



# Contract farming and the law: **What do farmers need to know?**

## What is contract farming?

At the heart of contract farming is an agreement between farmers and buyers: both partners agree in advance on the terms and conditions for the production and marketing of farm products. These conditions usually specify the price to be paid to the farmer, the quantity and quality of the product demanded by the buyer, and the date for delivery to buyers. The contract may also include more detailed information on how the production will be carried out or if any inputs such as seeds, fertilizers and technical advice will be provided by the buyer.

## Purpose of this brief

This brief aims to help farmer leaders, farmer organizations and facilitators working with smallholders to achieve a correct understanding of the legal and operational aspects of contract farming. It is based on information extracted from the *Legal Guide on Contract Farming* (UN-IDROIT/FAO/IFAD, 2015), and from field experience in the implementation of contract farming projects by the Food and Agriculture Organization of the United Nations (FAO).

## PART 1

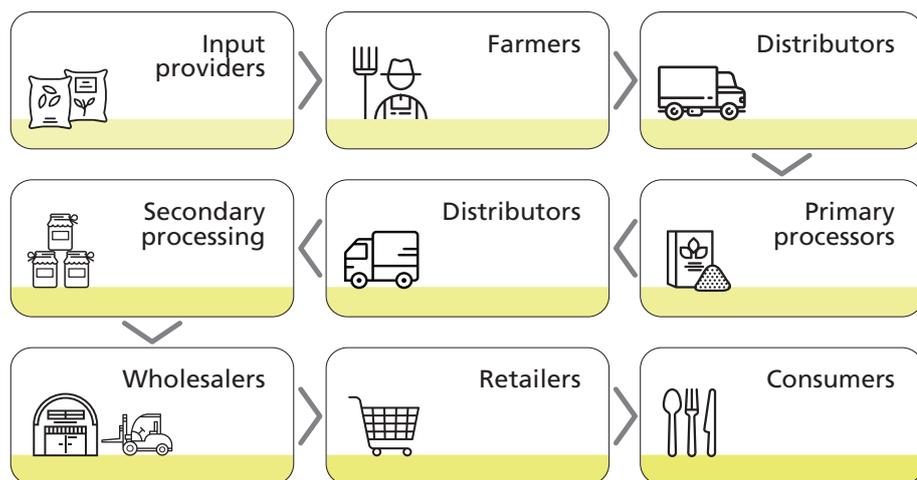
### WHY ENGAGE IN CONTRACT FARMING?

**Why is contract farming important today?** Contract farming has been in existence for decades. However, in recent years, its use has increased in popularity, particularly in developing countries. But why is this happening now? Globalization has brought the world closer together and the demand for food and agricultural products has increased dramatically. Food markets have become more competitive as consumers in many countries now live in cities and demand food products that are not only safe to eat, but are also produced in a way that does not damage the environment or harm the workers involved in their production. In this new context, the buyers of agricultural products need to work more closely with their partners in the supply chain so that they can source enough good quality raw materials directly from farmers to meet the demand for food products from their own customers, such as supermarkets, restaurants, hotels, schools and hospitals. Companies that process agricultural products are particularly interested in contracting with farmers, in order to secure a regular supply of raw materials that meet their needs in terms of quality and quantity.

**What are the benefits of contract farming for smallholders?** Contract farming can help to connect smallholder farmers to buyers. It gives farmers the possibility of knowing in advance when, to whom and at what price they will sell their products. This helps to reduce the unpredictability of agriculture and allows them to better plan their production. It reduces the risks associated with fluctuating prices, and can also help protect farmers against losses associated with natural disasters and climate change as these risks can be shared with the buyer under a contract. When buyers also provide access to inputs including finance and technical assistance, contract farming can lead to significantly increased yields and profits.

**Examples of successful contract farming.** Many countries have adopted contract farming schemes for different products with successful results in terms of net profits for farmers, increased yields, and more efficient use of inputs. Some examples include tomato production in Turkey and poultry production in Brazil (Box 1).

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Source: authors' elaboration.

**Advantages and disadvantages.** Contract farming may have advantages as well as disadvantages for both farmers and buyers, as illustrated below. However, the increase in contracting occurring around the world seems to indicate that the positive aspects tend to outweigh the negative ones.

