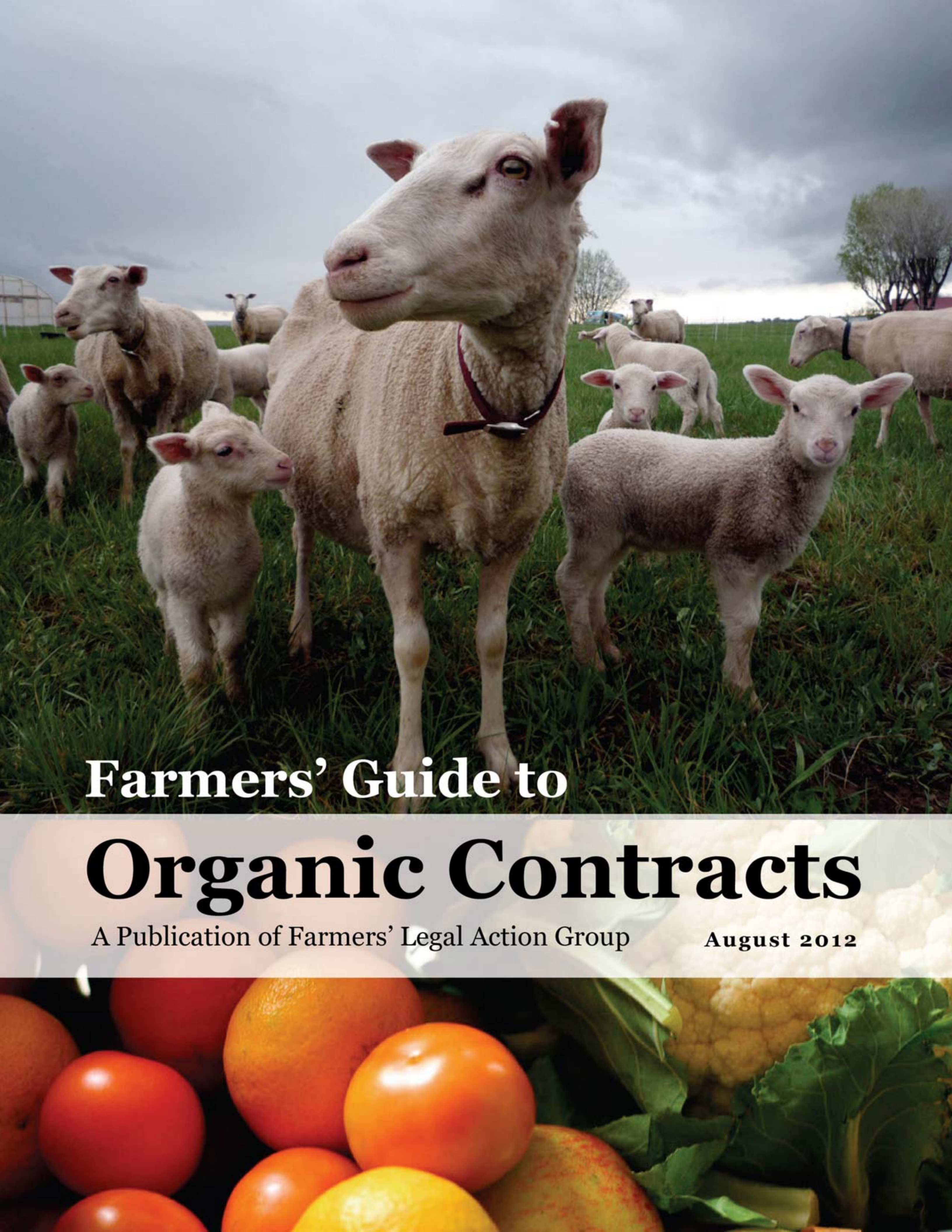

Farmers' Guide to Organic Contracts

A Publication of Farmers' Legal Action Group

August 2012

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Farmers’ Legal Action Group, Inc.

