

CSA CONTRACTS: WHAT NOT TO DO

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Webinar

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**AGRICULTURE LAW
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Overview

- Do you want to protect your farm and CSA offerings?
- Do you have a contract already in place?
 - If your answer is *NO*, wouldn't you like to have one?
 - If it is *YES*, wouldn't you like to know if you have included everything necessary to protect yourself and operate efficiently?



Overview

- Either way, wouldn't you like to know WHY you would have a contract for your CSA at all?
- Up to 70% of CSAs operate as a sole proprietorship or general partnership, exposing the farmland and personal assets to claims arising out of the business (2009 Survey of Community Supported Agriculture Producers, University of Kentucky Cooperative Extension Service)



Overview

- This survey also showed that many CSA operators recognize concerns that a more legalistic farm organization may create an undesired relationship between the CSA and its members
- The desirable relationship most CSAs strive for is the more personal relationship with its customers



Overview

- With that said, the survey showed that 1/3 of CSA farmers are hesitant to put the terms of their CSA in writing because it appears litigious and consequently untrustworthy



Overview

- *BUT*, legal issues arise from not using written agreements
 - Farmers may think that discussing the risks of their CSA on their website, facebook, or other social media outlet is enough and will protect them against disappointed customers
- **EXAMPLE:** 3 CSA farms failed to produce in Illinois and Wisconsin after a severe drought in 2011. An upset customer called an attorney wanting to know how he could get his \$560 CSA share refunded. Whether the farmer owed the customer turned on a nonexistent sales agreement and whether the lack of vegetables materialized from risks shared between the farmer and customer.



Overview-Parol Evidence Rule

- So, why isn't having information on your website or facebook page enough?
- One reason is a contracting rule called the ***Parol Evidence Rule***
 - It is contracting rule used by courts that can limit inclusion of evidence that "clarifies" a contract
 - The idea is that all your negotiations are reflected into the final document (ie the contract).
 - EX: Farmer Paul has a warning that weather may affect production on his website, but not on his membership contract. The court may rule that Farmer Paul's warning is not included in the agreement and therefor the customer is not held to be in warning of weather issues concerning production.



Overview-Parol Evidence Rule

- By including in the contract, you clarify potential areas of dispute.
 - Yes I realize you would prefer the document to be short sweet and to the point
 - Short sweet and to the point can come back to hurt you.
- This can be done by spelling out items in your contract, as we do in the model contract that Paul will be discussing.
- Can also do this by using Appendixes or ***referencing*** back to spots on your website and including copies for potential members.



HOW DO YOU CURRENTLY
ADDRESS ISSUES?

How do you address....

- Surpluses?
- Shortages?
- Pickups?
- harvest schedules?
- U-Pick?
- Growing practice notifications?



WHAT NOT TO DO

Sample Contract #1

Please return by Feb. 5th — Space is limited.

Please call for information on work shares.

Regular share	\$350
Family share	\$600
Omnivore's Delight	\$200
Vegetarian's Bliss	\$175

****Returning customers take 5% off total until January 10th****

Name _____

Address _____

phone: _____

EMAIL _____

(please indicate if this is not a good way to contact you!)

Pick up spot – please circle your preference

The farm, Wednesdays 10 a.m.-12 noon and 4-6 p.m.

Frostburg, Main St. Books Fridays 9 a.m.-12 noon

Thomas White Room Thursdays 12 noon- 2

Signature of agreement _____

Please return this form with payment to :



Issues With Sample Contract #1

- Not enough information!
- Only includes:
 - Membership Fees
 - Name and information of member
 - Option for pick up
- What is not included:
 - Occurrence of surplus or shortage
 - Details/definition of what each share is
 - Growing practices



Sample Contract #2

CSA Membership Form 2015

Print out this form and mail it to us with your check (Please Print!).

Name _____

Address _____

City _____ State _____ Zip _____ Phone # _____

Email (Please print legibly) _____

***Only ONE email address per share. If you're sharing with someone, please designate one of you to be the main contact that will pass all emails along!

