

LEGAL NOTICE NUMBER -----

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, Fisheries and Cooperatives, makes the following Regulations -

THE CROPS(COFFEE)(GENERAL)(AMENDMENT) REGULATIONS, 2021

Clause	Part 1: Preliminary	Marginal notes
1.	These Rules may be cited as the Crops(Coffee)(General)(Amendment) Regulations, 2021.	Citation
2.	The Crops (Coffee)(General) Regulations, 2019, in these Regulations referred to as the principal Regulations, are amended by amending regulation 2 by	Interpretation
3.	a) By inserting new definitions "Auction organizer" means a person, company or firm established for the purpose of organizing coffee auctions in Kenya; "cherry" means "the ripe fruit of the coffee tree; "buni" means dried coffee in the fruit but does not include hulled buni; "grower marketer" means a grower licensed by the Board to market his or its clean coffee. "grower miller" means a person who mills parchment coffee from his own coffee plantation; a grower who mills own parchment or buni or its members' coffee and includes cooperative societies, unions, association, estate or any other legal entity "Management agent" means any person licensed by the Authority, and appointed through a specific agreement by a grower as that grower's agent for the management of such grower's coffee farm or pulping station; Miller-marketer "means a person licensed by the Authority and appointed by the grower to undertake the milling and marketing of the grower's coffee" "person" means an individual, a company or other registered entity which has legal rights and is subject to obligations	
4.	b) By deleting the terms "agent" and "broker" from the definitions	

	<p>c) By redefining the following definitions</p> <p>"auction" means a physical or electronic system where potential buyers place competitive bids for coffee;</p> <p>"coffee plantation" means any large area of land or group of contiguous areas of land under the same management on which coffee is grown and produced for sale.</p> <p>"coffee business" includes operating a nursery, growing, pulping, milling, warehousing, marketing, trading, roasting, operating a coffee house and packaging of coffee;</p> <p>"Direct Settlement System "means a receipts and disbursements facility provided by a commercial bank regulated as such under the Central Bank Act for the receipt from buyers of all proceeds from the purchase of coffee and from which all claims on the coffee so purchased, including payments to growers, grower millers, grower marketers, miller-marketers, warehousemen, warehouses, Nairobi Coffee Exchange and financial obligations will be directly settled;</p> <p>"Secondary processing" means the mechanical, hulling, polishing of parchment/buni into clean Coffee, grading of the clean coffee beans into different grades depending on size, shape and classification.</p> <p>"exchange" means a company incorporated under the Companies Act as an auction organizer for trading in clean coffee and is regulated by the Authority</p> <p>"sales catalogue" means a standard document prepared by a miller in consultation with the auction organizer and growers for sale of clean coffee at the auction.</p>	
5.	Amend clause 4(2)(a) by inserting the terms "auction organizer" and miller-marketer" after the term "liquorers"	Auction organizer
6.	<p>Amend Regulation 4 by deleting Sub Regulations 4(2)(d) and 4(2)(K) and replacing with the following;</p> <p>4(2)(d) develop, oversee and enforce as the case may be, the national regulations, coffee industry standards, industry code of practice and other quality standards in the coffee industry in collaboration with the national body for the time responsible for Standards;</p> <p>Amend Regulation 4 by inserting the following new sub Regulation after sub regulation4(2)(k) –</p> <p>(l) undertake inspections and surveillance of industry players</p>	Authority Functions
	Amend Regulation 5(2)(c) by Deleting the word "milling"	