Written by
Amanda N. Heyman

Edited by
Karen R. Krub
Lynn A. Hayes

FLAG
FARMERS' LEGAL ACTION GROUP, INCORPORATED

Farmers’ Legal Action Group, Inc.
360 North Robert Street, Suite 500
Saint Paul, Minnesota 55101-1589

Phone: 651-223-5400
Fax: 651-223-5335
Toll-Free in Minnesota: 877-860-4349

Email: lawyers@flaginc.org
Website: www.flaginc.org

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PUBLISHED BY
Farmers' Legal Action Group, Inc.
360 North Robert Street, Suite 500
Saint Paul, Minnesota 55101-1589
lawyers@flaginc.org
www.flaginc.org

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Organic farming has matured over recent decades from the vision of a relatively small number of passionate farmers who operated mostly informally, usually conducting business with a handshake, to a system that is formally codified in statute and increasingly delivered through some of the same formal mechanisms found throughout conventional agriculture. We hope this guide provides the farmers who have made the commitment to organic farming with the information they need as they navigate the organic marketplace, while at the same time growing healthy food that nourishes people, soil, local communities, and the environment.

Susan E. Stokes
Executive Director and Attorney at Law
August 31, 2012

Farmers' Guide to Organic Contracts can be downloaded for no charge from FLAG's website at www.flaginc.org. Hard copies can be purchased online or by contacting FLAG by telephone at 651-223-5400; by fax at 651-223-5335; by mail at 360 North Robert Street, Suite 500, Saint Paul, MN 55101; or by email at lawyers@flaginc.org.

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Introduction

INTRODUCTION

The goal of the *Farmers' Guide to Organic Contracts* is to help farmers make informed decisions when evaluating, negotiating, and managing contract agreements with buyers of organic farm products. While fair contracts share benefits and burdens equally between two parties, agricultural contracts in many sectors have historically placed unequal burdens on farmers. Some agricultural buyers deal fairly with farmers, but others take advantage of their superior bargaining power and access to more widespread market information to pressure farmers into signing unfavorable agreements.

This guide aims to help farmers create contracts that allow for stability and predictability within the farmer-buyer relationship while at the same time avoiding contracts that unfairly benefit organic buyers.

FLAG published this guide in response to the growing use of written contracts in the organic sector. The information provided here can assist farmers with all types of agricultural contracts, but our primary purpose is to serve farm operations certified as organic under U.S. Department of Agriculture (USDA) National Organic Program (NOP) regulations.[1] Specific suggestions and information for organic operations are highlighted throughout the guide.

<u>CAUTION</u>

These are educational materials intended for general information only. The information contained in this guide does not constitute legal advice. For advice about your particular situation, consult an attorney who is licensed to practice law in your state.

See Chapter 12 for tips on finding qualified legal counsel.

CONTRACTS IN THE ORGANIC MARKETPLACE

Although the decision to enter into an organic contract happens on an individual farmer level, these individual contract decisions have a broader impact on the organic community. Consequently, improving contracts for individual farmers could provide meaningful benefits for the organic community as a whole. However, as discussed below, gaining power in the organic marketplace may require farmers to join forces.

Growing Organic Market at Risk of "Conventionalization"

