



European Union



german
cooperation

DEUTSCHE ZUSAMMENARBEIT



ግብርና ሚኒስቴር
MINISTRY OF AGRICULTURE

Model Contract for Outgrower Schemes



BVVG

giz Deutsche Gesellschaft
für Internationale
Zusammenarbeit (GIZ) GmbH

Model Contract for Outgrower Schemes

Disclaimer 2

This draft model contract was developed on the basis of the drafts “Proclamation to Provide for Agricultural Production and Marketing Contracts in Ethiopia” later modified and renamed as “Proclamation to Provide for the Establishment of the Central and Regional Contract Farming Coordinating bodies and Regulation of Contract Farming Contract Formulation” as well as international best practices.

It contains clauses laying down basic requirements for the drafting of a contract between a large scale investor in agriculture and small hold regional farmers as well as trying to point out issues that should be observed by the contracting parties with the aim to provide a mutual and equitable relationship between them.

However, since various types of contract farming activities exist, requiring special regulations and clauses, every contract depends on the special needs and particular situation of the parties as well as regional differences. Taking this into consideration, this draft is only an example provided for informational purposes. It is not intended to cover every situation, nor can it anticipate specific needs. Therefore, it cannot be guaranteed that all relevant issues have been dealt with to the extent necessary since neither the complete legal system of Ethiopia nor the existence and content of bilateral or international investment protection treaties that may influence the content of such a contract are known to the authors of this final draft version. Furthermore, it is impossible to cover all legal contingencies and provisions for each specific context. Therefore it should not merely be duplicated without consideration of the peculiarities of the particular contract situation. GIZ and BVVG exclude liability for any final model contract for contract farming coming into effect in Ethiopia.

Agreement on Contract Farming
for the production of

Model template with basic Requirements and Explanations

Made between

Name:

Address: region..... ZoneWoredaCity
.....Kebele

Phone No. :..... Fax.....

Email:, website

Insert name and address and other relevant data of buyer

Hereinafter referred to as buyer

and

Name:

Address: regionZoneWoredaCity
.....Kabele

Phone No. :..... Fax

Email

Insert name and address and relevant data of producer

Hereinafter referred to as producer

Preamble

The buyer is a (describe type of company e.g. Ltd.) registered at....., Registration No. with its place of business inand is engaged in (producing, processing, exporting describe what the buyer is engaged in) in the region of (if it applies) and for this purpose has its processing facilities at.....).

The producer is in possession of land described in Art. 2 which is suitable for the production of the agricultural produce described in Art. 1, which is required by the buyer for fulfilling its tasks.

For the benefit of both parties and with the aim to improve the production and the marketing of the produce referred to in Art. 1 the parties mutually agree to the terms and conditions specified by this agreement.

The contracting parties have every legal authority and capacity to enter into this contractual agreement. This contractual agreement is entered into between the buyer and the producer in accordance with Articles 1731 and 1763 of the Ethiopian Civil Code (after it has been enacted add: and the Proclamation to Provide for the Establishment of the Central and Regional Contract Farming Coordinating bodies and Regulation of Contract Farming Contract Formulation).

Article 1: Scope

1.1 Purpose and objective of the contract

The purpose of this agreement is the cultivation/production of

- 1.
- 2.
- 3.

(list what the producer should cultivate/produce) by the producer with the objective to sell the aforementioned produce after harvesting to the buyer who

- markets, sells and exports such crops

and/or

- processes such produce and markets the processed product

1.2 Location and description of the producer’s land

The producer agrees to cultivate/produce the above mentioned produce on the land described as follows

Woreda/Kebele	Plot ID	Area to be covered	Classification	Particulars

Describe the land (parts or whole) of the producer to be used in the scope of this contract including the size of the production site in ha or other parameter and the exact geographic location. The plot id has to be taken from cadaster/land register. If no registration exist, the area has to be described by parameter in local site and on the map.

It is recommendable to include as an annex to this contract a map of the farm site of the producer indicating the land in question showing its geographical location.