PART III— REGISTRATION AND LICENSING		
7.	Amend clause 7(5) by deleting it and substituting with inserting the following new clause - "The Authority shall register all coffee warehousemen, warehouses, coffee miller-marketer, grower marketer, grower miller, auction organizer, coffee buyers, roasters, importers, and certification companies, maintain an up-to- date register on them and share the register with respective county governments"	Registration
8.	Insert new sub-clauses under clause 7 after sub clauses 7(7) to read as follows - 7(8) "The directors of a coffee co-operative shall serve for a period of three-years term renewal once". 7(9) "In appointing directors under this section, a cooperative society shall ensure that not more than two thirds of the members are of one gender" 7(10) "In appointing directors under this section, nominees for the board shall meet the requirements of Chapter Six of the Constitution"	Appointment of Directors of cooperative societies
	7(11) "Notwithstanding the provisions of any other law, every Coffee factory may, by resolution of its members in the Annual General Meeting, apply for registration as a cooperative society under the Co-operative Societies' Act"	Registration of a single factory as a society
9.	Insert a new clause to read as follows - 7(12) A County Government may, in consultation with the Authority register a distinguishing mark and grower code of a grower. 7(12) No person offering for sale or exporting coffee shall use any distinguishing mark and grower code to market and identify it as coffee grown by him or by a member of a co- operative society to which such member belongs unless the mark is registered as the distinguishing mark and grower code of such person or such society by the Authority in a register to be kept for that purpose.	To centralize issuance of distinguishing marks to avoid duplication across counties.
10.	Amend clause 10 by a) Insert a new clause 10(1) to read as follows "No person shall be issued with warehouse or roaster license by the County Government before registration by the Authority" b) renumber 10(1) to read 10(2) c) delete sub-regulations 10(1)(c) and (d)	Conflict of Interest.

11.	<p>Amend regulation 10(2) by</p> <p>a) by deleting sub-regulation 10(2)(a)</p> <p>b) Amend sub-regulation 10(2) by inserting the following new sub regulations as follows-</p> <p>10(2)(f) "grower miller licence" in Form C3 authorizing the grower to mill and/or market own coffee;</p> <p>10(2)(g), "commercial miller-marketer licence" in Form C4 authorizing the holder to conduct the business of milling and/or marketing coffee at a fee;</p> <p>10(2)(h) "grower marketer licence" in Form C7 authorizing the grower to market own coffee;</p> <p>10(2)(i) "auction organizer licence" in Form C8 authorizing the conduct of coffee auctions"</p>	Licensing by the Authority
12.	<p>The principal regulations are amended by deleting Regulation 11(1) and therefore substituting the following new regulation</p> <p>" A holder of a coffee buyer's licence or any other entity associated with such holder shall not be licensed as a miller-marketer, roaster or warehouseman"</p>	Limitation of a coffee buyer licence
	<p>The principal regulations are amended by deleting Regulation 11(4) and therefore substituting the following new regulation;</p> <p>"A holder of a miller-marketer licence or any other entity associated with such holder either in shareholding or directorship or in any other way, shall not be licensed as a roaster or a buyer".</p>	Condition of licence
13.	<p>Delete Clause 14(1) and insert the following new clause to read as follows –</p> <p>"Licences issued by the licensing authority shall run from 1st October to 30th September of every year and application for renewal of a licence shall be made to the Authority not late than the 1st day of the month of September in which the current licence is to expire".</p>	Duration of Licences
14.	<p>Amend sub regulation 15(8) to read-</p> <p>"A coffee movement permit shall take the format prescribed under Form G1(c) under the First Schedule to these Regulations.</p>	Movement Permits
15.	<p>Amend Clause 20 by</p> <p>a) Deleting the proviso to sub clause 20(1).</p>	Coffee Research
PART IV: PRODUCTION AND PROCESSING		

16.	<p>a) Amend sub regulation 22(1) by inserting the following - “every coffee factory shall, by annual resolution of its members in an Annual General Meeting, competitively procure services of a licensed miller-marketer for the milling and marketing of its parchment and buni coffee and clean coffee, or as the case may be”</p> <p>b) “The management of every coffee factory shall, within two months of the end of the crop year, call a meeting of outgrowers to choose the registered miller referred to in subsection (b) from amongst at least three millers invited to make representations to the outgrowers”</p> <p>c) “The county executive committee member responsible for agriculture shall attend or designate a representative to attend the meeting referred to in subsection (b)”</p> <p>d) “Each registered miller participating in the meeting to choose a miller shall make all disclosures of all charges and fees necessary to enable farmers make an informed decision.</p> <p>e) “Every resolution made under this section for appointment of a miller-marketer, shall within fourteen days, be filed with the Authority and copied to the county government”.</p>	Appointment of a miller by growers
17.	<p>Insert a new sub-clause 22(2) to read as follows –</p> <p>a) “miller-marketers licensed under this part shall may charge up to one per centum of the value of the coffee sold as marketing fees”.</p> <p>b) “The milling losses allowable under this clause shall be capped at nineteen percent of parchment coffee milled”.</p> <p>c) The cost of coffee milling and related activities (handling, sorting, grading, packaging, warehousing charges) shall not exceed Ksh4,000.00/ton of coffee delivered.</p> <p>d) Renumber the subclasses under this clause.</p>	conditions of coffee Milling
18.	<p>Insert a new clause 23(1) to read “it shall be illegal for coffee miller-marketers to offer farmers financial support” 23(2)“ Renumber the clauses’</p>	Prohibition in Financing of coffee farmers.
PART V—COFFEE TRADING AND MARKETING		
19.	Clause 23 is amended by	Trading