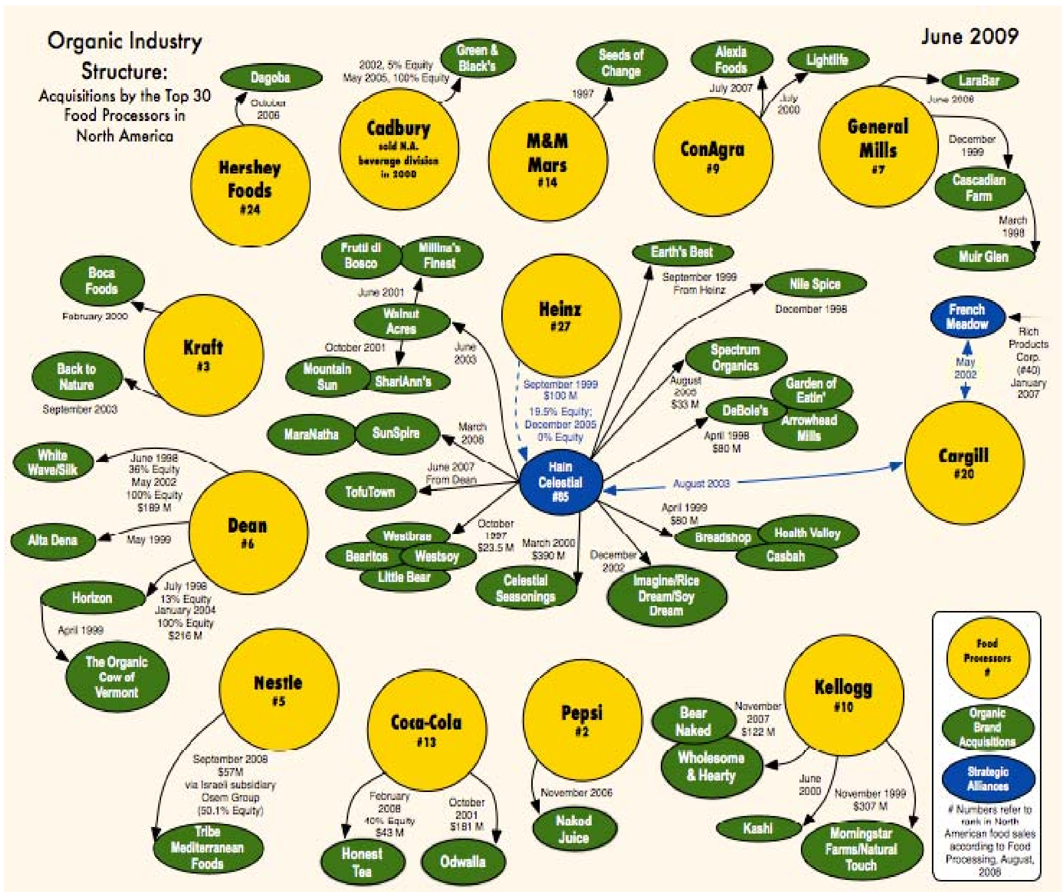
According to the latest census data available, there are more than 14,000 certified organic farm operations in the United States—accounting for over 14 million acres of land.[2] In only 15 years, organic retail sales in the United States have grown from less than $3 billion to over $31 billion.[3] Sales of organic products have often increased faster than supply, resulting in shortages of some products.[4] This red-hot growth is projected to continue; at least one forecast predicts the U.S. organic market could be worth almost $37 billion by 2015.[5]

This strong growth comes at some cost, however. As the organic market grows, it is increasingly vulnerable to corporate control and "conventionalization." As shown in the "Who Owns Organic?" graphic on the next page, over the last 15 years giant agribusiness companies like Kraft, Kellogg, and General Mills have been steadily absorbing smaller organic companies.[6]

From a market perspective, the "conventionalization of organics" refers to large corporations gaining market power by purchasing smaller buyers in the organic market. Having acquired control of a large share of the market and eliminated much of their price competition, these large corporations can lower prices paid to farmers and use contracts to decrease farmer control over production. This "conventionalization" has already occurred in the conventional agricultural market, causing serious financial harm to small-scale farmers, particularly in the poultry and livestock sectors.[7]

The growing concentration of the organic marketplace and the resulting imbalance in bargaining power have already begun to affect at least one group of farmers—organic dairy producers. The organic milk market is largely controlled by a few large corporate dairy processors. As a result, organic dairy producers often report feeling pressured to accept unfavorable contracts with pay prices that do not cover their costs of production. This happens largely because the lack of competition in the organic dairy market means the large dairy processors have the ability to push down the prices farmers receive.[8]

Who Owns Organic?[9]



Setting a Different Course for Organics

The organic community has an opportunity to set a different course from the conventional industrial agricultural contract model by resisting conventionalization of the organic market and the power imbalances built into that system. One way farmers can gain market power is to join together in farm associations or cooperatives to share information and other resources. The Organic Farmers' Agency for Relationship Marketing (OFARM) (see box below) is one example of organic farmers increasing their market power through collaboration and information sharing.[10]

Market Power Case Study: OFARM

OFARM is a marketing-in-common agency comprised of several farmer-member cooperatives and one non-profit firm. While OFARM member organizations are individually responsible for marketing members' farm products, OFARM acts as a central information warehouse, aggregating price and inventory information to help farmers learn the true value of their organic products. As an OFARM brochure says, "Market knowledge is price power." As one recent academic study found, this OFARM-facilitated information exchange allows farmer-members to better predict market conditions. Ultimately, this shared knowledge provides OFARM farmers more leverage with buyers.

In creating farmer leverage, OFARM aims to prevent the conventionalization of organics that occurs when large agribusiness and food corporations break into the organic industry and challenge the control farmers have in pricing. These corporations often have appealing initial prices, but these prices are usually dropped once a corporation secures an advantageous market position. What's more, production contract agreements with these large corporations often increase farmers' risk and decrease their control over their farming operations. In contrast, OFARM aims to offer farmers long-term value by setting floor prices that are profitable for members.