Advantages for farmers	Advantages for buyers
<ul style="list-style-type: none"> <li>» easier access to inputs, services and credit</li> <li>» improved production and management skills</li> <li>» secure market</li> <li>» more stable income</li> </ul>	<ul style="list-style-type: none"> <li>» consistent supply of raw materials</li> <li>» products conform to quality and safety standards</li> <li>» reduced input and labour costs when compared to integrated production on company-owned land</li> </ul>
Disadvantages for farmers	Disadvantages for buyers
<ul style="list-style-type: none"> <li>» loss of flexibility to sell to alternative buyers when prices increase</li> <li>» possible delays in payments and late delivery of inputs</li> <li>» risk of indebtedness from loans provided by the buyer</li> <li>» environmental risks from growing only one type of crop</li> <li>» unequal bargaining power between farmers and buyers</li> </ul>	<ul style="list-style-type: none"> <li>» high transaction costs from contracting with many small farmers</li> <li>» risks of side-selling if farmers decide to break the contract and sell to others</li> <li>» potential misuse of inputs if farmers use seeds and fertilizers provided by the company for another purpose</li> <li>» loss of flexibility to seek alternative supply</li> <li>» reputational risks if things go wrong</li> </ul>

**BOX 1**

**Positive impacts of contract farming**

**Impacts on profits and productivity: the case of tomato in Turkey.**

Turkey is the fourth largest producer of tomatoes in the world after China, India and the United States (FAOSTAT: Data of 2012). Here, contract farming schemes have been used for the cultivation and marketing of tomatoes for processing tomato sauce since the 1970s. Studies comparing contracted farmers with non-contracted farmers in tomato production have found that net profits in contract farming are 19 percent higher when compared to non-contract models. Through more efficient use of technology and labour, contracted farmers also produce more tomatoes when compared to the non-contracted group.

**Improved performance: the case of broilers in Brazil.**

Chicken consumption in Brazil is rising at 4.8 percent a year, while exports also keep rising at an annual rate of 6 percent. The country is the world's largest exporter of chicken, which is mostly produced under closely coordinated integration contracts. A medium-sized company, Pif-Paf Alimentos, produces broilers under contracts with some 600 farmers in two locations. In order to improve competitiveness, it has developed an effective contract design linking payment to production performance. Farmers receive pre-financed inputs and technical assistance. They also receive financial incentives to continuously improve technical efficiency, thus maximizing output and reducing Pif-Paf's production costs. (FAO forthcoming).

Source: Tatlıdil and Akturk, 2004; Haksöz, Seshadri and Lyer, 2011.

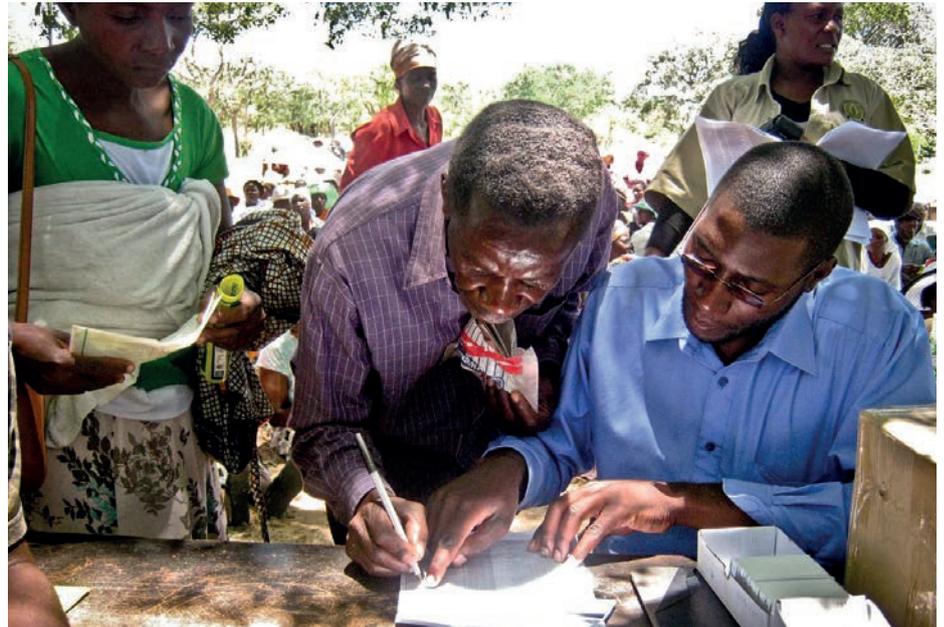
Contract farming may not be suitable for all farmers and buyers. In many countries contract farming agreements are legally binding. Farmers and buyers should be aware that by signing a contract they become legally responsible for what is written in it. Therefore, a good analysis of the pros and cons of contracting and its alternatives should be considered before entering into a contract farming agreement. Moreover, there may be alternative ways to organize a commercial relationship between a farmer and a buyer.