	<p>a) Inserting a new sub-regulation 23(2) “coffee auctions shall be managed by an auction organizer licensed by the Authority”</p> <p>b) deleting Regulation 23(3) and therefore substituting the following new regulation - “A buyer, roaster, a miller-marketer, grower and marketer licensed by the relevant licensing authority, may trade at the auction in accordance with these Regulations and any other laws that may govern the auction.</p> <p>c) Amend regulation 23 by inserting the following new sub regulations immediately after sub regulation (4) to read as “(5) Any person licensed as a miller-marketer or any other entity associated with it shall not be licensed as a buyer or roaster “(6) It shall be an offence for a holder of a miller-marketing licence to participate by himself or by his agent in the buying of coffee “(7) Parallel directorships and cross ownership of shares in miller-marketers and coffee buying companies is prohibited.</p> <p>d) Inserting a new sub regulation 23(5) to read as follows, “the Nairobi Coffee Exchange shall establish an auction system for the conduct of auctions for Kenya Coffee and coffees from the region”</p> <p>e) Inserting a new sub regulation 23(6) to read as follows – “The Nairobi Coffee Exchange may develop trading rules for the conduct of auctions of Kenya coffee and coffees from the region”. Provided such rules may be developed in consultation with members from countries who seek to join the regional auction.</p> <p>f) Inserting a new sub-regulation 23(7) to read as follows “an auction organizer shall fulfill requirements under the Second Schedule under these regulations”</p> <p>g) Renumber the sub regulations.</p>	
20.	Amend regulation 24 by - a) Insert a new sub regulation 24(2) to read as follows “Direct coffee sales shall be subject to	Direct Sales

	<p>price competition at the Nairobi Coffee Auctions whereby the Direct sales price shall serve as a reserve price”</p> <p>b) Inserting a new sub regulation 24(3) to read-</p> <p>“Where the coffee referred to in subsection (2) fetches a higher price at the Coffee auction than the direct sale price offered, the prospective direct sale buyer shall have the right of first refusal to buy the coffee at the auction price”.</p> <p>Provided that if the prospective direct sales buyer refuses to buy the coffee at the Coffee auction price, the coffee shall be sold to highest bidder above the reserve price at the auction”</p>	
<p>21.</p>	<p>a) Amend regulation 25 by amending sub-regulations 25(4), 25(6), 25(8),</p> <p>b) Amend sub-regulation 25(4) by deleting the term “exchange” and replacing it with the term” auction organizer”</p> <p>c) Amend sub-regulation 25(6) by deleting the term “exchange” and replacing it with the term” auction organizer”</p> <p>d) Amend Regulation 25 by inserting the following new sub regulation 25(8) after sub regulation 25(7) to read as follows</p> <p>“All payments to farmers for coffee sold and for services rendered for such coffee whether by miller-marketers, warehousemen, auction organizers, coffee societies and factories shall be paid into their individual accounts from the direct settlement system”</p> <p>e) Amend Regulation 25 by inserting the following new sub regulation 25(9) after the new sub regulation 25(8) to read as follows</p> <p>“Every coffee factory shall receive direct payment for its operations and is prohibited from receiving money on behalf of coffee farmers”</p> <p>f) Amend Regulation 25 by inserting the following new sub regulation 25(10) after the new sub regulation 25(9) to read as follow</p> <p>“Payments to factories or societies from the direct settlement system for operations and maintenance shall be five per centum of the value of coffee sold net of the milling, warehousing and marketing costs</p> <p>g) Renumber the sub regulations under regulation 25 following the new insertions.</p>	<p>Management of the Auction floor</p>