Describe the land quality and additional site parameters that are relevant for production. Also mention under particulars restrictions, impediments to cultivation.

It should be taken into account, that the producer might need some of his land to produce products for the alimentation of his family (e.g. teff). Therefore, it might be recommendable to exclude these parts of the land.

Article 2: Term of agreement and renewal and renegotiation

2.1 Term of agreement

This agreement takes effect on.....*insert day/month/year* , the effective date, and shall remain effective until..... *insert day/month/year* as long as this agreement has not been sooner terminated in accordance with its terms.

Note: The duration of the contract should be related to the type of produce and can be seasonal or longer-term

2.2 Renewal (optional)

If the parties are satisfied with the outcome of this agreement it may be renewed for *insert duration, month or until* The party wanting to renew the contract has to notify the other party in writing latest months before the expiry of this agreement. The renewal shall only take effect if the other party explicitly agrees in writing latest two weeks before the end of this contract.

Article 3: Quality and Quantity specifications

3.1 Quantity specifications

The producer agrees to meet the following quantity specifications:

Area (in ha)	Name of Produce	Quantity (qtl, kg ...)	Minimum quantity	

Specify the quantity of the agricultural produce to be delivered by the producer. The quantity should be calculated based on the land used for cultivation in the scope of this agreement and the capacity of the producer. A minimum quantity could be inserted or that column deleted. There should be a tolerance for small hold farmers starting to be producers.

Regulate whether the producer is allowed side-selling. Example: The producer is allowed to side-sell produce after he has met the quantity and quality specifications (the quantity not only the minimum

quantity as stated in the table above) for the produce that is to be delivered to the buyer as set forth in this agreement. This contract does not relate to produce that is produced on land of the producer which is not subject to this contract. The producer is free to market this produce at his discretion.

3.2 Quality specifications

The producer agrees to meet the quality specifications as described in the following:

(Grade/Size, free from pests, wounds, scars, bruises etc. Tolerances should be accepted for new producers until they can meet the standards). For determining standards note the tables attached to this agreement.

Specify in detail the quality and safety standards that shall apply to the agricultural product subject to this agreement, including packaging or labeling requirements, if any and clearly state the standards based on common business practice.

Describe the quality control and verification procedure the parties agree upon.

It can be advisable to take samples of the produce before signing the agreement if the producer is already producing the produce mentioned in Art. 1: In this case:

The producer agrees to meet (at least) the quality specifications of the produce samples tested on (insert date, type of testing, number of samples) The test protocol is attached to this agreement as annex and with this an integral part of it.

Determine who will carry the costs of the control and verification procedure.

Article 4: Production specifications

4.1. Production methods

The producer agrees to adopt instructions/practices with regard to land preparation, cultivation etc. provided by the buyer which are described in detail in the following:

Describe the mode of production, including used seeds or planting material, mode of tillage, use of fertilizers and chemicals, pest management, irrigation, harvesting methods (e.g. hand or machinery)

4.2. Service supply (optional)

Choose from the following optional clauses:

- the buyer provides high-quality seeds (and/or seedlings) , fertilizer in good time for sowing (and/or planting) in the quantity required for planting in the areas described in this agreement.
- the buyer provides training for the producer in order to facilitate the producer’s capacity to produce the crop in the required quantity and quality as specified in this agreement. In particular, the buyer will offer training on (specify).

- the buyer provides extension services and supervision e.g. assisting the producer to improve agricultural skills, helping to modernize cultivation methods and to enhance the productivity: (specify)
- The buyer will provide the use of machinery and/or storage facilities
- The buyer will provide loans as specified in the attached loan agreement

Attach a loan agreement indicating what the loan is granted for, specify the conditions of repayment, interest rate, what happens in case of default and that the producer is only allowed to use the loan for production of the produce described in this agreement etc.

