



Global
Soil Week

COMMUNITY-LED LAND LEASE GUIDELINES

ISUKHA WEST WARD, SHINYALU SUB-COUNTY,
KAKAMEGA COUNTY

Doreen Magotsi | Linet Khalumba | William Onura Akwany | Violet Shivutse | Serah Kiragu-Wissler

ACKNOWLEDGEMENT

This booklet presents community-led land lease guidelines for Isukha West Ward. The booklet outlines how the Isukha West community conducted the process and the land lease guidelines. The aim of developing these community-led land lease guidelines was to increase security of tenure in leasing land for agricultural purpose and to ensure mutually beneficial relationships for the lessee and the lessor. The community also developed a land leasing agreement form. This form is included in this booklet.

The push for enhancing tenure security in land leasing goes back to a multi-stakeholder Lessons Learnt Workshop that took place in Kisumu in February 2016. In this workshop, all participants agreed on priority areas to be tackled to enable more sustainable land management in western Kenya.

The community-led process was facilitated through the financial support of the German Ministry for Economic Cooperation (BMZ) and technical support from TMG Research gGmbH, Berlin, and Shibuye Community Health Workers (SCHW), a Shinyalu-based community-based organization (CBO).

Special thanks to the Director of Shibuye Community Health Workers, Mrs. Violet Khayecha Shivutse for providing the leadership for the preparation of the land lease guidelines. Much appreciation goes to the people of Isukha West and their leaders for taking up the land lease guidelines development process with a lot of enthusiasm. We also acknowledge the County Government of Kakamega (CGK) for recognizing and supporting the process of developing land lease guidelines in Isukha West Ward.

Doreen Magotsi is a Programme Officer with Shibuye Community Health Workers (SCHW) CBO, Shinyalu

Linnet Khalumba is a Project Assistant with Shibuye Community Health Workers (SCHW) CBO, Shinyalu

William Onura Akwanyi is a Research Assistant with Center for Training and Integrated Research in ASAL Development (CETRAD)

Violet Shivutse is the Director for Shibuye Community Health Workers (SCHW) CBO, Shinyalu

Serah Kiragu-Wissler is a Research Associate with TMG Research gGmbH, Berlin

Frontpage photo: Ward-level Land Lease Guidelines awareness creation and process consultation meeting at Munasio P.A.G. Church in Mukhonje Sub-location © Violet Shivutse

COMMUNITY-LED LAND LEASE GUIDELINES

**ISUKHA WEST WARD, SHINYALU SUB-COUNTY
KAKAMEGA COUNTY**

Doreen Magotsi | Linet Khalumba | William Onura Akwany | Violet Shivutse | Serah Kiragu-Wissler

TABLE OF CONTENTS

ACKNOWLEDGEMENT i

BACKGROUND: LAND LEASING - TOWARDS IMPROVING
ACCESS TO LAND FOR FARMING 1

LAND LEASE GUIDELINES DEVELOPMENT PROCESS 2

1| Awareness creation, consultation and negotiation
between institutional stakeholders 2

2| Mobilization at the community level
(sub-location committees) 3

3| Drafting of land lease guidelines (drafting committees) 3

4| Consolidation and approval of land lease guidelines 4

5| Launch of the lands lease guidelines 5

6| Land lease guidelines implementation and monitoring 6

LAND-LEASE GUIDELINES 7

1| Community land lease committee 7

2| Land leasing procedure 8

3| Conditions 11

LAND LEASE AGREEMENT FORM 16

BACKGROUND:

LAND LEASING - TOWARDS IMPROVING ACCESS TO FARMING LAND



The Ward Administrator giving his remarks at the opening of the land lease guidelines awareness creation and process consultation meeting at Munasio PAG Church in Mukhonje Sub-location © Doreen Magotsi

Agriculture is the backbone of economic development in Kenya. It is a major economic activity to many households. The most common way of acquiring agricultural land in western Kenya is through inheritance. As dictated by customary laws on land inheritance, family pieces of land are in the hands of elder male members of the family and are passed on to other male members, sons, when they are considered mature enough to take care of the land. Women's access to family land is through their husbands and is depended on their relationship with their husbands. The increase in population has led to fragmentation of land to the extent that the small pieces are uneconomical for agriculture. Restricted land access is a major constraint to participation by many people in agriculture. In most cases, the youths and women are predisposed to restricted land

access. For most families and people without land or with insufficient land for farming the only remaining avenue for them to access this land is through leasing.

