matters relating to documentation, registration, and land use planning. For this reason, the documentation of customary land rights must conform to the requirements of the applicable formal rules.

As mentioned, the customary land tenure system in Ghana is not homogenous, since the customs and traditions of traditional areas vary across the country. Overall, however, there are three identifiable customary land tenure regimes that broadly represent the different customs, practices, traditions and customary land governance structures in Ghana. These are discussed broadly in Table 2.0 below.

Apart from the customary institutions involved in customary land governance discussed in Table 2.0, there are also customary-owned local land agencies – Customary Land Secretariats (CLSs) – established by some traditional authorities in their areas of jurisdiction. Among other key functions, CLSs are intended to assist customary land authorities to improve land records keeping, access to information on land transactions and dispute resolution. Thus, these local land agencies are indispensable assets for the customary land rights documentation cause.

<table>
<thead>
<tr>
<th>Features</th>
<th>Stool Lands</th>
<th>Skin Lands</th>
<th>Family/Clan Lands</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Custodian of Allodial Interest</td>
<td>• A Paramount Chief or in some areas, a Divisional Chief</td>
<td>• An Overlord and/or, in some cases, • A Tendana</td>
<td>• A Family/Clan Head or • A Tendana (depending on the area)</td>
</tr>
<tr>
<td>2. Typical land governance structure</td>
<td>• A Paramount Chief is responsible for the overall decision making on land. • In the hierarchy, the Paramount Chief is supported by Divisional Chiefs, Sub-Chiefs and Odikrofuor (Local Chiefs) in governing over land in their jurisdiction.</td>
<td>• An Overlord has the responsibility for overall decision making on land. • In the hierarchy, Paramount Chiefs have jurisdiction over some designated portions of the skin land. • Below the Paramount Chiefs are Divisional Chiefs, Sub-Chiefs and Village Chiefs who support in the overall governance of the skin lands.</td>
<td>In the case of a Family/Clan Head: • He is responsible for the overall decision making on Family/Clan lands • He is supported by principal elders of the Family/Clan and headmen in governing over the land. Tendana: • In certain areas, a Tendana has the responsibility for overall decision making on a Family/Clan land. • He is supported by principal elders of the Family/Clan and headmen in the performance of his land governance roles. • NB: In both cases, there are Chief priests (e.g. Wulomei in Ga tradition), that also perform rights that are recognizable as a contribution to land governance.</td>
</tr>
</tbody>
</table>

5 The framework provided in this Handbook is only a representation on the generality of the institutional arrangement for customary land governance. Specific traditional areas will have different arrangements as determined by their custom. However, using the framework provided in the table will guide the actors in clearly defining the hierarchy and mandate of each traditional authority

6 A Tendana is the descendant of the first settler on the land, usually by pioneer discovery. The title ‘Tendana’ is given to that individual appointed as the custodian of those lands (other variants of that title include: ‘Tengdaana,’ ‘Tendaana’ & ‘Tindana’. The plural form is ‘Tendamba’.)
### 2.4 State Agencies and their Roles in Land Administration

#### Table 3.0: Table Showing some State Agencies and their Respective Roles in Land Administration in Ghana.

<table>
<thead>
<tr>
<th>NAME OF AGENCY</th>
<th>ROLE IN LAND RIGHTS DOCUMENTATION AND REGISTRATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Lands Commission</td>
<td></td>
</tr>
<tr>
<td>a. Land Valuation Division</td>
<td></td>
</tr>
<tr>
<td></td>
<td><em>The Lands Commission is made up of four divisions that have individual roles they play in land administration. The functions of the four divisions are outlined below:</em></td>
</tr>
<tr>
<td></td>
<td>• Assessing the compensation payable upon acquisition of land by the Government</td>
</tr>
<tr>
<td></td>
<td>• Assessment of stamp duty in the land registration process</td>
</tr>
<tr>
<td></td>
<td>• Determining the values of properties rented, purchased, sold or leased by or to Government</td>
</tr>
<tr>
<td></td>
<td>• Preparation and maintenance of valuation list for rating purposes</td>
</tr>
<tr>
<td></td>
<td>• Valuation of interests in land or land related interests for the general public at a fee</td>
</tr>
<tr>
<td></td>
<td>• Valuation of interests in land for the administration of estate duty</td>
</tr>
<tr>
<td>b. Land Registration Division</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Publication of notices of registration upon receipt of an application for registration</td>
</tr>
<tr>
<td></td>
<td>• Registration of title to land and other interests in land</td>
</tr>
<tr>
<td></td>
<td>• Registration of deeds and other instruments affecting land in areas outside compulsory title registration districts</td>
</tr>
<tr>
<td></td>
<td>• Maintaining land registers that contain records of land and other interests in land.</td>
</tr>
<tr>
<td>c. Survey &amp; Mapping Division</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Supervise, regulate and control the survey and demarcation of land for the purposes of land use and land registration</td>
</tr>
<tr>
<td></td>
<td>• Take custody of and preserve records and operations relating to the survey of any parcel of land</td>
</tr>
<tr>
<td></td>
<td>• Coordinate the preparation of plans from the data derived from survey and any amendment of the plans</td>
</tr>
<tr>
<td></td>
<td>• Supervise, regulate, control and certify the production of maps</td>
</tr>
<tr>
<td>d. Public &amp; Vested Land Management Division</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Facilitating the acquisition of land by Government</td>
</tr>
<tr>
<td></td>
<td>• Managing state acquired and vested lands in conformity with approved land use plans</td>
</tr>
</tbody>
</table>
### 2. The Office of the Administrator of Stool Lands (OASL)

- Collects all stool and skin land revenues and disburses to the appropriate Customary Land Authorities and District Assemblies, in accordance with the provisions of the constitution.
- The OASL is available on request, to provide guidance and technical support to Customary Land Authorities in the management of land transactions with investors.
- Collaborates with the Lands Commission in the overall strengthening of customary land administration.
- Together with the Lands Commission, the OASL consults and works with Customary Land Authorities in all matters relating to the administration, development and preparation of appropriate frameworks to guide the management of stool and skin lands.
- Supervises the functioning of Customary Land Secretariats (CLSs)
- Provides logistical and technical support towards the establishment of new CLSs in Traditional Areas that hitherto did not have CLSs.
- Assesses ground rent payable over customary lands.