Amt. Paid _____ Date _____

Please check below to indicate which CSA option you are choosing

Register between Oct 8, 2014 and May 7, 2015

Regular Season Produce CSA

**Fall Share*

\$499 register before Dec 1, 2014 & receive a \$20 gift card _____

\$499 register between Dec 2, 2014 & Apr 1, 2015 _____

\$515 register between Apr 2, 2015 & May 7, 2015 _____

**Bi-Weekly Share*

\$290 register before Dec 1, 2014 & receive a \$15 gift card _____

\$290 register between Dec 2, 2014 & Apr 1, 2015 _____

\$300 register between Apr 2, 2015 & May 7, 2015 _____

**Weekly Half Share*

\$315 register before Dec 1, 2014 & receive a \$15 gift card _____

\$315 register between Dec 2, 2014 & Apr 1, 2015 _____

\$325 register between Apr 2, 2015 & May 7, 2015 _____

Early Spring Share

\$100 register before Feb 15, 2015 _____

\$115 register between Feb 16 & Apr 15, 2015 _____

Summer Share

\$200 register before Apr 1, 2015 _____

\$225 register between Apr 2 & July 1, 2015 _____

Add-On CSA Options for 2015

You must purchase a share in the produce CSA to be able to purchase an add-on.

**One Dozen Brown Eggs*

\$90 register between Oct. 8, 2014 & _____

May 7, 2015 _____

**One Pound Loaf of Bread*

\$96 register between Oct. 8, 2014 & _____

May 7, 2015 _____

Both items are picked up weekly from May 14 through October 22, 2015. **Bi-weekly pick-up is not an option.** Pick-up days will be assigned to you based on your pick-up day for your produce CSA.

How did you learn about joining our CSA Program? _____

Pick-up Site:

Brad's Produce

550 Asbury Rd.

Churchville, MD 21028

CSA Shareholder Agreement

I understand that payment for a share of the _____ CSA entitles me a share of fruits and vegetables harvested at _____, our local partnering farm. This is a commitment between me and _____ CSA and I recognize that I will share in the risks of the growing season along with other members and the farmer. It is my responsibility to pick up my share on time or to contact my host. I understand that pick-up times will be assigned based on the share I have chosen. If I do not pick up my share or have someone pick it up for me within 24 hours of my assigned time, my share will be donated elsewhere. I also understand my payment is nonrefundable.

Signed _____

I am a returning CSA member _____ My previous share was _____

I am donating \$ _____ for a share for a needy family in the community.

(All donations go towards shares for families from a local elementary school.)



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Issues With Sample Contract #2?

- Only includes:
 - Membership Fees
 - Name and information of member
 - One option for pickup
 - Details/definition of what each share is
- What is not included:
 - Occurrence of surplus or shortage
 - Growing practices
 - Occurrence of weather problems and effect on pickup
- Issue
 - The highlighted portion that's states someone else can pick up the share-this can cause issues if someone attempt to steal the share!



Sample Contract #3

Five Seeds Farm is a family farm with 2 locations: **Baltimore City & Baltimore County**. We farm roughly 5.5 acres. We have been raising high-quality, organically-grown produce, honey and eggs since 2007. We grow over 60 different vegetables, herbs, berries & small fruits focusing on open-pollinated and unique heirloom varieties including the now again famous Fish pepper. We are a founding member of the **Farm Alliance of Baltimore County**. We sell directly to consumers at the **2nd Street Farmers Market of Washington, DC**, the **Columbia Heights Community Marketplace** in Washington, DC and the **Baltimore Farmers Market & Bazaar**. 2013 will be our sixth year operating a CSA.

What's in a share? Your share will be 6-8 items (valued at \$27) to include any of the following: arugula, heirloom & slicer tomatoes, garlic, sweet peppers, jalapenos, carrots, Swiss chard, endive, cucumbers, summer squash, winter squash, pumpkins, melons, pink baby ginger, green beans, onions, potatoes, sweet potatoes, broccoli, collards, kales, rapini, salad mix, head lettuce, celery, fennel, spinach, cauliflower, napa cabbage, bok choy, radishes, okra, melons, beets, turnips, edible flowers and culinary herbs. We do not offer half-shares, we encourage our customers to create community amongst family, friends, neighbors and strangers to split a share.