Land leasing in the villages is commonly done informally and in informal settings such as by the road, in churches or market places. Some leasing arrangements are done without the involvement of key parties such the spouse (mostly the wife) and other family members. In many cases, there are neither written agreements nor

witnesses to the land lease arrangements. This exposes the parties involved to risks such as premature termination of leases, unplanned prolonged leases or even conflict over sharing of produce or resources on the leased land. In view of the above risks and conflicts, the Isukha West Ward community from Shinyalu Sub-county in Kakamega County decided to develop their own guidelines to manage land leasing arrangements.

The process of formulating the land-leasing guidelines was facilitated by Shibuye Community Health Workers (SCHW), a grassroots organization working with communities in Kakamega County, with technical support from TMG Research gGmbH, Berlin. It is hoped that these guidelines will help solve the many conflicts associated with land leasing.

LAND LEASE GUIDELINES DEVELOPMENT PROCESS

The process comprised of the following steps:

- 1) Awareness creation, consultation and negotiation between institutional stakeholders and the local community in Isukha West Ward;
- 2) Awareness creation and consultation at the community level;
- 3) Drafting of the land lease guidelines;
- 4) Consolidation and approval of the land lease guidelines;
- 5) Launch of the land lease guidelines; and
- 6) Implementation and monitoring of the land lease guidelines.

1 | AWARENESS CREATION, CONSULTATION AND NEGOTIATION BETWEEN INSTITUTIONAL STAKEHOLDERS

This first step aimed at introducing the concept of land lease guidelines to institutional stakeholders and the local community in Isukha West Ward with a view of obtaining their consensus and input into the process. This step was done through a *Baraza* (public meeting) held at Munasio Pentecostal Assemblies of God (P.A.G.) Church in Mukhonje Sub-location on 1st November 2017. During the meeting, Shibuye Community Health Workers CBO shared with the local community and institutional stakeholders, the idea of developing land lease guidelines for Isukha West Ward and

the process to be involved. Participants included:

- a) Ward Administrator, Isukha West Ward;
- b) Ward Agriculture Officer, Isukha West Ward;
- c) Representatives from the Land Control Board (LCB), Shinyalu sub-county;
- d) Chief, Ilesi Location;
- e) Assistant Chief, Mukhonje Sub-location;
- f) Assistant Chief, Mugomari Sub-location;
- g) Assistant Chief, Malimili Sub-location;
- h) Some village elders from Isukha West Ward; and
- i) Some nyumba kumi (village security vigilante team) officials from Isukha West Ward.

Both the idea and process were unanimously accepted by the institutional stakeholders and the local community. The idea of developing land lease guidelines for Isukha West Ward was considered as a timely step to reducing conflicts related to land leasing. Although a land leasing form was said to be available on the website of the Ministry of Lands, the local community had neither seen nor used it. A representative from the Land Control Board (LCB) informed the gathering that interested persons were expected to download the form, fill it and then pay KES1,000 to a lawyer for endorsement. The participants felt that the bureaucratic process of obtaining that form did not resonate with their needs for simplicity, accessibility and affordability of a leasing procedure.

2 | MOBILIZATION AT THE COMMUNITY LEVEL (SUB-LOCATION COMMITTEES)

Mobilization was done in November 2017 through four meetings in the sub-locations. The aim of the meetings was to mobilize the participation of as many people in the Ward in the development of the land lease guidelines. Each sub-location committee included the area assistant chief, some village elders, some Nyumba kumi (village security vigilante team) officials, representatives from the Land Control Board (LCB) and the local community members comprising of men, women and youths who represented different categories in the community such as young farmers, opinion leaders, retired officers from the public service, church leaders, widows, lessors and lessees. These committee meetings were chaired by their respective area assistant chiefs. The area chief, the ward administrator and the representatives from the Land Control Board (LCB) were in attendance in most of the sub-location and drafting committee meetings.

The four sub-location level committees were Mukhonje A, Mukhonje B, Malimili and Mugomari. Each committee had an average of thirty (30) persons. Mukhonje sub-location was split into two committees due to its large size.

