

Republic of South Sudan
Ministry of Justice
Legal Administration & Public Prosecution Attorney
Wau State



Office of Director

LA/PP/WBGS/50.D.1

3rd March 2017.

Subject: Contract agreement for the management &
operation of the Agro-Processing Centre(APC)

Between

State Ministry of Agriculture, Animal Resources & Fishery Wau State.

And

Mr. James Buola Piel.

This Contract is made on this day 02/03/2017 by and between **Ministry of Agriculture, Animal Resources & Fishery Wau State** represented by **Mr. Edward Lino Nyiyuo** dully authorized to sign this contract herein after referred to as the employer (First party).

&

Mr. James Buola Piel to sign this contract herein after referred to as the Contractor (Second party).

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Whereas the First Party is desirous to contract the Second party for the operation of the Agro-Processing Centre (APC) in Kangni at Kangi Town, the two parties have here entered into an agreement on the conditions set forth as follows:

2.1. Duties:

2.1.1. That the First Party shall perform the following duties in the APC.

- a. upgrades and maintain the Agro-Processing Centre
- b. provides operating procedures and regulations for the APC.

- c. monitor regularly the management and maintenance of the facilities and equipment and advice the second party on the measures deemed to be necessary to ensure the smooth operation.
- d. deploy staff on regular basis to carry out inspection, ensure proper safety and hygiene measures are well taken care of.
- e. provide professional auditors to audit the APC financial records once a year.
- g. do a detailed assessment of the facilities two month prior to the end of the contract to determine whether the contract will be renewed or not.

2.1.2. That the second party shall perform the following duties in the Agro-Processing Centre.

- a. manage operations at the Agro-processing Centre, including keeping it clean, respect hygiene standards and ensure clean environment including ensure proper disposal of the garbage.
- b. maintain facilities at the Agro-processing Centre including the APC premises the fence, toilets, water system etc.
- c. collect all the revenue at the APC and pay financial beneficiaries (County Authority) twice in a month every 15th and 30th/31st of the month.
- d. keep records on the Agro-processing operations and finance in a transparent and accountable manner and show the First party on demand.
- e. ensure that the service deliver is done in accordance to the business norms and without discrimination or favoritism.
- f. employ, supervise and pay own staff.
- g. cooperate with government staff deployed for monitoring inspection etc.
- h. report to the First Party on monthly basis.
- i. ensure that necessary official documents for running a business are always available.
- j. report any serious operational problems affecting security infrastructure damages beyond normal usage, behavior of users, to the First party.

2.2. the tasks of the State ministry of Local Government and Law Enforcement:

- a. provide permanent and sufficient staff to ensure security of the people and machineries.
- b. arbitrate in case of conflicts arising from the two parties.
- c. the two parties agree to inform the state ministry of Local Government and Law Enforcement on projects and /or decisions of other government authorities which might affect the operation of the Agro-processing and demand its intervention if such projects/ decisions are expected to impact negatively on the operation.

2.3. Delegation of powers/sub contraction.

- a. the First party may delegate part of its duties to other institutions, legally and technically qualified for the purpose.
- b. the first party shall inform the second party on such delegation, providing all the information necessary to avoid any disturbance of the operation.
- c. the second party shall not be allowed to subcontract the operation of the Agro-processing Centre, but shall be entitled to contract specific services /works aimed at the maintenance, repair or upgrading of the facilities which go beyond his capacities.

1- The period of the contract:

The two parties to this contract have agreed that the period of this contract is **three (3) years** and shall commence from the date of signing this Contract.

2. Obligations of the First Party.

The first party shall respect the contract signed by the second party.

3. Obligations of the Second Party.

The second party will make sure that the Agro-processing center including the equipment and machineries should be maintained according to the above mentioned.

4. Governing Laws

The contract shall be govern by construed in accordance with South Sudan Laws.

In witness thereof, the two parties have agreed on the terms and conditions mentioned above by affixing their respective signatures in the presence of the witnesses mentioned below.

5. Settlement of Disputes

(1) All dispute arising out of this contract agreement, shall be settled in accordance with the terms of the contract. Any unsettled dispute between the First Party and the Second Party shall be referred to state ministry of local government and law enforcement for arbitration. If the state ministry of local government and law enforcement fails to solve the dispute then the matter shall be referred to the Legal Administration of Wau State for further arbitration and this agreement shall read and construed in all respects in accordance with the Laws of the Republic of South Sudan for the time being in force.

6. Financial beneficiaries and entitlement:

It is agreed that the financial beneficiaries of the Agro-processing Centre revenue (net profits after subtracting the production and labour cost) are the county agriculture department , Kangi county council, Kangi Wau state and the private operator and their entitlements are shown in the table below (table 1).

S/N0	Beneficiary	entitlement	Remarks
1	County agriculture department	30%	
2	Kangi county council	20%	
3	Private operator's expenses and margin	30%	
4	Machineries and equipment	20%	

7. Monthly rent for the Agro-processing Centre.

It is agreed that there shall be no monthly rent shall be paid since the APC machinery and equipment has been allocated 20% from the net profit.

8. Extension of the contract:

The contract can be renewed for the same duration if agreed between the First Party and the Second Party after consultation with the state ministry of Local Government and Law Enforcement.

9. Investment by the Party:

9.1. It is agreed that any modification or addition for fixed assets needs an agreement in writing between the two parties, defining the kind of investment, its value and the sources /modalities of funding.

9.2. The modified or additional fixed assets shall either be funded by the First Party or they are funded by the Second Party and reimbursed through monthly payments.