## PART 2

### HOW ARE CONTRACTS DEVELOPED?

The process of developing the contract is very important for building trust between farmers and buyers. Contract formation consists of several stages, including negotiations and exchange of information, presentation of an offer by the buyer and acceptance by the farmer, and the preparation of the contract itself. As a common best practice, the whole contract formation process should be carried out in a fair and transparent manner and in good faith. A good practice is for farmers to be involved in discussions with the buyer from the beginning of the negotiation and contract formation phases, to make sure they understand all the conditions included in the contract, and to ensure that their interests and rights are considered.

**The importance of the negotiation stage.** Usually, during this phase, the buyer provides the offer to farmers, which outlines the conditions of the contract. This offer



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should be presented to farmers in writing, with several days allowed for reviewing the document, to give farmers enough time to understand the proposed conditions and, if needed, consult with advisors for support. In some countries, legislation requires that a written offer be made to farmers as an obligatory part of the contract formation process. In cases where farmers may be illiterate, the text of the contract offer should be read aloud by a trusted third-party (see below). Farmers need to understand well all the conditions they are about to agree to, and they should be prepared to ask questions and request changes to certain clauses related to pricing, quality, payment and product delivery if they seem unfair or impossible to achieve. The signing of the contract should only take place after a full agreement on all the conditions has been reached and the negotiation phase is completed. Under general contract law, once the written offer has been accepted, this is sufficient to form a legally-binding contract.

**Who can help?** Many smallholder farmers may find it difficult to understand the clauses included in a contract, which can sometimes be written in confusing technical or legal terms. They may also not feel able to ask questions and negotiate with a buyer on their own. In these cases, the presence of a trustworthy person, like the leader of the farmers' organization, a



government extension officer or someone from a non-governmental organization, can be of much assistance in explaining the contract terms in detail. Two useful tools for advisors who support farmers and their organizations in the negotiation and implementation of contract farming agreements are the FAO Guiding Principles for Responsible Contract Farming Operations and the joint UNIDROIT/FAO/IFAD Legal Guide on Contract Farming.

**Laws are important for contract farming.** For farmers intending to engage in contract farming, understanding how contracts are regulated by law can be important, particularly when the contract is unclear or silent on certain aspects of the agreement. Specific regulations on contract farming, aimed at protecting both farmers and buyers, do exist in some countries. Where this is not the case, general contract law and rules governing other types of contracts may be relevant. Before signing a contract, at a minimum, farmers should know where they can seek guidance and advice to better understand the rules and regulations that govern this type of agreement.

### PART 3

## PRACTICAL ADVICE ON HOW TO UNDERSTAND THE CONTENT OF A CONTRACT AND THE LEGAL ASPECTS OF CONTRACT FARMING

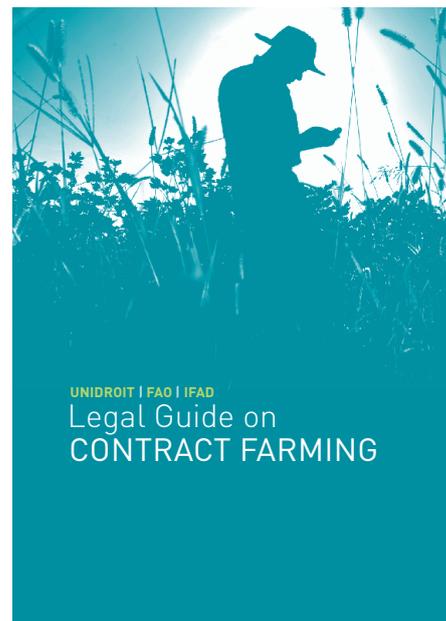
Based on the work of UNIDROIT, FAO and IFAD on the legal aspects of contract farming,

the questions and answers set out below provide some useful insights on possible solutions and good practices that can be applied when engaging in contract farming.