### 3. Land Use and Spatial Planning Authority (LUSPA)

- Responsible for coordinating the preparation and enforcement of land use plans

### 4. The District Assembly

- Responsible for facilitating the development of overall district development plan and spatial plan
- Granting of building/development permits
- Monitoring of development projects within the district.

### 5. Customary Land Secretariats (CLSs)*

- Identify and resolve land related issues among land rights holders
- Determine the boundaries of the customary land area based on agreements reached with neighboring traditional areas.
- Facilitate the recording of land allocations and transactions using simple registers.
- Develop forms which reflect the nature of rights over the land being transacted, as well as the agreed terms and conditions

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*CLSs are not state agencies but customary-owned local land agencies established by some traditional authorities in their areas of jurisdiction, with support from OASL in some cases, to perform the functions outlined above. The OASL also supervises the activities of CLSs and provides technical support to them.
2.5 Land Rights Documentation at the Customary Level in Ghana

The idea of establishing a system for documenting customary land rights has long been considered as an important element for strengthening customary land governance in Ghana. Some traditional authorities have the practice of issuing documents such as receipts, site plans or allocation papers to grantees whenever a transaction in land occurs. The challenges with some of these initiatives by traditional leaders are:

- The documents issued do not carry the required elements and so may not be validated as guaranteed protection
- Those issuing and endorsing the documents may not have the capacity to do so
- Without a system backing the process, it becomes one-off activities with limited opportunities for subsequent transaction on the same parcel
- Customary authorities are the main actors with little or no input from the other actors in customary land governance

From the points above, it can therefore be concluded that there is an institutional arrangement within the customary land administration system for land rights documentation, but its operations have not taken into consideration the need for documenting all land transactions. The existence of the customary land institutions therefore serves as a window for the introduction of land rights documentation at the customary level. Building on what is existing to improve customary land rights documentation is what this Handbook seeks to bring about.
Section Three

3.0 SETTING UP AND IMPLEMENTING CUSTOMARY LAND RIGHTS DOCUMENTATION - OUTLINE OF STEPS

Customary land rights documentation is currently not a given in any customary land rights transaction. It happens on occasion when it is requested. Even in those cases, it does not always happen that those who request, get the documentation done. Customary land rights documentation is therefore best done and sustained when an appropriate set up is put in place and owned by the Customary Land Authorities, to provide the framework documentation. Where such a set up exists, documenting land rights becomes an everyday practice accepted by all, such that no party has the power to stop documentation from taking place, neither will a land transaction be considered complete without a documentation of the land rights and interests transacted by parties. The following are the steps that can be followed by all Customary Land Authorities to set up a well-functioning system for the documentation of customary land rights. The steps are organized under four phases:

3.1 PHASE 1:
Recognition and adoption of land rights documentation as a practice in customary land administration

**Step 1:** Through sensitization and consultations, get all the stakeholders in the traditional area to recognize and accept documentation as an important element in customary land administration.

**Step 2:** Members of the Traditional Council of the Traditional Area or the Family/Clan Leadership and/or any other customary authority in the area should sign a commitment to adopt documentation as a common practice in their area, and which will be supported by all who have the mandate to transact the customary lands in the traditional area (the commitment document should be drafted, discussed and accepted by all before endorsing). Each member of the Traditional Council, the Family/Clan and/or any other customary authority should have a copy of the signed commitment document.

**Step 3:** Liaise with the Office of Administrator of Stool Lands in the Region or District for technical assistance and partnership.
3.2 PHASE 2:
Modification and adjustments to the existing system for land administration and land transactions in the traditional area

Step 1: Hold discussions with all traditional leaders who play a role in administering the customary lands, to reflect on the existing land administration system and agree on how to incorporate documentation in the existing system.

Step 2: Based on the outcome of the discussions in step 1, have a committee to prepare an outline that will indicate how land administration system in the traditional area will be managed to include documentation.

The outline should indicate the following:

- Which level(s) in the hierarchy of the customary leadership can land transactions be initiated in the traditional area,

- What should occur at that initial stage where the land transaction is initiated and; the obligations on both the customary land authority at the level as well as the prospective land user

- The different types of land rights and interests that can be negotiated

- The customary land authorities in the hierarchy who should be involved in the negotiations for the different types of land rights and interests to be transacted

- The level at which negotiations for each of the land rights and interests be concluded

- Responsibility for recordation of the negotiated terms

- Secretariat for documentation of the agreed terms and preparation of site plans

- Members of a Land Management Committee that will be set up to supervise the work of the secretariat

- A register of those who are entitled to give out land and the required signatures and endorsements

One important phenomenon that is worth mentioning at this point is that, customary land areas that are largely family/clan land areas may also have Paramount Chiefs whose authority is limited to community governance (i.e. governance over the people in the community) and not land governance. What this means is that in accordance with the history and custom of those places, such Paramount Chiefs do not have any authority in the governance over land. Rather, land governance powers are with family/clan leaderships or Tendamba (depending on the area). Nonetheless, as a form of recognition, such Paramount Chiefs have often been appointed to witness transactions as a way of streamlining land rights documentation.

A traditional area may also adopt an official stamp or a seal, to impress a distinguishing mark or feature on endorsed documents. Where a traditional area adopts a seal or stamp, it implies that any land document purporting to be an official land document from that area must have the imprints of the seal or stamp so adopted. A seal is intended to safeguard against the production of fraudulent documents but does not replace the signatures of parties and witnesses to a transaction.

Step 3: Validate the final outline for land administration in the traditional area. This should involve all those involved in land administration in the traditional area.

Step 4: Sensitize all land users in the traditional area on the new arrangement for land administration.
3.3 PHASE 3:

Establishment\(^8\) and/or strengthening of a Secretariat for Processing, Storage and Management of information on land rights documentation

**Step 1:** Most traditional authorities in Ghana have their own systems for keeping records of their activities and correspondence. In recent times, some traditional areas have received support to set up Customary Land Secretariats that are responsible for managing records on land. Not all of these secretariats are performing to their fullest potential. The existing systems need to be assessed and re-positioned to be able to serve as the central point for the processing, storage and management of land and land rights documentation. The context and needs may differ from one area to another, however, the principal elements for such a secretariat should include;

- It is to be owned and supported by the Customary Land Authority of the area
- Recognized as the central point for coordinating land rights documentation in the area
- Located outside a palace to make it easily accessible
- Its operations are to be connected with the customary leaders of the area
- Supervised by the traditional council of the area
- Responsibilities limited to assisting in the documentation of land agreements, surveying of land parcels, coordinating the signing of land agreements, presentation of signed agreements to applicants and storage of land agreements and site plans.