Season: May 18 through October 26, The time span of the CSA is 24 weeks, you will get 22 weeks worth of vegetables. We will take two separate weeks off from the CSA to allow time for the farm and farmers to regroup and receive feedback from our share members during the season, the last week of June and August.

Cost, Payment Methods and Mailing Address: \$575 until February 28; \$600 until March 15; \$620 thereafter. Checks by mail to **Five Seeds Farm, 10600 Bobbe Road Sparks, MD 21151**. We also accept PayPal, EBT (with payment arrangements), credit/debit and cash.

Contact Information: info@fiveseedsfarm.com or [410-552-5555](tel:4105525555)

Name: _____

Email Address: _____

Phone Number: _____

Share Price:

_____ \$575 (from January through February 28, 2014)

_____ \$600 (March 1 through March 15, 2014)

_____ \$620 (after March 15, 2014)

Share Type (choose one):

_____ Pick up on the farm with "U-Pick" options (such as cherry tomatoes, green beans, peas and flowers) on **Wednesdays from 10am to 3pm**

_____ Pick up at the Station North Tool Library on **Thursdays from 5 to 9pm**

_____ Pick up on the farm with "U-Pick" options (such as cherry tomatoes, green beans, peas and flowers) on **Fridays from 10am to 3pm**

CSA Commitment Statement

I understand that I am a subscriber to the **Five Seeds Farm** harvest season from mid-May through October. As a subscriber, I commit myself to supporting the farm with timely payments. I also commit to pick up my weekly delivery as indicated above. If not picked up in a timely manner I do not expect to have my share saved. I understand that if I do not pick up my share it will be forfeited. As a subscriber to the **Five Seeds Farm** CSA, I will receive a weekly share of approximately \$27 worth of produce. I understand that the variety of produce I receive depends on growing conditions that vary from season to season and that the risks and benefits of the harvest are shared. By participating in this CSA, I am supporting local growers as well as a healthier lifestyle for myself and for society.

Signature _____

Date _____

Please fill out the information below and mail this portion back to us:



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Issues With Sample Contract #3?

- Only includes:
 - Membership Fees
 - Name and information of member
 - Details/definition of what each share is
 - Pickup options
- What is not included:
 - Occurrence of surplus or shortage
 - Growing practices
 - Occurrence of weather problems and effect on pickup
- Issue
 - Simply stating that the member “acknowledges” issues with weather on vegetable supply may not be enough-need to explain in more detail what will happen
 - Listing share in amount of items and not weight
 - How will the U-pick option be determined?



Sample Contract #4

Name: _____ Email: _____

Address: _____

Best phone number to reach you: _____

Share Price

_____ *Returning 2013 members only, prior to November 23, 2013:*

\$650 + bonus Thanksgiving share on Tuesday, Nov. 26th

_____ *Between November 24, 2012 and February 15, 2014:*

\$675 - Returning 2013 Members. \$700 - New Members.

_____ *After February 15, 2014:*

\$700 - New and/or returning 2013 members

Share Type (Circle One)

~~On Farm Share~~ ~~Delivered Share~~ **On Farm Share** - MD - Pickup will be market-style. Includes u-pick Tuesdays through Saturdays. **On farm shares are the most bountiful & diverse share option.**

Choose a preferred pick-up day.

