

LEGAL NOTICE NO.....

**THE CROPS ACT, 2013**  
(No.16 of 2013)

**IN EXERCISE** of the powers conferred by section 40 of the Crops Act, 2013, the Cabinet Secretary for Agriculture, Livestock and Fisheries in consultation with the Agriculture and Food Authority and the county Governments, makes the following Regulations—

**THE CROPS (SUGAR) (GENERAL) REGULATIONS, 2018**

**PART I – PRELIMINARY**

Citation.                    **1.** These Regulations may be cited as the Crops (Sugar) (General) Regulations, 2018.

Interpretation.            **2.** In these Regulations, unless the context otherwise requires-

“agreement” means an agreement specifying the standard provisions that govern the rights and obligations of growers, millers, out-grower institutions, harvesters and transporters;

No. 13 of 2013.            “Authority” means the Agriculture and Food Authority established under the Agriculture and Food Authority Act, 2013;

“Committee” means the Sugarcane Pricing Committee established under regulation 36;

Cap. 490.                    “co-operative society” means a co-operative society registered under the Co-operative Societies Act;

“county government” means a County Government provided for under Article 176 of the Constitution;

“Directorate” means the Sugar Directorate of the Authority established under section 11 of the Agriculture and Food Authority Act, 2013;

“extraneous matter” means any matter other than sugarcane delivered with and weighed as sugarcane;

“farm-gate” means a site nearest to a grower designated as such by the Authority where sugarcane weighing and quality testing facilities have been set up;

“grower” means a person who produces sugarcane in Kenya but does not include an out-grower institution;

“industry” means the Kenyan sugar industry;

“independent grower” is grower who—

- (a) is not a member of any out-grower institution;
- (b) does not depend on the miller for any assistance;
- (c) depends solely on his own resources to develop and supply sugarcane directly to any miller under contract;

“interested party” means a stakeholder in the sugar industry including but not limited to the Government, millers, growers and out-grower institutions;

“letter of comfort” means a letter from the Authority to an applicant investor to enable the investor to apply for registration as a miller;

“license” means an operating license issued by the Authority to a registered miller under regulation 7;

“miller” means a person who owns or operates a sugarcane mill to produce sugar, including refined sugar, jaggery and other by-products;

“mill command zone” means a specific geographical area assigned to a miller by the Authority in consultation with the relevant County Government based on milling capacity and crop productivity for the purpose of development and procurement of the sugarcane.

No. 17 of 2015.

“out-grower institution” means an institution formed by growers, approved by the Authority, and registered under the Companies Act, 2015, the Cooperative Societies Act or any other relevant law that may be;

“seed cane nursery” means a place where sugarcane varieties are progressively grown under strictly controlled agronomic conditions for eventual establishment of the sugarcane crop which may be categorized as either A-nursery, B-nursery or C-nursery depending on the stringency of the conditions applied to preserve seed cane specifications, with conditions loosening with progression from A- to C-nursery;

“sugar inspector” means a person appointed as an inspector under Section 28;

“sugarcane” shall be equated to mean sugar cane (*Saccharum*) and sugar beet (*beta vulgaris*) grown for the extraction of sugar;

“Sugarcane Growers Apex Body” has the meaning assigned to it in regulation 12 means a national sugarcane farmers organization as may be Gazetted by the Cabinet Secretary from time to time;

“Sugarcane Millers Apex Body” has the meaning assigned to it in regulation 11;

“working day” means a day other than a Saturday, Sunday or public holiday; and

“zone” means specific geographical area assigned to a miller by the Authority base on milling capacity and crop productivity for development and procurement of the sugarcane.

## **PART II—FUNCTIONS OF THE DIRECTORATE**

Functions of the  
directorate.

- 3.** The Directorate in consultation with County Governments shall—
  - (a) regulate, develop and promote the industry;
  - (b) co-ordinate the activities of individuals and organizations within the industry;
  - (c) formulate and implement overall policies and plans for the development of the industry;
  - (d) promote and encourage the use of environment friendly technologies in the industry;
  - (e) collect collate and analyse industry statistics and maintain a database for the industry;
  - (f) act as an intermediary between the Authority and the industry;
  - (g) support agricultural research and promote the use of the technology in the industry;
  - (h) participate in resource mobilization for agricultural research;
  - (i) monitor the domestic market and to identify and advice on any distortions in the sugar market;
  - (j) promote arbitration and mediation of disputes among interested parties;
  - (k) regulate the export and import of sugar and the by-products of sugar;
  - (l) facilitate capacity building for county governments and other relevant stakeholders;
  - (m) review agricultural policies;
  - (n) provide advice to grower institutions and millers;
  - (o) facilitate mechanisms for negotiations for equitable pricing of sugarcane and provide a schedule for the pricing of sugarcane and appropriation of proceeds from the disposal of the by-products of sugar production between growers and millers;
  - (p) represent the industry in other organizations that are relevant to the promotion of the industry;
  - (q) oversee the formulation of standard provisions governing the mutual rights and obligations of growers and millers;
  - (r) promote the efficiency and development of the industry through the establishment of appropriate institutional linkages at national and county government levels;
  - (s) set standards for the acquisition of high quality planting material in consultation with relevant Government agencies; and
  - (t) perform such other functions as may be, from time to time, assigned by the Cabinet Secretary or the Authority.

## **PART III: LICENSING AND REGISTRATION OF MILLERS**

Setting up of sugar processing factory.

**4.** (1) A person who intends to set up a sugarcane processing factory shall apply for a letter of comfort from the Authority in Form A1 set out in the First Schedule which shall be processed in accordance with the Second Schedule in consultation with county governments.

(2) The Authority shall, on receipt of the application under sub regulation (1), issue a letter of comfort to the applicant in Form A2 set out in the First Schedule.

Revocation of letter of comfort.

**5.** (1) The Authority may revoke a letter of comfort if they discover that—

- (a) the applicant made a false declaration in the application;
- (b) the letter of comfort was obtained by corruption or fraud; or
- (c) any condition of the letter of comfort has been breached and no remedial measures have been made.

(2) Only persons who, in the opinion of the Authority and County Governments, have satisfied the conditions in the letter of comfort shall be eligible to apply for registration of a sugarcane-processing factory.

Registration of millers.

**6.** (1) A miller who intends to establish a sugarcane mill, shall apply to the Authority for registration in Form A1 set out in the First Schedule.

(2) The Authority shall issue a successful applicant with a Miller's Certificate of Registration in Form A3 set out in the First Schedule.

(3) A registered miller shall notify the Authority of all changes in its ownership and shareholding

(4) A registered miller shall notify the Authority and the relevant county government of an appointment of a principal officer or a director within thirty days of the appointment .

(5) Where the Authority is not satisfied that the appointee in sub regulation (4) is fit to serve it shall notify the registered miller who shall be required to replace the appointee.

(6) A registration certificate shall not be transferable.

(7) The Authority may revoke the registration if it discovers that—

- (a) the applicant made a false declaration in the application;
- (b) the Miller's Certificate of Registration was obtained by corruption or fraud; or
- (c) a condition of the registration has, in the opinion of the Authority, been breached.

(8) A registered miller, who does not establish a sugarcane mill within two years of being issued the certificate under sub regulation (2) without reasonable cause, shall be deregistered.

(10) A registered miller who operates a sugarcane mill without a certificate issued under sub regulation (2), or contravenes sub regulations (3), (4), (5) or (7) commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a period not exceeding one year, or to both.

Licensing of millers.

**7.** (1) A registered miller shall apply for a license in Form A4 set out in the First Schedule.

(2) The Authority shall issue a Licence for a Sugarcane Mill in Form A6 set out in the First Schedule to a registered miller.

(3) A license issued under sub regulation (2) shall, unless revoked earlier, expire on the 30<sup>th</sup> of June after the date of issue.

(4) The Authority shall revoke the license of a registered miller whose conformity to the licensing conditions falls below the fifty per cent mark after being assessed by the Authority, provided that the license may be reinstated to a miller who subsequently satisfies the licensing conditions.

(5) A registered miller may apply to the Authority for the renewal of their license annually in Form A5 set out in the First Schedule.

(6) The application made under sub regulation (5) shall indicate the details of changes in material against which the first license was issued in addition to copies of other supporting documents whether there was prior notification of the changes to the to the Authority.

(7) A license shall not be transferable.

(8) A registered miller who operates a sugarcane mill without a license commits an offence and shall be liable, on conviction, to a fine not exceeding ten million shillings, or to imprisonment for a term not exceeding five years, or both.

General procedures on registration and licensing of millers.

**8.** (1) The Authority, in consultation with the relevant county government and other stakeholders, conduct an evaluation and prepare a written evaluation report within ninety working days after submission of an application.

(2) If an incomplete application has been submitted, it shall be deemed to have been properly submitted when any clarification or additional information required is submitted.

(3) After the report under sub regulation (1) is prepared, the Authority, within twenty-one working days, shall give a written notice to the applicant

of the date of the next sitting of the Authority, with respect to the application.

(4) If the Authority declines any application, it shall—

- (a) prepare written reasons; and
- (b) include in the notice to the applicant, a copy of the reasons and a copy of the report prepared.

(5) If an applicant does not receive a notice of the Authority's decision within the time prescribed under sub regulation (3), the applicant may appeal to the Cabinet Secretary within thirty days .

(6) Where an application raises an issue that is not provided for in these Regulations, the Authority shall refer the issue to the appropriate person and shall inform the applicant of that referral.

(7) The Authority shall liaise with the appropriate authorities for the purposes of determining whether an applicant ought to obtain other related licenses.

Investment  
Certificate for  
millers.  
No. 6 of 2004.

**9.** (1) A miller applying for registration under regulation 6, may apply for an Investment Certificate from Kenya Investment Authority in accordance with Investment Promotion Act, 2004.

(2) An applicant shall provide a precise description of the business and ownership of their proposed sugarcane projects and specify the role of foreign investors, local and national government involvement in the projects.

(3) The applicant shall prepare a business and marketing plan or a feasibility study report for their proposed sugarcane project and the plan or report shall contain—

- (a) information on how the project is to target—
  - (i) foreign currency generation and savings;
  - (ii) import substitution;
  - (iii) the creation of employment opportunities;
  - (iv) linkage benefits;
  - (v) the transfer of technology; and
  - (vi) the expansion of production of goods and services;
- (b) a clear statement of the project objectives;
- (c) information regarding the investor (s) (profile);
- (d) the details of investment costs (foreign and local expected capital expenditure);
- (e) information on how the proposed investment will be financed;
- (f) the specific source(s) of finance for the project;
- (g) the terms and conditions of any loan (s), if applicable;
- (h) the sources of technology, if applicable;
- (i) the financial and economic analysis of the project;

- (j) a market study;
- (k) the project capacity;
- (l) the intended production process if applicable;
- (m) the environmental impact assessment of the project; and
- (n) proposed implementation schedule.

(4) Where the applicant is engaging in a new project, the application shall include product diversification components, where applicable.

(5) The plan or report made under sub regulation (3) may include incentives which the project may exploit such as —

- (a) any investment and capital allowances;
- (b) the remission for taxes;
- (c) manufacturing under bond status;
- (d) export processing zones status;
- (e) a double taxation agreement;
- (f) the protection and promotion of investment agreements;
- (g) any relevant bilateral investment treaties; and
- (h) any relevant trade agreements.

(6) The applicant shall demonstrate how the project will take advantage of investment promotion services as provided for by the Investment Promotion Act, 2004.

(7) If the applicant is a foreign investor, they shall be protected in accordance with expropriation guarantees as enshrined in the Kenyan Constitution, the Foreign Investment Protection Act, Cap 518 and other guarantees under the Multilateral Investment Guarantee Agency, a World-bank affiliate and the Africa Trade Insurance Agency and any other relevant institutions.

Mill command zone.

**10.** (1) The Authority in consultation with the County Government project shall assign a specific geographical zone for development and procurement of sugarcane.

(2) The zone under sub regulation (1), within the command area of registered miller's project shall be recorded on a certified map of sugarcane development according to —

- (a) the sugarcane processing capacity of the project, measured as tonnes of sugarcane per year;
- (b) the general climate suitability (temperature, rainfall, altitude, relative humidity and length of growing period of the sugarcane);
- (c) the soil characteristics, physiographic, agroecological system;
- (d) the infrastructure development of the mill;
- (e) the land use policy or system of the area where the mill is situated;
- (f) the water resources; and
- (g) the sugarcane productivity.

(2) A registered miller shall demonstrate their capability to utilize the full potential of the zone that it has been assigned. The Authority in consultation with The County governments shall from time to time review the mill command zones

(3) A new sugar project shall not be allowed within the assigned zone of a registered miller.

(4) The respective County governments shall maintain a register of all registered millers and the zones assigned to the under this regulation.

Registration of millers' in an apex body.

**11.** (1) All millers shall be members of an umbrella association for advocacy of their interests.

(2) The Cabinet Secretary may appoint an umbrella association as a Sugarcane Millers Apex Body by a notice in the Gazette.

(3) All millers shall register as members of a Sugarcane Millers Apex Body.

Registration of growers in an apex body.

**12.** (1) All growers shall be members of an umbrella association for advocacy of their interests.

(2) The Cabinet Secretary may appoint an umbrella association as a Sugarcane Growers Apex Body by a notice in the Gazette.

(3) All growers shall register as members of a Sugarcane Millers Apex Body.

Registration of out-grower institutions.

**13.** (1) A person shall not carry on the business of an out-grower institution without being registered by the Authority.

(2) A registered out-grower institution shall —

- (a) promote and represent the interests of growers;
- (b) negotiate the terms of supply of sugarcane to the miller and the co-ordination of the production, harvesting and transport thereof;
- (c) provide financial credit or arrange for financing of growers in the production of their sugarcane, including land clearance and preparation, planting, cultivation and tending, harvesting, transport and the supply of goods and services relating thereto;
- (d) provide or procure services, advice and assistance for grower members as may be required, to carry out or procure the carrying out of such operations for grower members;
- (e) provide or procure accounting services and record keeping services for members in respect of their individual operations; and
- (f) purchase, sell or otherwise deal in, securing or providing such goods, materials, supplies and services as may be required by members.



(3) A person may apply for registration as an out-grower institution in Form B1 set out in the First Schedule.

(4) The Authority on consultation with the relevant county government shall issue a successful applicant with registration certificate in the name of applicant.

(5) A registered out-grower institution shall notify the Authority and the relevant county government of any change in its ownership and shareholding.

(6) A registered out-grower institution shall notify the Authority and relevant county government of the appointment of a principal officer or a director within thirty days of the making of such appointment.

(7) Where the Authority, on consultation with the relevant county Governments is not satisfied that the person so appointed is fit and proper, the Authority shall notify the registered out-growers institution who shall replace such appointee.

(8) A registration certificate issued to an out-grower institution shall not be transferable.

(9) The Authority may revoke the registration of an out-grower institution if it discovers that—

- (a) the applicant made a false declaration in the application;
- (b) the registration certificate was obtained by corruption or fraud;
- (c) a condition of the registration has been breached; or
- (d) the out-grower institution has not complied with the requirements of this regulation.

(10) An out-grower institution which does not comply with sub regulations (1), (5) or (6) commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings, or to imprisonment of its directors for a period not exceeding one year, or to both.

Registration of sugarcane growers.

**14.** (1) A grower may be registered with an out-grower institution or any other organization representing interests of growers.

The millers and out-grower institutions shall share the growers' registers with the respective County governments

Agreements for dealing in sugar.

**15.** (1) A grower who cultivates sugarcane with the assistance of a registered miller shall enter into an agreement directly with the registered miller or through a registered out-grower in Form E1 set out in the First Schedule.

(2) A registered out-grower institution which supplies sugarcane to a registered miller shall enter into an agreement with the miller for sugarcane supply in Form E2 set out in the First Schedule.

(3) A grower who joins a registered out-grower institution for the purposes of facilitating sugarcane production and marketing shall enter into a sugarcane supply agreement with the grower in Form E3 set out in the First Schedule.

(4) A grower who cultivates sugarcane independently and intends to supply it directly to a registered miller shall enter into an agreement with the miller for sugarcane supply in Form F3 set out in the First Schedule.