	<p>h) Amend sub-regulation 25(8)(d) by deleting the term "broker" and substituting with the term "miller- marketer"</p> <p>i) Amend sub-regulation 25(8)(h) by deleting and therefore substituting with following sub-regulation: - "the auction organizer in consultation with grower millers or appointed miller-marketer shall set the volumes, lot sizes, dates and times for holding of coffee auctions and determine the order of the sales catalogues for every sale and ensure that reasonable access to the auction is given to all persons licensed to trade:</p> <p>j) Amend sub-regulation 25(8)(i) by deleting the term "broker" and "exchange" and substituting it with - the term "miller-marketer" and "auction organizer" respectively.</p> <p>k) Amend sub-regulation 25(8)(j) by deleting the term "broker" and substituting it with - the term "miller-marketer"</p> <p>l) Amend sub-regulation 25(8)(K) by deleting the term "exchange" and substitution it with the term "Auction"</p> <p>m) Amend sub-regulation 25(8)(l) by deleting the term "broker"</p> <p>n) Amend sub-regulation 25(8)(m) by deleting the term "exchange" and substitute with the term " auction organize".</p> <p>o) Amend sub regulation 25(8)(m) by deleting the word "overseas" after the words "transferred to the".</p> <p>p) Amend sub regulation 25(8)(o) by deleting the word "exchange with the term "auction organizer"</p> <p>q) Amend Sub-regulation 25(9) by deleting the term "exchange and substitute with the term" auction organizer.</p> <p>r) Amend Sub-regulation 25(10) by deleting the terms "coffee exchange regulations" and substitute with the term" coffee trading rules".</p>	
22.	Amend sub-regulation 26(1) by deleting it and substitution with the following new sub-regulation "A miller-marketer in consultation with the auction organizer shall prepare a sales catalogue for all the coffee in a licensed warehouse in accordance to the coffee trading rules and these Regulations"	
PART VI: QUALITY ASSURANCE		
23.	Amend regulation 32 by amending the sub regulations as follows - a) Amend sub-regulation 32(2) by deleting the term "of higher learning".	

	<ul style="list-style-type: none"> b) Amend sub-regulation 32(4) by adding the word "independent" after the word "offer". c) Amend sub-regulation 32(8) by inserting the word "independent" before the word "cupping Centre" d) Amend sub-regulation 32(9) by deleting the word "exchanges" and substitute thereof with the word "auctions" 	
24.	<p>Amend regulation 32 as follows</p> <ul style="list-style-type: none"> a) Amend 33(2) by inserting the terms "miller-marketer", "grower miller" and "grower marketer" b) Amend 33(3) by inserting the terms " food science and technology" after the term "engineering" 	
25.	Amend section 34 by deleting the term "millers" and substitute thereof with the terms "miller-marketer", "grower miller" and "grower marketer".	
26.	Amend sub-regulation 37(1) by deleting the words "millers" and substituting thereof with the terms "miller-marketer", "grower miller" and "grower marketer.	
PART VII—GENERAL PROVISIONS		
27.	<p>Insert a new regulation 38 to read as follows –</p> <ul style="list-style-type: none"> a) "The interest rate on borrowing by a coffee factory against growers' assets held in trust by the growers' coffee factories and coffee co-operative societies such as assets, land, machinery, equipment, shall be capped at five per cent per annum. b) No factory or society shall contract any loans or advances under subsection (a) except with the support of a resolution passed by a majority of the growers to that effect. c) Any factory or society that violates the provisions subsection (a) commits an offence and any loans borrowed in breach of this provision shall be statutorily converted. d) Nothing in this section shall be interpreted as prohibiting coffee farmers from directly borrowing money from regulated financial institutions or any government established funds against their deliveries of cherry, parchment and clean coffee. e) The directorship of a coffee factory is a Fiduciary duty of position of trust and directors shall have held liable for any directors. waste and loss arising from negligence and breach of trust. 	Society Loans