4.3 Payments relating to inputs/services for agricultural production

Specify the price per unit of input supply (e.g. price / kg of fertilizer) the producer has to pay to the buyer in return for the inputs received. The price the buyer paid himself for the input he agreed to provide to the producer should be disclosed by him. Otherwise there is a risk of hidden high costs for the producer.

Determine the method and time of payments by the producer to the buyer.

Usually the payments will be offset against the price paid by the buyer for the produce: The total amount to be paid by the buyer to the producer as laid down in Art. 6 will be set off against the costs for services agreed upon in Art. 4.2.

Article 5: Delivery and Packaging (packaging if applying) Specifications

5.1 Time and Place of Delivery

The delivery of the produce will be performed as follows:

Responsible	Name of produce	Delivery point	Date of delivery

*Insert **time of delivery**, for example on a determined date, a certain number of days after harvest.*

*Insert **who will organize delivery**, for example the buyer, the producer, a specific private transportation company. Specify who is responsible for **loading/unloading** of the produce.*

*Insert **place of delivery**, for example: address of the buyer, address of the producer, buyer's warehouse or storage location, other.*

*It should be made clear at what stage the buyer **takes over the possession** of the produce and with this the risk regarding the produce is passed to the buyer:*

The buyer is obliged to take possession of the produce at the agreed delivery point at the date of delivery if it meets the agreed contractual specifications. With this the ownership and all risks incurred pass over to the buyer.

The agricultural product has to be delivered with *insert mode of transportation, e.g. in refrigerated vehicles, closed vehicle, special transport vehicle that facilitates unloading directly to storing facility.*

The producer is obliged to enable the buyer to inspect the produce at delivery. The costs of inspection are born by the buyer. The buyer is obliged to pursue the inspection promptly to avoid deterioration of the produce. The producer has the right to monitor the inspection and receive a protocol of the inspection. The buyer has to indemnify the producer/pay the full price agreed for the produce if the deterioration was caused by delay in inspection. In the event that one of the parties does not accept the result of the testing of the samples, another testing of samples will be pursued in the presence of the parties and The results of this testing will be binding for the parties. The party not accepting the first test result will bear the costs of the second testing procedure.

Optional: The producer is obliged to provide to the buyer at the delivery point a detailed description of the produce and its quality and quantity specification. This might also be in the interest of the producer.

5.2 Packaging (only relevant if agricultural product has to be packaged for transport or marketing)

The agricultural product will be delivered packaged *specify the packaging requirements (boxes, bags, pallets, labeled or unlabeled) by specify who is responsible for packaging (e.g. the producer, the buyer, a specific private packaging company)*

5.3 Costs of Packaging (packaging only if applying) and Delivery

The costs for delivery (and packaging) will be covered by,

Insert who will cover the costs, for example the buyer, the producer, the costs will be shared equally between buyer and producer. In most cases the buyer bears the costs and supplies the packaging units.

Article 6: Price, price renegotiation and mode of payment for agricultural product

6.1 Price

The buyer agrees to pay to the producer a fixed price of

..... *insert produce*

Price	Grade ...	Grade ...	Grade	Grade		

Above table is an example if price will be differentiated by grade, insert price in Birr per quintal (or other unit as appropriate) relating to grade or other

or

The buyer pays the producer a price *per quintal (or other unit as appropriate)* of *insert name of product/crop*based on the following calculation:

Insert mode of calculation as negotiated between the parties- information/transparency about the market price (i.e. world market) is important for the producer to find out whether the producer receives

a fair price. If the price determination is related to a market price the market has to be clearly defined by area and data on market prices should be available.

Optional: If the producer delivers produce which exceeds the agreed quality standards he is entitled to a bonus payment of *insert % or another parameter*

6.2 Price Renegotiation (optional)

The parties agree to allow for renegotiation of the agreed price in case of major currency fluctuations or in case of major changes in the price for agricultural produce subject to this contract.