(5) A grower who wishes to appoint an agent, registered out-grower institution or a representative in respect of matters concerning sugarcane growing may do so in Form B2 set out in the First Schedule.

Register for out-grower institutions, millers, dependent growers etc.

**16.** (1) A registered miller shall maintain a register of the registered out-grower institutions, its miller dependent growers and independent growers who have entered into agreement with it for sugarcane farming and supply of sugar cane.

(2) The register shall contain the particulars of the registered out-grower institutions, the growers, the particulars of the miller's zone, location, land registration number, identity number, contract number, sugarcane harvester(s), transporter(s), acreage, variety, crop cycle and yield of sugar.

(3) A registered out-grower institution shall maintain a register of its members and the growers who it has entered into agreement for sugarcane farming and supply, with particulars of the location, land registration number, identity number, contract number, sugarcane harvester(s), transporter(s), acreage, variety, crop cycle and yield of sugar of all the growers.

(4) All registered millers and registered out-grower institutions shall submit to the Authority and the relevant county government, annual returns of the registers maintained under this regulation before the thirty-first January following the conclusion of the data collection period in the format prescribed by the Authority.

Conditions for registration of out-grower institution.

**17.** An out-grower institution shall only be registered under regulation 13 if it—

- (a) is a limited liability company by shareholding or a co-operative society; and
- (b) has a register of members who are shareholders.

Appointment of the management of out-grower institution.

**18.** (1) The appointment of a directors or a member of the management committee, if the registered out-grower association is a co-operative society, shall be by an election based on one man one vote.

(2) A director or member of the management committee of a registered out-grower institution, as the case may be, shall —

- (a) have attained minimum education of up to secondary school level with passes in Mathematics and English;
- (b) not be an undischarged bankrupt;
- (c) have no criminal record;
- (d) be of sound mind;
- (e) be older than eighteen years of age; and
- (f) not be an elected Member of Parliament or a County Assembly.

(3) A registered out-grower institution may appoint a Chief Executive Officer or a General Manager who shall have, as the minimum educational level, a first degree and at least seven years' experience in management in a commercial environment.

Capital structure.

**19.** A registered out-grower institution shall have a proper match between debt and equity at a ratio of one to two or as may be determined by the Authority from time to time.

Management structure of an out-grower institution.

**20.** (1) A registered out-grower institution may organise itself into the following departments, based on the financial ability of the institution —

- (a) finance and accounting;
- (b) human resources and administration;
- (c) operations;
- (d) sugarcane development;
- (e) equipment maintenance;
- (f) fleet management; and
- (g) any other department it deems necessary for the proper carrying out of its functions.

(2) The head of the finance department shall be a fully qualified accountant with at least five years' experience in a commercial environment.

(3) A head of a department, other than for finance, shall have, at least, a diploma holders in the respective area of responsibility and, at least, five years relevant experience in a commercial environment.

(4) The Authority may not recognise or facilitate to any registered out-grower institution that does not comply with this regulation.

Environmental impact assessment.

**21.** (1) A registered miller shall demonstrate their ability to continuously satisfy cultural and socio-economic needs of its local community, in particular, the miller shall positively influence—

- (a) population dynamics;
- (b) Kenya's economy;
- (c) agriculture sector institutions;
- (d) infrastructure;
- (e) communication;
- (f) education;

- (g) health; and
- (h) the status of food and cash crops.

No. 8 of 1999. (2) A registered miller shall ensure that the sugarcane mill does not have a detrimental impact on the local and global environment in accordance with the Environmental Management and Coordination Act, 1999.

Plans for sugarcane development. **22.** A registered miller and a registered out-grower institution shall make plans, and shall submit such plans to the Authority and the respective County government, for sugarcane development for its growers who are in suitably large farm clusters and whose sugar cane have a similar maturity period to facilitate economic harvesting and transportation.

Adequate milling capacity. **23.** (1) Subject to sub regulation (2), a registered miller shall ensure that they have adequate milling capacity for sugarcane grown based on agreed sugarcane development plans with the growers and shall mill sugarcane efficiently so as to realize maximum returns for both them and the growers by achieving the standards set out in the Second Schedule.

(2) A registered miller shall maintain and operate her project strictly in accordance with the registered capacity, in terms of mean tons sugarcane processed per day, mean annual sugar recovery percent and tons sugarcane processed per annum as set by the Directorate.

(3) A registered miller who makes an unauthorized change in installed capacity by a variation of up to twenty percent of the registered capacity of their sugarcane mill commits an offence and shall be liable, on conviction, to deregistration.

Report of changes to millers. **24.** A grower, whether a member of a registered out-grower institution, who changes the name of his farm or estate, land reference number or any particulars registered with the miller or the institution, shall report the change to the miller or the institution in accordance with the agreement between the parties.

Prohibition of issuances of certified seeds. **25.** (1) Only the Directorate, or a person acting as an authorised agent of the Directorate, may issue or supply certified seed for multiplication in any nursery.

(2) A grower shall be registered to operate a B-nursery, only with prior approval of the Directorate in collaboration with the registered miller or registered out-grower institution with which the grower has an agreement for sugarcane farming and supply.

Approval of stakeholders' contracts. **26.** (1) A stakeholder who intends to initiate a contract under these Regulations shall first have their contract approved and registered by the Authority.

(2) A contract not registered by the Authority shall be null and void.

*The Crops (Sugar)(General) Regulations, 2018*

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Payment statement by millers.

**27.** A registered miller shall issue a grower or a registered out-grower institution, , a payment statement that shows the quantity of sugarcane delivered, its price and any deduction or recovery on the payment, as agreed with the grower or institution, in accordance with the agreement between the parties.

Payment statements by registered out-grower institutions.

**28.** A registered out-grower institution shall issue an out-grower member's payment statement that shows the quantity of sugarcane delivered, its price and any deduction or recovery on the payment, as agreed with the member in accordance with the agreement between the parties.

Payments by registered millers.

**29.** (1) A registered miller shall ensure, whether a grower delivered sugarcane independently or through an agent or a registered out-grower institution, that the grower is paid within thirty days after delivery of the sugarcane.

(2) If a registered miller does not comply with sub regulation (1), the miller shall be liable to pay interest, at market rates on the due payment and an additional penalty at the rate of one point five percent per month on payment due to the grower or institution, as the case may be.

Payments by registered out-grower institutions.

**30.** (1) A registered out-grower institution shall coordinate with a registered miller to ensure that the miller complies with regulation 29 and remits the same .

(2) If a registered out-grower institution fails to remit to a grower the payment received from the registered miller under regulation 29, for any reason other than delay in payment by the miller, the institution shall be liable to pay interest, at market rates, on the due payment and an additional penalty at the rate of three per cent per month on the due payment.

Harvesting and transportation of sugarcane.

**31.** (1) A person who intends to harvest sugarcane on behalf of a grower, registered miller or out-grower institution, shall do so based on an agreement between the parties in Form D1 set out in the First Schedule

(2) A grower who intends to harvest or transport their sugarcane with the assistance of a registered miller or registered out-grower institution for purposes of supply to the miller shall, prior to doing so, enter into an agreement with either the miller or the institution for sugarcane harvesting or transportation to the miller in Form D2 set out in the First Schedule.

Sugarcane development plan.

**32.** (1) Sugarcane shall be harvested, weighed and transported to the miller, at maturity in accordance with a sugarcane development plan and supply agreement in Form E3 set out in the First Schedule.

(2) The harvested sugarcane shall be weighed at the farm-gate.

(3) Where a contracted registered miller, registered out-grower institution, harvester or transporter fails to either harvest, weigh or transport in accordance with the sugarcane development plan and supply agreement,

the miller, institution, contracted harvester or transporter shall compensate the grower for the losses incurred within the sugarcane development plan period.

Registration of dealers in sugarcane.

**33.** A person who intends to be a sugarcane harvester, transporters or primary distributor of sugarcane products shall be registered by the Authority in consultation with the relevant county government.

Sugarcane transportation permit.

**34.** (1) A person shall not transport or cause to be transported, sugarcane across the zone of a registered miller without a sugarcane transportation permit granted in Form C set out in the First Schedule by the Authority.

(2) The Authority may grant the permit under sub regulation (1) based on an agreement among the interested parties in each zone.

(3) Sugarcane shall only be supplied to registered millers by transporters who have been issued with a crop movement permit under sub regulation (1).

Monthly crop program.

**35.** A registered miller shall provide a grower or a registered out-grower institution with a monthly sugarcane harvesting program which shall conform to the sugarcane maturity periods.

Sugarcane pricing committee.  
No. 13 of 2013.

**36.** (1) Pursuant to section 4 of the Agriculture and Food Authority Act, 2013, the Authority in consultation with the county governments sets the following formula for the pricing of sugarcane —

$$\text{Price of sugarcane} = \frac{\text{Pol \% sugarcane} \times KR \times \text{Farmers' share} \times \text{monthly average net price of sugar}}{1 + E\%}$$

*Plus % of value of by products*

where  $KR$  = Expected Mill Extraction x Expected Boiling House Recovery; and

$E\%$  = Extraneous matter % cane.

(2) The Authority in consultation with the county governments may establish a Sugarcane Pricing Committee, which shall comprise of —

- (a) 2 representatives from the Authority;
- (b) two representatives of the Sugarcane Growers Apex Body;
- (c) two representatives of Sugarcane Millers Apex Body; and
- (d) 3 representatives nominated by the county governments from the sugarcane growing areas.
- (e) The Authority and the County government to co-chair,

(3) The Committee members shall hold office for a period of 3 years and shall be eligible for re-appointment once for a further term of 3 years

(3) The objective of the Committee shall be to review sugarcane prices based on the weight and sucrose content and any other measurable quality parameter of sugarcane that may be deemed useful by the Committee.

(4) The formula set out in sub regulation (1) shall be subject to change as agreed upon by the Committee.

(5) The exercise of determining sucrose content of sugarcane for sugarcane pricing under sub regulation (3) shall be carried out by a sugarcane testing unit in a professional and independent manner and shall submit a report of its findings to the Committee.

(6) The testing unit shall be responsible for testing and analysing sugar and the by-products of sugar in accordance with recommendations of the Committee.

(7) The Committee shall be responsible for determining a transport tariff for sugarcane.

(8) The Committee may engage a certified professional to verify the data presented to them during their meetings.

(9) A member of the Committee appointed under Regulation 36 (2) (b) and (c) may at any time resign from office by notice in writing to the Authority

(10) A member of the committee may be removed from office if the member;

- a. Has been absent from three consecutive meetings of the committee without the permission of the chairperson
- b. Is adjudged bankrupt or enters into a composition scheme or arrangement with his or her creditors
- c. Is convicted of an offence involving dishonesty or fraud
- d. Otherwise fails to comply with the requirements of Chapter 6 of the Constitution
- e. Is convicted of a criminal offence and sentenced to imprisonment for a term exceeding 6 months or to a fine exceeding Ten Thousand Shillings
- f. Is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his or her duties as a member of the committee

(11)

Burnt sugar.

**37.** A registered miller may accept burnt sugarcane subject to the following conditions —

- (a) a grower signs an authority to harvest his burnt sugarcane before cutting which authority shall be separate from any sugarcane farming contract and shall set out conditions for the miller's acceptance the burnt sugarcane;

- (b) the sugarcane shall be delivered to the mill weighbridge within a period of not more than seven days after cutting, inclusive of the day of burning, according to specific registered miller zones;
- (c) only sugarcane of an acceptable quality shall be harvested; and
- (d) a payment for burnt sugarcane shall be made one month from the date of the scheduled harvest of sugarcane.

Sugar technologists' association.

**38.** (1) The Authority, through the Sugar Directorate shall encourage and support the formation, growth and regulation of a vibrant membership-based sugar technologists' association.

(2) The association under sub regulation (1) shall —

- (a) provide professional leadership in developing sugar technology; and
- (b) provide relevant technical or professional knowledge and their application,

in enhancing the capabilities of those who are involved in management, education, training, research or development of the sugar industry.

#### **PART IV: FINANCIAL PROVISIONS**

Imposition of Sugar Levy

**39.** (1) A sugar development levy of 4% of the ex-factory price and imports shall be charged on all sugar sales. This levy shall be collected by the Kenya Revenue Authority on behalf of the Authority.

(2) Fifteen per cent of the gross levy shall be kept as reserve.

(3) The percent balance shall be shared as follows—

- (a) the Authority – Sugar Directorate Administration - 1.4/4 of 85% ;
- (b) Research & Extension - 0.94/4 of 85%
- (c) ) Cane Development - 0.66/4 of 85%
- (d) Factory rehabilitation - 0.0.71/4 of 85%

#### **PART IV – MISCELLANEOUS PROVISIONS**

Approved standards.

**40.** (1) A registered miller shall manufacture, package, transport or store in a warehouse, sugar and by-products of sugar in accordance with the standards approved by the Authority.

(2) A brand package, including a brand which is repackaged for sale by a distributor, shall be registered with the Authority.

(3) A person who doesn't comply with sub regulations (1) or (2) commits an offence and shall be liable upon conviction to a fine not exceeding five million shillings or imprisonment for a period not exceeding one year.

Stay of an Order.

**41.** (1) A person against whom an Order for the revocation of an approval, registration, license or permit has been made, may apply for a stay of the Order for a period not exceeding thirty days from the date of the Order.



(2) If granted the stay under sub regulation (1), the applicant shall effect the recommended remedial action, if any, within the period of the stay of the Order.

Appeals.

**42.** A person who is aggrieved by a decision made by the Cabinet Secretary in an appeal filed under regulation 8, the person may further appeal to the High Court.

Sugar industry agreements.

**43.** (1) There shall be an agreement that may be negotiated between growers and registered millers, between growers and registered out-grower institutions, and between registered millers and registered out-grower institutions.

(2) An agreement under sub regulation (1) shall conform to the guidelines set out in the Schedule.

(3) The guidelines under sub regulation (2) may be amended on the recommendation of the Committee.

(4) An agreement under sub regulation (1), shall provide for —

- (a) sugarcane farming and supply, specifically the terms and conditions for the cultivation of sugarcane and the production of sugar and prescribing the rights and obligations of a grower or a registered miller or a registered out-grower institution;
- (b) the engagement of service providers in the harvesting and transportation of sugarcane; and
- (c) the forms for the appointment of grower agent(s) and an sugarcane transportation permit.

#### **FIRST SCHEDULE**

Form A1

(r. 4 (1), 6 (1))

**APPLICATION FOR REGISTRATION OF A MILLER/ LETTER OF COMFORT**

To  
The Director General,  
AFA

1. I/We

.....  
... (Director/directors/agent of ..... (Name of business  
enterprise) apply for a Letter of Comfort/ Registration for .....  
..... (Name of sugar project).

2. The registered office of the sugarcane mill will be situated  
at.....

3. Copies of the following documents are attached to this application —

- (a) the Memorandum and Articles of Association or partnership agreement;
- (b) the Certificate of Incorporation/Registration;
- (c) the profiles of the investor(s), directors or principal officers;
- (d) a copy of the project profile or feasibility study showing the implementation period,  
program of implementation and operation dates; and
- (e) evidence of financing and land ownership for the project.

4. The head office of the sugarcane mill will be situated at  
.....

5. The principal officers of the sugarcane mill are  
.....

6. Auditors of the sugarcane mill are  
.....

7. The authorized share capital of the sugarcane mill is Kshs./US\$:  
.....

8. The intended capital investment of the sugarcane mill is Kshs./US\$.....  
.....

9. The date of the end of the financial year is.....

I, ..... of Post Office Box Number .....  
..... do solemnly and sincerely declare that I am a  
Director/duly authorized agent of .....  
.....

**AND** that all the requirements of the Crops Act, 2013 in respect of matters precedent to the  
registration of this sugar project and the business enterprise under other Acts and incidental



*The Crops (Sugar)(General) Regulations, 2018*

---

Plant and equipment .....  
Vehicles .....  
Furniture & Fittings .....  
Working Capital .....  
Others .....  
**TOTAL** .....

**Contact Details:**

Name: ..... Title: .....  
Telephone:..... Fax: .....  
Email: .....

Form A2

(r. 4 (2))

**LETTER OF COMFORT**

*(Authority Letterhead)*

.....

(Current Date)

.....

(Applicant's /Company (address))

Dear .....