### 1. What does a contract usually look like?

Although verbal contracts do exist, it is strongly advised that contracts be written. Their presentation should be simple and the terms used understandable to all the parties. Generally, they should include the following sections:

1. **The parties**, including names and addresses of the signatories.
2. **The purpose**, providing the reason for the contract, including the name of the specific commodity to be produced.
3. **The production site**, where the size and location of the farming area should be specified in as much detail as possible. Where land is leased or rented, evidence of land-use agreements should be provided and, sometimes, the owner's approval may be required.
4. **Obligations of the parties** will describe what the farmer is expected to produce and how it should be delivered, and what support the buyer is required to provide. If the buyer is to provide inputs and/or technical assistance, this may be included here or in a separate section.
5. **Price and payment**, explaining the price to be paid or how it will be calculated, as well as when and where payment will take place.
6. **Input provision**, including a specific description of the inputs provided by the buyer and when and where they will be delivered, and how repayment by the producer will be calculated and made.
7. **Third parties**, describing the relationships with others who may contribute to the contract's success are described here. This may include financial institutions such as banks or quality assurance certification bodies.
8. **Excuses**, defining an acceptable justification for failing to comply with the contract, such as because of *force majeure*, can be included in this section.
9. **Remedies** includes description of ways in which one party can be compensated for the failure of the other to meet its obligations.
10. **Duration, renewal and termination**, gives details of how long the contract is for, arrangements for extension or renewal, and how and why it can be ended.



- 11. Dispute resolution**, introduces ways of addressing potential disagreements between buyers and farmers.
- 12. Signatures**, where the parties should sign, ideally in the presence of witnesses.

Some of these sections will be analysed in more detail in this brief. For more comprehensive recommendations on legal issues refer to FAO (2016) and UNIDROIT/FAO/IFAD (2015).

## 2. Who are the parties to a contract?

The parties in a contract are usually a farmer and a buyer. However, contracts may include linkages to other third-party partners such as input suppliers and financial institutions.

**The farmer.** Individual farmers, or farmers coming together to create a farmer organization (e.g. association or cooperative), can be partners in a contract. Individual farmers and their organizations may need to be registered as a business in order to engage in contract farming. All farmers involved in contract farming need to have the rights to use an area of land. They can either own or lease it, or in some cases may be

given permission to use government-owned land. What is important is that they can rely on secure land-use rights for the entire duration of the contract.

**The buyer.** There are a range of firms that engage in contract farming. Buyers can be small local businesses as well as foreign companies. Wholesalers, exporters, retailers and food processors may all act as buyers. In cases where government programmes exist to purchase products directly from farmers, public entities such as schools and hospitals may even act as buyers who contract directly with farmers.

**Other parties.** Other supply chain actors, and public and private bodies can be involved in contract farming. Examples include input providers, financial institutions, insurers, government agricultural extension departments and landowners.

## 3. What are the obligations of the parties?

In general, the farmer's main obligation is to produce and deliver the goods in accordance with the contract and the buyer's main obligation is to pay the agreed price in return for the goods provided by the farmer. In more detail, the obligations of the parties can be divided into four categories.

### 3.1 Product-related obligations – how much and what kind of product?

**Quantity.** Farmers agree to sell to the buyer a certain quantity of produce as indicated in the contract. This amount may be the whole production from a spe-

cific plot of land or from the inputs provided by the buyer. Some contracts may specify a minimum quantity, or variable quantity, or a percentage of the production. Whatever the method used to determine the quantity, contracts typically state that the produce must come from the farmer's own production, at the agreed location, using the inputs and methods provided for in the contract.

**Quality.** Farmers agree to sell a product to the buyer that meets the quality specified in the contract. Quality requirements may refer to physical characteristics such as colour, size, and shape; contents of the product (e.g. low fat milk, seedless grapes); or fitness for a certain purpose (e.g. virus-resistant seeds, green beans free of chemicals). A good practice is to specify these requirements in detail. For example, sentences like "of good quality", "the highest quality", or "acceptable quality" should be avoided as these are too vague. Better contracts give precise and objective indications, such as "maximum moisture content 6.5 percent". They may also provide more detail in an annex, with descriptions of unacceptable product faults or reference to public or private quality standards that must be met, such as Global Good Agricultural Practices (GlobalGAP). See Box 2 for more examples of quantity and quality obligations.