Academic researchers have found that farmers benefit from the strong camaraderie and trust that exists among OFARM members. Members consider OFARM a "neutral place" and share a common goal of sustaining the organic industry. Farmer-members are also able to build reputations as reliable suppliers through joint promotion, sometimes even sending buyers to other OFARM members when they are unable to fill orders. In addition, members gain mentorship and advice from more experienced farmers within the organization.

Formed in 2001, OFARM now spans 18 states and the province of Ontario, making it the largest single organized entity of producers growing organic field crops in North America. Farmers interested in joining OFARM can encourage their marketing group to join OFARM or become a member of one of the current OFARM member organizations. More information is available on OFARM's website: www.ofarm.org.

In the European Union, where organic farming has been a regulated practice for longer than in the United States, countries with strong agricultural cooperatives and other forms of farmer associations have been more successful in resisting conventionalization pressures than countries without such farmer groups. The strong farmer organization networks have empowered smaller farmers in these countries, helping them access credit, bargain for lower input costs, and access the economic and technical support necessary to compete effectively. At the same time, these forms of organization may have also allowed for higher standards in the treatment of farm labor, as well as more ecologically sustainable methods of production.[11]

Farmers in the United States have the right to associate and form cooperatives (see Chapter 12's discussion of the Agricultural Fair Practices Act (AFPA), page 12–12).[12] As the OFARM example shows, U.S. farmers have the opportunity to copy the success of European organic farmers in resisting the conventionalization of the organic marketplace by joining together to form strong farmer association networks. Farmers may also wish to consider political strategies for resisting conventionalization.[13]

TO CONTRACT OR NOT TO CONTRACT?

Although written contracts are becoming more common in the organic marketplace, many organic farm product transactions still occur on the spot market through wholesalers or brokers. Thus, it is worthwhile for farmers to consider whether contracting is the right decision for their organic operations.

Written Contracts Are Being Offered More Frequently

While many farmers continue to conduct business on a handshake basis, the use of contracts in agriculture is growing. In 2005, contracts governed 40 percent of the total value of agricultural production in the United States.[14] In comparison, contracts governed only 28 percent of agricultural production in 1991, and a bare 12 percent in 1969.[15] These percentages include both conventional and organic production.

Compared to conventional farmers, organic farmers use written contracts much more frequently. In 2007, almost half of all organic transactions (46 percent) were conducted using written contracts. Slightly less than one quarter of organic transactions were conducted under oral agreements or ongoing handshake relationships between farmers and buyers. The remaining share of organic production was acquired in the spot market.[16]

Organic Integrity Concerns and Larger Buyers Lead to More Written Contracts

It makes sense that written contracts are popular in the organic market. The USDA Certified Organic label was developed in part so that consumers could trust that the food they feed their families was produced without harmful pesticides, hormones, genetically modified organisms (GMOs), and other common conventional agricultural practices. The confidence consumers have in the organic production process translates into higher prices for organic products, which is often referred to as the "organic premium." Emphasizing the importance of quality in the organic sector, nearly all organic contracts in 2007 (the most recent year for which such information is available) included minimum quality standards and specific quality testing protocols.[17]

As the organic sector booms, however, relationships between organic farmers and buyers have become increasingly formalized. Informal contract arrangements (oral or written) tend to persist over time because the parties have repeated interactions, a high level of trust, and a desire for a long-term business relationship. These informal agreements are more likely to occur between smaller-scale farmers and smaller-scale buyers. In contrast, larger-scale buyers are more likely to use formal written contracts to procure organic farm products.[18] Farmers who once had informal, long-standing relationships with small- or medium-sized buyers often end up working with larger agribusiness corporations that absorb these smaller buyers.

Realities of Negotiating With Buyers

The combination of organic integrity concerns and a trend toward larger-scale buyers means that organic farmers who might have been used to handshake agreements or short written agreements—with an understanding that unwritten terms would be fleshed out as needed by a mutually acceptable application of common sense, reference to the parties' past dealings, or by a simple phone conversation—are now being presented with complicated written contracts, including a long list of provisions addressing numerous aspects of the farmer-buyer relationship. This trend also means it is becoming increasingly important for organic farmers— who most likely don't have a contract lawyer on staff—to be familiar with the technical ins and outs of contracting.