3.4 PHASE 4:

Documentation of all existing customary land rights and those that will be granted later

**Step 1:**
Undertake inventory of all existing land rights in the traditional area. This needs to be done systematically and should focus on having a list of all land users in the traditional area, the type of land use, the nature of arrangement and commitments between them and the one who granted the land to them.
The granting and documentation of new land rights will require similar information and will follow the same steps.

**Step 2:** Mapping out and demarcation of parcels and preparation of the site plan is as follows;

The demarcation of the boundary should involve the land user, the one who granted the land and those on adjoining parcels to ensure that there is agreement on the boundary.

The site plan that is prepared after the survey and demarcation should contain the following information;

- The name of the one who is acquiring the land
- The locality, district and region the land is situate
- The size of the land parcel
- The land depicted in a pictorial form. It is drawn to a particular scale; 1:2500
- Coordinates of the borders of the land

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\(^8\) This is in line with provisions in the Land Bill, to establish Customary Land Secretariats in all traditional areas across the country.
Step 3: Drafting and Validating Land Agreements

Noting that there are different types of interests in land, there would be different land agreements for different land transactions. It is important to define and agree on the type of interest being transacted and the conditions under which it will held.

Roles of the Grantors and Grantees in the drafting of the land agreement

a. Grantor shall be responsible for;

   (i) Documenting the terms and conditions under which the land is being transferred.
   (ii) Endorsing land rights documents (both the agreement and the site plan to make the transaction and the documents legitimate).

b. Grantee shall also be responsible for;

   (i) Signing the land rights document as confirmation of or agreeing to the land rights and interest being acquired and its related terms and conditions.

I. Validation of existing oral land agreements

To successfully translate oral agreements into writing, there will be the need to validate the data collected from the land users in a forum with the rights holders and their respective grantors before the documentation is done.

II. Elements of the land agreement

A valid land agreement should contain these five elements;

- **Parcel**: a vivid description of the land parcel is required.

- **Parties**: the parties to a land transaction are the grantor and grantee. Their identity and respective capacities must be indicated in the land agreement.

- **Price/Consideration**: this include payment made for the land rights and interest being transferred. It could be paid in cash or in kind. The payment could be in the form of a lump sum payment or rent passing.

- **Period**: this is the length of time that the grantee is to hold or use the land. This must be explicitly stated in the document.

- **Signature**: this is to ensure that both parties have endorsed the land agreement and are committed to the covenants, the terms and conditions pertaining to the transfer of land.

Step 4: Signing of Land Agreement Between Parties and Witnesses

A. Certification of Land Documents

Both the site plan and the land agreement should be certified.

   i) Certification of cadastral plan

   The certification of the site plan is to be done by a Licensed or Official Land Surveyor who conducted the surveying of the land.
ii) Authorization or certification of land agreement

The certification of the land agreement involves the signing or endorsement by the Head of the Stool, Skin, Clan or Family. In setting up the customary land rights documentation system, the Traditional Authorities need to agree on the types of interests that will require the endorsement of the head and which ones can be endorsed by other Traditional Authorities in the hierarchy and in such cases, the accountability measures (this should be addressed and agreed upon under phase 2 above).

iii) Consent by other Principal members of land-owning group

Even though the Head of a Stool, Skin or Family/Clan has the capacity to sign the land agreement, the consent of other principal members of the land-owning group is required to make the agreement valid.

Such consent is given in the form of the principal members acting as witnesses to the land transaction.

iv) Grantee acting in due diligence

It is the responsibility of the grantee to gather enough information about the land and the landowner, to inform the decision to move ahead with the transaction. The information to search on should include the owner(s) of the land, the grantor’s capacity to transfer land, the interest/rights of the grantor in respect to the land and the remaining period of the grantor's interest. This information could be sought from the existing land users or owners of neighboring parcels, as well as the community people.

3.5 Crosscutting Themes

The following cross cutting issues need to be integrated in each of the four phases outlined in this Handbook;

3.5.1 Alternative Dispute Resolution (ADR)

Instituting customary land rights documentation in a traditional area will include documenting all existing customary tenancies and their associated land parcels, as well as new transactions in customary land rights.

Because there is inadequate or no documentation on the existing customary tenancies, working with the holders on these customary tenancies and their landowners to unravel the various features of the transaction and have a common understanding of the type of customary tenancy that was actually transacted; and the rights that emanate from the transaction can be challenging at times. It is therefore important to constitute an ADR Committee that will be associated with the customary land rights documentation process in each Traditional Area. The ADR Committee need to include opinion leaders who are resident in the Traditional Area who are knowledgeable of the history of customary land transactions of the area as well as professionals who may not necessarily be linked to the traditional area but have experience in the customary land tenure system.

3.5.2 Integration of Technology

Whereas many innovative technological approaches have been tested and applied to the land governance system in many countries around the globe, Ghana’s land governance system has seen little introduction to technology. Apart from having some aspects of land information stored on a computer, the process of collecting, processing and managing land information continuous to be done through the traditional handwritten format.
Spatial information also continues to be managed in the traditional way where land parcels are surveyed and maps generated, printed and filed in printed form.

Under the Land Administration Project (LAP), there was attention to the integration of technology in the Lands Commission processes, indicating a national commitment to move away from the traditional way of handling land governance processes. It is in the light of these developments, both at the global level and the national level, that this Handbook is also proposing the integration of technology in each of the four phases outlined in this Handbook.

In partnership with the Office of the Administrator of Stool Lands (OASL), an Information Technology (IT) Tool has been designed with features purposely suited for Ghana’s Customary Land Sector. As part of the initiative to apply this Handbook, each Traditional Area is encouraged to integrate the use of this IT Tool in the system of customary land documentation that is set up in their respective Traditional Area.

### 3.5.3 Time Frame

During the consultations on the Handbook, many stakeholders asked the question: ‘How long will it take to get one’s customary land rights documented in a Traditional Area?’