### 3.2 Process-related obligations – how will the production be carried out?

This includes details on the production method and technology to be used, and harvesting in-



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structions. Farmers must follow these instructions and buyers (or third parties) may provide specific inputs and technical assistance to help farmers during the production cycle.

**Inputs.** As indicated in the contract, farmers may have to use inputs provided by the buyer following their instructions. In these cases, the costs of the inputs may be deducted from final payments made after delivery of the contracted product. On their side, the buyer must deliver inputs of good quality, suitable to the production purpose, and on an appropriate date to ensure that the farmer has sufficient time to meet their normal production requirements.

**Land, facilities and equipment** needed for production. Farmers may need to prove that they have land-use rights for the duration of the contract; they may be required to build or improve a facility such as sheds for poultry production; or use specialized equipment to prepare the land for production.

Buyers may ask farmers to follow certain public or private **standards and certifications**, for example in relation to hygiene, labour conditions, and product quality.

There may also be obligations related to the protection of **intellectual property rights** on inputs provided. See Box 3 for examples.

### 3.3 Delivery-related obligations – when, where and how will the product be delivered?

Contracts should indicate the date, time and place and any other requirements that occur before or after delivery. Farmers may be responsible for delivering the product to the location indicated by the buyer, or the buyer may collect the product at a location agreed upon with farmers. Contracts should clearly state who is responsible for transporting the product and who will bear the costs. In cases where weighing or inspection of the product is required upon delivery, it is recommended that the contract allows the farmer or a trusted third-party to be present during this process.

### 3.4 Price and payment-related obligations – how much will the buyer pay the farmers?

Buyers must pay the farmer the agreed price stated in the contract in return for the products delivered. Price is an essential component of any contract and failure to set the price or explain how it will be determined may make the contract legally unenforceable. The contract must therefore clearly state the price to be paid, or describe in a clear and transparent way how it will be calculated. Any formulas used to calculate price should always be clear enough for farmers to be able to estimate the expected payment. See Box 4 for examples.

The contract should also specify the time and method of payment for both goods and inputs. Payment terms can vary widely in contracts, with some contracts providing immediate on-the-spot cash payments to farmers on de-

#### BOX 2

#### Quantity and quality obligation clauses from real contracts

“The grower shall offer the entire produce of chip grade potatoes to the company for sale” (India, potato contract).

“The Purchaser commits to buy all the tobacco produced by the seller” (Laos, tobacco contract).

“Purchaser shall purchase from the grower all paprika pod that meets the following quality standards: a. Variety as supplied by the Purchaser; b. Chemical residue level below American Spice Trade Association/EU levels; c. Maroon/purple, red or orange/red in colour; d. Free of foreign matter e. Free of fungal, bacterial or any other diseases” (Zambia, paprika contract).

Source: FAO Contract Farming Resource Centre database.

BOX 3

Process-related obligation clauses from real contracts

“The farmer shall use only planting material supplied by the buyer, and shall use only chemicals approved by the buyer in cultivation of the crop” (Trinidad and Tobago, pepper contract).

“The grower shall be responsible for all farming activities including land preparation, irrigation, planting, plant protection measures and harvesting” (India, potato contract).

“The grower shall adhere to the GlobalGAP standard. Sanctions may be applied to the grower, in case of the GlobalGAP requirements not being met” (Tanzania, vegetable contract).

“The company will supply the seedlings to the farmers. The number of seedlings supplied shall not exceed the one agreed by the parties. Prohibitions and fines will be enforced for any farmer found to be multiplying this planting material” (Thailand, eucalyptus contract).

Source: FAO Contract Farming Resource Centre database.

livery, and others fixing a certain number of days for payment to be made after delivery. Buyers must respect the payment conditions indicated in the contract, and the farmer must pay back any advances provided by the contractor.

4. How long does a contract last?

**Duration.** The duration of the contract should be clearly stat-

ed. This will depend on the production cycle of the product and should take into account the financial investments made by both parties. Generally, contracts are stipulated for a short term, usually expressed as a number of months or the duration of a crop season for short-cycle crops like vegetables; or up to several years for crops such as coffee, sugar cane, oil palm,

tree crops or livestock, which involve higher levels of investment.