Generally, whether a buyer will agree to negotiate the terms of a contract offer will depend on a combination of: (1) the strength of the farmer's bargaining power; and (2) how important the particular contract provision is to the buyer.

In the organic market, farmers are likely to have more bargaining power if they produce a scarce, desirable product or can supply products of exceptionally high quality. However, even when dealing with organic farmers with strong negotiating power, buyers are unlikely to agree to contracts made up solely of provisions that are in the farmers' best interest.

Farmers will likely have to accept some provisions that they do not like or that place more risk upon the farmers' shoulders. What farmers should aim for, then, is a contract that has a fair division of risk between farmer and buyer. Oftentimes, buyers who allow farmers to participate in the contract formation process (rather than simply handing the farmer a completed document) are more likely to propose contracts that fairly distribute risk.

Pros and Cons of Written Contracts

Organic farmers most often consider signing written contracts to reduce their uncertainty. Written contracts reduce uncertainty about whether the farmer will have a buyer and the price that will be paid for the organic farm products. From a legal perspective, the biggest advantage of written contracts is that they are generally enforceable in court if a problem arises. In contrast, handshake deals and oral agreements are generally not enforceable in court, although deals that are confirmed in writing or made by exchange of written purchase orders are often considered enforceable. (See Chapter 1 for more information on contract enforceability.)

Contracts can also give organic farmers a greater sense of stability (especially when signed before beginning production) and can allow for more accurate business planning. Contracts can bring higher prices for premium products and may provide an opportunity to raise high-value specialty crops.

In addition, contracts can sometimes serve as a form of risk sharing, especially with respect to price. Farmers who sign contracts prior to harvest can be protected from drops in market price if the contract price at harvest is higher than the market price. Written contracts can also help organic farmers make sure they have thought through all aspects of the farmer-buyer relationship, including issues like preventing contamination in transport, GMO rejection levels, and dispute resolution. Finally, contracts can help farmers access loans for operating expenses, equipment, and even land purchases by providing evidence of a steady source and level of farm income.

Although contracting can help organic farmers manage risk and uncertainty, the mere act of signing a contract creates a certain level of risk. Entering into a contract means taking on very serious legal obligations that can be enforceable in court. Judges typically require people who make contract agreements to keep their contract promises, even if it means they will suffer significant hardship like losing a farm or declaring bankruptcy.

Furthermore, as complex contracts become more common, organic farmers are making an increasing number of promises each time they sign a contract. Each new promise creates a new way that the farmer could breach the contract—whether or not the farmer intends to breach or is even aware of the breach—which could cause the buyer to terminate the contract, withhold payment, sue for damages, or all of these. This guide can help you navigate the extra promises often involved in increasingly complex organic contracts.

In every case, before entering into a written contract agreement, farmers should seriously consider whether the contract provides significant benefits over selling organic products in the spot market.

HOW TO USE THIS GUIDE

The *Farmers' Guide to Organic Contracts* is meant to be useful to farmers at every stage of the contract relationship. It can help farmers:

- Evaluate contract offers
- Negotiate contract terms
- Manage contract performance, including successfully changing contract terms during the life of the contract
- Find solutions to contract disputes

The following is an overview of the guide's most helpful features.

Main Features of the *Farmers' Guide to Organic Contracts*

In developing this guide, FLAG interviewed organic farmers about their experiences with written contracts, reviewed written organic contracts, consulted with leaders in the organic farming community, and conducted extensive research into the laws and policies governing organic farm production and marketing. This investigation led us to offer the following six features in an attempt to make the guide of the greatest use to farmers considering organic contracts.

1. Overview of Contract Laws Relevant to Farmers

Chapter 1 of the guide provides a basic overview of the aspects of contract law likely to be most relevant to farmers. Although farmers don't need legal training to read or sign a contract, a basic understanding of contract law can benefit farmers during contract evaluation, negotiation, and performance—as well as in case of a dispute.

Farmers might be particularly interested in learning how to create an enforceable agreement without signing a formal written contract, as well as how to successfully change an agreement while the contract is ongoing.