_____ Tuesday 2-8 pm and Wednesday 7 am - noon

_____ Friday 2-8 pm and Saturday 7 am - noon

Delivered Share - Bagged/boxed share delivered to one of these sites. Includes u-pick at the farm Tuesdays through Saturdays. Shares will typically be 7-12 items, representative of the season. This is a slightly smaller option than an on-farm share. We may include items that are also typically available u-pick (Ex. peas, green beans, cherry tomatoes, etc). *Choose a preferred pickup day and location.*

_____ Tuesday 2 - 8 pm ~~Harmon's HO Country Store, Bel Air, MD~~

_____ Tuesday 2:30 - 8 pm ~~Bel Air Residence on Freshville Rd, Bel Air, MD~~

(near Old Joppa Rd)

_____ Tuesday 3 - 6 pm ~~Donna & Harry's Place on Rolling Place, Bel Air, MD~~

(near Ring Factory, Bel Air, MD)

This is an alternating

Delivered Share to Bel Air / On Farm Share in Bel Air

Every other week you would pick up on ~~Harmon's~~

and alternate weeks you would come to the farm

_____ Wednesday, 2:30 - 8 pm ~~Steve's Place on Old Joppa Rd, Joppa, MD~~

~~Hollingsworth~~

_____ Wednesday 5 - 7 pm ~~Wine World, Bel Air, MD~~

_____ Wednesday 4 - 8 pm ~~Peace Yoga, Bel Air, MD~~

_____ Wednesday 3 - 6 pm ~~Coffee Corfee, Bel Air, MD~~

_____ Wednesday 2 - 5 pm ~~Belvedere Farm, Bel Air, MD~~

Market Share - Create a debit account and pick up *a la carte* at any of our farmers markets. A 10% credit will be added to your account at the beginning of the season. No weekly commitment and you can pickup only what you will use. This is a great option for households with picky eaters or people who travel often. There will be opportunities for social visits to the farm through the season, but u-pick crops are not included in this share option. Credit can be used for any FPF products (veggies, eggs, meats). Currently, our 2014 market schedule is as follows:

- ~~XXXX~~ Saturdays 7-11 am
- ~~XXXXXX~~ Saturdays 9-12 pm

This will be your dedicated pick-up day, location, and share type for the entire season and cannot change on a week-to-week basis. However, as we add drop sites, you will have a chance to change your share type/pickup site prior to the beginning of the season

Payment Plan Options

The money we get from members is our working capital for the season and our most hefty costs, like seeds, are in the early spring, so we appreciate if you are able to pay as much as possible early on. **\$200 required at time of sign up to hold your share (and early pricing schedule).** We are very flexible with payment plans. Members have until May 1 to pay full amount, in any schedule that suits you. ****All shares are due in full by May 1.** Any shares not paid in full by May 1 will be offered to another family. No refunds given. We will send out a monthly reminder invoice until the commitment is paid in full.

CSA Member Commitment

I am committing to support the work of this farm and in return I will receive a share of the harvest. I understand that the farm will provide the most bountiful harvest as possible, however I realize that farming varies from season to season and is susceptible to weather, insects, disease and other acts of nature. There is no guarantee of any specific crop or quantities.

Signature _____ Date _____



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Issues With Sample Contract #4?

- Includes:
 - Membership Fees
 - Name and information of member
 - Details/definition of what each share is
 - Pickup options
- What is not included:
 - Occurrence of surplus or shortage
 - Growing practices
 - Occurrence of weather problems and effect on pickup
- Issues
 - Simply stating that the member “acknowledges” issues with weather on vegetable supply may not be enough-need to explain in more detail what will happen
 - Are there too many pick-up sites? Are those consistent and maintainable all season?
 - Market Share option-what happens if people pick over what you allotted for 10% credit-how does that get measured?
 - The payment plan could potentially raise issues-taking a \$200 deposit could open yourself to many defaults unless you know you can make up unpaid shares



Sample Contract #5

When you join our CSA, you: eat from the source; participate in the growth of your food; eat organic, local, fresh and in-season; teach your kids where their food comes from; get your hands dirty; learn how food grows; learn how to garden; eat heirloom vegetables.

_____ is a certified organic Community Supported Agriculture farm just south of _____, Maryland, providing a CSA to our community since the year 2000. We grow a wide variety of vegetables to entice you all season long. What we grow (may vary from this list).

We are a small organic farm that prioritizes the whole farm experience—participating in the growth of your food, getting your hands into the soil, and connecting to this place. Members are invited to family-friendly events, work days, and harvest parties.