**Renewal.** Contracts may include provisions on renewing the contract upon expiration. Clauses for automatic renewal can also be included and are particularly common for short-duration contracts, to reduce the costs involved in renegotiation, and in the reissuance of contracts every few months.

**Termination.** Contracts should include termination clauses, explaining when and how the contract will reach its natural completion, or if early termination by either parties is allowed. Termination of a contract can occur automatically upon fulfilment by the parties of their obligations. If one of the parties intends to terminate the contract prior to the completion date, they are normally required to provide written notice in advance to the other party. See Box 5 for an example of a termination clause.

BOX 4

Example of price clauses from real contracts

“The SELLER will be paid [X amount] in [X currency] per box” (Brazil, fruit contract).

“The company agrees to purchase all the paprika produced by the out-grower at not less than the prices indicated below:”

Paprika	Grade A+	Grade A	Grade B	Grade C	Grade D and seed
Price full pod	220	185	140	75	50

(Malawi, paprika contract)

Source: FAO Contract Farming Resource Centre database.

## BOX 5

**Contract termination: example clause from a real contract**

“The parties agree that either party may terminate the agreement by giving one month written notice to the other party of its intention to terminate” (Zambia, cotton contract).

Source: FAO Contract Farming Resource Centre database.

## BOX 6

**Force majeure**

- » Weather disasters: droughts, floods, frosts, hail, hurricanes
- » Pests, disease, plagues (crop)
- » Epidemics (livestock)
- » Changes in government policy (e.g. export bans)
- » Social events: strikes and armed conflicts

Source: FAO Contract Farming Resource Centre database.

## 5. What to do if things go wrong?

**Managing risks.** When drafting a contract, it is important that farmers and those supporting them try to envisage common problems that may affect the successful implementation of the contract. It is good practice to identify these risks and include possible solutions in the contract.



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### 5.1 What if neither party is at fault?

Sometimes, unforeseen events can happen independently of the intentions of the parties but with negative impacts on the contract agreement. Natural phenomena, for example, constitute some of the most common external factors that can affect farmers' performance. Floods, droughts, unpredictable climatic changes, plagues attacking crops, or livestock diseases, are all natural events that can make it impossible for farmers to respect their product, process and delivery-related obligations discussed above.

Legal systems often define events like these as *force majeure*. This category also includes other kinds of events outside the control of the parties, such as government decisions to change policies relat-

ed to agriculture such as export bans, armed conflicts and strikes that may affect either the production process or the availability of transport for delivery (Box 6). As laws sometimes provide only general principles, buyers and farmers need to agree on specific *force majeure* circumstances to be included in the contract.

**Common solutions to address force majeure.** In the case where *force majeure* events occur, contract farming agreements commonly allow for a suspension of the parties' obligations for the duration of the *force majeure* event. However, suspensions cannot be indefinite: the contract must indicate a time-limit and say what will happen after this period. These options usually include termination of the contract or renegotiation of the terms of the contract.

**Prevention of indebtedness.** *Force majeure* clauses may excuse the farmer from the obligation to deliver the product but they do not usually entitle the farmer to receive any payment, or excuse them from repaying any loans received. However, some contractors may recognize that when dealing with small uninsured farmers, they may need to accept the inclusion of some *risk-sharing clauses*. These may include accepting partial repayment from farmers for outstanding loans for inputs provided, or deferring repayment until the next harvest season. Some contracts may also require farmers to purchase agricultural insurance from an approved provider. In these instances, the buyer may help farmers to purchase this insurance at a reduced price.

### 5.2 What happens if the farmer doesn't keep his/her side of the agreement?

Apart from *force majeure* events, farmers can fail to perform properly or to comply with their contractual obligations for other reasons, namely: failure in land preparation, diversion of inputs for uses other than those intended under the contract, non-compliance with the agreed quality standards, failure to deliver all or part of the agreed quantity and, of course, the commonly mentioned downside of contract farming for buyers, known as side-selling (see Box 7).

### 5.3 What happens if the buyer doesn't keep his/her side of the agreement?

Buyers can also fail to deliver on their commitments under the contract.

**IMPORTANT!** All these problems can lead to conflicts between farmers and buyers. It is in the interests of both to find cooperative solutions and maintain the relationship. For example, instead of terminating the contract, in the case of a low quality product, buyers can decide to pay a lower price for it. On the other hand, in the case of late of delivery of inputs, farmers may be able to find another input provider and purchase substitute inputs, with the contractor being liable for any price difference.