2. Practical Contracting Toolkit

Chapter 2 of the guide offers practical tools and information farmers can use to analyze and negotiate an organic contract offer. The Quick Organic Contract checklist can serve as a guide for evaluating contract offers, helping farmers consider how the various contract provisions will affect their organic farm operations. In order to allow farmers to quickly access more information about the topics on the checklist, each checklist question includes page references to the parts of the guide that provide more detail about the issues related to each question.

Chapter 2's toolkit also includes a quick primer on contract basics, negotiation strategy tips, and advice about how to successfully manage an existing contract agreement.

3. Explaining How Organic Regulations Interact with Contracts

In addition to covering the wide range of contract issues that all farmers should consider, the guide focuses on how organic contracts interact with the unique production challenges of organic farming. An organic contract reflects the fact that special organic farming requirements exist over and above the challenges inherent in all farm operations. To help farmers handle this additional complexity in organic contracts, the guide specifically addresses how contracts can affect farmers' compliance with organic regulations—and how organic regulations can affect farmers' ability to satisfy contract requirements. The guide also provides examples of contract provisions that could help farmers protect organic integrity throughout all stages of production. Note that the guide uses the green leaf symbol pictured here to identify the contract issues that are unique to certified organic operations.

4. Examples of Unfavorable and More Favorable Contract Language

The guide provides numerous examples of contract provisions that are modeled after provisions in the organic contracts we studied and analyzed while writing this guide. The guide explains why farmers should be cautious about some of these types of provisions, and provides examples of more favorable ("better") language that could potentially replace unfavorable ("bad") provisions. Ideally, farmers can compare the "bad" examples to buyers' written contract offers to identify provisions that should be deleted or changed.

Additionally, farmers can use the "better" examples to craft more farmer-friendly, favorable replacement provisions suited to their operations. The guide uses the symbols pictured here to identify "bad" and "better" example contract language. This symbol system is more fully explained below.

5. Detailed Examination of 100+ Types of Organic Contract Provisions

Chapters 3 through 11 of the guide explore over 100 types of organic contract provisions and include detailed examinations of provisions varying from price to GMO testing to early contract termination to insurance requirements. These chapters are not necessarily intended to be read in one sitting. Instead, farmers can use Chapters 3 through 11 as a reference to answer specific questions as they arise about particular contract provisions.

For example, farmers can use these reference materials to learn about contract terminology they may not recognize or fully understand. These chapters also offer ideas for negotiating to compromise solutions that can allow buyers to address their legitimate concerns while protecting farmers from taking on excess risk.

Farmers can use the guide's main Table of Contents, Quick Organic Contract Checklist, or individual chapter tables of contents to easily find topics of interest within Chapters 3 through 11. Additionally, each chapter's table of contents highlights some of the useful tips found throughout the guide. Many tips are flagged with the blue star symbol pictured here.

6. Information About Solving Common Contract Disputes

Chapter 12 of the guide contains information about solving the types of contract disputes that commonly arise in the organic market. This chapter explains how to enforce an organic contract against a buyer, and provides tips for finding a qualified contract attorney and suggestions about how to handle being sued. Finally, Chapter 12 examines the specific legal principles and remedies applicable in ten common contract dispute situations, including rejection of delivered goods, failure to pay, attempts to terminate a contract, failure to keep contract promises, and bankruptcy.

This information can help farmers faced with a contract dispute in negotiating fair, out-of-court solutions from an informed perspective.

Explanation of the Symbol System

The guide contains many example contract provisions in an attempt to help farmers more easily identify in their own contracts the types of provisions discussed here. To allow farmers to quickly identify favorable and unfavorable contract language in this guide, one of the following symbols accompanies each example provision:

Unfavorable contract provision examples ("bad" examples) are most often flagged with a yellow "caution" symbol, meaning that farmers should carefully consider whether the risks created by the provision are worth taking in order to gain the benefits of the contract.

The more rarely used red "stop" symbol identifies provisions that create particularly high risk for farmers, and warns that farmers may wish to reject such provisions due to the risk involved. Farmers are advised to try to negotiate deletion or replacement of these especially risky provisions.

The example contract provisions flagged with the "caution" and "stop" symbols are clearly not meant to be good examples of what fair or well-written contract provisions look like. Instead, they are meant to be examples of what an organic farmer might encounter when considering real contracts in the organic marketplace. As such, they may be unfair, biased in favor of the buyer, or simply unreasonable. Nevertheless, the examples are provided to help farmers understand how to recognize and analyze common organic contract provisions. Farmers should not view them as "model" contract provisions.