The answer to that question can be determined only on a case by case basis since the dynamics in each Traditional Area is different and therefore will require different amounts of time to go through each of the four phases. However, based on experiences from similar processes, it should take between six (6) to nine (9) months to have all four phases completed, with a customary land rights documentation system instituted and all existing customary land tenancies captured. The system so established will then be able to manage all subsequent customary land transactions, from the time of application to having signed agreements, within a matter of days.

### 3.5.4 Cost for Setting up a Customary Land Rights Documentation System

How much will it cost to go through the four phases to establish a Customary Land Rights Documentation System?

Details are provided below:

**Phases 1 and 2:**

These two phases are mainly focused on the ground preparations (i.e., Stakeholder Engagements, Stakeholder Sensitizations and Mobilization, Consultations and Validations).

Key activities will include:

- Community entry
- Community mobilization
- Community sensitization and consultations
- Facilitation of forums, workshops, etc.
- Consultations with traditional leaders, public and private sector actors
- Conducting land rights inventories
- Validation of existing rights
- Assessing the gaps in the existing customary land tenure system and outlining the revised process for handling customary land transactions

All the steps involved in these two phases can be organized in a manner that involves the use of local people and traditional leaders in the area. In cases where funds will be needed for meeting logistics and transportation, the Traditional Council can make specific requests to specific organizations to support either in cash of kind. Having the steps outlined and expenditure broken down into the different resources needed to accomplish each step will help manage the cost components such that other non-cash contributions can be made to support the process.
Installation and Operation of IT Tool

The cost includes:

- **The amount to be paid for the IT tool that will be installed:** This has been developed and tested, in collaboration with the OASL. It is therefore available to be installed for each traditional area at a nominal fee.

- **Cloud storage services:** for security of the land information, it is proposed that each Traditional Area adopts the cloud storage system in addition to the storage on local systems. The information stored will be accessible only to the Traditional Leaders in charge of the land, the administrators and the individuals involved in the transactions. The annual subscription for the cloud storage is also very nominal. Depending on the amount of space required, it can as low as USD 10.

- **Cost of training in the use of the tool:** COLANDEF, OASL and MERIDIA are working together as local partners to provide this training to every Traditional Area. Omidyar Network is funding a Training of Trainers program to be delivered by Cadasta Foundation to the three partners. Thus, the cost of training will involve the logistical support needed to bring staff from the three partner organizations to the Traditional Area.

- **Remote technical assistance as and when required:** Once the system is installed and running, each Traditional Area will receive constant technical assistance remotely at no cost.

Phases 3 and 4

Data Collection, Surveying of Land Parcels, Preparation and Delivery of Land Agreements.

These two phases involve:

- Processing of data collected
- Mapping out and surveying of the various farm parcels
- Preparation of site plans
- Preparation of land agreement documents
- Migration of data on the land documents onto the IT tool
- Issuance of signed land document
Appendices

The appendices include a guide for customary land actors on the key elements of a land transaction that are essential to making valid land agreements, especially in situations of large-scale land transactions. Also, guidance has been provided on how Customary Land Authorities can work together with their people, to prepare, as well as register Statutory Declarations of Allodial interest in lands under their jurisdictions.

Lastly, the appendices include sample land agreement templates for different customary land rights and interests. These can be adapted to the context of the various customary land areas, for recording land transactions.

Appendix 1: Key Elements of a Land Agreement

In the wake of increased large-scale acquisition of lands by investors, land-owning communities often lose out and do not get the full benefits of their land investments. One way of minimizing such tendencies is to have in-depth understanding of the agreements they enter. It is therefore important for Customary Land Authorities, who usually represent their communities in the negotiations and grant of the lands, to be aware of the key elements that must be contained in the land agreements they sign. In this regard, the main elements (‘a’ to ‘e’) represent the ingredients of any valid lease or land document, whiles the list under the last element (‘f’) are the additional issues that must be present in a lease agreement to ensure that communities and investors benefit mutually from land-based investments.

a. Parties to the Agreement

The parties to the agreement must be clearly described in a way that makes them identifiable. The description should state the respective names of the parties, the capacities in which they are transacting the land and where they are physical located or their addresses.

b. Property Description

The land which is the subject matter of the agreement must be easily identifiable and should not be in doubt. Although the plot number and coordinates of the subject land would usually be found on the accompanying site plan, these must also be mentioned in the body of the lease.

c. Price/Consideration for the Land

The agreed sum being paid for the use of the land by the investor must be mentioned in the agreed currency. The payment plan/ schedule must also be clearly laid out in the lease document. The consideration may not always be money, but anything done or given in exchange for the right to use the land.

d. Period of the Grant

The agreed period for the use of the land must be negotiated and categorically stated, without any ambiguity on the start and end dates.

e. Signatures of Parties and Witnesses

The parties must sign the agreement to indicate their endorsement of the lease. The witnesses of the respective parties must also be present at the time of signing and must also indicate their name and signatures as well.
f. Terms of the Agreement

The terms of the lease agreement among other express covenants should include the following.

1. Purpose of the Acquisition

The proposed use of the land must be stated to ensure that the land is used for the purpose for which it was acquired and will not be changed except through re-negotiation. This is because the agreement for the grant of the land is based on the intended use which has been fully assessed and received the buy-in of the community and other relevant stakeholders.

2. Investor’s Commitment under the Lease

Where an investor agrees to the fulfillment of specific commitments, such as the implementation of a Livelihood Restoration Plan, a Land Acquisition and Compensation Plan or to establish a Community Development Fund among other similar commitments, these must be mentioned in the body of the lease. Beyond mentioning such commitments in the lease, copies of the accompanying separate documents that contain the details of those commitments must also be attached to the signed lease during the application for registration. This is to ensure that the Lands Commission is privy to the provisions of the commitments for the purpose of monitoring and enforcement.

3. Dispute Resolution and Grievance Redress Mechanisms

The agreement must outline clear procedures by which any dispute arising out of the agreement would be resolved. Parties should not assume that disputes would not arise.

4. Rent Review

As a hedge against the effect of inflation the periodic sums payable must be subject to review, based on an agreed review period and rate. By so doing, it will help ensure that payment reflect the real/ time value of the land.
Appendix 2: Preparation and Registration of Statutory Declarations of an Allodial Interest

In Ghana, many custodians of allodial interest in various customary lands are unable to provide documented evidence of the extent of land owned by the land-owning community. Statutory declaration offers a mechanism through which they can establish such ownership by allowing them to affirm their rights to and interests in parcels of land under the Statutory Declarations Act, 1971 (Act 389).