28.	Amend the Crops(Coffee)(General) Regulations , 2019 by deleting the term "exchange" and therefor substituting it with the term "auction"	Provision for auctions
29.	Amend regulation 46 by inserting a new sub regulation (c) as follows; "Notwithstanding the provisions of regulation 46 (a) and (b) all marketing agent licenses existing as at 30 th June 2021 shall remain valid until the 30 th June 2022".	Transitional Provisions
SCHEDULES		
FIRST SCHEDULE		
30.	Amend Form A2 under the First Schedule by deleting the words" Kenya Agriculture, Livestock Research Organization and replace it with the words" An accredited research organization" under the terms and condition number 3.	Coffee Research
31.	Amend Form C2 by – a) Deleting the title of the form and inserting the following new heading for the form - "AGRICULTURE AND FOOD AUTHORITY" b) insert new name of form to read - "Application for Miller-Marketer licence"	Forms
32.	Amend Form C3 by a) Deleting the title of the form and inserting the following new heading for the form - "AGRICULTURE AND FOOD AUTHORITY"	
33.	Amend the First Schedule by inserting a new Form C3.1 for the application of a grower Marketer Licence	
34.	Amend Form C4 by a) deleting the name of the form and substituting it with the name "Miller-Marketer Licence" a) Amend the terms and conditions 1, 2, 3, 4, 5 and 6 by deleting the term "miller" and substituting with the term "miller-marketer" b) Amend the term and condition 4 by deleting the term "county government" and substituting with the term "Authority" c) Renumber the form.	
35.	Amend form C6 by deleting the title and inserting the following new title "Miller-Marketer Monthly returns" Amend form to include details of coffee sold.	

36.	Amend D1 by amending NO 11 by deleting the term "exchange" and inserting the term "auction"	
37.	Amend Form D2 by- a) Deleting the term "exchange" and substituting with the word "auction" b) Deleting the words "to import clean coffee from other origins" c) Deleting the term "Head of Coffee Directorate" and substituting with the words "Director of Coffee Directorate"	
38.	Amend Form G1(A) to read "G4" for application for warehousemen licence	
39.	Amend for G1(B) to read "G5" for warehouseman licence	
First Schedule	Amend the form for movement permits by renumbering it as Form G6 and r15(8) by deleting "(s)" for - Reg No(s), Name(s) and Driver(s) Amend the form for warehouseman's license by deleting the words "Chief Executive Officer" and "Agriculture and Food Authority" and replacing with Director of Coffee Directorate-Agriculture and Food Authority	
First Schedule	Amend schedule by inserting an application form G(1)(C) for an auction organizer	
First Schedule	Amend the First Schedule by inserting an auction organizer licence form	
First Schedule	Amend form H by deleting the form and inserting a new form H to delete information to be supplied to the operator of the Direct Settlement System. Amend form by deleting the words "Head of Coffee Directorate" and substituting with the words" Director – Coffee Directorate"	
First Schedule	Introduce a new form P under the First Schedule for supply of information to the Direct Settlement System for coffee sales proceeds transfer to grower's bank accounts.	
First Schedule	Amend form H1 paragraph 3 by inserting new row for "Miller-marketer", "grower miller", "grower marketer" below the words "Independent Cupping Services" and delete the row for "miller" Amend Title by deleting the term "Dealers" and replacing it with the term "dealer". Delete the term "import permit" and substitute thereof with the term "processed coffee importer" Amend Form H1 Number 8 by deleting Head of Coffee Directorate to Read "Director- Coffee Directorate"	
	Amend Form H2 by deleting the words" interim Head and substituting with the word "Director"	
Second Schedule	Amend the second schedule by inserting the requirements of a miller - marketer after the Coffee import permit requirements.	
4 th schedule	Amend fourth schedule by a) amending by deleting the title "COMMERCIAL MILLING AGREEMENT" and substituting with the title "MILLER-MARKETER LICENCE"	

	b) Amending all paragraphs in the agreement by deleting the term " miller" and substituting it with the term " miller-marketer "	
6 th Schedule	Amend the 6 th schedule by deleting it and substituting with new guidelines	

FIRST SCHEDULE

AGRICULTURE AND FOOD AUTHORITY

FORM C3.1

GROWER MARKETER LICENCE APPLICATION

- Name of Farmer/Proprietor
- Grower Code (PSL).....Validity of Licence
- Postal Address.....Postal Code.....
EmailMobile number.....
- Location :
County.....Sub-county.....
Ward.....Village/Road.....L.R.No./Plot.....
- Coffee Acreage

VARIETY	Acreage	Number of Mature Trees	Number of Young Trees
Ruiru 11			
Batian			
Traditional Variety			

- Coffee production for Three Years

YEAR	PARCHMENT (kg)	BUNI(Kg)

- The Information given is the to true to the best of my knowledge
Name of ApplicantID/NO.....
Date of Application
Stamp.....

FIRST SCHEDULE

AGRICULTURE AND FOOD AUTHORITY

FORM C3.2

GROWER MARKETER LICENCE

Name

License No.Authority's Code.....