**RE: LETTER OF COMFORT**

..... (name of applicant entity) has demonstrated its commitment to the implementation of a sugar project in Kenya by preparing Pre-Feasibility study report.

The applicant has further demonstrated commitment to taking advantage of the Kenyan investment policies that will facilitate the easy access to investment incentives and guarantees. The Company has been temporarily assigned a sugar development zone in ..... Sub-County, ..... location(s). Their sugarcane mill development may be located on plot number(s) .....on ..... street, ..... location.

The Authority is satisfied that applicant will —

- (a) carry out a detailed project study to facilitate environmental impact assessment;
- (b) organize and contract sugarcane growers for cane supply;
- (c) participate in sugarcane land and seed crop development;
- (d) install process equipment that will match current Kenyan standards;
- (e) successfully apply for a miller's operating license at the appropriate stage; and
- (f) execute the project within the next two years after which this letter of comfort shall be invalid.

The Authority is satisfied with the intentions of ..... (name of project) in implementing the proposed sugar project.

Yours faithfully,

.....

DIRECTOR-GENERAL

Agriculture and Food Authority

Form A3

(r. 6 (2))

**MILLER'S CERTIFICATE OF REGISTRATION**

This is to certify that \_\_\_\_\_  
of postal address \_\_\_\_\_ having a sugarcane mill project at-  
\_\_\_\_\_ has been duly registered by the Authority in accordance with  
section 18 of the Crops Act 2013 as a Sugar Miller.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20.....

.....  
DIRECTOR-GENERAL  
Agriculture and Food Authority

**APPLICATION FOR LICENSE FOR A SUGARCANE MILL**

1. Name of the applicant .....
  2. Physical address..... land reference number .....
  3. Postal address.....
  4. Location..... Ward.....Sub-County.....
  5. Tel:..... Fax .....E-mail .....
  6. Registration number. .... trade license number .....
  7. I hereby apply for a sugar mill license.  
  
The following are my/our particulars:
  8. Name(s) of ownership/ shareholders .....
  9. Names of directors/principal officers of the company and their profiles  
Director / principal officer.....  
Director/ principal officer .....
  10. Legal status of the applicant/ public company/ co-operative society/ partnerships/private firm/.....
  11. Date of establishment/ incorporation, ..... registration certificate number.....
  12. Name of nearest commercial centre .....
  13. Source of water ..... source of electricity .....
  14. Attached is a copy of memorandum and articles of association for the Company/ co-operative society/ partnerships/private firm is attached.
  15. The types and quantities of products and by-products to be manufactured and for each product the quality must meet the minimum or maximum values as provided for under the Kenya Bureau of Standards specifications
    - (a).....
    - (b).....
    - (c).....
    - (d).....
    - (e).....
-

16. The type of technology employed in manufacturing the products specified in sub paragraph (15) shall be adequately illustrated by-
  - (a) flow diagrams of the process;
  - (b) list of major equipment;
  
17. A brief description of the manufacturing process and production plan indicating the operational parameters of the factory and qualities of the end products is herewith attached.
  
18. Profile of all key personnel proposed for the mill in the management and technical areas, numbers of permanent and casual employees:
  - (a) number of key personnel .....(attach personnel profiles);
  - (b) number of the permanent employees.....;
  - (c) number of casual employees .....
  
19. Source and availability of sugarcane supply:
  - (a) geographical area(s) .....
  - (b) nucleus estate acreage .....projected yield .....
  - (c) area of available contracted cane in 12 months ..... and projected yield .....
  - (d) area of sugarcane from independent growers ..... and projected yield .....
  - (e) total available area from (b), (c), (d) and (e) ..... and total projected tonnage of cane per year .....
  - (g) daily capacity of the mill in tonnes of sugarcane per day .....; and capacity of weighbridge(s).....
  
20. Economic and technical viability parameters including the following:
  - (a) the yield per tonne of sugarcane.....,
  - (b) renderment or TC:TS ratio for the last three years.....;
  - (c) production cost(s) per unit of production.....;
  - (d) Gross profit/loss in the last three years.....;
  - (e) Projected costs per production unit for the next twelve months.....;
  - (f) Gross profit/loss in the last three years.....;
  
21. I hereby declare that —
  - (a) all the statements and supporting materials are complete and true;
  - (b) I have authorized the Authority to make further inquiries and receive information about this application to the extent permitted by law.
  - (c) we have complied with the requirements of the Factories Act, Cap. 514, the Public Health Act, Cap. 242, the Standards Act, Cap. 496 and the Environmental Management and Co-ordination Act, 1999.

Signed by applicant  
Director/Principal Officer .....

Name ..... Signature .....

Date .....

Witnessed by (Full name and address).....

Signature ..... Designation .....

Date .....

---



**Note:**

All information regarding this application shall be treated as confidential but the Authority reserves the right to share the information with other approving agencies of the Kenya Government to the extent required by law or by the policy of the Government.

**For Official Use Only**

Date of receipt of application .....

Licensing approved/ not approved .....

.....

DIRECTOR-GENERAL

Agriculture and Food Authority

**APPLICATION FOR RENEWAL OF MILLER'S LICENSE**

1. Name of Company.....  
Physical Address: .....  
Land Ref. No.....  
Postal Address:.....Tel:.....Fax: .....  
E-mail .....  
Location ..... Division .....  
Sub-County ..... County .....  
Mill Registration No. ....  
Registered Owner/s: .....  
Names of Directors: .....  
.....  
.....  
Legal status of the applicant / public company / co-operative society / partnership / private firm /.....  
Date of establishment / incorporation ..... Registration No. ....  
Name of nearest commercial centre .....

**2. Type of Products and Co-products Manufactured**

For each product, the quality must meet the minimum or maximum values as provided for under by Kenya Bureau of Standard specifications or their equivalent.

- (a) .....
- (b) .....
- (c) .....
- (d) .....

**3. Source and availability of sugar cane supply**

- (a) geographical area(s).....;
- (b) nucleus estate acreage .....projected yield .....
- (c) area of available contracted cane 12 months..... and projected yield .....
- (d) area of sugarcane from independent growers..... and projected yield .....
- (e) total available area from (b), (c), (d) and (e) ... and total projected tonnage of cane per year .....
- (g) daily capacity of the mill in tonnes of sugarcane per day .....; and
- (h) capacity of weighbridge(s).....

**4. Economic and technical viability parameters**

- (a) yield per tonne of cane.....,
- (b) renderment or TC:TS ratio for the last three years.....;
- (c) production cost(s) per unit of production.....;
- (d) gross profit/loss in the last three years.....;
- (e) projected costs per production unit for the next twelve months.....;
- (f) gross profit/loss in the last three years.....;

**5. Indicate changes in material particulars (If any)**

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

**14. Applicant's declaration**

I hereby declare that —

- (a) all the statements and supporting materials are complete and true;
- (b) I have authorized the Authority to make further inquiries and receive information about this application to the extent permitted by law;
- (c) our operations are economically and technically viable and all contractual obligations to growers and registered out-grower institutions will be met as provided in the regulations and Schedule for the sugarcane;
- (d) we have complied with the requirements of the Factories Act, Cap. 514, the Public Health Act, Cap. 242, the Standards Act, Cap. 496 and the Environmental Management and Co-ordination Act, 1999.

Signed by the Applicant

Principal Officer .....  
Name ..... Signature .....  
Date .....

Witnessed by (Full name and address).....  
Signature ..... Designation .....  
Date .....

**Note:** All information regarding this application shall be treated as confidential. However, the Authority reserves the right to share the information with other approving agencies of the Kenya Government to the extent required by law or Government Policy.

**For Official Use Only**

Date of receipt of application .....  
Rating of license conformance in the last period .....  
Licensing approved / not approved

.....  
DIRECTOR-GENERAL  
Agriculture and Food Authority

Form A6

(r. 7 (2))

**LICENSE FOR SUGARCANE MILL**

License number .....

County .....

Name of Licensee: .....

Sugarcane mill at .....

THIS LICENSE is hereby given to the above mentioned to manufacture sugar and the by-products of sugar at the sugarcane mill specified in this license.

THIS LICENSE shall, unless earlier suspended/revoked, expire on the thirtieth of June immediately following the date of issue but shall be subject to conditions imposed by the Authority.

Fee paid Kshs.....

Date of issue.....

.....  
DIRECTOR-GENERAL  
Agriculture and Food Authority

**APPLICATION FOR REGISTRATION OF AN OUT-GROWER INSTITUTION**

To  
The Director General,  
Agriculture and Food Authority

I/We

..... (Manager/ Director(s)/agent of  
.....  
.....

(Name of out-grower institution)

1. Physical Address:.....Market.....Location ..... Sub-County .....
2. Land Ref. No.....
3. Postal Address:..... Tel:.....  
Fax: .....E-mail .....
4. .... (name of business enterprise) apply for the registration of ..... (name of out-grower institution).
5. The registered office of the institution/ company will be at .....
6. Copies of the following documents are attached to this application—
  - (a) the memorandum and articles of association/or partnership agreement;
  - (b) the Certificate of Incorporation/Registration;
  - (c) the profiles of the investor(s) and directors/principal officers;
  - (d) a copy of the project profile or feasibility study showing the implementation period, program of implementation and operation dates;
  - (e) the evidence of financing and land ownership for the project; and
  - (f) the register of members.
7. The Head Office of the institution /Company will be situated at .....
8. The Principal Officers of the Company and their qualifications are:  
.....  
.....
9. The date of the end of the financial year is .....
10. The Auditors of the out-grower institution are .....
11. The authorized share capital of the out-grower institution is Kshs./US\$:  
.....
12. The intended capital investment of the out-grower institution is Kshs./US\$  
.....  
.....
13. The affiliated sugarcane mill(s) .....
14. The affiliated sugarcane milling sector(s)/zone(s) .....

.....  
.....  
15. Sugarcane mill(s) acceptance:

..... (name of each registered miller)  
confirms that acceptable arrangements have been concluded for delivery and acceptance of  
cane to be supplied by the applicant under contract No.....

Registered miller's Director/Principal Officer .....

.....  
Signature

.....  
Registered miller's stamp

16. Applicant's Declaration

I, ..... of Post Office Box Number .....  
..... sincerely declare that I am a manager/director/principal  
officer/duly authorized agent of .....  
.....(name of out-grower institution)

**AND** that all the requirements of the Crops Act, 2013 in respect of matters precedent to the  
registration of this out-grower institution and the business enterprise under other Acts and  
incidental thereto have been complied with, **AND** I make this declaration believing the same  
to be true.

Declared at ..... }  
..... } ..... **Authorized officer**  
The .....day of ..... 20... }

Before me:

.....  
**Commissioner for Oaths/Notary Public**

Attach certified copies of documents only where applicable

*APPLICATION SUMMARY (for official use only)*

**Company Name:** .....

And or

**Out-grower Institution Name:** .....

.....  
Certificate(s) of Incorporation (COI)/ Business Reg. Number(s): ..... Company  
Status: .....

COI/ Registration Date: .....

Post Box Number: .....

Town: .....

**Investment Financing Plan in Million US\$/Kshs:**

Foreign Equity    Local Equity    Foreign Loan    Local Loan  
 .....                      .....                      .....                      .....

**Project Objectives:**.....  
 .....  
 .....

**Capacity:** .....(turnover or production p.a.)

**Employment:**            Foreign: .....  
 Local: .....  
 Total: .....

**Implementation Period:** .....

**Estimated life of project:**.....

**Project Location**

Site/Plot/Block No.: .....  
 Street: ..... Sub-County: ..... Region: .....  
 (Attach sketch map showing project location)

<b>Shareholders</b>	<b>Nationality</b>	<b>%</b>
.....	.....	.....
.....	.....	.....

<b>Investment Breakdown</b>	<b>US\$/Kshs.M</b>
Pre-expenses	.....
Land/Buildings	.....
Plant and equipment	.....
Vehicles	.....
Furniture & Fittings	.....
Working Capital	.....
Others	.....
<b>TOTAL</b>	.....

**Contact Details:**

Name: ..... Title: .....  
 Telephone:..... Fax: .....  
 Email: .....

Form B2

(r. 15 (5))

**APPOINTMENT OF AN AGENT/REGISTERED OUT-GROWER INSTITUTION/  
REPRESENTATIVE BY A GROWER**

I.....(name of grower) hereby appoints  
.....(name of appointee) as my agent/registered out-grower  
institution/representative on any occasion when I am absent from my farm or in matters of  
advocacy for sugarcane development.

My agent/registered out-grower institution/representative may represent me in respect of  
commitments entered into by my registered out-grower institution/miller/other parties.

**AS WITNESS WHEREOF** I, the grower, and my authorized agent/registered out-grower  
institution/ representative have signed and dated this appointment below.

**Dated this.....day of.....20.....**

.....  
**Name and signature** of the grower appointing.

.....  
**Name and signature** of the appointed agent/ registered out-grower institution/ representative.

In the presence of the Assistant Chief of the Sub-Location of the grower.

Name of Assistant Chief .....

Signature.....

Official Stamp..... Date.....



Form C

(r. 34 (1) )

**SUGARCANE MOVEMENT PERMIT**

Permit No. SCMP.....

Date of issue.....time issued.....a.m/p.m.

***Validity Period***

Start date.....

Permit expiry date.....

Origin of sugarcane for movement .....

Destination .....

Harvesting Contractor .....

Reg. No.....

Transport Contractor.....

Reg. No.....

Truck Reg. No.....

Trailer Reg. No.....

The bearer m/s ..... is hereby authorised to move sugarcane from  
.....to.....(*specify destination*)

This permit is valid for the transportation of .....stacks/tonnes of  
sugarcane.

Collected by .....

ID No.....

.....

**DIRECTOR-GENERAL**

Agriculture and Food Authority

Form D1

(r. 31 (1))

**AGREEMENT BETWEEN A GROWER/REGISTERED MILLER/REGISTERED  
OUT-GROWER INSTITUTION AND A SUGARCANE HARVESTING  
CONTRACTOR**

This **AGREEMENT** is made on the ..... day of..... two thousand and ..... **BETWEEN** ..... of P. O. Box .....(referred to as the “Company” which expression shall, where the context so admits, include its successors in title and assignees) **AND** ..... (harvesting contractor’s name) of P. O. Box..... (referred to as the “contractor” which expression shall, where the context so admits, include his or its successors and assignees), who, if a body corporate, was incorporated/registered in the Republic of Kenya and has its registered office at \_\_\_\_\_ within the Republic of Kenya.

- (a) **WHEREAS** the Company intends to engage the contractor to harvest sugarcane in the estate of the Company and grower fields within the command zone of the Company; and
- (b) **WHEREAS** the contractor intends to harvest sugarcane within the estate of the Company and grower fields within the command zone of the Company and, for which the contractor has proof of capability of undertaking the harvesting services to the satisfaction of the Company for the consideration provided.

