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Electronic Certificates Regulation issued by the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency

On 12 January 2021, the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency (“**MOA**”) issued Regulation No.1 of 2021 on Electronic Certificates (“**MOA Reg. 1/2021**”). This new regulation is intended to optimize the use of information and communication technology by implementing electronic-based land services and thus improve public services and the ease of doing business.

Under MOA Reg. 1/2021, a land right (*hak atas tanah*) certificate, a management right (*hak pengelolaan*) certificate, a waqf land right (*tanah wakaf*) certificate, an apartment unit ownership right (*hak milik atas satuan rumah susun*) certificate and a mortgage right (*hak tanggungan*) certificate which has been recorded in the relevant land book (“**Certificates**”) will be issued in the form of an electronic certificate (“**Sertipikat El**” or “**Electronic Certificate**”).

Key Provisions of MOA Reg. 1/2021

I. The Implementation of the Electronic Land Registration System

According to MOA Reg. 1/2021, land registration can be conducted through an Electronic System, which is a series of electronic devices and procedures to among other things, process, analyze, store

and display electronic information. The results of the electronic land registration in the form of data, electronic information and/or Electronic Documents constitute the valid data of the right holder, the physical data and juridical data of the plot of land, the authenticity of which has been maintained. An Electronic Document is any electronic information, which among others, is stored and can be displayed through the Electronic System.

All the data, information and Electronic Documents are stored in the Electronic System Database, which is a set of data systematically arranged and stored in large memories which can be accessed by one or more users from different terminals. The results of the operation of the Electronic System for the registration of land are electronic documents in the form of:

- (i) Electronic Documents issued through an electronic system which are legalized using an electronic signature in accordance with the prevailing laws and regulations; and/or
- (ii) documents the form of which is converted into electronic documents; validated by the authorized official or appointed official with a digital stamp placed on them through the Electronic System.

The Electronic Documents and their printouts constitute valid legal evidence including under the applicable Indonesian procedural law. For evidentiary purposes, electronic documents can be accessed through the Electronic System.

II. The Issuance of Electronic Certificates for the First Time

Electronic Certificate can be issued for the first time through the following:

A. The Registration of Land that has not been Registered Previously

The registration of land that has not been registered previously includes the collection and processing of physical data, proof of the right and bookkeeping, the issuance of a Certificate, the presentation of physical and juridical data and the storage of public registers and documents through the Electronic System.

Land under a certain land right, management right, ownership right, apartment right, mortgage right or waqf land right (*tanah wakaf*) will be registered through the Electronic System and an Electronic Certificate will be issued.

Electronic Certificates will be stored in the Database in sequence according to their edition as a history of land registration in an electronic land book. As proof of a right of ownership the right/*nazhir* holder will be given (i) an Electronic Certificate and (ii) access to the Electronic Certificate in the Electronic System.

An Electronic Certificate and access will not be given to the right/*nazhir* holder (in case of *wakaf* land) if the physical data or juridical data is incomplete or still in dispute. Once the physical data or juridical data has been completed or the dispute has been declared resolved, the Electronic Certificate and access can be given to the right/*nazhir* holder.

B. The Replacement of Certificates with Electronic Certificates for Registered Land

Certificates will be replaced with Electronic Certificates for plots of land that have been registered and for which a land right, management right, apartment unit ownership right or waqf land right Certificate has been issued.

A Certificate will be replaced with an Electronic Certificate if the physical data and juridical data in the land book and Certificate match the physical data and juridical data in the Electronic System. If the physical data and juridical data is not yet correct, the Head of the Land Office will validate the right holder data, the physical data and the juridical data.

Changing Certificates into Electronic Certificates includes replacing the land book, the measurement documents and flat plan drawings with Electronic Documents. Any replacement with an Electronic Certificate will be recorded in the land book, measurement document and flat plan drawing.

III. Electronic Certificate Editions

An Electronic Certificate will be issued for the first time with a numerical edition number starting with number 1 (one), for the following actions:

- (i) registering land that has not been registered previously;
- (ii) changing a Certificate into an Electronic Certificate for land that has already been registered;
- (iii) registering the splitting, merging or separation of land; or
- (iv) changing the physical data resulting in an increase in the number of plots.

According to the transitional provision of MOA Reg. 1/2021, when MOA Reg. 1/2021 comes into effect, land registration applications received by a Land Office conducting electronic land registration, will be processed according to the regulations prevailing before the issuance of MOA Reg. 1/2021.



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