Valid from.....to.....

Postal Address.....Postal Code.....

EmailMobile number.....

County.....Sub-county

Ward.....Village/Road.....L.R.No./Plot.....

Is/are hereby authorized to undertake the business of a grower marketer at
.....

Issued By:

Director, Coffee Directorate

Signature..... Date.....

Stamp:

Subject to Terms and Conditions:

1. A licence holder shall submit their marketing returns to the Authority and the respective county government on a monthly basis.
2. The licence holder shall comply with the Coffee Industry Code of Practice and Standards.
3. The licence holder shall allow free access to the premises by the inspectors authorized by the respective licensing authority.
4. The Authority may vary, suspend or revoke the license issued if the holder fails to abide with the terms and conditions of the licence.
5. The licence shall not be transferable.

FIRST SCHEDULE
 COUNTY GOVERNMENT OF -----

Form H

**COFFEE GROWERS NOTIFICATION TO COUNTY GOVERNMENT ON COFFEE
 ACREAGE AND TREE POPULATION**

1. Name of the grower.....
2. Name of Cooperative society/Association
3. Grower Code.....Address.....ZIP Code.....
4. Category of grower (Tick as appropriate)
 Cooperative [] Association[] Estate[] Other[]
 specify.....
5. Location of Grower: County.....Sub-County.....
 Ward..... Village/Road.....E-mail.....
 Mobile Number:

6. Change of Acreage

NO	FARMER NAME	MEMBERSHIP NO (IF applicable)	ACREAGE PLANTED	ACREAGE UPROOTED	NUMBER OF TREES	VARIETY	REMARKS
1.							
2.							

Prepared by:

Name of authorized person.....

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

Stamp.....Date

COUNTY GOVERNMENT OF -----

Form P

r25(5)

**COFFEE GROWERS NOTIFICATION OF DETAILS TOWARDS FACILITATION OF
REMISSION OF COFFEE SALES PROCEEDS THROUGH DIRECT SETTLEMENT SYSTEM**

1. Name of the grower.....

2. Grower Code.....Address.....ZIP Code.....

3. Category of grower (Tick as appropriate)

Cooperative [] Association[] Estate[] Other[]

specify.....

4. Location of Grower: County.....Sub-County.....

Ward..... Village/Road.....E-mail.....

Mobile Number:

5. The following are Officials/Signatories to the Grower account and shall transact for the grower

Name of Official/Owner/Agent	ID NO	Signature
------------------------------	-------	-----------

a)
----------	-------	-------

b)
----------	-------	-------

c)
----------	-------	-------

d)
----------	-------	-------

(Attach copies of IDS, minutes electing the committee, introduction letter by the County Commissioner Cooperatives)

6. Details of Bank Account

Name of Bank/Financial Institutions

Branch

Account Number

Contact of Bank (if any)

7. Details of service contracts and loan obligations to which payments are due

a) Name	of	Service	contract(s)
---------	----	---------	-------------

.....

b) The following are the outstanding liabilities payable by the grower to service providers through the Direct Settlement System and the supporting documents:

.....

(Attach additional documents)

c) Other (specify).....
Attach list if space is not adequate)

8. Prepared by –

a) Name of Authorized person:
Signature

b) Position at Grower institution/Estate

c) Mobile Number.....

d) National ID/No.....
(Attach Copy of ID)

e) DateStamp.....

AGRICULTURE AND FOOD AUTHORITY

COFFEE DIRECTORATE

r(8)

FORM G(1)(C)

APPLICATION FOR REGISTRATION/LICENCE RENEWAL OF AUCTION ORGANIZER

1. Name of applicant.....

2. Certificate of incorporation..... (Attach copy)

3. Copies of Memorandum and Articles of Association.....(Attach copy)

4. Names and Particulars of Directors and Form CR 12 (attach details).....

5. Tax Compliance Certificate (Attach copy).....

6. Address.....

7. Contact Information

- a) Telephone number
- b) E-mail address.....
- 8. Contact Person.....
- 9. L.R. No. /Nos.
- 10. Nature of business.....
- 11. Specify services to be provided.....

- Date applied.....