NOW IT IS AGREED BETWEEN THE COMPANY AND THE CONTRACTOR AS FOLLOWS:

**TERMS OF THE AGREEMENT**

1. This agreement shall commence on the date of this agreement and shall remain in force for a period of ..... (months) unless previously terminated or extended in accordance with the provisions herein.
2. The parties to this agreement shall undertake to conduct their business with the aim of ensuring integrity, transparency and accountability.
3. On expiry of the contract period specified in paragraph 1, the parties may renew this Agreement upon the same terms or other conditions as the parties may agree in writing.
4. The contractor shall—
  - (a) be a registered employer with the Ministry responsible for Labour and shall recruit all their cane cutters;
  - (b) recruit and employ adults in accordance with the labour laws of Kenya and regularly bring to the workplace the appropriate number of cane cutters, fully equipped with suitable cane knives;
  - (c) provide transport to cane cutters to and from working sites;
  - (d) before signing this agreement, open an account with a suitable and acceptable financial institution in Kenya, the details of which shall be availed to the Company to facilitate payment of their services;

- (e) harvest and stack green and accidentally burnt cane in the estate of the Company or within the command zone(s) of the Company for which he undertakes to provide a sufficient number of cutters daily and to work under the direction of the Company;
  - (f) harvest sugarcane in the allocated fields only when a valid work order has been issued and complete their allocated fields before being allocated new ones; on failure to do so, shall be held responsible for any unauthorized harvesting by sugarcane cutters registered under the contractor;
  - (g) cut all cane stalks at ground level, de-top at the first visible dewlap and remove all dry or green leaves, water shoots, dead stalks and other trash from sugarcane and, while stacking the cane, clearly separate the extraneous matter from sugarcane;
  - (h) motivate their employees to accomplish designated tasks to enhance harvesting efficiency;
  - (i) ensure that the sugarcane from each field is stacked separately and appropriately tagged;
  - (j) be responsible for re-stacking, arranging or combining poorly shaped, sized or low density sugarcane stacks;
  - (k) be responsible for the social welfare, upkeep and all legal obligations pertaining to their employees and machinery;
  - (l) be responsible for damage, injury or losses caused by his employees/ agents or vehicles upon third parties and themselves;
  - (m) provide a list of their cane cutters to the Company;
  - (n) provide accommodation, if the need arises, and safety gear for his employees;
  - (o) pay the wages and other benefits of their employees;
  - (p) meet the cost of any inputs or services availed to the contractor on their request by the Company or will allow the deduction of such charges/expenses from any payment due unless otherwise agreed in writing;
  - (q) be responsible for any damage caused to the property of the Company and shall be required to make good such damages out of the payment due to the contractor;
  - (r) be responsible for any loss to the Company through bad harvesting, unharvested sugarcane or sugarcane covered by trash;
  - (s) ensure that his employees follow all routing instructions and advice from the field staff of the Company;
  - (t) ensure that discipline amongst the employees is maintained;
  - (u) not solicit payment of any kind, other than what is provided for under this agreement, from the Company for services rendered under this agreement; and
  - (v) take insurance to cover his employees, agents, machinery and third parties.
5. The Company shall—
- (a) offer for harvest sugarcane as is derived from its estate and contracted sugarcane fields only, for use either as seed crop cane or mill crop, sugarcane which shall be harvested green, cut at ground level, de-trashed and topped just below the meristem as specified by the body responsible for research; a job completion certificate shall be promptly signed where harvesting has been done satisfactorily;
  - (b) set the lead time in harvesting sugarcane not more than twenty-four hours and all the lead sugarcane harvested within the lead time shall be under the responsibility of the Company, otherwise the contractor shall be held responsible for sugarcane harvested outside the lead time;
  - (c) accept all sugarcane of requisite harvesting quality from the area specified in this agreement in accordance with the programme provided for herein and the requisite

- harvesting quality of sugarcane shall be as specified by the Authority in respect of the sugarcane variety whose extraneous matter shall be less than three per cent;
- (d) ensure that, subject to sugarcane yield and weather conditions, sufficient cane is available to meet the cutting and stacking requirements of the contractor;
  - (e) make payments to the contractor at an agreed rate and time;
  - (f) make payments every fortnight after the contractor has presented and verified their bills;
  - (g) at its discretion, take over any work not done in accordance with this agreement and recover the cost of such from the payments due to the contractors;
  - (h) apply strict disciplinary practice and provide formal notification where the required standards of harvesting are not being met;
  - (i) not be liable for any loss, damage or injury done to or caused by the contractor to their employees, agents or machinery or third parties whatsoever;
  - (j) write delivery notes and any other field records for the sugarcane harvested; and
  - (k) notify the contractor to remedy a situation within twenty-four hours where the Company is dissatisfied with the contractor's performance, failure to which the contractor shall bear the cost of the damages.
6. For the sugar cane crop, estimates of tonnages shall be based on accurate sugar cane stack dimensions of sixteen by ten by seven feet all the sugar cane shall be cleared from the ground and remain neatly stacked in the field so as to make a minimum average of one and a half tonnes of stacked sugar cane per cutter per day.

#### **TERMINATION OF CONTRACT**

- 7. The contractor shall not assign his services or any interest therein or any of his rights or obligations under this agreement without the written consent of the Company.
- 8. Where the contractor offers poor quality services, the Company may seek for alternative services upon notice to the contractor.
- 9. Where the Company ceases to exist, the contractor may offer its services to another party without the approval of the company.
- 10. If either party decides to discontinue the harvesting of sugarcane or terminate the relationship with the other party, he shall give a notice of thirty days of their intention to do so and shall pay all dues within the period of notice.
- 11. Termination of the contract pursuant to paragraph 9 shall be without prejudice to all rights accrued and obligations incurred to or by either party prior to the date of termination and shall not prejudice claim for damages for such breach of contract.

#### **FORCE MAJEURE**

- 12. Neither the grower nor the miller shall be obliged to perform their respective obligations under this agreement if, and to the extent that they or either one of them, they may be hindered or prevented from so doing directly or indirectly by an event of force majeure.
- 13. If the performance of this agreement or any part thereof shall become impossible of performance by either party due to force majeure, the party in default shall not be held responsible to the other party for such non-performance.

14. Without prejudice to the generality to the other terms the following events shall for all the purposes of this Agreement fall within the meaning of the term *force majeure*; fires and explosions at the factory, floods, earthquake, tempest, war, civil commotion, riots, arson, sabotage, labour strikes, lock-outs, other industrial dispute, breakdown or damage to plant machinery, transport or equipment, shortage of supplies fuel, non-availability of shipping space or railway services inability to effect sale and or delivery of sugar produced or transported sugarcane or road conditions and any other causes beyond the control of the parties hereto such that no reasonable measure or vigilance on the part of the parties hereto or their agents could have prevented.
15. The affected party shall report any event of force majeure within seven days from the date of its occurrence and the competent authorities of both parties shall certify the said event.
16. The obligations of the parties under the specified agreement shall remain suspended for the period during which the said event of force majeure persists.

**DISPUTES**

17. Subject to paragraph 17, any question or dispute as to the responsibility to fulfil the terms of this agreement shall be referred to the Cabinet Secretary.
18. If a dispute arises in the performance of this, the parties may agree, within fourteen days after service by one of the parties hereto on the other, notice of the existence of such dispute, to refer the dispute to two arbitrators who shall be appointed jointly by the Chairman for the time being of the Law Society of Kenya and such arbitration shall be conducted in accordance with and subject to the provision of the Arbitration Act, Chapter 49 of the Laws of Kenya.

**IN WITNESS WHEREOF** the parties have executed this agreement on the date and year inscribed herein.

**SIGNED** on behalf of: ..... (Contractor)

**BY:**.....

In the presence of: ..... (Witness)

**SIGNED** on behalf of : .....  
(Company)

**BY:** .....

In the presence of: ..... (Witness)

Form D2

**REGISTRATION OF SUGARCANE CUTTERS**

Registration number .....

Name .....

Sub-location.....

Village.....

1. I ....., harvesting contractor for ..... apply to register as a temporary employee to cut and stack green or accidentally burnt sugarcane.
2. I am a Kenyan citizen of Identity card number.....or a foreigner with work permit number.....
3. I have been hired for the period of.....months from ..... day of .....(month) two thousand and .....
4. My minimum daily task shall be one point five tonnes of clean, trashed, ground cut and topped at the last node sugarcane per cane sugarcane.
5. I will work in a group of not more than three other cutters to cut enough cane to make a stack of not less than six tonnes.
6. I will individually cut four or more rows of sugarcane, whose length will vary according to cane yield, as will be allocated once in the morning by a Supervisor or Field Assistant prior to commencement of cutting or within the first hour of cutting.
7. I will stack the sugarcane properly according to the field Assistants directive ensuring grooves are not blocked and that all stack sides and corners are regular and of uniform length, width and height all round.
8. I will also avail myself to do other tasks related to cane harvesting namely re-stacking, cutting and slashing poor cane cutting and carrying cane to a suitable stack site. I will also avail myself for transportation to other area than my own area for the purposes of harvesting cane as contained in the contract.
9. Payment will be based on the tonnage of sugarcane cut and Stacked or on a daily basis for re-stacking, slashing and will be according on the following rates.
  - a) cutting and stacking green cane at Kshs..... per tonnes of cane;
  - b) cutting and stacking burnt cane at Kshs.....per tonnes of cane; and
  - c) carrying cane at Kshs.....per tonnes of cane.

10. I have read and understood the contents of this agreement to the best of my ability:

Name .....Signature.....

**Signed** on behalf of the Harvesting Contractor:

*The Crops (Sugar)(General) Regulations, 2018*

---

Name .....Signature.....

In the presence of .....

Name .....Signature.....

**AGREEMENT BETWEEN GROWER AND REGISTERED MILLER ON  
SUGARCANE FARMING AND SUPPLY**

This **AGREEMENT** is made the \_\_\_\_\_ (day) of \_\_\_\_\_ (month) two thousand and \_\_\_\_\_ **BETWEEN** \_\_\_\_\_ (names in full) of Identity Card No. \_\_\_\_\_ of P.O. Box.....(Town/City) (referred to as the “grower”, which expression shall where the context so admits, include his successors and assignees) whose farm/plot L.R No \_\_\_\_\_ Soil type(s)..... and is situated in Sub-location \_\_\_\_\_--- Location..... Zone ..... Division..... Sub-County..... County .....

**AND** ..... (name in full) of P.O. Box..... (Town/City) (referred to as the “miller”, which expression shall where the context so admits include its successors and assignees) whose was incorporated/registered in the Republic of Kenya and having its registered office at \_\_\_\_\_;

- (a) **WHEREAS** the grower is a registered owner/ lessee and grows sugarcane under this agreement in the aforesaid plot/field whose total area planted with sugarcane covering.....hectares and supply the total harvested sugarcane to the miller; and
- (b) **WHEREAS** the grower is not a member of any out-grower institution and wishes to enter into direct agreement to grow and supply sugarcane to the miller; and
- (c) **WHEREAS** the miller is willing to enter into agreement and accept all sugarcane grown under this agreement in the aforesaid plot/field and mill the total harvested sugarcane.

**NOW IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:**

**TERMS OF THE AGREEMENT**

1. The term of this agreement shall commence on the date it is signed and shall, unless sooner determined under the provisions hereof, continue until the grower has harvested one plant and two ratoon crops, which is a period of up to twenty four months for plant crop and up to twenty two months for each ratoon crop provided that for early maturing varieties, the crop may be harvested earlier as appropriate, and that by mutual consent the said term maybe extended to include the harvesting of one or more ratoon crops as long as the crops meet agreed quality standards, with or without modifications of the terms and conditions herein contained, by a memorandum of extension endorsed hereon not less than three months before the date of the anticipated commencement of harvesting of what would otherwise have been the last ratoon crop under the contract.
2. This agreement shall cover sugarcane development services such as seed sugarcane supply, land preparation, supply of fertilizers, supply of herbicides and pesticides, extension/ advisory services, financing of sugarcane cultivation and supply by either party in cash or through provision of services as outlined under sugarcane development; negotiating for affordable credit, maintaining proper bookkeeping, transport/ distribution of farm inputs, timely transport of seed crop, provision of educational programmes for farmers, supporting crop diversification programmes for food security and provision of advances to farmers on hypothecation of their crops.



3. Any party may harvest, transport and weigh sugarcane on behalf of the grower or the miller within the terms and conditions agreed between the miller and grower.
4. Sugarcane transportation shall be fast, avoid sugarcane spillage and carry high payload to reduce costs; the miller and cane transporters shall ensure a short turn round time at all times; and transport costs shall be charged on the basis of the weight of delivered sugarcane at zonal rates.
5. Sugarcane shall be transported efficiently in stack units (6 tonnes) or their multiples such as two stacks ((12) tonnes) or three stacks (eighteen (18) tonnes) to avoid field and transport losses.
6. The sugarcane transporter shall be included in the harvesting programme indicating specific assignment and area of operation and shall be held responsible, by either party, for sugarcane spillage during transportation.
7. Sugarcane shall be weighed at the farm gate provided that the weighbridge shall be serviced, inspected and stamped by the Weights and Measures department in accordance with the Weights and Measures Act, Cap. 513.
8. The sugarcane price payable by any party shall be the price derived through the payment formula provided by the sugarcane Pricing Committee.
9. The parties to this agreement shall at all times undertake to conduct their business above Authority with the aim of ensuring integrity, transparency and accountability and the miller shall ensure sugar products conform to the specifications of the Kenyan Bureau of Standards and also strive to pack sugar directly for retail in the market.

#### **OBLIGATIONS OF THE MILLER**

10. The miller shall, before the start of each financial year, prepare cultivation and planting programme covering all growers and showing acreage, approximate timings and production quantities anticipated from each grower.
11. The miller shall notify the grower in advance of any planned closure of the mill for any reason, and notification shall be through a detailed annual time account and the provided annual milling programme.
12. The miller shall prepare a cultivation and planting programme to include the area under sugarcane: by crop cycle for farmer; by each variety showing the name(s) of farmer(s), plot number(s); age of sugarcane, area under fallow; anticipated tonnage of sugarcane and yields; expected time of maturity and harvesting per area; expected inputs and their timings; record of growers loan(s) to farmer(s); payment records in respect of sugarcane sales proceeds; record(s) for land preparation and harvesting equipment.
13. Where the miller is not the primary provider of crop seed, he shall provide requirements for seed cane as part of long-term sugarcane requirements provided an integrated approach to seed cane development shall be worked out by the body responsible for research in the seed crop development programme

14. The miller shall, at the appropriate time, prepare a harvesting programme showing the approximate expected time of harvesting the crop of each grower and furnish the grower with copies of such programmes as soon as they are completed, and consult with the growers regarding any significant changes therein that the miller may subsequently consider necessary to make; and a list of all plots showing the acreage of each grower's sugarcane area as specified in his sugarcane supply contract provided that the programmes referred to herein shall be tentative and their implementation shall be subject to the exigencies of subsequent operation and circumstances.
15. The lead time in harvesting sugarcane shall not be more than twenty-four (24) hours and all the lead sugarcane harvested within the lead- time shall be under the responsibility of the miller, who may arrange to offer the sugarcane to another miller or bear the cost of wastage.
16. In the case of sugarcane the miller shall buy all sugarcane of requisite quality harvested from the area specified in this supply contract in accordance with the programme provided for herein and the requisite quality of sugarcane shall be as specified by the Authority in respect of the specified sugarcane variety whose harvest-to-mill time for green sugarcane shall ideally not exceed seventy-two (72) hours, and in case of accidentally burnt sugarcane harvest-to-mill time shall ideally not exceed forty-eight (48) hours; with extraneous matter of less than three per cent (3%); of Pol % cane of twelve percent (12%) or above and fibre content of 15% but not more than 17.5% at maturity.
17. The miller may reject any sugarcane found not to be of the requisite quality based on parameters established by the Authority and as specified in this agreement; and sugarcane rejection parameters shall include:
  - (a) extraneous matter of more than 10%;
  - (b) harvest-to-mill time of green sugarcane of three (3) or more days;
  - (c) two (2) or more days for burnt sugarcane with zero day being the day of cutting or burning, and mill time shall be the time recorded on entry at the weighbridge;
  - (d) 82% or less absolute juice purity;
  - (e) fibre content outside the range of 15.0 to 17.5%;
  - (f) Pol % cane of less than 12%; or
  - (g) sugarcane of a variety not specified in this agreement and not recommended by the body responsible for research.
18. The miller shall pay the grower within thirty days of sugarcane delivery provided that the sugarcane will be harvested not later than twenty-four months for plant crops and not later than twenty-two months for subsequent rations.
19. If a miller fails to pay the grower as specified by these Regulation and the Schedule to this agreement for the sugarcane, the miller shall be liable *to pay a penalty of 1.5% per month* on the outstanding grower dues of the affected growers up to the time it completes payment to safeguard the growers' ability to repay the funds to finance sugarcane production.
20. The miller shall maintain and develop adequate milling capacity for sugarcane planted based on agreed planting plans with the growers and further strive to mill sugarcane

efficiently to realize maximum returns for both parties by achieving the following standards:

- (a) in the case of sugar cane, tonne cane/tonne sugar ratio of 9 or renderment of 10%;
- (b) mill extraction of 94%;
- (c) preparation index of 90%;
- (d) boiling house recovery of 88%;
- (e) factory time efficiency of 92%;
- (f) overall time efficiency of 80 %; and
- (g) overall time utilization of 75%.