CSA HARVESTS RUN FOR 20 WEEKS BEGINNING MID-MAY

___ FULL SHARE MEMBERSHIP...\$600 WEEKLY PICKUPS, CHOOSE 8 ITEMS

___ HALF SHARE MEMBERSHIP...\$350 WEEKLY PICKUPS, CHOOSE 4 ITEM

ON FARM MAY CHOOSE WEEKLY HALF SHARE OR EVERY OTHER WEEK PICKUP. AT DROP SITES HALF SHARES ARE WEEKLY. Two households may split a full share and alternate weeks between the two households.

CHOOSE A PICKUP LOCATION:

On-Farm -- Fridays 12m-7pm Our farm lane (not mailing address) _____

FRANDE'S CARROLL STREET CAFE -- TUESDAYS 8am-4pm _____

In our CSA, you "pick your 8 items" on the farm. At drop-off sites you can pick your items online and a specialized box will be delivered to your drop-off site with your name on it. Up to two weeks of items can be "banked" and picked up on another week, take a 2 week vacation and pick up your 16 items on another week.

Members choose 8 bunches of vegetables from a list of what is harvested that week--5-12 choices in any given week. Members picking up on the farm select their eight items and pack their own bags. Members picking up at our drop-off sites will receive a box of fresh organic produce grown on our farm, delivered to the designated pickup site. You may choose your items online by the weekly deadline, or we will make a nice "farmers choice" selection for you.

A perk to picking up at the farm is the U-Pick Rows: herbs, flowers, cherry tomatoes, peas and green beans, as available. Members at drop-off sites may plan visits to the farm to help in the fields on a workday, or to pick some flowers and cherry tomatoes and have a farm tour. Members are encouraged to bring the kids so they can meet their farmers and learn where their food is grown.

TWO WAYS TO SIGN UP:

1. PAY ONLINE:



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Issues With Sample Contract #5?

- Only includes:
 - Membership Fees
 - Name and information of member
 - Pick-up location
 - Growing practices
- What is not included:
 - Occurrence of surplus or shortage
 - Occurrence of weather and changes to pick up and U-pick choices due to weather
 - How to contact farm
- Issues
 - Confusion on U-Pick items-are they an extra cost or part of the membership fee?
 - Stating “Mid May” then for 20 weeks-not a clear picture on when share will begin and end
 - Is the “banking” option reasonable? Sounds good in theory but how does it work? →lacks specificity



YOUR TURN!

I will show a sample for a few minutes, then you tell me what you see the issues are

Sample Contract #6

2014 Membership Agreement to ~~Stony Branch Farm~~

The 2014 Season runs for **14 weeks** from the week of June 1 through August 31, 2014. We are offering two choices for your participation in our CSA. Please select the opportunity you are interested in receiving:

- _____ Full Shares are \$350 for the season. You will receive 6-8 farm fresh items per week.
- _____ Half Shares are \$200 for the season. You will receive 3-4 farm fresh items per week.

By purchasing a share in the ~~Stony Branch Farm~~ CSA program, I have accepted the terms of this membership agreement.

Items delivered will vary depending on the time of the season. CSA members support ~~Stony Branch Farm~~ by sharing in the inherent risks of agriculture (poor weather, crop failure, etc.) and the rewards (fresh local and grown vegetables and the bounty of a good season). ~~Stony Branch Farm~~ purposely plans for such contingencies by growing extra crops, using techniques that minimize risk and grow for optimal production.

I understand this principle and agree that there is no guarantee on the exact type of produce I will receive in my share each week. By participating in the CSA, I am supporting the local farmer and local food market, and I am helping to create a more environmentally and economically healthy society.

By becoming a member I commit to picking up my share weekly and understand that if I, or someone I designate, is unable to pick up my share, they will not be saved and will be donated.

Print Name _____

Signature _____ Date _____



Issues With Sample Contract #6?

- ???



THANKS

ANY QUESTIONS?

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