The more favorable ("better") contract language examples are identified with a green "check" symbol. These examples are not meant to be perfect language suitable for every organic contract; they are simply examples of language likely to be more favorable to organic farmers than the provisions flagged with "caution" or "stop" symbols.

INTRODUCTION — ENDNOTES

1 See generally, 7 C.F.R. Part 205 (2012). The National Organic Program (NOP) regulations are authorized by the Organic Foods Production Act of 1990, 7 U.S.C. § 6501 *et seq*. For more information about the NOP, see the NOP website at http://www.ams.usda.gov/nop.

2 According to the U.S. Department of Agriculture (USDA) 2008 Organic Survey (the most recent organic census data available), in 2008 there were 14,540 certified or exempt organic farms in the United States, accounting for almost 14.1 million acres of land. The top five states by number of individual organic farms in 2008 were California (2,714), Wisconsin (1,222), Washington (887), New York (827), and Oregon (657). Other states with more than 500 individual organic farms were Pennsylvania (586), Minnesota (550), Ohio (547), and Iowa (518). Close to 2,000 farms were transitioning to organic production in 2008. See U.S. Department of Agriculture, National Agricultural Statistics Service, *2008 Organic Survey* at Table 1 (Farms, Land Use, and Sales of Organically Produced Commodities on Certified and Exempt Organic Farms: 2008), available at www.agcensus.usda.gov.

At the end of 2011, the total number of U.S. certified organic "operations" (which includes both organic farms and certified organic processing facilities) was over 17,000. Also at the end of 2011, there were over 28,000 certified organic operations across 133 countries worldwide. See U.S. Department of Agriculture, Agricultural Marketing Service, 2011 List of Certified Operations, available at http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5097484&acct=nopgeninfo. The 2012 Census of Agriculture was ongoing at the time this guide was printed.

3 See Council of Economic Advisers, White House Rural Council, and U.S. Department of Agriculture, *Strengthening Rural Communities: Lessons from a Growing Farm Economy*, at 4 (June 2012), available at http://www.whitehouse.gov/sites/default/files/docs/rural_communities_06_11_2012.pdf.

4 Carolyn Dimitri, Lydia Oberholtzer, and Michelle Wittenberger, *The Role of Contracts in the Organic Supply Chain: 2004 and 2007*, at 1, EIB-69, U.S. Department of Agriculture, Economic Research Service (December 2010) (The analysis reported by this study is the first systematic exploration of contract use in the organic sector, and it is based on data from two national surveys administered to firms certified to handle ("process, distribute, manufacture, or repack") organic products in accordance with National Organic Standards. At the time this guide was written, the study represented the most recent comprehensive data available on organic contracting nationwide.).

5 See Sarah Hills, *California is organic 'land of opportunity*,' Food Navigator-USA.com, March 4, 2011 (stating U.S. organic food and beverage market expected to grow to $36.8 billion by 2015), available at http://www.foodnavigator-usa.com/Business/California-is-organic-land-of-opportunity.

6 Changes in the organic industry structure since June 2009 include: (1) Coca-Cola fully acquiring Honest Tea in March 2011; (2) Nestle acquiring Cadbury (and Green & Black's) in January 2010 and Sweet Leaf Tea in May 2011; (3)

Sara Lee acquiring Aidell's Sausage for $87 million in May 2011; (4) Perdue Farms, Inc., acquiring Coleman Natural Foods, a processor of organic and natural chicken, in May 2011; (5) General Mills acquiring Food Should Taste Good in February 2012; and (6) Campbell Soup Company acquiring Bolthouse Farms for $1.55 billion in July 2012.

Philip H. Howard, *Organic Industry Processing Structure*, available at https://www.msu.edu/~howardp/organicindustry.html. See also Philip H. Howard, *Organic Industry Structure*, 5 (3) Media-N: Journal of the New Media Caucus (Winter 2009), available at http://www.newmediacaucus.org/html/journal/issues.php?f=papers&time=2009_winter&page=howard; see also Philip H. Howard, *Consolidation in the North American Organic Food Processing Sector, 1997 to 2007*, 16(1) International Journal of Sociology of Agriculture and Food 13 (2009).