21. The miller shall off-load sugarcane quickly and efficiently by applying the principle of first in first out (FIFO) and no sugarcane shall be stored in the yard for more than 12 hours from mill-time, provided that during the handling of sugarcane in the yard vehicles shall not be used in such a manner as to destroy sugarcane.
22. The miller shall ensure that high impact extraneous matter such as stones, boulders, tree stumps, etc do not damage equipment by putting a system in place to exclude them and any identified culprit shall be penalized.
23. The miller may harvest, transport and weigh sugarcane on behalf of the grower within the terms and conditions agreed between miller and grower.
24. The miller shall advise the grower of any change in planned activities as soon as the need for such change becomes apparent and he shall issue notices to stop further harvesting of sugarcane in the event of mill breakdowns.
25. The miller shall list charges for all goods and services to be provided in the agreement as shown hereafter to allow the grower to make a choice and such chargeable goods and services shall include, pesticides, herbicides, fertilizers, land development, crop maintenance, harvesting, weighing, transportation and any other specified hereof.
26. The miller shall do anything necessary for either party in terms hereof provided that, if the grower fails to facilitate the harvesting of his sugarcane at the appointed time, the miller shall refer the matter to the Crops Arbitration Tribunal.

## **OBLIGATIONS OF THE GROWER**

### ***Accessibility of sugarcane plot***

27. The grower shall offer for sugarcane development only land, which is accessible in case of supply of goods and services throughout the term of contract.
28. The grower shall at all times allow the miller to enter upon his land together with any vehicles, machinery or livestock which the miller may require to inspect the land and the sugarcane growing thereon without causing damage to property, sample the sugarcane, gain access to other grower's land, including such construction of access tracks as may be required for the transport of sugarcane produced by the grower or others provided that any damage to property by miller or his agents shall be borne by the miller.

### ***Sugarcane varieties***

29. The grower shall plant or cultivate the most suitable variety of sugarcane recommended by the body responsible for sugar research; which shall avail the sugarcane varieties and expected characteristics, which relate to the various soil types in the zone.

***Crop husbandry***

30. The grower shall maintain his sugarcane cultivation to enhance a satisfactory yield by:
- (a) maintaining the sugarcane weed-free;
  - (b) applying, at the commended time and in the recommended amounts, all fertilizers and other material recommended by the Out-grower institution and the body responsible for research;
  - (c) undertaking the planting and gapping of sugarcane area at the times recommended by the miller to ensure a high plant population;
  - (d) applying all services and goods, which he may have obtained from the miller for the benefit of his sugarcane crop solely for that purpose;
  - (e) undertaking stubble shaving, inter-row cultivation and trash lining within one month after harvesting provided that the cost of stubble shaving shall be borne by the party undertaking the harvesting;
  - (f) inspecting sugarcane for pests and diseases periodically and removing diseased or infested sugarcane and disposing them off in the manner prescribed by extension agents according to the list of pests, diseases and methods of eradication as recommended by the body responsible for research;
  - (g) except for seed cane production, planting the sugarcane inter-row, one row only of common beans, soybeans, potatoes, tomatoes, onions, cabbages or carrots and any other crop maturing within four (4) months and recommended by body responsible for research; and
  - (h) maintaining suitable permanent boundary marks and cleared firebreaks for his sugarcane crops.
31. The grower shall be responsible for maintaining suitable permanent boundary marks and cleared firebreaks for his sugarcane crop; take other precautions against fire according to the advice of the extension agents; be liable to pay the cost of any damage suffered by other growers because of failure to comply with the terms hereof.
32. The grower shall attend meetings and field days convened by the miller for learning the proper sugarcane husbandry, operation and application of goods and services obtained from the miller for the satisfactory yield of sugarcane.
33. The grower shall grow and supply sugarcane of requisite quality harvested from the area specified in the sugarcane farming and supply contract in accordance with the programme provided for herein by the miller.

***Seed cane***

34. The grower shall allow the cultivation of seed cane nurseries, if the millers' extension agents' desires for the multiplication of seed cane material to be supplied to other growers provided such sugarcane may be used for milling when it is no longer required for seed cane.
35. Where sugarcane is to be used as seed cane the cost for purposes of paying the grower or selling to recipient grower shall be determined in accordance with guide notes provided by the Sugarcane Pricing Committee.

36. Where a grower has been identified to grow seed cane using the agronomical practices recommended by body responsible for research the price per tonne of the seed shall be determined separately from the commercial sugarcane provided breeder or basic seed shall be provided by body responsible for research on specific terms to the miller or any bulking institution or grower who will establish A-nurseries and in turn shall supply other growers with seeds for B-nurseries in grower zones. A list of approved nurseries and bulking institutions or growers shall be maintained by body responsible for research.
37. The grower shall allow the cutting of good quality commercial sugarcane of plant and first ratoon crops to supply seed cane to other growers, only in the absence of suitable nurseries provided that the age of the seed cane shall not be less than seven but not more than fourteen months depending on cane variety and cane growing zone.
38. The grower shall plant seed cane at the onset of rains and stop two months before the onset of dry season, but in irrigated sugarcane shall be planted at any time.

**Grower fails to maintain sugarcane husbandry**

39. The miller shall, upon notice, be entitled, in the event that the grower does not prepare, plant and maintain his land and sugarcane in accordance with the agreement, to carry out all and any such operations on the Out-grower member's land which the Out-grower institution shall consider necessary to ensure that the Out-grower member's quota of sugarcane of satisfactory quality will be delivered on the due date, in which case the Out-grower institution shall be further entitled to deduct the cost, including a penalty for these operations from the payment to be made for the Out-grower member's sugarcane.
40. In case of a default, the grower, upon notice, shall allow all or any such work to be carried out at his cost by the miller and its agents or employees working in conjunction with the grower.
41. Within seven days of receipt of a written notification from the miller that such operations are necessary to achieve a satisfactory yield of sugarcane, allow unimpeded access by the miller and his equipment for carrying out any or all operations which the grower has failed to carry out and that notification shall have either been served to the grower or his representative and acknowledged, or shall have been posted to the grower by registered mail of work carried out.
42. The miller shall give notice for the work to be undertaken on behalf of the grower, detailing work description, costs and penalties involved; and on completion of the said work, a job completion certificate shall be prepared and issued to the grower who shall acknowledged receipt by signing thereof; indirect costs shall be agreed by the parties at time of entering into this agreement.

**Costs and recovery**

43. The grower shall bear all direct and indirect costs of the works, goods and services and interest accruing thereto supplied by the miller in accordance with the Schedule to this Agreement unless the same is paid earlier allow such costs to be deducted from payment for sugarcane supplied by the grower.

Provided that:

- (a) the said charges shall always be as agreed with the grower.

- (b) the miller shall consult with the grower regarding any proposed changes in the said charges before such charges are proposed to take effect and shall maintain such records as are necessary to show the grower that he charges from time to time are as agreed in (a) above.
  - (c) the miller shall notify all charges to the grower in reasonable time before the charges are due to take effect; and
  - (d) where a grower ends up with a debit balance the miller shall immediately write to the grower for arrangement of recovery of the said debt.
44. The grower shall bear all direct and indirect costs of the works, goods and services supplied by the miller as specified in the agreement and unless the same are paid earlier allow such costs to be deducted from payment for sugarcane supplied by the grower provided indirect costs, shall have been discussed and agreed at the time of the contract.

**Sugarcane harvesting, transport, weighing and selling**

45. The grower shall offer, for harvest, transport and weighing all such sugarcane as is derived from his contracted sugarcane plot and no other for use either as seed cane or mill cane; sugarcane which shall be harvested green, cut at ground level de-trashed and topped just below the meristem as specified by body responsible for research; a job completion certificate shall be promptly signed where harvesting has been done satisfactorily.
46. The grower shall not sell his sugarcane through a middleman nor dispose of it or any interest therein to any other parties without the written permission of the miller specifying the tonnage of sugarcane which may be sold, the date on which the sale may take place and destination of the sugarcane.

**Grower representatives**

47. The grower shall appoint a representative in all matters of advocacy for sugarcane development, financing of sugarcane supply services, costs of farm inputs and related services.
48. The grower shall either attend himself or send an authorized representative to the buying point to witness the condition of the sugarcane at the time of delivery and to obtain a ticket showing the weight or value of the sugarcane.

**TERMINATION OF CONTRACT**

49. The grower shall not assign his land or any interest therein or any of his rights or obligations under the agreement without the written consent of the miller.
50. Where the miller offers services at the wrong time, the farmer shall have the option of arranging for his services upon notice to the miller.
51. Where the sugar mill ceases to exist, the grower may deliver the sugarcane to another party without the approval of the miller.
52. If any party decides to discontinue the production of sugarcane or terminate the relationship with the other party, he shall give a three months' notice of his intention to do so and shall pay all his dues before the expected time of harvest and the miller or the grower will then harvest sugarcane in the normal manner provided that such notice shall only be effective if

the grower shall, within the period of notice, repay in full all loans received by him from the miller. Any such termination of the contract shall be without prejudice to all rights accrued and obligations incurred to or by either party prior to the date of termination and shall not prejudice claim for damages for such breach of contract.

**FORCE MAJEURE**

53. Neither the grower nor the miller shall be obliged to perform their respective obligations under this agreement if and to the extent that they or either one of them may be hindered or prevented from so doing directly or indirectly by an event of force majeure.

54. The affected party shall report any event of force majeure within seven days from the date of its occurrence and the competent authorities of both parties shall certify the said event.

55. The obligations of the parties under the specified agreement shall remain suspended for the period during which the said event of force majeure persists.

**DISPUTES**

Any question or dispute as to the responsibility to fulfil the terms of this agreement shall be resolved in accordance with the Laws of Kenya.

**SCHEDULE**

**CHARGES BY THE MILLER**

	<b>UNIT</b>	<b>QUANTITY</b>	<b>COST per UNIT</b>	<b>TOTAL COST</b>
<b>SURVEY</b>	Ha			
<b>LAND PREPARATION</b>				
Trimming	Ha			
Ripping	Ha			
Disking	Ha			
1 <sup>st</sup> Ploughing	Ha			
2 <sup>nd</sup> Ploughing	Ha			
1 <sup>st</sup> Harrowing	Ha			
2 <sup>nd</sup> Harrowing	Ha			
Furrowing	Ha			
Inter-row cultivation	Ha			
<b>FERTILISERS</b>				
NPK	50 kg bag			
UREA	50 kg bag			
DAP	50 kg bag			
SSP	50 kg bag			
TSP	50 kg bag			
CAN	50 kg bag			
Transport	50 kg bag			
Loading/Off loading	50 kg bag			
<b>CHEMICALS/HERBICIDES ETC.</b>				

*The Crops (Sugar)(General) Regulations, 2018*

Atrane combination	Kg			
Gesapax combination	Kg			
Actril DS.	Lt			
Diuron	Kg			
Round up	Lt			
<b>SUGARCANE HARVESTING</b>				
Sugarcane harvesting	Kshs/tonne			
Groover/Lysol/water man	Kshs/tonne			
Chemicals	Kshs/tonne			
Administration	Kshs/tonne			
NSSF Contribution	Kshs/tonne			
Public Holidays	Kshs/tonne			
Transportation of Sugarcane cutters	Kshs/tonne			
<b>TRANSPORTATION OF SUGARCANE</b>				
Zones 0 – 4km	Kshs/tonne			
4.1 – 8	Kshs/tonne			
8.1 – 12	Kshs/tonne			
12.1 – 16	Kshs/tonne			
16.1 – 20	Kshs/tonne			
20.1 – 24	Kshs/tonne			
24.1 – 28	Kshs/tonne			
28.1 – 32	Kshs/tonne			
32.1 – 36	Kshs/tonne			
36.1 – 40	Kshs/tonne			
Over 40 km	Kshs/tonne			
OR				
Zone A. 0 – 10 km	Kshs/tonne			
B. 10.1 – 16	Kshs/tonne			
C. 16.1 – 24	Kshs/tonne			
D. 24.1 – 32	Kshs/tonne			
E. 32.1 – 40	Kshs/tonne			
Over 40 km	Kshs/tonne			
<b>INTEREST ON LOANS</b>	%			
Other charges (specify)	Kshs/tonne			

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement on the day and date first hereinbefore mentioned.

**SIGNED** for or on behalf of the miller: .....

in presence of: .....

**SIGNED** for or behalf of the grower: .....



In presence of: .....

**AGREEMENT BETWEEN REGISTERED OUT-GROWER INSTITUTION AND REGISTERED MILLER ON SUGARCANE FARMING AND SUPPLY**

This **AGREEMENT** is made the \_\_\_\_\_ (day) of \_\_\_\_\_(month) two thousand and \_\_\_\_\_ **BETWEEN** \_\_\_\_\_ (names in full) of Certificate of Registration/Business Registration No. \_\_\_\_\_ of P.O. Box \_\_\_\_\_ (referred to as the “out-grower institution”, which expression shall, where the context so admits include its successors and assignees) and is situated in Sub-location \_\_\_\_\_ Location \_\_\_\_\_ Division \_\_\_\_\_ Sub-County \_\_\_\_\_ County \_\_\_\_\_

**AND** \_\_\_\_\_ (name in full) of P.O. Box \_\_\_\_\_ (Town/City) (referred to as the “miller” which expression shall, where the context so admits include its successors and assignees) who was incorporated/registered in the Republic of Kenya and having its registered office at \_\_\_\_\_ in the Republic of Kenya.

- (a) **WHEREAS** the Out-grower institution wishes to contract sugarcane farming with Out-grower members in pursuit of its functions and generally:
- (i) promotes and represents the interests of growers;
  - (ii) negotiates, arranges, on behalf of grower members, the terms of supply of sugarcane to the miller and the co-ordination of the production, harvesting and transport thereof;
  - (iii) provides financial credit or otherwise arranges finance for grower members about the production of their sugarcane, including land clearance and preparation, planting, cultivation and tending, harvesting, transport and the supply of goods and services relating thereto;
  - (iv) provides or procures services, advice and assistance for grower members as maybe required, to carry out or procure the carrying out of such operations for grower members;
  - (v) purchases, sells or otherwise deals in, securing or providing such goods, materials, supplies and services as may be required by members;
  - (vi) provides or procures services and books or records for members in respect of their individual operations;
  - (vii) negotiates sugarcane prices with millers through the Apex Body of the sugarcane growers
  - (viii) participates in lobbying for favourable Government policies in the industry through the Apex Body of the sugarcane growers;
- (b) **WHEREAS** the out-grower institution has entered into sugarcane supply contract with the miller in respect of sugarcane grown by the Out-grower members of the out-growers’ institution.
- (c) **WHEREAS** the out-grower members are willing to grow sugarcane with the assistance of the out-grower institution under specific agreements signed between Out-grower members and the out-grower institution; and
- (d) **WHEREAS** the miller is willing to buy all sugarcane of requisite quality from the Out-grower institution specified in this agreement.

**NOW IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:**

## **TERMS OF AGREEMENT**

1. The term of this agreement shall commence on the date it is signed and shall, unless sooner determined under the provisions hereof, continue until the Out-grower institution has supplied one plant and two ratoon crops, which is a period of up to twenty four months for plant crop and up to twenty two months for each ratoon crop provided that for early maturing varieties, the crop may be harvested earlier as appropriate, and that by mutual consent the said term maybe extended to include the harvesting of one or more ratoon crops as long as the crops meet agreed quality standards, with or without modifications of the terms and conditions herein contained, by a memorandum of extension endorsed hereon not less than three months before the date of the anticipated commencement of harvesting of what would otherwise have been the last ratoon crop under the contract.
2. Any party may harvest, transport and weigh sugarcane on behalf of the Out-grower institution or the miller within the terms and conditions agreed between the miller and Out-grower institution.
3. Sugarcane transportation shall be fast, avoid sugarcane spillage and carry high payload to reduce costs; the miller and cane transporters shall ensure a short turn round time always; and transport costs shall be charged based on the weight of delivered sugarcane at zonal rates.
4. Other responsible parties shall maintain sugarcane transport roads to allow transport units to efficiently carry sugarcane in stack units (6 tonnes) or their multiples such as two stacks ((12) tonnes) or three stacks (eighteen (18) tonnes) to avoid field and transport losses.
5. The sugarcane transporter shall be included in the harvesting programme indicating specific assignment and area of operation and shall be held responsible, by either party, for sugarcane spillage during transportation.
6. Sugarcane shall normally be weighed at the milling factory under the supervision of the Sugarcane Testing Unit who shall manage all sugarcane weighbridges.
7. Any party approved by the Authority may weigh sugarcane at any agreed location provided that the weighbridge, possibly automated, shall be serviced, inspected and stamped by the Weights and Measures department in accordance with the Weights and Measures Act, Cap. 513.
8. The sugarcane price payable by any party shall be the price derived through the payment formula provided by the Sugarcane Pricing Committee.
9. The parties to this agreement shall always undertake to conduct their business above Authority with the aim of ensuring integrity, transparency and accountability and the miller shall ensure sugar products conform to the specifications of the Kenyan Bureau of Standards and strive to pack sugar directly for retail in the market.