The initiative to prepare land lease guidelines was welcomed in all the sub-locations. A participant from Malimili Sub-location was very happy with the idea and had this to say:

“I am an elder in this community and I am happy with this initiative of developing land leasing guidelines. For the many years that I have lived here, I have never witnessed a process like this happen. I am even happy that many people have welcome the idea.”

There were varying views and concerns about land leasing guidelines from these committees. Some of the issues that were discussed at these committees included: procedure for leasing land; authentication of land boundaries and ownership; confirmation of absence of encumbrances; identification and involvement of family members and witnesses; period of leasing; termination of lease; land leasing committee; conditions of leasing; and land lease agreement form. At the end of mobilization and identification of key land leasing issues that should be agreed up, the sub-location committees nominated drafting committees which would then discuss the issues in more details.

3 | DRAFTING OF LAND LEASE GUIDELINES (DRAFTING COMMITTEES)

The aim of the drafting committees was to deliberate on the issues raised at the sub-location committees and draft land lease guidelines. There were three (3) drafting committees, each representing a sub-location. Each drafting committee had approximately fifteen (15) people and held a minimum of three (3) sessions {three (3) days}. Mukhonje A nominated 8 No. people while Mukhonje B nominated seven (7) people to form fifteen (15) people for Mukhonje Sub-location drafting committee.



Land lease guidelines consolidation meeting at Munasio P.A.G. Church in Mukhonje Sub-location
© William Onura

4 | CONSOLIDATION AND APPROVAL OF LAND LEASE GUIDELINES

The draft land lease guidelines and land lease agreement forms from the drafting committees were discussed and consolidated into one Isukha West Ward land lease guidelines in a meeting that was held on 21st November, 2017 at Munasio Pentecostal Assemblies of God (P.A.G.) Church. The aim of the meeting was to build consensus on the issues and recommendations formulated by the drafting committees.

The meeting comprised of forty (40) people including the following:

- a) Ward administrator, Isukha West Ward;
- b) Ward Agriculture Officer, Isukha West Ward;
- c) Representatives from the Land Control Board (LCB), Shinyalu Sub-county;
- d) Chief, Ilesi Location;
- e) Assistant Chief, Mukhonje Sub-location;
- f) Assistant Chief, Mugomari Sub-location;
- g) Assistant Chief, Malimili Sub-location;
- h) Some village elders from Isukha West Ward;
- i) Some Nyumba Kumi (village security vigilante) officials from Isukha West Ward; and
- j) Nominated members of the drafting committees from all the sub-locations.

The consolidation committee put together the Isukha West Ward Land Lease Guidelines and Isukha West Ward Land Lease Agreement Form.

5| LAUNCH OF THE LANDS LEASE GUIDELINES

This step sought to launch the guidelines and create awareness of their existence at the sub-location level. A launch meeting was held on Friday 12th January 2018 at Munasio PAG Church. The meeting was attended by all members of all the drafting committees as well as community leaders who were present at the consolidation committee.

The local community commended Shibuye Community Health Workers (SCHW) for ensuring proper representation and participation of people from all over the Ward. Participants were hopeful that the land lease guidelines would help prevent most of the conflicts related to land leasing.

Below are some of the feedback comments from two participants:

“I am very happy with the idea of preparing the land lease guidelines. Many people in this area have suffered under the hands of greedy lessors and lessees. I hope that we shall not have people oppressed by these greedy lessors and lessees if these guidelines are implemented in the right way.” Everline Malietso

“We are happy that we now have found a solution to disputes related to land leasing that are common in this area. In fact if we all embrace these guidelines and become ambassadors of these guidelines to the rest of the community members then we as leaders will have more time to handle other duties other than land-related conflicts.” Senior Chief, Ilesi Location

“I congratulate the people of Isukha West Ward for making the land leasing guidelines. I will at your permission apply these guidelines in my home area in Lugari.” Ward Administrator, Isukha West Ward



Participants at the launch meeting at Munasio P.A.G. Church in Mukhonge Sub-location © William Onura

The community emphasized the need to popularize the land lease guidelines so that everybody in the villages is aware of their existence and can use them.