The declaration may be made before the Land Registrar and/or Solicitor with a practicing certificate and must include the following details:

(i) a description of the history of ownership (i.e. pioneer discovery, conquest, gift, purchase)

(ii) a schedule that describes the subject land parcel in writing.

(iii) an attached bar-coded site plan.

(iv) the signatures of the parties holding the land in trust for the land-owning group

(v) signatures of the witnesses to the declaration.

The Land Registrar/Solicitor, upon approval of the declaration will endorse the document with an official stamp and seal. A simpler alternative is to contract the services of an attorney to draft the declaration document. The declaration should then be submitted court issues a letter of publication which compels the allodial interest holder to publish the declaration in a designated newspaper for 21 days. This is done to inform the general public about the declaration, and it gives them the opportunity to raise an objection against the declaration.

In the absence of any objections, the declaration document can then be submitted to the Lands Commission for registration.

At the Lands Commission, the declaration document is sent to the Land Valuation Division for stamping. Factors such as the size of the subject land and history of acquisition inform the assessment of the stamp duty. After the stamp duty is paid, the document is either forwarded to the Land Registry Division (if it is a family land) or the Public and Vested Land Management Division (if it is a stool land) for further vetting before it is plotted and included in the records of the registry.

Witnesses should ideally, include representatives of the group(s) that own the adjoining land parcel(s)
Appendix 3: Agreement for the Recognition of Existing Usufructuary Interest

[..........................] STOOL/SKIN / FAMILY/ CLAN
[..........................] TRADITIONAL AREA
[..........................] REGION OF GHANA

Agreement for the Recognition of Existing Usufructuary Interest

This record recognizes the existence of usufructuary interest, which interest is held under customary law by ................................................................. (full name of usufructuary interest holder) on the ............ day of ................., 20..... and which usufructuary interest is held over land under the jurisdiction of ................................................................. (full name of holder of Allodial Interest) of ................................................................. Stool/Skin/ Family/ Clan.

1. Address holder of Allodial Interest
   .................................................................................................................................
   .................................................................................................................................
   .................................................................................................................................

2. Address of usufructuary interest holder
   .................................................................................................................................
   .................................................................................................................................
   .................................................................................................................................

3. Extent of land affected by the usufructuary interest (the land should be clearly described so that it can be readily identified)

   Size of land
   .................................................................................................................................

   Coordinates (as recorded on the attached site plan):
   .................................................................................................................................
   .................................................................................................................................
   .................................................................................................................................
   .................................................................................................................................
   .................................................................................................................................

   Physical description of land (indicate nearest landmark)
   .................................................................................................................................
   .................................................................................................................................
application to having signed agreements, within a matter of days. The system so established will then be able to manage all subsequent customary land transactions, from the time of documentation system instituted and all existing customary land tenancies captured. The system so between six (6) to nine (9) months to have all four phases completed, with a customary land rights each of the four phases. However, based on experiences from similar processes, it should take

The answer to that question can be determined only on a case by case basis since the dynamics in

During the consultations on the Handbook, many stakeholders asked the question: 'How long will it

Traditional Area.

of this IT Tool in the system of customary land documentation that is set up in their respective

part of the initiative to apply this Handbook, each Traditional Area is encouraged to integrate the use

In partnership with the Office of the Administrator of Stool Lands (OASL), an Information Technology

technology in each of the four phases outlined in this Handbook.

traditional way of handling land governance processes. It is in the light of these developments, both

the Lands Commission processes, indicating a national commitment to move away from the

Under the Land Administration Project (LAP), there was attention to the integration of technology in

surveyed and maps generated, printed and filed in printed form.

Spatial information also continues to be managed in the traditional way where land parcels are

[......................................] Stool/Skin

(Where a party cannot read and write, a jurat is required):

marked " A " and that the HOLDER OF USUFRUCTUARY INTEREST can read and write

named HOLDER OF ALLODIAL INTEREST duly execute the Instrument now produced to me and

................................................................................. (full name and address deponent), make Oath

Date ..............................................................

Signature/ mark: ...............................................         Signature/ mark...............................................

Name: ..........................................................         Name:..............................................................

Second Witness

Signature/ mark: ...............................................         Signature/ mark...............................................

Name: ..........................................................         Name:..............................................................

First Witness

Signature/ mark: ...............................................         Signature/ mark...............................................

Name: ..........................................................         Name:..............................................................


TERMS UNDER WHICH THE USUFRUCTUARY INTEREST IS BEING HELD

The usufructuary interest holder in this agreement is an indigene of this community and by virtue of customary law, holds this interest as of right. However, the usufructuary interest is held subject to the Alloidal Interest, the existing customs, traditions and practices of this area

4. Signature/ marks of parties and witnesses

HOLDER OF ALLODIAL INTEREST

Signature/ mark: ................................................
Name: ..........................................................

(In the capacity of the holder of Alloidal Interest
to lands under the .............................................
Stool/Skin / Family/ Clan)

First Witness

Signature/ mark: ................................................
Name: ..........................................................

Second Witness

Signature/ mark: ................................................
Name: ..........................................................

HOLDER OF USUFRUCTUARY INTEREST

Signature/ mark: ................................................
Name: ..........................................................

OATH OF RECORDING OFFICER

The content of this record has been fully read and explained to both parties and their witnesses and thus they admit to clearly understand and incorporate the essential features of their agreement. Both parties therefore signed record in my presence.

(signed) ...............................................................
Name: ...............................................................

Registrar of CLS

[.................................] Stool/Skin / Family/ Clan
 TERMS UNDER WHICH THE USUFRUCTUARY INTEREST IS BEING HELD

The usufructuary interest holder in this agreement is an indigene of this community and by virtue of customary law, holds this interest as of right. However, the usufructuary interest is held subject to the Allodial Interest, the existing customs, traditions and practices of this area.

4. Signature/ marks of parties and witnesses

HOLDER OF ALLODIAL INTEREST    HOLDER OF USUFRUCTUARY INTEREST

Signature/ mark: .......................................   Signature/ mark:  ......................................
Name: .......................................................   Name: .......................................................