Price renegotiations will take place in case:

- the market price for the produce in (woreda, whole of Ethiopia, world market - name the relevant market, e.g. spot market if exists, the definition has to be precise in order to avoid ambiguities) has risen more than % at the time of delivery
- the EBT at the time of delivery has devaluated due to inflation more than%.

The parties will renegotiate the price for the produce on the grounds of the market price changes/devaluation of the currency.

6.3. Mode of payment

The payment for the agricultural product is due*insert day/month/year*

or

The payment for the agricultural product is due(*insert no. of days*) days after the producer has received the agricultural product (at the agreed place of delivery Art. 5).

or

The payment for the agricultural product is due..... (*insert no. of days*) days after harvest of the agricultural product.

Down payment might be feasible mainly if no services were provided by the buyer to enable him e.g. to buy seeds, fertilizer etc:

The buyer is obliged to make a down payment of % of the total price agreed in Art. 6 days after this agreement became effective (Art. 2).

All payments will be directed to:

insert:

Name of producer/or other recipient of payment

Address

Name of bank

Bank account no.....

Payment reference

Optional if no bank account exists

The payment will be made in cash at the time and place of delivery.

The parties will make a protocol of the produce delivered by the producer and services rendered by the buyer. The buyer signs the receipt of the produce and the producer signs the receipt of payment.

Article. 7: Breach of obligations

7.1 Quality standards

If the producer does not meet the quality standards agreed in this agreement, the buyer has the right to reject the produce. The producer may re-submit the produce after sorting, but the buyer is not obliged to accept produce which does not meet the agreed quality standards. The resorted produce has to be delivered within days after delivery date (see Art. 5). The parties may alternatively agree on a price deduction for the produce with less quality. The burden of proof regarding the allegation of lower quality lies with the buyer.

After the buyer rejected the produce although the product meets the contractual standards, the producer is free to sell the produce on the open market. If he receives a price lower than the agreed price for the produce the buyer has to pay to the producer the difference to the agreed price deducting the costs for the inputs and services received by the producer but taking into consideration the effort of the producer for selling the product on the market. If the produce loses quality due to the rejection and the producer cannot sell the produce than he is entitled to the full agreed price deducting the costs for the services received by the buyer but including the costs for the disposal of the deteriorated produce. If the producer is able to use the produce for other purposes like animal feed, this will be deducted from the price the buyer has to pay to the producer.

7.2. Quantity obligation

If the producer delivers (more than %) less than the agreed minimum quantity of the produce and he is not excused due to reasons laid down in Art. 8, the buyer is entitled to compensation under the condition that he can prove damage due to the breach of the quantity obligation and that the producer was explicitly informed of that risk before the signing of this agreement.

The parties are free to agree on exceeding the quantity obligation.

7.3. Delivery – acceptance

The buyer is obliged to take over the produce at the agreed place of delivery if the produce meets the agreed specifications. If the buyer fails to take over the produce as agreed, the producer is free to sell the produce at the open market. If the producer gets a price less than the price contracted, he is entitled to the price difference to be offset by the costs for services and inputs or if no such services were rendered but taking into consideration the effort of the buyer to sell it on the market. (Art. 6). If the produce deteriorated due to failure of the buyer to take over the produce at the point of delivery on the agreed time the producer is entitled to the payment of the full price and reimbursement of the extra costs for the disposal of the deteriorated produce but deducting the costs for service and inputs provided by the buyer.

In case the buyer pays later than laid down in this agreement, the buyer has to pay to the producer interest of % pa at least with the percentage published by the (insert the responsible authority) on the amount due and in addition indemnify the producer for all related costs and losses.

Article 8: Change of Circumstances, Liability and Force Majeure

8.1 Change of Circumstances

The parties of this contract agree on a renegotiation of this agreement and the alteration of the terms of the original contract in the event that circumstances change exceptionally, unforeseeable, unavoidable and beyond the control of one of the parties and significantly affects the fulfillment of the obligations of one of the parties or both parties.