Signature of applicant

Terms and Conditions

1. An applicant shall furnish the Authority with the rules governing the operations of the Auction in a form satisfactory to the Authority.
2. The rules shall restrict the applicant to the business of operating a coffee auction and related services.
3. The rules shall contain the applicable fees and charges for membership and for services rendered by and between members
4. The rules shall contain guidelines for disclosure of the daily trading report of the auction.
5. Satisfy the Authority on the applicant Financial capacity, functional expertise and infrastructure to undertake coffee auctioning in the Republic of Kenya.
6. Have in its employments sufficient number of persons with adequate, professional and other relevant competencies and experience.
7. An applicant shall digitize and automate the coffee Auction system for efficient services delivery and information dissemination.

AGRICULTURE AND FOOD AUTHORITY

r10(2)(i)

LICENCE OF AUCTION ORGANIZOR

Form C8

Name

License No.Authority's Code.....

Valid from.....to.....

Postal Address.....Postal Code.....

EmailMobile number.....

County.....CityRoad.....

Name of BuildingL.R.No./Plot.....

Is/are hereby authorized to undertake the business of an auction organizer

.....

Issued By:

Director, Coffee Directorate

Signature..... Date.....

Stamp:

Subject to Terms and Conditions:

1. An auction organizer shall submit their auctioning returns to the Authority on weekly and monthly basis.
2. An auction organizer shall comply with the Coffee Industry Code of Practice and Standards.
3. An auction organizer shall allow free access to the premises by the inspectors authorized by the Authority.
4. The Authority may vary, suspend or revoke the license issued if the holder fails to abide with the terms and conditions of the licence.
5. The licence shall not be transferable.

SECOND SCHEDULE
AGRICULTURE AND FOOD AUTHORITY

MILLER-MARKETER REQUIREMENTS

A. Licensing Requirements

Commercial Miller-Marketer Requirements

1. Amend the title "commercial milling requirements" to read "miller-marketer requirements"
2. Delete the requirements of a commercial miller and insert the following "miller-marketer requirements"
 - i. A coffee miller-marketer's licence
 1. Registered company.
 2. Certificate of incorporation.
 3. Name(s) of officials, ID numbers/ Passport numbers.
 4. Compliance with statutory requirements, including but not limited to—
 - a. NEMA certificate;
 - b. Occupational Health and Safety Certificate, (OHSA);
 - c. Public Health certificate;
 - d. Tax Compliance certificate by KRA;
 5. A certified copy of a comprehensive insurance cover from a reputable firm proportionate to volume of coffee handled as per insurance valuation.
 6. Proof of engaging services of a coffee liquorer licensed by the Authority.
 7. Establishment of coffee milling facilities including cupping laboratory subject to an initial written approval and issuance of Authority to Erect the coffee mill OR lease of a complete coffee mill.
 8. Self-declaration of any indebtedness, conflicts and litigations within the coffee industry.
 9. Proof of experience in auctioneering services, and
 10. Any other requirements that may be prescribed by the Authority from time to time.

Grower Marketer Requirement

Insert the following requirements for a grower marketer licence

1. Applicant's personal details and contacts.
2. A complete and licensed pulping station for primary coffee processing.
3. A certified copy of certificate of registration, if applicable
4. Names of officials, individual National ID/ Passport No.
5. Compliance with statutory requirements, including but not limited to; Tax Compliance and Public Health certificate, where applicable.
6. Any other requirements that may be prescribed by the Authority from time to time.

Requirements for Event Organizer

1. Applicant personal details and contacts
2. Duly filled application form
3. Certificate of Incorporation
4. Physical address and furnished premises
5. Land Registration Number
6. Tax Compliance by KRA
7. A CR12 certificate by the Registrar of Companies
8. Profile of company including details of technical competency, bank letter of recommendation and relevant infrastructure;
9. Trading Rules providing for the conduct of coffee auctions including nomination of directors, conduct of auctions and membership fees;
10. Compliance with statutory requirements including Occupational Health and Safety Certificate, (OHSA);
11. Any other requirements which may be prescribed by the Authority time to time.

