

Form 9

(r. 25(3))

AGREEMENT BETWEEN A GROWER AND MILLER FOR SUPPLY OF BURNT
SUGARCANE

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 “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 _____
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 grower is desirous of entering into an agreement with the miller in respect
of the supply of burnt sugarcane by the grower;
- b. WHEREAS the grower is willing to grow sugarcane without the assistance of the miller
under a specific agreement signed between the grower and the miller; and
- c. WHEREAS the miller is willing to buy all sugarcane of requisite quality from the 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 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 this agreement.
2. The 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 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 this agreement 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 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 agreement 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 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 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 sugarcane mill breakdowns.
13. The miller shall pay the grower within seven 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 grower as specified by this agreement, the miller shall be liable to pay a penalty of 1.5% per month on the outstanding accounts of the grower.
15. The miller shall maintain and develop adequate milling capacity for sugarcane planted based on agreed planting plans with the 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 grower shall plan to harvest, transport and weigh all such sugarcane as is derived from its sugarcane plots under agreements 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. A 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 party under an agreement shall weigh sugarcane at any agreed location provided the weigh-bridge shall be serviced, inspected and stamped by the Weights and Measures department in accordance with the Weights and Measures Act, Cap. 513.
21. A 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 grower shall not sell his sugarcane 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.
24. The parties to this agreement shall always undertake to conduct their business 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 THIS AGREEMENT

25. The 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 grower shall have the option of arranging for alternative services upon notice to the miller.
27. Where the miller ceases to exist, the 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 agreement 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 the agreement.

FORCE MAJEURE

29. 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.

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 GROWER:

Name.....

In presence of:

Name.....