## **OBLIGATIONS OF THE OUT-GROWER INSTITUTION**

11. The Out-grower institution shall specify sugarcane growing areas by using identity of fields such as location, zone, land reference numbers, size, out grower members' identifications, soil types, etc.
12. The Out-grower institution shall, before the start of each financial year, prepare cultivation and planting programme covering all growers and showing acreage, approximate timings and production quantities anticipated from each grower.
13. The cultivation and planting programme shall include: the area under sugarcane by crop cycle for each farmer; by each variety showing the name(s) of farmer(s), plot number(s); age of sugarcane, area under fallow; anticipated tonnages of sugarcane and yields; expected time of maturity and harvesting per area; expected inputs and their timings; record of loan(s) to farmer(s); payment records in respect of sugarcane sales proceeds; record(s) for land preparation and harvesting equipment.
14. At the appropriate time, the Out-grower institution shall prepare a harvesting programme showing the approximate expected time of harvesting the crop of each grower and furnish the miller with copies of such programmes as soon as they are completed, and consult with the miller regarding any significant changes therein that the Out-grower institution may subsequently consider necessary to make; and a list of all growers showing the acreage of each grower's sugarcane area as specified in his sugarcane supply contract provided that the programmes referred to herein shall be tentative and their implementation shall be subject to the exigencies of subsequent operations and circumstances.

#### **OBLIGATIONS OF THE MILLER**

15. The miller shall buy all sugarcane of requisite quality harvested from the area specified in this supply contract in accordance with the programme provided for herein and the requisite quality of sugarcane shall be as specified by the Authority in respect of the sugarcane variety(s) \_\_\_\_\_ - whose harvest-to-mill time for green sugarcane shall ideally not exceed seventy-two (72) hours, and in case of accidentally burnt sugarcane harvest-to-mill time shall ideally not exceed forty-eight (48) hours; with extraneous matter of less than three per cent (3%); of Pol % cane of twelve percent (12%) or above and fibre content of 15% but not more than 17.5% at maturity.
16. The miller shall notify the Out-grower institution in advance of any planned closure of the mill for any reason, and notification shall be through a detailed annual time account and the provided annual milling programme.
17. The miller shall advise the Out-grower institution of any change in planned activities as soon as the need for such change becomes apparent and he shall issue notices to stop further harvesting of sugarcane in the event of mill breakdowns.
18. The lead time in harvesting sugarcane shall not be more than twenty-four (24) hours and all the lead sugarcane harvested within the lead- time shall be under responsibility of the miller, who may arrange to offer the sugarcane to another miller or bear the cost of wastage.

19. The miller may reject any sugarcane found not to be of the requisite quality based on parameters established by the Authority and as specified in this agreement and sugarcane rejection parameters shall include:
  - (a) extraneous matter of more than 10 %;
  - (b) harvest-to-mill time of green sugarcane of three (3) or more days;
  - (c) two (2) or more days for burnt sugarcane with zero day being the day of cutting or burning where mill time shall be the time recorded on entry at the weighbridge;
  - (d) 82 % or less absolute juice purity; fibre content outside the range of 15.0 to 17.5 %;
  - (e) Pol % cane of less than 12 % or sugarcane of a variety not specified in this agreement and not recommended by the body responsible for research.
20. The miller shall pay the Out-grower institution within thirty days of sugarcane delivery provided that the sugarcane will be harvested not later than twenty-four months for plant crops and not later than twenty-two months for subsequent ratoons.
21. If a miller fails to pay the Out-grower institution as specified by these regulations and Schedule, the miller shall be liable *to pay interest charges at market rates and a penalty of 1.5% per month* on the outstanding grower loan accounts of the affected growers up to the time it completes payment to safeguard the growers' ability to repay the funds to finance sugarcane production.
22. The miller shall maintain and develop adequate milling capacity for sugarcane planted based on agreed planting plans with the growers and further strive to mill sugarcane efficiently to realize maximum returns for both parties by achieving the following standards:
  - (a) in the case of sugar cane, tonne cane/tonne sugar ratio of 9 or renderment of 10%;
  - (b) mill extraction of 94%;
  - (c) preparation index of 90%;
  - (d) boiling house recovery of 88%;
  - (e) factory time efficiency of 92%;
  - (f) overall time efficiency of 80 %; and
  - (g) overall time utilization of 75%.
23. The Miller shall off-load sugarcane quickly and efficiently by applying the principle of first-in-first-out and no sugarcane shall be stored in the yard for more than 12 hours from mill-time, provided that during the handling of sugarcane in the yard vehicles shall not be used in such a manner as to destroy sugarcane.
24. The miller shall ensure that high impact extraneous matter such as stones, boulders, tree stumps, etc do not damage equipment by putting a system in place to exclude them and any identified culprit is penalized.

#### **SUGARCANE HARVESTING, TRANSPORT, WEIGHING AND SELLING**

25. The Out-grower institution shall decide to harvest, transport and weigh all such sugarcane as is derived from its Out-grower members' contracted sugarcane plots and no other for use either as seed cane or mill cane; sugarcane which shall be harvested green, cut at ground level, de-trashed and topped just below the meristem as specified by the body responsible for research.

26. The Out-grower institution shall not sell its members sugarcane nor dispose of it or any interest therein to any other parties, other than through this agreement, without the written permission of the miller specifying the tonnage of sugarcane which may be sold, the date on which the sale may take place and destination of the sugarcane.

#### **COSTS AND RECOVERY**

27. The charges for all goods and services to be provided by either party shall remain as listed in the agreement.
28. The Out-grower institution shall bear, on behalf of the Out-grower members all direct and indirect costs of the works, goods and services supplied by the miller or other parties as specified in their agreements and unless the same are paid earlier allow such costs to be deducted from payment for sugarcane supplied by the Out-grower member provided indirect costs, shall have been discussed and agreed at the time of the contract.

#### **OUT-GROWER INSTITUTION REPRESENTATIVES**

29. The Out-grower institution shall appoint a representative in all matters of advocacy for sugarcane development, financing of sugarcane supply, costs of farm inputs and related services.
30. The Out-grower institution shall send an authorized representative or its employee to the buying point to witness the condition of the sugarcane at the time of delivery and to obtain a ticket showing the weight or value of the sugarcane delivered.

#### **TERMINATION OF CONTRACT**

31. The Out-grower institution shall not assign any interest therein or any of his rights or obligations under the agreement without the written consent of the miller.
32. Where the miller offers services at the wrong time, the Out-grower institution shall have the option of arranging for alternative services upon notice to the miller.
33. Where the sugar mill ceases to exist, the Out-grower institution may deliver the sugarcane to another party without the approval of the miller.
34. Where the Out-grower institution ceases to exist, the miller may harvest, transport and mill the sugarcane without further reference to the Out-grower institution.
35. If any party decides to discontinue the supply of sugarcane or terminate the relationship with the other party, he shall give a three months' notice of his intention to do so and shall pay all his dues before the expected time of supply; any such termination of the contract shall be without prejudice to all rights accrued and obligations incurred to or by either party prior to the date of termination and shall not prejudice claim for damages for such breach of contract.

#### **FORCE MAJEURE**

36. Neither the Out-grower institution nor the miller shall be obliged to perform their respective obligations under this agreement if and to the extent that they or either one of them may be hindered or prevented from so doing directly or indirectly by an event of force majeure.
37. The affected party shall report any event of force majeure within seven (7) days from the date of its occurrence and the competent authorities of both parties shall certify the said event.
38. The obligations of the parties under the specified agreement shall remain suspended for the period during which the said event of force majeure persists.

***DISPUTES***

39. Any question or dispute as to the responsibility to fulfil the terms of this agreement shall be resolved in accordance with the laws of Kenya.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement on the day and date first hereinbefore mentioned.

**SIGNED** for or on behalf of the miller: .....  
In presence of:.....

**SIGNED** for or behalf of the grower: .....  
In presence of: .....

**AGREEMENT BETWEEN REGISTERED OUT-GROWER INSTITUTION AND GROWER ON SUGARCANE FARMING AND SUPPLY**

This **AGREEMENT** is made on \_\_\_\_\_ (day) of \_\_\_\_\_ (month) two thousand and \_\_\_\_\_ **BETWEEN** \_\_\_\_\_ (names in full) certification of registration/business registration No. \_\_\_\_\_ of P.O. Box \_\_\_\_\_ (Town/City) (referred to as the “Out-grower member”, which expression shall, where the context so admits include his successors and assignees) whose plot L.R No \_\_\_\_\_ Soil type(s) \_\_\_\_\_ and is situated in Sub-location \_\_\_\_\_ Location \_\_\_\_\_ Division \_\_\_\_\_ Zone \_\_\_\_\_ Sub-County \_\_\_\_\_ Province \_\_\_\_\_ **AND** \_\_\_\_\_ (name in full) of P.O Box \_\_\_\_\_ (Town/City) (referred to as the “Out-grower institution” which expression shall, where the context so admits include its successors and assignees) whose institution was incorporated/registered in the Republic of Kenya and having its registered office at \_\_\_\_\_ in the Republic of Kenya.

- (a) **WHEREAS** the Out-grower institution wishes to contract sugarcane farming in pursuit of its functions and generally —
- (i) promotes and represents the interests of growers;
  - (ii) negotiates, arranges, on behalf of grower members, the terms of supply of sugarcane to the miller and the co-ordination of the production, harvesting and transport thereof;
  - (iii) provides financial credit or otherwise arranges finance for grower members relating to the production of their sugarcane, including land clearance and preparation, planting, cultivation and tending, harvesting, transport and the supply of goods and services relating thereto;
  - (iv) provides or procures services, advice and assistance for grower members as may be required, to carry out or procure the carrying out of such operations for grower members;
  - (v) provides or procures accounting services and books or records for members in respect of their individual operations;
  - (vi) purchases, sells or otherwise deals in, securing or providing such goods, materials, supplies and services as may be required by members;
  - (vii) negotiates sugarcane prices with millers through the Apex body for sugarcane growers; and
  - (viii) participates in lobbying for favourable Government policies in the industry through apex body for sugarcane growers;
- (b) **WHEREAS** the Out-grower institution has entered into sugarcane supply contract with the miller in respect of sugarcane grown by the Out-grower members of the out growers’ institution.
- (c) **WHEREAS** the Out-grower members are willing to grow sugarcane with the assistance of the Out-grower institution under specific agreements signed between Out-grower members and the Out-grower institution;

**NOW IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:**

**TERMS OF THE AGREEMENT**



1. The term of this agreement shall commence on the date it is signed and shall, unless sooner determined under the provisions hereof, continue until the grower has harvested one plant and two ratoon crops, which is a period of up to twenty four months for plant crop and up to twenty two months for each ratoon crop provided that for early maturing varieties, the crop may be harvested earlier as appropriate, and that by mutual consent the said term maybe extended to include the harvesting of one or more ratoon crops as long as the crops meets agreed quality standards, with or without modifications of the terms and conditions herein contained, by a memorandum of extension endorsed hereon not less than three months before the date of the anticipated commencement of harvesting of what would otherwise have been the last ratoon crop under the contract.
2. The agreement shall cover sugarcane development services such as seed sugarcane supply, land preparation, supply of fertilizers, supply of herbicides and pesticides, extension/ advisory services, financing of sugarcane supply by borrowing funds and lending to out growers either in cash or through provision of services as outlined under sugarcane development; negotiating for affordable credit, maintaining proper bookkeeping, transport/ distribution of farm inputs, timely transport of seed cane, provision of educational programmes for farmers, supporting crop diversification programmes for food security and provision of advances to farmers on hypothecation of their crops.
3. Any parties may harvest, transport and weigh sugarcane on behalf of the Out-grower or the Out-grower institution within the terms and conditions agreed between the miller and Out-grower institution.
4. Sugarcane transportation shall be fast, avoid sugarcane spillage and carry high payload to reduce costs; the miller and sugarcane transporters shall ensure a short turn round time; and transport costs shall be charged based on the weight of delivered sugarcane at zonal rates.
5. Other responsible parties shall maintain sugarcane transport roads to allow transport units to efficiently carry sugarcane in stack units (6 tonnes) or their multiples such as two stacks (12 tonnes) or three stacks (18 tonnes) to avoid field and transport losses.
6. The sugarcane transporter shall be included in the harvesting programme indicating specific assignment and area of operation and shall be held responsible for sugarcane spillages during transportation.
7. Sugarcane shall normally be weighed at the factory under the supervision of the sugarcane testing unit who manages all sugarcane weigh bridges.
8. Any party may weigh sugarcane at any agreed location provided the weighbridge, possibly automated, shall be serviced, inspected and stamped by the Weights and Measures department in accordance with the Weights and Measures Act, Cap. 513.
9. An Out-grower institution or Out-grower member may install a weighbridge at the farm gate at his own expense for weighing sugarcane provided that the weighbridge shall be subjected to tests and inspection by the weights and measures department in accordance with the law.

10. The sugarcane price payable by any party shall be the price derived through the payment formula provided by the Sugarcane Pricing Committee.
11. The parties to this agreement shall always undertake to conduct their business above Authority with the aim of ensuring integrity, transparency and accountability and the miller shall ensure sugar products conform to the specifications of the Kenyan Bureau of Standards and strive to pack sugar directly for retail in the market.

#### **OBLIGATIONS OF THE OUT-GROWER INSTITUTION**

12. The Out-grower institution shall list charges for all goods and services to be provided in the agreement as shown hereafter to allow the Out-grower member to make a choice and such chargeable goods and services shall include, pesticides, herbicides, fertilizers, land development, crop maintenance, harvesting, weighing, transportation and any other specified hereof.
13. The Out-grower institution shall bear the responsibility of the sugarcane harvesting, loading and transportation to the mill for weighing and milling at the factory.
14. If an Out-grower institution fails to pay the grower as specified under subparagraph (1) for any reason other than delay in payment by the miller as specified under paragraph 17(1), the institution shall be liable *to pay interest charges at market rates* on the sum due *and an additional penalty of 3% per month* on overdue payment;
15. The Out-grower institution shall prepare a schedule of all payments to the farmers on weekly basis showing dates of harvest, delivery to the miller and of payment to Out-grower members, and such schedule of payment shall be open to scrutiny by the Out-grower members, apex body for sugarcane farmers and the Authority
16. The Out-grower institution may require doing anything required to be done for either party in terms hereof provided that, if the Out-grower member fails to facilitate the harvesting of his sugarcane at the appointed time, the Out-grower institution shall refer the matter to the Crops Arbitration Tribunal.
17. The Out-grower institution shall, during each harvest period, deliver to the miller from the Out-grower member, sugarcane in the quantities and on the dates agreed upon between the miller and the Out-grower institution.
18. The Out-grower institution may, within the limits imposed by the condition of the roads, provide and operate an efficient system of transport from the field to the mill.
19. The Out-grower institution shall cause the Out-grower members' sugarcane to be weighed and tested on arrival at the buying point, allow the grower or his representative access to the weighbridge to check the weight, maintain in duplicate a written or printed record of the value of each load of sugarcane delivered and give to the Out-grower member or his representative on the day of delivery one copy of such record.
20. The Out-grower institution shall have absolute charge and control of all equipment machinery, staff and labour concerned with operations on the Out-grower members' land

provided that the Out-grower institution shall exercise due care to ensure that the operational costs to be charged to the Out-grower member shall be kept at a reasonable level as agreed.

**OBLIGATIONS OF THE OUT-GROWER MEMBER**

21. The Out-grower member shall attend meetings and field days convened by the Out-grower institution for learning the proper sugarcane husbandry, operation and application of goods and services obtained from the Out-grower institution for the satisfactory yield of sugarcane.