SECOND SCHEDULE

B. CERTIFICATE AND LICENCE FEES

1. Amend the schedule of fees by deleting the provision for commercial milling licence and inserting miller-marketer Licence and insert the licence Auction organizer Licence

Category	Amount (KES.) USD	Payment
Commercial Miller-Marketer Licence	USD1,000	Authority
Auction Organizer Licence	USD2,500	Authority
Grower Marketer Licence	Kes 10,000.00	Authority
Management Agent certificate	Ksh20,000.00	Authority

THIRD SCHEDULE

(r.16(1)(2))

OBLIGATIONS OF LICENCE HOLDERS AND SERVICE PROVIDERS

C. warehousemen

1. Amend obligation one of warehousemen to read
 1. There shall be a service contract between the licence holder and the coffee miller-marketer, a grower miller, a grower marketer or appointed agent acting on behalf of the grower, for the coffee deposited in the warehouse in the custody of the licence holder

E. Broker

2. Amend by deleting the entire provisions for obligations of a broker.

SIXTH SCHEDULE

r(24)(4)

DIRECT SALES GUIDELINES

A. Direct Sales Guidelines

Amend the sixth schedule by deleting the guidelines of Direct Sales and insert the following new direct sales guidelines

A grower marketer or grower miller who has secured an overseas Buyer

contract for the coffee, shall -

1. Store coffee for direct sales at designated warehouses.
2. Shall enter into a direct sales contract in the format prescribed under these guidelines and shall lodge the contract with the Authority for registration and approval.
3. Submit to the Authority a sample of 250gm of the said coffee for quality analysis and for arbitration purposes.
4. Have the coffee inspected by the Authority, in order to ascertain the quality, quantity and the value and for approval of the contract.
5. Be issued with an inspection certificate for every coffee consignment declared to the Authority for direct sales to ascertain the coffee quality. The inspection certificate shall be one of the requirements for clearance of direct sales exports.
6. The Authority liquorer shall conduct quality analysis and issue a certificate of conformity with coffee grading and quality standards.
7. Direct coffee sales shall be subject to price competition at the Nairobi Coffee Auctions whereby the Direct sales price shall serve as a reserve price.
8. Where coffee with a direct sales offer fetches a higher price at the Coffee auction than the direct sale price offered, the prospective direct sale buyer shall have the right of first refusal to buy the coffee at the auction price.
9. Provided that if the prospective direct sales buyer refuses to buy the coffee at the Coffee auction price, the coffee shall be sold to highest bidder above the reserve price at the auction
10. All Direct sales price offers shall be communicated to the auction organizer five days prior to an auction.
11. Growers and overseas buyers shall agree on the mode of payment for the coffee purchased which shall be part of the contract submitted to the Authority for approval.
12. Apply to the Authority for;
 - (a) ICO certificate;
 - (b) KEPHIS certification;
 - (c) Movement permit(s)
 - (d) Quality certificate; and
 - (e) Any other necessary clearance
13. Appoint an agent for purposes of logistics and other processing requirements related to coffee exports where applicable.
14. Remit monthly returns to the Authority on Direct sales undertaken.

B. Direct Sales contract

PART I – PARTICULARS OF GROWER

Name of grower

Grower Code.....

Identity Card No (*Where applicable*)

Certificate of Incorporation No (*Where applicable*)

Registration No.....

PIN No.....

VAT NO.....

Postal Address.....

Telephone.....

Email.....

Grower (s)..... (*attach list if necessary*) e.g. association members.

County.....

Sub County.....

L.R. No. (s).....

Acreage.....

Name of designated warehouse.....

Physical location.....

Grower's Agent.....

PART II – PARTICULAR OF OVERSEAS BUYER

Name of Company

Company Director(s).....

Postal Addresses.....

Registered Office.....

Street.....

Town/City Zip
Code.....

Country.....

Port of Entry.....

E-Mail..... Tel.....

Website.....

Type of Coffee business.....

PART III- CONTRACT DETAILS

Contract ref. no.....

Grades of coffee.....

Grade	Number of bags	Total Net weight Kgs	Price per bag	Total value(USD)

PART IV – TERMS AND CONDITIONS

Shipment.....

Payment.....

Insurance.....

Sample.....

Shipper.....

Destination.....

Arbitration/Terms.....

Special Condition (if any)

We certify that the information given above is true to the best of our knowledge and information

Grower nameDate.....Signature.....

Overseas Importer r/Agent of importer

.....Date.....Signature.....

SALES CATALOGUE

3. Amend provision number one of the sales catalogue to read
 1. The sales catalogue shall be prepared by the coffee miller-marketer in consultation with the Exchange and grower millers.

Made on this date ----August, 2021

PETER MUNYA
Cabinet Secretary
Ministry of Agriculture, Livestock, Fisheries and Cooperatives