The affected party must give notice of the change of circumstances as soon as it becomes evident, but not later than days after it becomes evident. It bears the burden of prove regarding the change of circumstances. In case the effected party fails to give notice within the time limit set above the party is liable to pay damages to the other party for all losses incurred.

Partial impossibility of the performance of obligations under the contract due to change of circumstances shall not constitute an immediate and sufficient ground for termination of the contract unless stated otherwise in the contract.

8.2 Liability and Force Majeure

The contracting parties shall be held liable for non-performance of their obligations and non-compliance of the produce according to this contract for willful and gross negligent performance or omission.

The contracting parties cannot be held liable in the event of Force Majeure, which in the scope of this agreement is defined as the occurrence of natural disasters, extreme weather conditions, including extreme rainfall or drought, extreme low or high temperatures, floods and other natural catastrophes as well as the outbreak of pests and diseases, war and other circumstances gathered to be force majeure under Ethiopian law.

Insert here if the parties want to define additional issues that in the scope of this agreement constitute force majeure.

In the event that Force Majeure has actual or potential adverse impacts on the fulfillment of one of the parties’ obligations according to this agreement the affected party shall notify the other party without delay latest days after the occurrence and take reasonable measures to mitigate the adverse impact. The burden of prove lies with the party claiming it. In case the effected party fails to give notice within the time limit set above the party is liable to pay damages to the other party for all losses incurred.

8.3 Penalty payments (optional clause)

In the event a party breaches its contractual obligations laid down in Art. 3, 4, 5.1 and 6 substantially meaning by more than %, or more than once, the party shall pay a penalty in an amount equivalent to % of after prior written warning by the other party and non-

performance within the time-limit set in the warning letter. The penalty provision shall not affect any other claims of the parties resulting from the relevant breach. With the penalty payment the party is not released from fulfilling its obligations. The conditions of payment and the due date will be part of the written warning letter sent by the party.

The penalty payment is not due if the breach of obligations/non-performance is owed to circumstances regulated in Art 8.1 and 8.2

Article 9: Insurance

If applies: The parties agree to obtain insurance against the following risks arising from non-performance

Insert the risks that will be insured

The premium will be paid by

Insert who will pay the rates for the insurance (buyer or producer or third parties such as a government agency or non-governmental organization) and will be liable for paying the premium.

Article 10: Termination of the Agreement

Describe in detail the specific situations under which each party is entitled to terminate the contract. If it is a seasonal agreement termination rights might not be needed.

For example:

10.1 Termination by both parties

The parties may terminate this agreement, without prejudice to any other rights that they may have, and without prior written notice, if the other party dissolves, liquidates, becomes insolvent, files for bankruptcy, makes an assignment for the benefit of creditors, petitions or applies to any tribunal for the appointment of a trustee or receiver for itself, or commences any proceedings concerning itself under a law concerning bankruptcy, or insolvency other than for the purposes of corporate reorganization.

10.2 Termination by the buyer

The buyer is entitled to terminate this agreement in the event of non-compliance of the producer with the contractual obligations that does not arise from the change of circumstances or Force Majeure as described under Article 8 and the producer fails or neglects to either diligently and consistently pursue a course of action that is reasonably intended to remedy that breach or failure within (*.... specify*) **days** after the buyer gave a notice requiring that the breach be remedied or the provision be complied with or observed.

10.3 Termination by the producer

The producer is entitled to terminate this agreement in the event that the buyer fails to provide the producer with the inputs and services as described under Articles 5 and 7 and/or fails to meet other

obligations laid down in this contract after the producer gave written notice with a period of 15 days and the buyer still fails to meet these obligations. The producer may also terminate the agreement without further notice if the buyer repeatedly is in default of payment for received agricultural produce.

10.4 Consequences of termination

Possible compensation for unexhausted improvements/investments made, standing crops, services already rendered etc. should be regulated in this article.

Article 11: Dispute Resolution

In the case of a dispute that cannot be solved by negotiating and settling the dispute amicably among the parties, the parties agree to resort to a mediator. The mediator may be a professional mediator, a representative of the regional bureau or any independent person to be mutually chosen by the parties.