### 6. How can we solve a disagreement and who do we turn to if we need help?

While prevention is an important part of minimizing the potential for problems by aiming to foresee possible risks and incorporat-



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#### BOX 7

#### What is side-selling and why does it occur?

Side-selling occurs when farmers sell the product to a different buyer who may have offered a higher price compared to the one agreed in the contract, or to a buyer who may offer instant cash payment. Farmers may engage in side-selling for opportunistic reasons or because they need instant cash to support household needs. Side-selling can cause the termination of the contract, ruin a farmer's reputation, and prevent them from engaging in other safe and long commercial relationships with trusted buyers.

Source: authors.

ing solutions into the contract, if disagreements do occur and parties are not able to find a shared solution, then a stepwise process should be followed:

» **Step 1.** Communication. Try to resolve difficulties through discussion and re-negotiation directly between parties. Farmers may request the help of a trusted facilitator (e.g. government extension agent, NGO or representative from local/national farmer associa-

tions), to help them to set up a discussion with the buyer. If this doesn't work...

- » **Step 2.** Mediation. Use an independent third party to bring parties together and try to help find a solution. See Box 8.
- » **Step 3.** Arbitration or law courts. If mediation does not work, and where this is possible, refer to arbitration institutions. In the case of quality disputes, the contracted parties could refer to this agency for



Common problems/failure by farmers	Possible solutions for buyers
<ol style="list-style-type: none"> <li>1. Diversion of inputs intended for contract production.</li> <li>2. Inability to meet the agreed quality standards.</li> <li>3. Failure to deliver all or part of agreed quantity.</li> <li>4. Sale to a different buyer outside of the contract (i.e. side-selling).</li> </ol>	<ol style="list-style-type: none"> <li>1. Monitoring by buyers, penalties for farmers, agreed feed conversion rates for livestock and baseline performance yields for crops.</li> <li>2. Technical assistance, monitoring mechanisms, price reductions and premiums for inferior and superior quality.</li> <li>3. Withhold payment until delivery of the agreed quantity; renegotiate contract.</li> <li>4. Exclusivity clause and penalties for side-selling including termination of the contract; preventative measures such as partial advance payments to reduce immediate cash needs, price renegotiation if market price exceeds an agreed rate.</li> </ol>

Common problems/failure by buyers	Possible solutions for farmers
<ol style="list-style-type: none"> <li>1. Late delivery of inputs/poor quality inputs.</li> <li>2. Manipulation of quality standards.</li> <li>3. Non-acceptance of delivery of product at the agreed place and time.</li> <li>4. Non/late payment to farmers.</li> </ol>	<ol style="list-style-type: none"> <li>1. Farmers withhold production until inputs are provided, notify buyer of inferior quality and seek alternative sources if available.</li> <li>2. Ensure detailed quality requirements and a fair and transparent quality assessment procedure are included in the contract.</li> <li>3. Contract allows farmer to claim for costs connected with storage, preservation and transportation of the goods. Compensation for loss of quality may be considered.</li> <li>4. Farmer makes formal request for payment, aims to find a cooperative solution, and seeks court judgment and termination of contract as last resort.</li> </ol>

an independent assessment. See Box 9. As an alternative, or if arbitration is not available, parties can refer to law courts. However, this should be avoided if possible as it is time-consuming, costly and not normally suitable for resolving contract farming disputes.

#### PART 4

### DECISION TIME – SHOULD I SIGN OR DECLINE? RECAP OF POINTS TO CONSIDER

The advice of a lawyer or a person with a good understanding of the legal implications of contracts is recommended before signing a contract farming agreement. The following points provide a sum-

mary of the legal aspects covered in this brief. At a minimum, farmers should consider these issues and then decide if the contract agreement is acceptable to them.