6 | LAND LEASE GUIDELINES IMPLEMENTATION AND MONITORING

The Isukha West Ward Land Lease Agreement Form shall be made available for use by everyone who enters into agricultural land leasing transaction in Isukha West Ward. This form will be made available at the Assistant Chiefs’, and Chief’s offices and at Shibuye Community Health Workers’ (SCHW’s) office at Shinyalu Centre. The local community proposes formation of a sub-location level Community Land Lease Committee, to be chaired by the area Assistant Chief - the Committee will oversee the implementation of the land leasing processes. Other members of the committee shall be the area Chief,

a village elder, a men’s representative, a youth representative who is also farmer, a representative from the Land Control Board (LCB), the Ward Administrator, a representative from the civil society and a technical advisor from the agricultural office. The Committee will meet regularly to review the implementation of the land lease guidelines and ensure that they meet the needs of the users. The Committee will also consolidate emerging issues that may necessitate revision of the land lease guidelines.

The process of developing the Land Lease Guidelines is summarized in the diagram below:

Figure 1: Process of developing the community-led land lease guidelines (CL-LLG)



LAND-LEASE GUIDELINES

The following are the Land Lease Guidelines as developed by the local community of Isukha West Ward in Shinyalu Sub-county, Kakamega County between October 2017 and January 2018.

1 | COMMUNITY LAND LEASE COMMITTEE

There shall be established a committee to oversee land leasing in Isukha West Ward. The committee shall be established at each sub-location. The committee shall be called community land lease committee. The committee shall comprise of:

- a) The Ward Administrator - he/she shall be an ex-officio member of the committee
- b) The area chief - he/she shall be an ex-officio member of the committee
- c) The area assistant chief - he/she shall be the chairperson to the committee
- d) One representative from the civil society organizations (CSOs) - he/she shall be the secretary to all the committee's meetings
- e) One representative from the Land Control Board (LCB) - he/she shall provide technical advice to the committee
- f) Agricultural extension officer - he/she shall provide technical advice to the committee
- g) One representative of village elders - preference shall be given to a senior village elder
- h) One youth representative - he/she must be a youth farmer between 18 - 35 years of age
- i) One representative for women - she shall cut across all categories of women including married, divorced, separated and widowed
- j) One representative for men - he will only be elected where more than half of the other committee members are women

The committee shall have a maximum of nine (9) members at any one time. This number excludes the ex-officio members. The representatives of the village elders, youths, women and men where necessary shall be appointed/elected/nominated from the community during a Baraza (public meeting). The process of appointment/election/nomination of members of the community land lease committee shall be done publicly with the participation of all people in the community.

The committee shall elect a treasurer. The ex-officio members, the assistant chief (in the capacity of chairperson) and the civil society organizations (CSOs) representative (in the capacity of secretary) shall not be eligible for election to the post of a treasurer. The treasurer shall be responsible for keeping any monies collected from fines or any transactions relating to land leasing. The monies shall be used to facilitate the meetings of the committee and for other purposes as the committee may decide.

The committee shall hold meetings quarterly to discuss matters relating to land leasing in the respective sub-locations. The committee

may hold special sittings depending on the case necessitating such meetings.

The Assistant Chief shall be the custodian of the register for all land lease transactions in his/her sub-location and shall update the committee of all land lease transactions within the sub-location for monitoring and evaluation of the implementation of the land lease guidelines.

The responsibilities of the committee shall be:

- 1) Overseeing land leasing transactions at the sub-location level.
- 2) Consolidating emerging issues that may necessitate revision of the land lease guidelines.
- 3) Resolving conflicts related to land leasing. The committee may at the time of any of its meetings invite the parties affected by land lease conflicts into their meeting.

2 | LAND LEASING PROCEDURE

- 1) A lessee (person with intent to lease a piece of land) shall before leasing any piece of land:
 - a) Identify the piece of land that he/she wishes to lease.
 - b) Identify the owner of the piece of land that he/she wishes to lease.
 - c) Involve his/her family members or relatives especially the spouse and children and/or close friends and where possible have a next of kin for the purposes of the piece of land that he/she wishes to lease in which case the next of kin must also be informed.