In the case the dispute cannot be solved through mediation the parties agree to settle the matter in question by arbitration by applying to the regional bureau to initiate the proceedings.

If mediation or arbitration fails to resolve the dispute of the parties of this agreement nothing shall restrict the parties to resorting to the appropriate court.

It could be advisable to regulate the mediation procedure or take reference to existing procedures. See also the regulations laid down in the Proclamation.

If additional specific remedies for resolving disputes are negotiated insert here.

Article 12: Succession

In case of succession on the side of the buyer, the buyer will inform the producer without delay in writing of the succession assuring him that successor will perform the contract in the same manner. In case of death of the producer this agreement will be performed by the heirs unless there are no heirs or no family member demonstrably able to perform the contractual obligations. In the event there are no heirs or the family members of the producer are demonstrably not capable to fulfil the remaining contract obligations the agreement will be deemed terminated from the date of death. No compensation is due if the family members inform the buyer without undue delay of the death of the producer.

Article 13: Governing law, Language and Mode of Communication

All communication and notices to be sent between the parties, Ethiopian authorities and third persons in Ethiopia shall be in writing using the Amharic language. If the producer is illiterate and/or only speaks a language other than Amharic the buyer has to ensure that the contract and all further communication will be translated into the other language and in the case of illiteracy that someone is present who reads and explains the contract, communications and notices to the producer in the regional language. All notices/communication shall be delivered

in person or by mail. The party sending the notice has the burden of proof regarding the arrival at the recipient. It is the obligation of that party to ensure that it reaches the proper recipient.

Note regulation in the proclamation: “Governing law is the law of Ethiopia. No law shall in so far as it is inconsistent with the proclamation No... have force or effect in respect of matters provided for in the proclamation.”

Article 14: Severability clause

If any part of this agreement is invalid or unenforceable, the remainder of this agreement shall remain effective, absent such provision to the fullest extent permitted by law.

No change in this agreement shall be effective unless it is in writing and is signed by both parties.

It is understood, that the parties have read the terms and provisions of this agreement and have agreed to abide by the terms and provisions herein.

Article15: Data collection

After this agreement has been concluded the contracting parties are obliged to send a copy of it to the (responsible government body either Ministry or the regional bureau depending on where the contracts takes effect)

Buyer	Producer		
SIGNED, SEALED and DELIVERED	SIGNED, SEALED and DELIVERED		
For and on behalf of the	For and on behalf of		
Date-----	Date -----		
Witnesses			
	Name	Address	Signature
1.	-----	-----	-----
2.	-----	-----	-----
3.	-----	-----	-----

According to the Proclamation the regional bureau or the Ministry/responsible authority has to be witness to this agreement

Published by the
Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH

Registered office
Bonn and Eschborn, Germany

**Support to Responsible Agricultural Investments in Ethiopia (S2RAI)
Project**

Rahem Building, Diaspora Square, Megegnagna
P.O. Box 100009, Addis Ababa, Ethiopia
www.giz.de/ethiopia

Contact Person
Oliver Schoenweger
Project Manager
T +251 (0) 116 629 980 ext. 335
M +251 (0) 947 921 814
E oliver.schoenweger@giz.de

Design and Layout
Zeleman Communications, Advertising and Production

Photo credits
Zeleman Communication, Advertising and Production



European Union



german
cooperation
DEUTSCHE ZUSAMMENARBEIT



ጥብርና ሚኒስቴር
MINISTRY OF AGRICULTURE

This document was produced for the project Support to Responsible Agricultural Investments in Ethiopia (S2RAI), implemented by the Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) GmbH and with the financial assistance of the European Union and the German Federal Ministry for Economic Cooperation and Development (BMZ).

The views expressed herein can in no way be taken to reflect the official opinion of the European Union and the BMZ.

giz Deutsche Gesellschaft
für Internationale
Zusammenarbeit (GIZ) GmbH