(In the capacity of the holder of Allodial Interest to lands under the ............................................
Stool/Skin / Family/ Clan)

First Witness

Name: ..........................................................         Name:..............................................................
Signature/ mark: ...............................................         Signature/ mark...............................................

Second Witness

Name: ..........................................................         Name:..............................................................
Signature/ mark: ...............................................         Signature/ mark...............................................

OATH OF RECORDING OFFICER

The content of this record has been fully read and explained to both parties and their witnesses and thus they admit to clearly understand and incorporate the essential features of their agreement. Both parties therefore signed record in my presence.

(signed) ..........................................................
Name: ...................................................................
Registrar of CLS

[......................................] Stool/Skin / Family/ Clan

Date ..............................................................

OATH OF PROOF

I ............................................................................ 0 f
................................................................................................................................................. (full name and address deponent), make Oath and say that on the ....... day of ......................... 20......, I was present and saw the within - named HOLDER OF ALLODIAL INTEREST duly execute the Instrument now produced to me and marked “A” and that the HOLDER OF USUFRUCTUARY INTEREST can read and write (where a party cannot read and write, a jurat is required):

SWORN AT ......................... THIS DAY OF }..................... 20....................... DEPONENT (Witness of HOLDER OF ALLODIAL INTEREST)

BEFORE ME

REGISTRAR OF DISTRICT COURT

.......................................... DISTRICT OF THE ....................... REGION OF GHANA

PROOF OF EXECUTION

On the ........ day of ......................... 20........ at .......... o’clock in the ......................... noon this instrument was proved before me by the Oath of the within-Named

.................................................. ................................................. to have duly executed by the within-named HOLDER OF ALLODIAL INTEREST”:-

REGISTRAR
Appendix 4: Agreement for the Grant of a Usufructuary Interest

[.....................................................] STOOL/SKIN / FAMILY/ CLAN
[..................................................] TRADITIONAL AREA
[..................................................] REGION OF GHANA

Agreement for the Grant of Usufructuary Interest

This is a record of the grant of usufructuary interest, which interest is under customary law between ................................................................. and ................................................................. on the .............. day of ...................., 20.....

The details of the transactions are as follows;

1. Full name and address of grantor (Holder of Allodial Interest)

2. Full name and address of grantee(s)

3. Names of person(s) whose consent is required and who has given consent;

4. Consideration given for the grant
   Money (state the amount) .................................................................
   Drink or goods (specify).................................................................
   Other (specify)............................................................................

5. Extent of the land to which the grant relates (the land should be clearly described so that it can be readily identified)

   Size of land ..................................................................................

   Coordinates (as recorded on the attached site plan):

   .................................................................................................
   .................................................................................................
   .................................................................................................
   .................................................................................................

   Physical description of land (indicate nearest landmark)

   .................................................................................................
   .................................................................................................
   .................................................................................................
   .................................................................................................

6. Date from which the grant is to have effect ........................................

7. Proposed use of the land by the grantee

...........................................................................................................

...........................................................................................................
TERMS OF THE AGREEMENT

Parties to this agreement are bound by the existing customs, traditions and practices of this area and the grantee's use of the land is subject to these customs, traditions and practices. This notwithstanding, both parties agree to be further bound by the following rights and obligations of either parties:

8. Grantor’s rights and obligations under this agreement

a. ..................................................................................................................................................
   ..................................................................................................................................................
   ..................................................................................................................................................

b. ..................................................................................................................................................
   ..................................................................................................................................................
   ..................................................................................................................................................

c. ..................................................................................................................................................
   ..................................................................................................................................................
   ..................................................................................................................................................

d. ..................................................................................................................................................
   ..................................................................................................................................................
   ..................................................................................................................................................

9. Grantee’s rights and obligations under this agreement

a. ..................................................................................................................................................
   ..................................................................................................................................................
   ..................................................................................................................................................

b. ..................................................................................................................................................
   ..................................................................................................................................................
   ..................................................................................................................................................

c. ..................................................................................................................................................
   ..................................................................................................................................................
   ..................................................................................................................................................

d. ..................................................................................................................................................
   ..................................................................................................................................................
   ..................................................................................................................................................

10. Signature/ marks of parties and witnesses

<table>
<thead>
<tr>
<th>GRANTOR</th>
<th>GRANTEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature/ mark: ..................................</td>
<td>Signature/ mark: ..................................</td>
</tr>
<tr>
<td>Name: ................................................</td>
<td>Name: ................................................</td>
</tr>
</tbody>
</table>

(In the capacity of the holder of Allodial Interest to lands under the .............................................
Stool/Skin / Family/ Clan)

First Witness                                      First Witness

Name: ..................................................| Name: ..................................................|

Signature/ mark: ..................................| Signature/ mark: ..................................|
OATH OF RECORDING OFFICER

The content of this record has been fully read and explained to both parties (grantor and grantee) and their witnesses and thus they admit to clearly understand and incorporate the essential features of their transactions. Both parties therefore signed record in my presence.

(signed) ..............................................................

Name: ........................................................................

Registrar of CLS

[.........................] Stool/Skin / Family/ Clan

Date ...........................................................................

OATH OF PROOF

I ............................................................................. o f
...........................................................................................................(full name and address deponent), make Oath
and say that on the ....... day of ................. 20....., I was present and saw the within - named
GRANTOR duly execute the Instrument now produced to me and marked 'A' and that the GRANTEE
can read and write (where a party cannot read and write, a jurat is required):

SWORN AT ..................... THIS DAY OF } ................. 20....................... 

DEPONENT (Witness of Grantor)

BEFORE ME

REGISTRAR OF DISTRICT COURT

................................. DISTRICT OF THE .................... REGION OF GHANA

PROOF OF EXECUTION

On the ....... day of .................... 20...... at .............. o'clock in the ....................... noon this
instrument was proved before me by the Oath of the within-named
........................................................................................................................................................ to have duly
executed by the within-named GRANTOR:-

REGISTRAR
Appendix 5: Agreement for The Grant of Customary Freehold Interest

[.................................] STOOL/SKIN / FAMILY/ CLAN
[.................................] TRADITIONAL AREA
[.................................] REGION OF GHANA

Agreement for the Grant of Customary Freehold Interest

This is a record of the grant of customary freehold interest, which interest is under customary law between .......................................................... and .......................................................... on the .......... day of .........., 20.....