9.3. Movable assets provided for by the second party (for instance furniture for the offices etc) are his property and shall go with them at the end of the contract. In case the First Party would like to keep them, it should buy them from the second party at a price they agreed upon.

10. Procedures /regulation for revision of the entitlement:

10.1. in case any of financial beneficiaries wishes to change the entitled amount, a written notice has to be submitted to Agro-processing Centre management board (APCMB) for discussion.

10.2. APCMB shall call stakeholders meeting to discuss the proposed changes and get their views and opinions.

10.3. The APCMB shall submit the proposals (with stakeholders' views and opinions) to the state minister for Agriculture and Animal Resources for approval.

10.4. The final approval shall come from the Director General, State Ministry of Agriculture & Animal Resources.

11. Mode of payment

11.1. It is agreed that the signing of the contract the Second Party shall deposit an annual guarantee amount of 25,000 SSP in cash to the First Party which opens a specific, joint and remunerated account for it. The First Party shall issue a receipt to the Second Party and payment shall be witnessed by the State Ministry of

Local Government and Law Enforcement. This amount will be reimbursed at the end to the contract if the second Party fails to do so, the amount shall be used for maintenance. The amount used for maintenance shall be commensurate to the prevailing cost of repairs needed. If the cost of repairs is less than the guarantee amount the balance shall be paid to the second party. If the cost of repairs exceeds the guarantee amount the First Party shall take care of the extra costs to repairs. It is duty of the First Party to ensure that damages on the facility do not go beyond irreparable levels.

11.2. If the First Party fails to reimburse the guarantee amount at the end of the contract either if full or agreed balance from a reduction occasioned by failure to do maintenance the Second Party shall pursue procedures as spelt out in article 11 in order to recover his money.

12. Termination of contract

12.1. This contract expires automatically at the end of validity period if not renewed in writing at least two months prior to the date of expiry.

12.2. Any intention by either party to end the contract shall be communicated in writing and copied to the state ministry of Local Government and Law Enforcement. Unilateral and unreasonable decisions shall be construed as a breach of the contract and affected Party shall claim for compensation for damages caused.

12.3. the First Party shall end the contract if the Second Party fails to fulfill his obligations, especially showing:

- a. Lack of financial transparency and accountability
- b. Lack of control over the APC operation.
- c. Insufficient maintenance for the facilities or
- d. Condemned during the period of his contract for any criminal offense.
- e. subcontracting APC operation.

12.4. The Second Party shall end the contract and demand for any due compensation if the First Party is found culpable of the following:

- a. making unilateral decisions /orders that affect the operation of the Agro-processing centre .
- b. demanding unofficial payments through unofficial means outside what is agreed upon in the contract.
- c. intimidation or threats to push for corrupt deals
- d. applying high taxes and fees or unnecessary penalties that will discourage users from using the Agro-processing Centre.
- f. undermining with the aim to discourage and bring someone (a relative, a friend) of their choice.

12.5. if the intention to end the contract from the First Party the Second Party shall be advised in writing about the intention giving the Second Party a period of two weeks to remediate the deficiencies he is notified about. In case the second party takes no or insufficient action, a second letter is given this time setting a period of one week to respond to the claims. If the First Party is not satisfied by this date with action undertaken, it shall end the contract with immediate effect. The First Party for the purpose until a new operator has been identified and takes over the operations.

12.6. If the intention to end the contract originates from the Second Party the First Party shall be advised in writing about the intention giving the First Party a period of two weeks to remediate the concerns /claims he is notified about. In case the First Party does not respond to the claims, a second letter is given to the First Party this time setting a period of one week to respond to the claims. If the First Party is not satisfied by this date with the action undertaken it shall end the contract with immediate effect and claims any due compensation for damages attributed to the actions of the First Party.

12.7. if one of the parties does not agree with the decision to terminate the contract, it shall contact the State Ministry of Local Government and Law Enforcement for arbitration.

4. Progressive reports on the Project should be submitted by the Contractor or Engineer to the 1st party every 20 days as from the date of starting the construction.

13. Amendments of the contract

It is agreed that any amendments to the contract shall be agreed upon always in writing by both parties to the contract and witnessed by the state ministry of local government and law enforcement.

In witness thereof, the two parties have agreed on the terms and conditions mentioned above by affixing their respective signatures in the presence of the witnesses mentioned below.

Signatures of Parties

The first party

Name: Edward Lino Nyiyuo

Title: Director General,

State Ministry Agriculture.

Nationality No: 000243831

Date of Issue: 23 /07 /2013

Place of Issue: Wau

Signature:

The Second Party

Name: James Buola Piel

Title: RRC Payam Supervisor

Nationality No: 000438968

Date of Issue: 20/11/2014

Place of Issue: Wau.

Signature:

Witnesses

Name: Gaitano Guido Akuany

Name: John Obar Paul

Title: senior Inspector of Agricultures.

Title: Administrative officer.

Nationality No: 000453860

Nationality: 000087092

Date of Issue: 05/01/2015

Date of Issue: 08/12/2012

Place of Issue: Wau.

Place of Issue: Juba

Signature:

Signature:

Authentication No. 2/2017

I, **Deng Cyer Rehan** Director of Legal Administration Wau State, authorized by H: E. the Minister of Justice RSS/Juba in accordance with powers thereof, here by attests that the parties to this contract agreement have signed the same before me in presence of the witnesses.

Made under my hand and seal on the^{March} date of.....^{2nd}.....2017 AD.


Deng Cyer Rehan
Director of Legal Administration & Public
Prosecution Attorney
Wau State - Wau