- d) Ensure that the family members of the land owner are involved in order to reduce conflicts.
- e) Authenticate that the piece of land that he/she wishes to lease belongs to the lessor by requesting one or more of the following documents:
 - i) Land title deed
 - ii) Certificate of lease
 - iii) Allotment letter
 - iv) Legal affidavit
 - v) Certificate of official search from the land registrar's office
 - vi) Any other document or evidence approved by the laws of Kenya and/or community land lease committee
- f) Verify the details of the above documents from the land owner's identification documents such as national identity card or valid Kenyan passport.
- g) Where there are no documents to confirm ownership or where these documents are deemed expensive to obtain, confirmation of land ownership may be obtained from family members of the land owner, or from neighbours, or elders and leaders of the area where land is to be leased. This is because these family members, neighbours, elders and leaders have been residents in that area for a long time and therefore understand land ownership matters in that area.
- h) Authenticate that the piece of land that he/she wishes to lease has no conflicts (free of encumbrances) by consulting with the family members, neighbours, elders, local leaders, previous users of that piece of land and the community land lease committee.

-
- i) Ensure that the lease agreement is properly written and dully signed by him/her and the land owner before the village elder and area the Assistant Chief or Chief for the area where the piece of land to be leased is.
 - 2) A lessor (land owner) shall before leasing out any piece of land:
 - a) Involve his/her family members and/or close friends.
 - b) Ensure that the family members or relatives of the lessee especially the spouse and children are involved in order to reduce conflicts.
 - c) Provide the lessee with adequate access to the leased piece of land.
 - d) Provide neighbours with ample access to property/facilities such as homes or land etc. located behind the piece of land to be leased.
 - e) Provide access to communally shared facilities and utilities such as water wells and protected springs located within the land to be leased.
 - f) Clearly advise the lessee of any sections or developments on the piece of land to be leased that should not be interfered with.
 - g) Provide correct information about himself/herself and the status of piece of land that he/she wishes lease out.
 - h) Ensure that the lease agreement is properly written and dully signed by him/her and the lessee in presence of the village elder and the area Assistant Chief or Chief for the area where the land to be leased is located.
 - 3) Both the lessee and the lessor shall, as part of the process of the transaction relating to the land leasing:
 - a) Involve the community land lease committee and register the lease with this committee.
 - b) Not enter into a lease agreement for community and government land, road reserves, land belonging to other people or institutions or land that is meant for preservation under the law such as riparian areas (areas situated on the banks of rivers and streams).
 - c) Agree on the kind of lease (short-term or long-term) including possibilities and requirements for renewal.
 - d) Agree on the size of land to be leased and its boundaries, by making clear descriptions, using important landmarks on that land such as trees, fences, roads, terraces, buildings, streams, rocks and graves among others. A sketch map can be drawn using these features. A map of the area if available can also be included.
 - e) Agree on the rights to possession and use, and the degree of freedom and control by both the land owner and the lessee over the leased piece of land including:
 - i) The intended use of the piece of the land to be leased such as the kinds of crops to be grown or number of bricks to be made, or amount of gold or clay to be extracted - where land is intended for other purposes other than agriculture.
 - ii) Arrangements for inspection of the leased piece of land by the land owner.

- iii) Opportunities for the lessee to use other assets or infrastructure on the leased piece of land such as perennial crops including fruit trees and fodder; latrines; and water points including rain water harvesting tanks, wells, boreholes and springs among others.
 - iv) Obligations for protecting the leased piece of land by fencing and improving its fertility through sustainable land management practices (SLM) such as liming, terracing, manuring and planting agroforestry trees.
 - v) Responsibilities for maintaining infrastructure such as access roads, fences, terraces, latrines and water points; and assets such as trees and fodder.
 - vi) Possibilities of the land owner accessing and using infrastructure such as latrines and water points; assets such as trees and fodder; and cultural assets such as shrines and graves.
- f) Agree on the period of the lease including the duration of the lease, the time when the leased piece of land will be availed to the lessee and when it will be handed back to the land owner. Sometimes people allow others to use their piece of land until such a time when their children are old enough to farm on that piece of land. Where the age of children of the land owner is used as a time counter for when land is to be handed back to the land owner, then the age of a specific child shall be noted.
 - g) Agree on the flexibility of the lease including whether to review the lease at a future date and specify the date of the review.
 - h) Note down the physical conditions of the land at the time the lease is granted and agree on the expected conditions of the land at the time it is handed back to the land owner at the end of the lease period including whether or not to retain introduced structures such as fences, rain water harvesting pans and terraces.
 - i) Set the compensation or rent to be offered for the land lease. This may be money to be paid, a share of crop harvest, or a share of other products from the farm such as uprooted stumps for wood fuel or rocks/stones dug out from the piece of land. Where land is rented for other purposes other than agriculture consideration can be made for sharing extracted minerals such as gold; or bricks made from extracted clay.
 - j) Agree on how the compensation or rent will be calculated, terms/mode of payment and consequences to the lessee for not honoring the payment within the agreed terms.
 - k) Agree on the responsibilities of each party as pertains crops and/or activities on the leased piece of land including care of the crops and/or activities.
 - l) Understand the risks involved and how to manage them in order to prevent conflicts. In this regard the lessor and the lessee shall:
 - i) Involve their family members;
 - ii) Agree and note down their dispute resolution mechanisms;
 - iii) Identify and involve their witnesses who are of sound mind and age;