The details of the transactions are as follows;

1. Full name and address of grantor (Holder of Allodial Interest)

2. Full name and address of grantee(s)

3. Names of person(s) whose consent is required and who has given consent;

4. Consideration given for the grant
   Money (state the amount) .................................................................
   Drink or goods (specify) .................................................................
   Other (specify) ...........................................................................

5. Extent of the land to which the grant relates (the land should be clearly described so that it can be readily identified)
   Size of land .............................................................................
   Coordinates (as recorded on the attached site plan):
   ..............................................................................................
   ..............................................................................................
   ..............................................................................................
   ..............................................................................................
   ..............................................................................................
   Physical description of land (indicate nearest landmark)
   ..............................................................................................
   ..............................................................................................
   ..............................................................................................
6. Date from which the grant is to have effect .........................................................

TERMS OF THE AGREEMENT

Parties to this agreement are bound by the existing customs, traditions and practices of this area and the grantee’s use of the land is subject to these customs, traditions and practices.

7. Signature/ marks of parties and witnesses

<table>
<thead>
<tr>
<th>GRANTOR</th>
<th>GRANTEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Signature/ mark: ........................................</td>
<td>Signature/ mark: ........................................</td>
</tr>
<tr>
<td>Name: ..........................................................</td>
<td>Name: ..........................................................</td>
</tr>
</tbody>
</table>

(In the capacity of the holder of Alodial Interest
to lands under the ............................................

Stool/Skin/ Family/ Clan)

<table>
<thead>
<tr>
<th>First Witness</th>
<th>First Witness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: ..........................................................</td>
<td>Name: ..........................................................</td>
</tr>
<tr>
<td>Signature/ mark: ........................................</td>
<td>Signature/ mark: ........................................</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Second Witness</th>
<th>Second Witness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name: ..........................................................</td>
<td>Name: ..........................................................</td>
</tr>
<tr>
<td>Signature/ mark: ........................................</td>
<td>Signature/ mark: ........................................</td>
</tr>
</tbody>
</table>

OATH OF RECORDING OFFICER

The content of this record has been fully read and explained to both parties (grantor and grantee) and their witnesses and thus they admit to clearly understand and incorporate the essential features of their transactions. Both parties therefore signed record in my presence.

(signed) ................................................................
Name: ................................................................

Registrar of CLS

[...............................] Stool/Skin / Family/ Clan
Date ..............................................................

OATH OF PROOF

I ................................................................................................. of .............................................................. (full name and address deponent), make Oath and say that on the ....... day of .......................... 20....., I was present and saw the within - named GRANTOR duly execute the Instrument now produced to me and marked ‘A’ and that the GRANTEE can read and write (where a party cannot read and write, a jurat is required):

SWORN AT ........................................ THIS DAY OF }................. 20..........................

DEPONENT (Witness of Grantor)

BEFORE ME

REGISTRAR OF DISTRICT COURT

.............................................................. DISTRICT OF THE ........................................ REGION OF GHANA

PROOF OF EXECUTION

On the ....... day of .......................... 20...... at ......... o’clock in the ......................... noon this instrument was proved before me by the Oath of the within-named .............................................................. to have duly executed by the within-named GRANTOR:-

REGISTRAR)
Appendix 6: Agreement for the Grant of Land Use Rights Under Customary Law

[............................] STOOL/SKIN / FAMILY/ CLAN
[............................] TRADITIONAL AREA
[............................] REGION OF GHANA

Agreement for the Grant of Land Use Rights Under Customary Law

This is a record of the grant of land use rights under customary law between ............................................................ and .......................................................... on the ............... day of ......................, 20......

The details of the transactions are as follows;

1. Full name and address of grantor

2. Full name and address of grantee

3. Names of person(s) whose consent is required and who has given consent;

4. Extent of the land to which the grant relates (the land should be clearly described so that it can be readily identified)

   Size of land

   Coordinates (as recorded on the attached site plan):

   Physical description of land (indicate nearest landmark)

5. Duration of rights granted.

6. Date from which the grant is to have effect

7. Proposed use of the land by the grantee

..............................................................  ..............................................................

..............................................................  ..............................................................

..............................................................  ..............................................................

..............................................................  ..............................................................

..............................................................  ..............................................................
TERMS AND CONDITIONS OF THE AGREEMENT

Parties to this agreement are bound by the existing customs, traditions and practices of this area and the grantee's use of the land is subject to these customs, traditions and practices. This notwithstanding, both parties agree to be further bound by the following rights and obligations of either parties:

8. Grantor’s rights and obligations under this agreement

   e. ..................................................................................................................................................

   f. ..................................................................................................................................................

   g. ..................................................................................................................................................

   h. ..................................................................................................................................................

9. Grantee’s rights and obligations under this agreement

   e. ..................................................................................................................................................

   f. ..................................................................................................................................................

   g. ..................................................................................................................................................

   h. ..................................................................................................................................................

10. Signature/ marks of parties and witnesses

GRANTOR

Signature/ mark: .............................................
Name: ..........................................................

(In the capacity of:
  a. Holder of Allodial Interest [ ]
  b. Holder of Customary Freehold interest [ ]
  c. Holder of Usufructuary interest [ ]
  ; to lands under the ..............................................
  Stool/Skin / Family/ Clan)

GRANTEE

Signature/ mark: .............................................
Name: ..........................................................

BEFORE ME
The details of the transactions are as follows:

This is a record of the grant of land use rights under customary law between

**CONFIRMING PARTY** *(where the grantor is a holder of usufructuary interest)*

Name: ..............................................................  Name: ..............................................................

Signature/ mark: ..............................................................  Signature/ mark: ..............................................................

Capacity of Confirming Party (select the right option below)

a. Divisional Chief [ ]
b. Sub-Divisional Chief [ ]
c. Local Chief [ ]
d. Principal Elder of Family/ Clan [ ]

**OATH OF RECORDING OFFICER**

The content of this record has been fully read and explained to both parties (grantor and grantee) and their witnesses and thus they admit to clearly understand and incorporate the essential features of their transactions. Both parties therefore signed record in my presence.

(signed) ..............................................................

Name: ..............................................................

Registrar of CLS

[.................................] Stool/Skin/ Family/ Clan

Date ..............................................................