7 See generally, Amy Guptill and Richard Welsh, *Is Relationship Marketing an Alternative to the Corporatization of Organics?*, The Natural Farmer, at 39-41 (Spring 2006); see also Susan E. Stokes, *The Dilemma of Contracting: Risk Management or Risky Business?*, at 1 (Farmers' Legal Action Group, 2006), available at http://flaginc.org/topics/pubs/arts/CLE_SES.pdf.

8 See, for example, Ed Maltby, *Organic Pay and Retail Price Update for May 2012*, Northeast Organic Dairy Producers Alliance, May 8, 2012, available at http://www.nodpa.com/payprice_update_05082012.shtml. See also Amy Guptill, *Exploring the Conventionalization of Organic Dairy: Trends and Counter-Trends in Upstate New York*, 26 Agriculture and Human Values 29 (2009).

9 Philip H. Howard, *Organic Industry Processing Structure*, available at https://www.msu.edu/~howardp/organicindustry.html.

10 See Organic Farmers' Agency for Relationship Marketing (OFARM) website, available at http://ofarm.org. Each OFARM member organization complies with the Capper-Volstead Act of 1922, which established farmers' right to bargain collectively.

For an academic study examining OFARM, see Amy Guptill and Richard Welsh, *Is Relationship Marketing an Alternative to the Corporatization of Organics?*, The Natural Farmer, at 39-41 (Spring 2006). See also Thomas Gray, *Organic Federation Seen as a Strategy for Family Farm Survival, Regional Competitiveness*, 79(1) Rural Cooperatives at 24 (January/February 2012); see also Organic Farmers' Agency for Relationship Marketing, *Profitable Organic Pricing Starts Here*, available at http://ofarm.org/assets/Uploads/Brochures/OFARM-Producer-Brochure.pdf.

11 See, for example, Charalampos Konstantinidis, *Assessing the Rise of Organic Farming in the European Union, Environmental and Socio-economic Consequences* (Working Paper), University of Massachusetts-Amherst, January 2012, available at http://www.umass.edu/economics/publications/2012-01.pdf.

12 See, for example, the Agricultural Fair Practices Act, 7 U.S.C. §§ 2301-2306 (2012) (discussed further in Chapter 12 of this guide).

13 Political strategies are a potential tool for resisting conventionalization in the organic marketplace. However, it is important to recognize the limitations of

political strategies at the current time. These strategies have so far made little impact on the conventional agricultural market where political strategies (and litigation) have largely failed to prevent predatory practices by giant agribusiness companies. Most recently, once-promising attempts to strengthen regulation of the poultry and livestock markets to decrease corporate power and protect producers have stalled due to opposition in the U.S. Congress.

[14] Carolyn Dimitri, Lydia Oberholtzer, and Michelle Wittenberger, *The Role of Contracts in the Organic Supply Chain: 2004 and 2007*, at 1, EIB-69, U.S. Department of Agriculture, Economic Research Service (December 2010). See also Susan E. Stokes, *The Dilemma of Contracting: Risk Management or Risky Business?*, at 1 (Farmers' Legal Action Group, 2006), available at http://flaginc.org/topics/pubs/arts/CLE_SES.pdf.

[15] Susan E. Stokes, *The Dilemma of Contracting: Risk Management or Risky Business?*, at 1 (Farmers' Legal Action Group, 2006) (citing James MacDonald, *et al.*, U.S. Department of Agriculture, Economic Research Service, No. AER837, *Contracts, Markets, and Prices: Organizing the Production and Use of Agricultural Commodities* 8 (2004)), available at http://flaginc.org/topics/pubs/arts/CLE_SES.pdf.

[16] Carolyn Dimitri, Lydia Oberholtzer, and Michelle Wittenberger, *The Role of Contracts in the Organic Supply Chain: 2004 and 2007*, at 9, EIB-69, U.S. Department of Agriculture, Economic Research Service (December 2010).

[17] Carolyn Dimitri, Lydia Oberholtzer, and Michelle Wittenberger, *The Role of Contracts in the Organic Supply Chain: 2004 and 2007*, at 14, EIB-69, U.S. Department of Agriculture, Economic Research Service (December 2010).

[18] Carolyn Dimitri, Lydia Oberholtzer, and Michelle Wittenberger, *The Role of Contracts in the Organic Supply Chain: 2004 and 2007*, at i, EIB-69, U.S. Department of Agriculture, Economic Research Service (December 2010).