1. Conduct contract negotiations in good faith. The process of developing a contract is important in building up a harmonious relationship between the parties.
2. Ask for written contract offers, using terms that are understood by all. If illiteracy is a problem, ask for an oral explanation in the presence of a trustworthy person.
3. It is in the interests of all parties to ensure that contracts are complete and detailed. Ask to include clauses on the parties, the purpose of the contract, the production site, obligations of the parties, price and payment, input provision, third parties, excuses such as *force majeure*, remedies, duration, renewal

#### BOX 8

#### Example of a clause on conflict resolution from a real contract

“Any conflict arising from this agreement shall first be resolved amicably between the parties, and if they fail, the conflict shall be referred to a mediator to be agreed to be a community leader, a village elder, a representative of a trade association or any other trusted person.” (Uganda, generic contract).

Source: FAO Contract Farming Resource Centre database.



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and termination, dispute resolution, and signatures.

4. Prior to accepting the buyer's offer, ensure that there is no vagueness or uncertainty in the proposed agreement, and that you fully understand what you are being asked to

#### BOX 9

#### The *Cámara Arbitral*

In Argentina, private institutions exist to help solve disputes. One example is the *Cámara Arbitral* (arbitration chamber), a grain inspection and arbitration institution organized by private grain exchanges. It provides several services, including arbitration, mediation and quality control. Its procedures are very agile and its decisions can be enforced through the normal judicial process.

Source: FAO, 2013.

5. When necessary, seek assistance to obtain information on relevant laws governing agricultural contracts (laws of contract, agriculture, land, tax, corporate relations and competition, food safety, farm inputs, human rights, labour and natural resources).
6. Upon signing, be aware of your obligations. Obligations should be clearly defined and should include product-related obligations (e.g. quantity, quality, source of supply), process-related obligations (e.g. inputs, advances, technical services and advice, compliance with quality and other standards), de-

livery-related obligations (e.g. place, time, transport, quality inspection procedure), price and payment-related obligations (price determination and payment arrangements).

7. It is essential that price clauses are clear, fair and well understood by all parties.
8. Contracts should clearly state the duration, which is likely to be related to the production cycle of the product, as well as the level of investment required from the farmer.
9. Renewal of contracts is common and may be done automatically through a clause in the contract or by mutual agreement. Otherwise, the contract should indicate how renewal will be organized.
10. The possibility to terminate the agreement must be included in the contract, stating also ways of doing this. A formal notice period should be required by either party. Generally, the longer the contract, the longer the period of notice that should be given. Clauses giving the buyer the right to terminate unilaterally are unfair and should not be accepted.
11. Contracts should include clauses concerning *force majeure* events. It is desirable to specify in detail all events that could qualify, and to clearly state what will be the responsibilities of the parties in the case of *force majeure* events.



12. Contracts should include clauses relating to actions (remedies) that may be applied when one party fails to perform for any reason other than *force majeure* and the performance is not excused. Emphasis should be on arriving at mutually acceptable, cooperative solutions.
13. Contracts should propose a sequential approach to dispute resolution. First, the parties should attempt to resolve difficulties on their own. If this does not work, mediation should be tried. Failure of mediation could then lead to arbitration or, alternatively, to the national courts.

### References and resources

**FAO.** 2012. *Guiding principles for responsible contract farming operations*. Available at: <http://www.fao.org/3/a-i2858e.pdf>

**FAO.** 2013. *Contract farming for inclusive market access*. C.A. da Silva & M. Rankin (eds.) Available at: <http://www.fao.org/3/a-i3526e.pdf>

**FAO.** 2016. *Legal aspects of contract farming agreements: a synthesis of the UNIDROIT/FAO/IFAD Legal Guide on Contract Farming*.

**FAO.** *Successful case of broiler contract farming in Brazil*. C.A. da Silva. (forthcoming).

**FAO Contract Farming Resource Centre.** <http://www.fao.org/contract-farming/>

**GIZ.** 2013. *Contract farming handbook. A practical guide for linking small-scale producers and buyers through business model innovation*. M. Will. Deutsche Gesellschaft für Internationale Zusammenarbeit. Available at: [http://teca.fao.org/sites/default/files/technology\\_files/GIZ%20Contract%20Farming%20Manual\\_low%20resolution.pdf](http://teca.fao.org/sites/default/files/technology_files/GIZ%20Contract%20Farming%20Manual_low%20resolution.pdf)

**UNIDROIT, FAO & FIDA.** 2015. *Legal guide on contract farming*. Available at: <http://www.fao.org/3/a-i4756e.pdf>

## Remember

Contracts work well when communication and trust exists between the partners – if you don't think this can be built, then the relationship is unlikely to succeed in the longer term.

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