*Accessibility of cane plots*

22. The Out-grower member shall offer for sugarcane development only land, which is accessible in case of supply of goods and services throughout the term of contract
23. The Out-grower member shall at all times allow the Out-grower institution to enter upon his land together with any vehicles, machinery or livestock which the Out-grower institution may require to inspect the land and the sugarcane growing thereon, sample the sugarcane, gain access to other grower's land, including such construction of access tracks as may be required for the transport of sugarcane produced by the Out-grower members or others provided that any damage to farmers' property by Out-grower institution agents shall be borne by the Out-grower institution.
24. The Out-grower member shall not assign his land or any interest therein or any of his rights or obligations under the agreement to another party without the written consent of the out growers' institution.

*Sugarcane varieties*

25. The grower shall plant or cultivate the most suitable variety of sugarcane recommended by the body responsible for research, which shall avail the sugarcane varieties and expected characteristics, which relate to the various soil types in the zone.

*Sugarcane husbandry*

26. The Out-grower members shall plant or cultivate the most suitable variety of sugarcane recommended by the body responsible for research, which shall avail the sugarcane varieties and expected characteristics, which relates to the various soil types in the zone.
27. The Out-grower member shall maintain his sugarcane cultivation to enhance a satisfactory yield by:
- (a) maintaining the sugarcane crop weed-free;
  - (b) applying, at the recommended time and in the recommended amounts, all fertilizers and other material recommended by the Out-grower institution and the body responsible for research;
  - (c) undertaking the planting and gapping of sugarcane area at the times recommended by the Out-grower institution to ensure a high plant population;
  - (d) applying all services and goods, which he may have obtained from the Out-grower institution for the benefit of his sugarcane solely for that purpose;
  - (e) undertaking stubble shaving, inter-row cultivation and trash lining within one month after harvesting provided that the cost of stubble shaving shall be borne by the Out-grower institution or the party undertaking the harvesting;

- (f) inspecting sugarcane for pests and diseases periodically and removing diseased or infested sugarcane and disposing them off in the manner prescribed by extension agents according to the list of pests, diseases and methods of eradication as recommended by the body responsible for research; and
  - (g) except for seed cane production, planting the sugarcane inter-row, one row only of common beans, soybeans, potatoes, tomatoes, onions, cabbages or carrots and any other crop maturing within four (4) months and recommended by the body responsible for research
  - (h) maintaining suitable permanent boundary marks and cleared firebreaks for his sugarcanes.
28. The Out-grower member shall be responsible for maintaining suitable permanent boundary marks and cleared firebreaks for his sugarcane; take other precautions against fire according to the advice of the Out-grower institutions; be liable to pay the cost of any damage suffered by other growers because of failure to comply with the terms hereof.
29. The Out-grower member shall offer, for harvest and transport by the Out-grower institution, all such sugarcane as is derived from his contracted sugarcane plot and no other for use either as crop seed or mill sugarcane; sugarcane which shall be harvested green, cut at ground level, de-trashed and topped just below the meristem as specified by the body responsible for research.

***Seed development for sugarcanes***

30. The Out-grower members shall allow the cultivation of seed cane nurseries, if the Out-grower institution desires for the multiplication of seed cane material to be supplied to other Out-grower members provided that such sugarcane may be used for milling when it is no longer required for crop seed.
31. Where an Out-grower member has been identified to grow seed cane using the agronomical practices recommended by the body responsible for sugar research the price per tonne of the seed shall be determined separately from the commercial sugarcane provided that the breeder or basic seed shall be provided by the body responsible for sugar research on specific terms to the miller or any bulking institution who will establish A nurseries and in turn shall supply the Out-grower members with seeds for B nurseries in the Out-grower zones. A list of approved nurseries and bulking institutions/farmers shall be maintained by the body responsible for sugar research.
32. The Out-grower members shall plant seed sugarcane at the onset of rains and stop two months before the onset of dry season, except under irrigation where sugarcane shall be planted at any time.
33. The Out-grower members shall allow the cutting of good quality commercial sugarcane of plant and first ratoon crops only to supply seed cane to other Out-grower members in the absence of suitable nurseries provided that the age of the seed cane shall be not less than 7 months but not more than 14 months depending on cane variety and agro ecological zone.
34. Where sugarcane is to be used as seed cane the cost for purposes of paying the Out-grower members or selling to recipient Out-grower members shall be determined in accordance with guide notes provided by the Sugarcane Pricing Committee.

35. Where the Out-grower institution is not the primary provider of crop seed, the Out-grower institution shall provide requirements for crop seed as part of long-term sugarcane requirements provided an integrated approach to crop seed development shall be worked out by body responsible for research.
36. The Out-grower institution shall establish seed sugarcane “B” nurseries on Out-grower members’ plot for bulking of seed sugarcane to be supplied to other Out-grower members, and for this purpose to purchase, harvest and transport such seed sugar-crop after certification by the Out-grower institution’s agronomist as to its suitability for planting; seed crop which fails to be used for seed will be used for milling provided that the grower whose crop is cut for seed will be paid at the price not less than that of mill crop and will not be charged the cost of transport.

***Sugarcane harvesting, transport, weighing and selling***

37. The grower shall offer, for harvest, transport and weighing all such sugarcane as is derived from his\her contracted sugarcane plot and no other for use either as crop seed or mill crop; sugarcane which shall be harvested green, cut at ground level de-trashed and topped just below the meristem as specified by the body responsible for research; a job completion certificate shall be promptly signed where harvesting has been done satisfactorily.
38. The grower shall not sell his sugarcane through a middleman nor dispose of it or any interest therein to any other parties without the written permission of the miller specifying the tonnage of sugarcane which may be sold, the date on which the sale may take place and destination of the sugarcane.

***If Out-grower member fails to maintain crop husbandry***

39. The Out-grower institution shall, upon notice be entitled, in the event that the Out-grower member does not prepare, plant and maintain his land and sugarcane in accordance with the agreement, to carry out all and any such operations on the Out-grower member’s land which the Out-grower institution shall consider necessary to ensure that the Out-grower member’s quota of sugarcane of satisfactory quality will be delivered on the due date, in which case the Out-grower institution shall be further entitled to deduct the cost, including a penalty for these operations from the payment to be made for the Out-grower member’s sugarcane.
40. In case of a default and upon notice by the Out-grower institution, the grower shall allow all or any such work to be carried out at his cost by the Out-grower institution and its agents or employees working in conjunction with the grower.
41. Within seven days of receipt of a written notification from the Out-grower institution that such operations are necessary to achieve a satisfactory yield of sugarcane, the Out-grower member shall allow unimpeded access into his cane plot by the Out-grower institution and his equipment for the purpose of carrying out any or all operations which the grower has failed to carry out and that notification shall have either been served to the grower or his representative and acknowledged, or shall have been posted to the grower by registered mail of work carried out.

42. The Out-grower institution shall give notice for the work to be undertaken on a member's behalf, detailing work description, costs and penalties involved; and on completion of the said work, a job completion certificate shall be prepared and issued to the Out-grower member who shall acknowledged receipt by signing thereof indirect costs shall be agreed by the parties at time of entering into this agreement.

***Costs and recoveries***

43. The Out-grower member shall bear all direct and indirect costs of the works, goods and services supplied by the Out-grower institution as specified in the agreement and unless the same are paid earlier allow such costs to be deducted from payment for sugarcane supplied by the Out-grower member provided indirect costs, shall have been discussed and agreed at the time of the contract.
44. The Out-grower institution shall charge interest on any credit that may be granted by the Out-grower institution to the Out-grower member, such credit being only granted in exceptional circumstances at such rate as may, from time to time, be notified by the Out-grower institution and be entitled to deduct such interest from the payment due to the Out-grower member in respect of the first sugarcane harvest from the Out-grower member's land subsequent to the grant of the credit provided that any interest charges shall have been agreed upon at the time of entering this agreement.
45. The Out-grower institution shall be entitled to charge the Out-grower member for all works, goods and services supplied to the Out-grower member by the Out-grower institution in accordance with the Out-grower institution's Schedule of Charges in force at the date the agreement is signed provided that the said charges shall at all times be as agreed with the grower; the Out-grower institution shall consult with the Out-grower member regarding any proposed changes in the said charges before such charges are proposed to take effect and shall maintain such records as are necessary to show the growers that the charges from time to time are as agreed under sub-paragraph 43 and 44 above.
46. The Out-grower institution shall notify all changes in the Schedule of Charges to the Out-grower member at least thirty days before the charges are due to take effect and where an Out-grower member ends up with a debit balance, the Out-grower institution shall immediately write to the member for arrangement of recovery of the said debt.

***Out-grower member representatives and agents***

47. An Out-grower member may appoint a representative in all matters of advocacy in sugarcane development and the financing of sugarcane supply, including negotiations for the price of sugarcane, costs of farm inputs and related services.
48. The Out-grower member shall either attend himself or send an authorized representative to the buying point to witness the condition of the sugarcane at the time of delivery and to obtain a ticket showing its weight or value.

**FORCE MAJEURE**

49. Neither the Out-grower institution nor the miller shall be obliged to perform their respective obligations under an agreement if and to the extent that they or either one of them may be hindered or prevented from so doing directly or indirectly by an event of *force majeure*.

50. Any event of *force majeure* must be reported by the affected party to the other party within seven days from the date of its occurrence and the said event be certified by the competent authorities of both parties.
51. The obligations of the parties under an agreement shall remain suspended for the period during which the said event of *force majeure* persists.

**DISPUTES**

52. Any question or dispute as to the responsibility to fulfil the terms of the specified agreement due to the reason stated above shall be resolved in accordance with the laws of Kenya.

**TERMINATION OF CONTRACT**

53. Where the institution is unable to provide the services within the agreed period for whatever reason, the grower may harvest and transport sugarcane to the miller within the Out-grower institution-miller agreement upon notice.
54. Where the institution offers services at the wrong time, the farmer shall have the option of arranging for alternative services upon notice to the institution.
55. Where the institution ceases to exist, the grower may deliver the sugarcane to the miller with the letter of approval of the miller.
56. Where an Out-grower member decides to discontinue the production of sugarcane or terminate the relationship with an Out-grower institution, he shall give a three months' notice of his intention to do so and shall pay all his dues before the expected time of harvest and the Out-grower will then harvest sugarcane in the normal harvesting manner provided that such notice shall only be effective if the grower shall, within the period of notice, repay in full all loans received by him from the Out-grower institution.
57. Any such termination of the contract shall be without prejudice to all rights accrued and obligations incurred to or by either party prior to the date of termination and shall not prejudice any claim for damages for such breach of contract.

**CHARGES BY OUT-GROWER INSTITUTION**

ACTIVITY	UNIT	QUANTITY	COST/UNIT	TOTAL COST
<b>SURVEY</b>	Ha			
<b>LAND PREPARATION</b>				
Trimming	Ha			
Ripping	Ha			
Disking	Ha			
1 <sup>st</sup> Ploughing	Ha			
2 <sup>nd</sup> Ploughing	Ha			
1 <sup>st</sup> Harrowing	Ha			
2 <sup>nd</sup> Harrowing	Ha			
Furrowing	Ha			

*The Crops (Sugar)(General) Regulations, 2018*

Inter-row cultivation	Ha			
<b>FERTILISERS</b>				
NPK	50 kg bag			
UREA	50 kg bag			
DAP	50 kg bag			
SSP	50 kg bag			
TSP	50 kg bag			
CAN	50 kg bag			
Transport	50 kg bag			
Loading/Off loading	50 kg bag			
<b>CHEMICALS/HERBICIDES ETC.</b>				
Atranet combination	Kg			
Gesapax combination	Kg			
Actril DS.	Lt			
Diuron	Kg			
Round up	Lt			
<b>SUGARCANE HARVESTING</b>				
Sugarcane cutting	Kshs/tonne			
Groover/Lysol/water man	Kshs/tonne			
Chemicals	Kshs/tonne			
Administration	Kshs/tonne			
NSSF Contribution	Kshs/tonne			
Public Holidays	Kshs/tonne			
Transport of sugarcane cutters	Kshs/tonne			
<b>TRANSPORTATION OF SUGARCANE</b>				
Zone 0 – 4km	Kshs/tonne			
4.1 – 8	Kshs/tonne			
8.1 – 12	Kshs/tonne			
12.1 – 16	Kshs/tonne			
16.1 – 20	Kshs/tonne			
20.1 – 24	Kshs/tonne			
24.1 – 28	Kshs/tonne			



***The Crops (Sugar)(General) Regulations, 2018***

28.1 – 32	Kshs/ tonne			
32.1 – 36	Kshs/ tonne			
36.1 – 40	Kshs/ tonne			
Over 40 km				
OR				
Zone A. 0 – 10km	Kshs/ tonne			
B. 10.1 – 16	Kshs/ tonne			
C. 16.1 – 24	Kshs/ tonne			
D. 24.1 – 32	Kshs/ tonne			
E. 32.1 – 40	Kshs/ tonne			
F. Over 40 Km				
<b>INTEREST ON LOANS</b>	%			
Other charges (specify)	Kshs/ tonne			

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement on the day and date first herein before mentioned.

**SIGNED** for or on behalf of the registered out-grower institution:

.....

In the presence of:.....

**SIGNED** for or behalf of the grower:.....

In presence of:.....

**AGREEMENT BETWEEN INDEPENDENT SUGARCANE GROWER AND REGISTERED MILLER ON SUGARCANE SUPPLY**

This **AGREEMENT** is made the \_\_\_\_\_ (day) of \_\_\_\_\_(month) two thousand and \_\_\_\_\_ **BETWEEN** \_\_\_\_\_(names in full) of P. O. Box .....(Town/City) (referred to as the “independent sugarcane grower”, which expression shall, where the context so admits, include his successors and assignees) whose plot L.R No \_\_\_\_\_ soil type(s) \_\_\_\_\_ and is situated in Sub-location \_\_\_\_\_ Location \_\_\_\_\_ Zone \_\_\_\_\_ Division \_\_\_\_\_ Sub-County \_\_\_\_\_ County \_\_\_\_\_ **AND** \_\_\_\_\_ (name in full) of P.O Box \_\_\_\_\_ (Town/City) (referred to as the “miller” which expression shall, where the context so admits include, its successors and assignees) which was incorporated/registered in the Republic of Kenya and has its registered office at \_\_\_\_\_ in the Republic of Kenya.

- (a) **WHEREAS** the independent sugarcane grower has entered into sugarcane supply contract with the miller in respect of sugarcane grown by the independent sugarcane grower;
- (b) **WHEREAS** the independent sugarcane grower is willing to grow sugarcane without the assistance of the miller under specific agreement signed between independent sugarcane grower and the miller; and
- (c) **WHEREAS** the miller is willing to buy all sugarcane of requisite quality from the independent sugarcane grower specified in this agreement.

**NOW IT IS AGREED BETWEEN THE PARTIES AS FOLLOWS:**

**TERMS OF AGREEMENT**

1. The term of this agreement shall commence on the date it is signed and shall, unless sooner determined under the provision of clauses hereof, continue until the independent sugarcane grower has supplied one plant and two ratoon crops, which is a period of up to twenty four months for plant crop and up to twenty two months for each ratoon crop provided that for early maturing varieties, the crop may be harvested earlier as appropriate, and that by mutual consent the said term maybe extended to include the harvesting of one or more ratoon crops as long as the crops meet agreed quality standards, with or without modifications of the terms and conditions herein contained, by a memorandum of extension endorsed hereon not less than three months before the date of the anticipated commencement of harvesting of what would otherwise have been the last ratoon crop under the contract.
2. The independent sugarcane grower shall, before the start of each financial year, prepare cultivation and planting programme covering all his fields and showing acreage, approximate timings and production quantities anticipated for each plot.