- iv) Agree in writing the consequences or penalty to the lessee for misuse of the leased land, or refusal to vacate the leased land at the end of the lease period or any other breach of contract by the lessee;
- v) Agree in written on consequences to the land owner for premature termination of the lease and for encroachment into the lessee's crop or leased piece of land during the period of the lease or any other breach of contract by the land owner;
- vi) Agree in written on their responsibilities as pertains the leased land during the period of the lease and consequences for breach of contract by either party; and
- vii) Agree in writing on compensation by or penalty to either party in case of breach of contract.

3 | CONDITIONS

- 1) Age limit: Any adult person above 18 years of age can lease or be lease out land. The lessor and the lessee must ensure that their witnesses are of sound mind and above 18 years of age. In cases of under-age (below 18 years) orphans or custodians of family land who wish to lease out land, the assistant chief and/or chief shall confirm that they have genuine need for leasing out that piece of land and that they have an adult representative of sound mind and health from their family, neighbour or family friends of their own choice who can stand in as a guardian. The information about this adult representative should be noted

and attached to the lease agreement.

- 2) Involvement of the community land lease committee and registration of lease
 - a) The community land lease committee shall be involved from the beginning through all the steps.
 - b) Both the lessee and the land owner and their respective witnesses shall sign the land lease agreement form in presence of the assistant chief and/or village elder.
 - c) The land lease agreement form shall be filled and signed in triplicate.
 - d) The assistant chief or chief shall endorse all the three (triplicates) of the dully-filled and signed land lease agreement form on all their pages.
 - e) The assistant chief or chief shall register the lease.
 - f) The land owner, the lessee and the assistant chief or chief shall each keep one of the three originally endorsed land lease agreement form.
 - g) The assistant chief or chief shall inform the community land lease committee.

3) Period of leasing land

A land lease year shall begin in January and end in December of that year or the following years. However, reasons for any lease period beginning and/or ending at another time of the year must be clearly stated in the lease agreement. The period of leasing land shall be determined by:

- a) The type of crop: A short-term land lease shall not exceed 1 year of 12 calendar months while a long-term land lease

shall not exceed 6 years of 72 calendar months. On negotiation however, a short-term lease or long-term lease will be subject to renewal for another short-term lease or long-term lease.

- b) The use of the land: Leasing of land for agricultural use shall depend on the kinds of crops to be grown. Short-term leasing shall be used for purposes of annual crops that are commonly grown in the area including maize, pulses (beans, soy beans, peas etc), vegetables, root crops, ground nuts, Bambara nuts and other new crops that may later be introduced in the area. Long-term leasing shall be used for perennial crops such as already planted tea, sugarcane, bananas and other new crops that may later be introduced in the area; and other uses other than agriculture such as gold mining, tree planting, brick-making, clay extraction, sand harvesting and business space; or as agreed between the lessee and the land owner.
- 4) Use of land
- a) The land owner shall, before entering into lease agreement, clearly state to the lessee, areas or developments on the piece of land to be leased that should not be interfered with such as trees, structures, sacred places, shrines, graveyards.
 - b) The lessee will not carry out any other activity on the leased piece of land other than what will have been agreed upon in the lease agreement.
- c) In leasing of land for agricultural purpose the lessee shall apply the best agricultural practices.
 - d) Where land is to be leased for other purposes other than agriculture, environmental and other relevant laws shall have to be adhered to.
 - e) In the event that there is interference with any activity or destruction or theft of crop(s) on the leased land by either lessee or lessor, the appropriate law should be allowed to take its course.
 - f) Both the land owner and the lessee shall inform at least one neighbour of the piece of land to be leased, of the intention to lease the land and the intended use.
 - g) Any use of leased land for purposes of extraction of natural resources therein or for an activity that is likely to degrade the environment shall be subjected to environmental assessment and approval by the National Environment Management Authority (NEMA) as required by Kenyan law¹.
 - h) Any use of leased land in a manner that degrades the environment shall require that the lessee restores or rehabilitates that degraded land and environment as required by Kenyan law².