**OATH OF PROOF**

I. .............................................................. (full name and address deponent), make Oath and say that on the ...... day of ...................... 20....., I was present and saw the within -
named GRANTOR duly execute the Instrument now produced to me and marked “A” and that the GRANTEE can read and write (where a party cannot read and write, a jurat is required):

SWORN AT ......................... THIS DAY OF }................... 20.........................

DEPONENT (Witness of Grantor)

BEFORE ME

REGISTRAR OF DISTRICT COURT

........................................ DISTRICT OF THE ....................... REGION OF GHANA

PROOF OF EXECUTION

On the ........ day of .................. 20...... at .......... o’clock in the .................... noon this instrument was proved before me by the Oath of the within-named

........................................................................................................................................... to have duly executed by the within-named GRANTOR:

REGISTRAR
### Appendix 7: Agreement for the Grant of a Usufructuary Interest

<table>
<thead>
<tr>
<th>Tenancy Type</th>
<th>Description</th>
</tr>
</thead>
</table>
| **1. Agofi** | This refers to the system where a group of farmers in a community, led by their Village Head/Community Chief collectively rent a parcel of land from a Divisional Chief or Paramount Chief and in return, pay an agreed annual fee. Once the land is granted, the Village Head/Community Chief is made responsible for allocating portions of the land to the individual members of the group as well as the collection of the rent, which is then paid to the Chief who granted the land. The land users can grow any crop of their choice, including cash crops. However, if he/she stops using the land or fails to pay the rent, the land is re-allocated to other applicants. The rights under this arrangement can be inherited and/or sub-rented.  
- Agofi tenancies are prevalent in various parts of the Eastern Region, including Okumaning, Abenase and Kyebi. |
| **2. Tuogya** | Under this system, a landowner grants a parcel of land to a farmer to develop the land into a farm. All costs and resources needed to develop the farm is borne by the farmer. Once the crops mature, the farmer will harvest all the crops and keep its proceeds. The farmer will continue to harvest and keep the proceeds over an agreed period of time. Once the agreed time has expired, the landowner takes over the farm to harvest and keep all its proceeds. This type of customary tenancy arrangement is usually for cash crop production such as cocoa.  
- Tuogya tenancies are also prevalent in the Eastern Region. |
| **3. Awuba** | This customary tenancy arrangement is also usually in respect of cash crops. Under this arrangement, the landowner takes full responsibility in developing the entire farm. Once the farm is fully developed, the landowner sells the entire farm to a farmer in exchange for an agreed cash amount. The sale arrangement between the landowner and the farmer is to the effect that the farmer will hold, maintain and harvest the farm for a number of years. Payment of the agreed amount for the farm could be done over a period of time through revenues realized from the harvests. However, the arrangement is only in respect of the farm and not the ownership of the land because after the cash crops die off or are cleared, the land returns to landowner.  
- Awuba tenancies are practiced in parts of the Western Region, including Asantekrom, New Yakasi and Sewum. |
| **4. Dibimadibi** | Dibimadibi shares similarities with the abunu and abusa arrangements. It is also an arrangement for sharing between a landowner and a farmer. However, unlike the abunu/abusa where the sharing is in relation to the crops or the farm, under Dibimadibi it is the land that is shared, not just the crops/farm.  
- Dibimadibi is practiced mainly in parts of the Volta Region |
| **5. Nhwesoo** | This is a customary tenancy arrangement for an already established cash crop farm such as cocoa. Under this arrangement, the farmer enters into a caretaker agreement with the landowner who is also the farm owner. The Caretaker's responsibilities include such things as weeding, spraying and harvesting. The landowner sells the proceeds and receive the cash from the sale. In return, the Caretaker receives a share of the profit from each harvest. In some cases, the Caretaker is allowed to intercrop the farm with food crops for his/her upkeep. Such food crops are not included in the landowner's harvest.  
- Nhwesoo is commonly practiced in various parts of the Ashanti Region, including Bepose. |
| 6. Abunan                                      | • Under this arrangement, the farmer takes care of the farm and in return receives twenty-five percent (25%) share of the produce from the farm.  
|                                               | • The Abunan tenancy is practiced mostly in the Eastern and Ashanti Regions. |
| 7. Afe                                        | • These are mainly farm labor agreements under which an individual provides labor on the farm mainly for weeding and/or harvesting. Under these arrangements, the landowner or farm owner pays for the service in cash. The labourer has no share in the crops or farm.  
| 8. Paa                                        | • These arrangements are practiced across the country, especially in the cash crop growing areas of the Eastern, Western and Central Regions. |
| 9. Nkotokuano                                 |                                                                                                                     |
| 10. Surface Rights                            | • In some communities, non-indigenous farmers are given permission by a landowner to cultivate food crops on a parcel of land with no obligation towards the landowner. The farmer is allowed to continue farming on the land as long as the landowner allows. However, the right to use the land ceases once the landowner is ready to use the land. This arrangement only grants permission to cultivate the soil. All other rights are held by the landowner.  
|                                               | • This type of tenancy is practiced across the country. |
Land is an asset whose basis of ownership is quite unique. This is because land ownership actually implies ownership of a bundle of rights and interest in land or landed property, which interest cannot be held as a tangible asset but can be expressed in writing for the sake of clarity. Ownership of rights and interests in land therefore implies ownership of an intangible asset.

Under Ghana’s land administration system, a number of people can simultaneously hold different rights and interest in the same parcel of land at the same time. In view the overlapping nature of rights and interests in land and the potential for holding such rights and interests over a long period of time, even transcending generations, having such rights documented helps improve clarity and understanding of the rights.

Ability to capture these rights and interests to serve as evidence of ownership has been tested to be one of the most efficient ways of securing rights and interests in land and provides basis for defending the rights when they are challenged.

In spite of the awareness of the need for and benefits from land rights documentation, very little progress has been made towards the integration of rights documentation in Ghana’s customary land system.

Building on the Customary Land Secretariat concept under the Land Administration Project (LAP), and the experiences in various customary land administration systems in Ghana, COLANDEF has developed a Handbook for Customary Land Rights Documentation. This Handbook has been designed to provide guidance for Traditional Leaders and all other actors in customary land administration, to set up and operationalize a system for documenting and recording all land transactions at the customary level in Ghana.