3. The cultivation and planting programme shall include: the area under sugarcane by crop cycle for each plot; by each variety showing, plot number(s); age of sugarcane, area of plot, anticipated sugarcane yields and expected time of maturity.
4. At the appropriate time, the independent sugarcane grower shall prepare a harvesting programme showing the approximate expected time of harvesting the crop of plot and furnish the miller with copies of such programmes as soon as they are completed, and consult with the miller regarding any significant changes therein that the miller may subsequently consider necessary to make; and a list of plots showing the acreage of each sugarcane area as specified in his sugarcane supply contract provided that the programmes referred to herein shall be tentative and their implementation shall be subject to the exigencies of subsequent operations and circumstances.
5. The miller may harvest, transport and weigh sugarcane on behalf of the independent sugarcane grower within the terms and conditions agreed between both parties
6. The lead time in harvesting sugarcane shall not be more than twenty-four (24) hours and all the lead sugarcane harvested within the lead time shall be under responsibility of the miller, who may arrange to offer the sugarcane to another miller or bear the cost of wastage.
7. The miller shall buy all sugarcane of requisite quality harvested from the area specified in this supply contract in accordance with the programme provided for herein and the requisite quality of sugarcane shall be as specified by the Authority in respect of the sugarcane variety(ies) \_\_\_\_\_ whose harvest-to-mill time for green sugarcane shall ideally not exceed seventy-two (72) hours, and in case of accidentally burnt sugarcane harvest-to-mill time shall ideally not exceed forty-eight (48) hours; with extraneous matter of less than three per cent (3%); Pol % cane of eleven percent (11%) or above and fibre content of 15% but not more than 17.5% at maturity.
8. The miller may reject any sugarcane found not to be of the requisite quality based on parameters established by the Authority and as specified in this agreement; and sugarcane rejection parameters shall include:
  - (a) extraneous matter of more than 10%;
  - (b) harvest-to-mill time of green sugarcane of three (3) or more days;
  - (c) two (2) or more days for burnt sugarcane with zero day being the day of cutting or burning, and mill time shall be the time recorded on entry at the weighbridge;
  - (d) 82% or less absolute juice purity;
  - (e) fibre content outside the range of 15.0 to 17.5%;
  - (f) pol% cane of less than 11%; or
  - (g) sugarcane of a variety not specified in this agreement and not recommended by body responsible for research.
9. The miller shall off-load sugarcane quickly and efficiently by applying the principle of first in first out (FIFO) and no sugarcane shall be stored in the yard for more than 12 hours from mill-time, provided that during the handling of sugarcane in the yard vehicles shall not be used in such a manner as to destroy sugarcane.

10. The miller shall ensure that high impact extraneous matter such as stones, boulders, tree stumps, etc do not damage equipment by putting a system in place to exclude them and any identified culprit shall be penalized.
11. The miller shall notify the independent sugarcane grower in advance of any planned closure of the mill for any reason, and notification shall be through a detailed annual time account and the provided annual milling programme.
12. The miller shall advise the independent sugarcane grower of any change in planned activities as soon as the need for such change becomes apparent and he shall issue notices to stop further harvesting of sugarcane in the event of mill breakdowns.
13. The miller shall pay the independent sugarcane grower within thirty days of sugarcane delivery provided that the sugarcane will be harvested not later than twenty-four months for plant crops and not later than twenty-two months for subsequent ratoons and that the sugar cane price will have been derived through the payment formula provided by the Sugarcane Pricing Committee.
14. If a miller fails to pay the independent sugarcane grower as specified by these regulations and Schedule, the miller shall be liable *to pay a penalty of 1.5% per month* on the outstanding accounts of the affected independent sugarcane grower.
15. The miller shall maintain and develop adequate milling capacity for sugarcane planted based on agreed planting plans with the independent sugarcane grower and further strive to mill sugarcane efficiently to realize maximum returns for both parties by achieving the following minimum standards:
  - (a) In the case of sugarcane, tonne cane/ tonne sugar ratio of 9 or rendement of 10%; mill extraction of 94%;
  - (b) preparation index of 90%;
  - (c) boiling house recovery of 88%;
  - (d) factory time efficiency of 92%;
  - (e) overall time efficiency of 80 %; and
  - (f) overall time utilization of 75%.

#### **SUGARCANE HARVESTING, TRANSPORT, WEIGHING AND SELLING**

16. The independent sugarcane grower shall plan to harvest, transport and weigh all such sugarcane as is derived from its Out-grower members' contracted sugarcane plots and no other for use either as seed cane or mill cane; sugarcane which shall be harvested green, cut at ground level, de-trashed and topped just below the meristem as specified by the body responsible for research.
17. The sugarcane transporter shall be included in the harvesting programme indicating specific assignments and areas of operation and may be held responsible for sugarcane spillages during transportation.
18. Sugarcane transportation shall be fast, avoid sugarcane spillage and carry high payload to reduce costs; the miller and sugarcane transporters shall ensure a short turn round time;

and transport costs shall be charged based on the weight of delivered sugarcane at zonal rates.

19. The miller or other responsible parties shall maintain sugarcane transport roads to allow transport units to efficiently carry sugarcane in stack units (6 tonnes) or their multiples such as twelve (12) tonnes or eighteen (18) tonnes to avoid field and transport losses.
20. Sugarcane shall normally be weighed at the factory under the supervision of the sugarcane testing unit, otherwise any contracted party shall weigh sugarcane at any agreed location provided the weighbridge shall be serviced, inspected and stamped by the Weights and Measures department in accordance with the Weights and Measures Act, Cap. 513.
21. An independent sugarcane grower may install a weighbridge at the farm gate at his own expense for weighing sugarcane provided that the weighbridge shall be subjected to tests and inspection by the weights and measures department in accordance with the law.
22. The sugarcane-testing unit shall manage all sugarcane bridges and where possible the weighbridges shall be automated.
23. The independent sugarcane grower shall not sell his sugarcane nor dispose of it or any interest therein to any other parties, other than through this agreement, without the written permission of the miller specifying the tonnage of sugarcane which may be sold, the date on which the sale may take place and destination of the sugarcane.
24. The parties to this agreement shall always undertake to conduct their business above Authority with the aim of ensuring integrity, transparency and accountability and the miller shall ensure sugar products conform to the specifications of the Kenyan Bureau of Standards and strive to pack sugar directly for retail in the market.

#### **TERMINATION OF CONTRACT**

25. The independent sugarcane grower shall not assign any interest therein or any of his rights or obligations under this agreement without the written consent of the miller.
26. Where the miller offers services at the wrong time, the independent sugarcane grower shall have the option of arranging for alternative services upon notice to the miller.
27. Where the sugar mill ceases to exist, the independent sugarcane grower may deliver the sugarcane to another party without the approval of the miller.
28. If any party decides to discontinue the supply of sugarcane or terminate the relationship with the other party, he shall give a three (3) months' notice of his intention to do so and shall pay all his dues before the expected time of supply; any such termination of the contract shall be without prejudice to all rights accrued and obligations incurred to or by either party prior to the date of termination and shall not prejudice claim for damages for such breach of contract.

#### **FORCE MAJEURE**

- 29. Neither the independent sugarcane grower nor the miller shall be obliged to perform their respective obligations under this agreement if and to the extent that they or either one of them may be hindered or prevented from so doing directly or indirectly by an event of force majeure.
- 30. The affected party shall report any event of force majeure within seven (7) days from the date of its occurrence and the competent authorities of both parties shall certify the said event.
- 31. The obligations of the parties under the specified agreement shall remain suspended for the period during which the said event of force majeure persists.

**DISPUTES**

- 32. Any question or dispute as to the responsibility to fulfil the terms of this agreement shall be resolved in accordance with the laws of Kenya.

**IN WITNESS WHEREOF** the parties hereto have executed this Agreement on the day and date herein.

**SIGNED** for or on behalf of the miller:

Name.....

In presence of:

Name.....

**SIGNED** for or behalf of the independent sugarcane grower:

Name.....

In presence of:

Name.....

**SECOND SCHEDULE**

(r. 4 (1))

**CONDITIONS FOR LICENSING OF MILLERS**

1. The miller shall participate in all the stages of sugarcane development, including variety selection, seed cane propagation, treatment and bulking, disease and pest prevention and control, crop maintenance, harvesting and transportation.
2. Cane development technology shall satisfy the needs of specific project stakeholders by demonstrating attributes of transferability and sustenance in accordance with the Industrial Properties Act, Cap 509 and any other relevant laws.
3. The Miller may develop its own sugarcane estate (nucleus) or contract large and small-scale sugarcane growers to develop and supply cane to the mill in accordance with these Regulations in specific, the contracts shall address the following —
  - (a) green sugarcane projects shall be encouraged to develop block farming schemes for small-scale growers;
  - (b) the miller shall be required to develop large-scale crop estate(s) or block farms to provide 30% of its annual crop supply, seed cane development and multiplication;
  - (c) where large numbers of small-scale growers exist, the project shall cause them to be organized into groups (out-grower institutions) for ease of administration and provision of services; and
  - (d) where marginal sugarcane growth conditions exist, the project may develop irrigation schemes to match the available water resources.
4. All growers shall be members of an umbrella association for advocacy of their interests.
5. All sugarcane harvester and transporters shall conform to these Regulations.
6. Sugarcane shall be harvested in an efficient manner specifically in accordance to the following —
  - (a) harvesting and stacking of green and accidentally burnt cane in the estate and growers cane plots within miller zones for which the harvesting contractor undertakes to provide a sufficient number of cutters daily and to work under the direction of the company shall be done according to specification; and
  - (b) sugarcane shall be harvested from the programmed plots or fields only when a valid work order has been issued, with work in hand completed before being allocated new work; otherwise the contractor shall be held responsible for any unauthorized harvesting by cane cutters registered under his name.
7. Sugarcane shall be transported efficiently and expeditiously from wherever directed to the sugarcane mill at such times as the miller, in its sole discretion shall decide and direct, in doing so, the miller shall ensure compliance with the following —
  - (a) the sugarcane transporter shall always, provide a fast transportation means, avoid sugarcane spillage and carry high payload to reduce costs and both parties shall ensure a short turn round time with transport costs being charged based on tonnes of sugarcane per kilometre; and

(b) the transporter shall comply with all national standards and regulation, now or hereafter in force regarding the specifications of the haulage vehicles or the transport of sugarcane and any such modifications, as from time to time may be required shall be carried out at the transporters' expense;

8. The price of sugarcane shall be based on the formulae recommended by the Committee as follows:

$$\text{Cane price} = \frac{\text{Net price of sugar per unit weight} \times \text{Growers' share per unit}}{\text{Cane/sugar conversion ratio by weight}}$$

Where—

- (a) net price of sugar per unit weight is the average price of sugar per tonnes in the previous month preceding cane delivery;
  - (b) growers' share is the agreed equitable sharing ratio set at 50:50 based on the verified costs of cane and sugar respectively; and
  - (c) cane to sugar conversion ratio or TC/TS is the fraction obtained by dividing the weight of sugar produced from a given weight of cane in tones which has been set at 10.
9. This formula shall be subject to reviews in keeping with continuous improvements in cane testing and revenue sharing systems.
10. Sugarcane mills shall be set up in accordance with the industrial and labour laws of Kenya, specifically the mills shall ensure that —
- (a) the processing technology shall satisfy the needs of specific projects within the requirements of the Public Health, and Food, Drug and Poisonous substances laws and the Kenyan food Hygiene and cane processing standard specifications for sugarcane equipment and products;
  - (b) the processing technology shall meet all the requirements of transferability within the Industrial Properties Act, Cap 509; and
  - (c) all processors shall be members of an umbrella association for advocacy of their interests.
11. A person who intends to set up a sugarcane mill shall, before doing so, be required to register with the Authority.
12. An application for a license or renewal of a license shall be accompanied with the following —
- (a) a list of all growers with sugarcane farming and supply contracts as proof of availability and adequacy of sugarcane supply;
  - (b) a statement on the nature of supply of sugar cane such as nucleus estate or independent non-contracted sugarcane growers;
  - (c) the details of the geographical area of production of sugarcane;
  - (d) a declaration with undertaking that the quality of sugar and other products manufactured by the applicant shall meet the standards set by the Kenya Bureau of Standards in accordance with the Standards Act, Cap. 496;
- The holder of a license issued by the Authority under Regulation 14 shall conduct all operations of the factory to the satisfaction of the Directorate/Authority



- 13.** The Authority, before issuing a licence to a miller the applicant has the following —
- (a) a certificate from Public Health Officer and license as proof that applicant’s operations and premises satisfy safety and health standards stipulated by the Medical Officer of Health responsible for public health in accordance with the Public Health Act, Cap. 242;
  - (b) an Environmental impact assessment license as proof that applicant’s operations comply with environmental standards set by the National Environmental Management Authority in accordance with the Environment Management and Co-ordination Act, 1999; and
  - (c) a Factory license as proof that applicant’s operations comply with the provisions of the labour laws.
- 14.** The Authority may impose conditions from time to time and any conditions so imposed after the grant of a license may be either by endorsement of the condition served by post on the licensee, and any condition of license may be varied or extended in the same manner as conditions imposed after the grant of the license provided that a condition shall not be imposed after the grant of license, which may frustrate the purpose, for which the license was granted.
- 15.** There shall be payable in respect of the grant of a license a fee of one million Kenya shillings (Kshs1,000,000.00), in case of large scale white sugar mill, and fifty thousand Kenya shillings (kshs50,000.00, in case of small scale jaggery mill.
- 16.** The Authority may, at its discretion, refuse to grant or renew a license on any of the following grounds —
- (a) that a sufficient number of millers already exist;
  - (b) that the applicant has not conducted his mill according to these Regulations or any other legislation in force or required standards;
  - (c) that the miller has failed to honour industry agreements entered with other parties and related programmes;
  - (d) that the miller has failed to remit any levies lawfully imposed on the industry payable to the Authority or any other designated or authorized party or agent; or
  - (e) any other ground which appears to the Authority to be reasonable in the interest of the sugar industry.
- 17.** The Authority may suspend or revoke a license in the event of the licensee contravening these Regulations or any condition of a license whether original or amended.
- 18.** Where the Authority revokes a license the mill to which the license relates shall, for this regulation, be deemed to have ceased to operate forthwith.
- 19.** Sugar and related co products shall be handled in accordance with the existing hygiene, health, safety and commercial standards.
- 20.** Millers shall conform to the below standards for the various types of sugar.

**KENYAN SPECIFICATIONS FOR SUGAR**

**a) REFINED SUGAR**

**STANDARD : KS EAS 5: 2009**

Characteristic	Requirement
Polarisation °S (Min)	99.7
Invert Sugar Content, % m/m (Max)	0.04
Conductivity Ash,% m/m (Max)	0.04
Loss on drying (Max) (3 hours at 105°C)	0.1
Colour, in ICUMSA units (Max)	60

**b) PLANTATION (MILL) WHITE SUGAR**

**STANDARD : KS EAS 16: 2000**

Characteristic	Requirement
Polarisation °S (Min)	99.5
Invert Sugar Content, % m/m (Max)	0.1
Conductivity Ash, % m/m (Max)	0.1
Loss on drying (Max) (3 hours at 105°C)	0.1
Colour, in ICUMSA units (Max)	500

**c) BROWN SUGAR**

**STANDARD : KS EAS 749: 2010**

Characteristic	Requirement	
	Light Brown	Brown
Polarisation, °Z (Min)	99.2	99.0
Invert Sugar Content, % m/m (Max)	0.2	0.2
Conductivity Ash % m/m (Max)	0.3	0.3
Loss on drying (3 hours at 105°C ± 2°C) (Max)	0.15	0.2
Colour, in ICUMSA units (Max)	700	1,300

**d) RAW CANE SUGAR**

**STANDARD : KS EAS 8: 2010**

Characteristic	Requirement
Polarisation, °Z	94 - 99
Invert Sugar Content, % m/m (Max)	1.2
Conductivity Ash % m/m (Max)	1.0
Moisture Content, % (Max) (3 h at 105°C ± 2°C)	1.0
Colour, in ICUMSA units at 420 nm	>1,300 – 6,000

**21.** Where appropriate product management shall be guided by sector specific regulations such as in the case of electric power for export, power alcohol, agrochemicals and pharmaceutical.

22. All project finances shall be subject to the Banking Act, the Central Bank of Kenya Act, the Capital Market Act, Custom and Excise Act, Accountants Act and other laws which govern finances, banking, taxes, public accounting and auditing.

Made on.....2018.

.....  
**WILLY BETT**  
Cabinet Secretary,  
Ministry of Agriculture, Livestock & Fisheries.