¹ Section 58 of the Environmental Management and Coordination Act (EMCA), 1999 (Cap. 387), amended 2015

² Section 3(d) of the Environmental Management and Coordination Act (EMCA), 1999 (Cap. 387), amended 2015

5) Responsibilities

a) The lessor shall:

- i) Not interfere with the crops or activities of the lessee on the leased piece of land;
- ii) Ensure that his/her family members, friends or livestock do not interfere with the crops or activities of the lessee on the leased piece of land; and
- iii) Adhere to the lease agreement.

b) The lessee shall:

- i) Not carry out any other activity on the leased land other than what both parties agree on in the lease agreement;
- ii) Ensure security for his crops and/or activities on the leased piece of land; and
- iii) Adhere to the lease agreement.

6) Witnesses

Both the land owner and the lessee shall each choose at least two witnesses who are of sound mind and good health. A land owner or lessee shall not use witnesses who are below 18 years. Witnesses must present their original identification documents before signing as witnesses on the lease agreement form. Both family members (close and distant relatives) and non-family members may serve as witnesses. In general, the following persons can serve as witnesses:

- a) A spouse or spouses.
- b) One or more of children, above 18 years of age, where the lessor and/or lessee has children irrespective of whether the

children were born within the marriage or before or outside.

- c) One or both parents or a guardian.
 - d) Siblings of the lessor and/or lessee.
 - e) A friend or a confidant.
 - f) Any family member.
 - g) A neighbour to the leased piece of land.
 - h) A village elder for the village where the land to be leased is.
- ### 7) Next of kin

The lessee shall choose a next of kin for the leased piece of land. This may be a close or a distant family member.

8) Review of lease shall be agreed between the lessor and the lessee and shall be communicated to the community land lease committee. A review of lease shall include one or more of the following:

- a) Changes in witnesses;
- b) Change of use on the leased piece of land;
- c) Modifications on the duration of the lease;
- d) Alteration in the boundaries of the leased piece of land;
- e) Changes in mode/terms of payment of security and rent;
- f) Expansion or reduction on the area of the leased piece of land;
- g) Increase or reduction in the security and rent offered for the lease;
- h) Changes in degree of freedom and control by both the land owner and the lessee; and

i) Any other amendments to what is written in the lease agreement form.

9) Lease rent

a) The rent for leasing land shall depend on the type and productivity of the piece of land to be leased and intended use.

b) The community proposes a minimum rent of Kshs. 4,500.00 per acre per year for short term leases and a maximum of Kshs. 15,000.00 per acre per year for long term leases.

c) Rates for leasing tea where applicable will be in accordance with the Kenya Tea Development Authority (KTDA) framework.

d) Rates for use of land for other purposes other than agriculture shall be agreed upon based on one or more of the following factors but will not be limited to these factors: amount of produce such as number of bricks made, trucks of murrum and amount of gold or clay; volume of excavation; acreage; and time.

e) The figures listed in b) above are guiding figures as other factors such as relationship between the land owner and lessee can be considered and therefore the decision on the final lease rent rests with the land owner and the lessee.

10) Termination of lease

A lease will be terminated on maturity or where the land owner and the lessee mutually agree to do so based on their own reasons and terms and surrender to the community land lease committee for cancellation of the lease agreement.

11) Breach of contract

a) A breach of contract shall include one or more of the following:

i) If it is discovered that the lessee is growing illegal crops such as marijuana on the leased piece of land;

ii) Failure by the lessee to pay the agreed rent promptly;

iii) The lessor damaging the crops and/or properties or interfering with the activities of the lessee on the leased piece of land;

iv) The lessee damaging the leased piece of land or other environment beyond the threshold established in the lease agreement;

v) A lessor not preventing his family, livestock or friends from destroying the crops and/or properties or interfering with the activities of the lessee on the leased piece of land; and

vi) Failure by the either lessor or lessee to observe and adhere to any of one or more of the conditions set out in the lease agreement.

b) For whatever reasons that either of the parties breaches the contract, a penalty of up to 100 % of the initial agreed rent plus compensation equivalent to the value of the destroyed crop as per the Agricultural guidelines on crop damage or activities interfered with or damage to the land as will be advised by the community land lease committee or any other legal office, shall be paid by the offender to the offended in presence of the community land lease committee or its representative.



Participants at the launch meeting at Munasio P.A.G. Church in Mukhonje Sub-location © William Onura

**LAND LEASE AGREEMENT FORM
ISUKHA WEST WARD**

This land lease agreement form was developed in 2017 by the local community of Isukha West Ward with support from Shibuye Community Health Workers CBO with the aim of facilitating good relations in leasing land.

1. Date of agreement: (DD/MM/YY) _____

2. Parties to the agreement

Lessor (land owner) details		Lessee (tenant) details	
Name(s)		Name(s)	
ID./valid passport No.(s)		ID./valid passport No.(s)	
Postal address(es)		Postal address(es)	
Telephone/mobile phone No.(s)		Telephone/mobile phone No.(s)	

3. Next of kin of lessee:

Name		Name
Relationship with lessee		

4. Land area being leased

The piece of land measures _____ (insert dimensions in metres). Its boundaries are

(describe the piece of land using visible and permanent marks on that land)

5. Terms of lease

Purpose of use of land by lessee	
Period of lease	
Rent in Kshs.	
Conditions of payment (state the date and amount of first installment and how and when to clear the balance).	

LAND LEASE AGREEMENT FORM - ISUKHA WEST WARD

More copies of this form can be obtained at the nearest Assistant Chief's, Chief's or Shibuye CBO Office in Shinyalu Market Centre

Degree of freedom of use and control by lessee	
Degree of freedom of control by the lessor	
Conditions on return of land by the lessee back to the land owner	

- This agreement shall remain binding between the lessor and the lessee
- Any amendments or review to this agreement shall mean a new agreement and this shall be communicated to the community land lease committee
- Any breach of this contract shall warrant a fine of Kshs. _____ or a fine equivalent to _____

 _____ (describe the fine in any other ways)

Signed by:

Lessor	Lessee
Signature	Signature
Thumbprint	Thumbprint
Name	Name
ID./valid passport No.	ID./valid passport No.
Postal address(es)	Postal address(es)
Telephone/mobile phone No.(s)	Telephone/mobile phone No.(s)
Date	Date

LAND LEASE AGREEMENT FORM - ISUKHA WEST WARD

More copies of this form can be obtained at the nearest Assistant Chief's, Chief's or Shibuye CBO Office in Shinyalu Market Centre

COMMUNITY-LED LAND LEASE GUIDELINES

In the presence of witnesses:

Lessee's witness(es)		Lessor's witness(es)	
1st witness	2nd witness	1st witness	2nd witness
Signature:	Signature:	Signature:	Signature:
Thumbprint:	Thumbprint:	Thumbprint:	Thumbprint:
Name:	Name:	Name:	Name:
ID./valid passport No.:	ID./valid passport No.:	ID./valid passport No.:	ID./valid passport No.:
Postal address(es):	Postal address(es):	Postal address(es):	Postal address(es):
Telephone/mobile phone No.(s):	Telephone/mobile phone No.(s):	Telephone/mobile phone No.(s):	Telephone/mobile phone No.(s):
Date:	Date:	Date:	Date:

Endorsed by:

Chief/assistant chief/village elder

Signature _____ Stamp/seal and date _____

Name _____

Designation _____

LAND LEASE AGREEMENT FORM - ISUKHA WEST WARD

More copies of this form can be obtained at the nearest Assistant Chief's, Chief's or Shibuye CBO Office in Shinyalu Market Centre



Participants at the launch meeting at Munasio P.A.G. Church in Mukhonje Sub-location © William Onura

Contact/Imprint

Violet Shivutse, Director
Shibuye Community Health Workers CBO
on Tel: 0724 233930
Email: shibuyechw@yahoo.com