

Agreement for the Employment in Canada of Commonwealth Caribbean Seasonal Agricultural Workers in British Columbia - 2016

THIS AGREEMENT made on the _____

between _____ (called throughout "the EMPLOYER")

and _____ (called throughout "the WORKER")

and _____

having been duly authorized by the GOVERNMENT of _____ (hereinafter referred to as "the GOVERNMENT")

to act on its behalf (called throughout "the GOVERNMENT AGENT")

WHEREAS the EMPLOYER, the GOVERNMENT, the GOVERNMENT OF CANADA and the WORKER desire that the WORKER shall be beneficially employed in Canada in agricultural employment of a seasonal nature.

The PARTIES agree as follows:

The particulars in respect of the WORKER are as follows:

WORKER'S Identity Card No.

WORKER'S address in Canada:

I SCOPE AND PERIOD OF EMPLOYMENT

The PARTIES agree as follows:

1. The EMPLOYER will employ the WORKER assigned to him by the GOVERNMENT AGENT as approved by EMPLOYMENT AND SOCIAL DEVELOPMENT CANADA (ESDC)/SERVICE CANADA, clearance order and the WORKER will serve the EMPLOYER at the place of employment subject to the terms and conditions herein mentioned provided, however, that such period of seasonal employment be not longer than eight (8) months nor less than 240 hours in a time of six (6) weeks or less unless ESDC/SERVICE CANADA has agreed that an emergency situation exists, in which case the PARTIES agree that the minimum period of employment shall be not less than a term of 160 hours. The EMPLOYER shall respect the duration of the employment agreement signed with the WORKER(S) and their return to the

country of origin by no later than December 15th with the exception of extraordinary circumstances (e.g. medical emergencies).

2. The EMPLOYER agrees to employ the WORKER assigned to him from the date the WORKER arrives in Canada until _____ or until the completion of the work for which he is hired or assigned whichever comes sooner.

3. The EMPLOYER shall give the un-named WORKER a trial period of fourteen (14) actual working days from the date of his arrival at the place of employment. The EMPLOYER shall not discharge the WORKER except for misconduct or refusal to work during that trial period.

4. The EMPLOYER shall provide the WORKER and the GOVERNMENT AGENT, with a copy of rules and regulations of conduct, safety, discipline and care and maintenance of property as the WORKER may be required to observe.

5. On arrival at the place of employment, the WORKER agrees to provide to the EMPLOYER a copy of the Agreement for the Employment in Canada of Seasonal Agricultural Workers signed by the WORKER and the GOVERNMENT AGENT. The EMPLOYER agrees to sign the Agreement and return it to the WORKER. The WORKER further agrees that the EMPLOYER may make and keep copies of the signed Agreement.

II LODGING MEALS AND REST PERIODS

The WORKER agrees to:

1. Pay the EMPLOYER costs related to accommodation by way of regular payroll deduction the sum of \$6.20 per working day* beginning on the first day of full employment. The total amount paid for accommodation during the WORKER'S stay in Canada is not to exceed \$826.00.

* A working day for the purpose of this deduction is to be such that a WORKER completes a minimum of four (4) hours of work in a given day.

The EMPLOYER agrees to:

2.

- a) Provide clean, adequate living accommodations to the WORKER. This accommodation must be equipped with laundry facilities including an adequate number of washing machines or the EMPLOYER must provide transportation, at no cost to the WORKER, to a laundromat on a weekly basis. Such accommodations must meet with the annual approval of the appropriate GOVERNMENT authority or other accredited bodies responsible for health and living conditions in the province/territory where the WORKER is employed. In addition, accommodations must also meet with the approval of the GOVERNMENT AGENT; or
- b) If the WORKER'S accommodation is not on the farm, the EMPLOYER will ensure that suitable accommodation is arranged for the WORKER in the community. The

EMPLOYER will be responsible to pay the rent to the owner of the accommodation and allowed to deduct costs related to accommodation by way of regular payroll deduction the sum of \$6.20 per working day* beginning on the first day of full employment. The total amount paid for accommodation during the WORKER'S stay in Canada is not to exceed \$826.00. The EMPLOYER will pay any costs for transporting the worker to the worksite.

* A working day for the purpose of this deduction is to be such that a WORKER completes a minimum of four (4) hours of work in a given day.

3. Provide reasonable and proper meals for the WORKER during periods of transportation and employment, at a cost to the WORKER as agreed in Section IV clause 8 and, where the WORKER elects to prepare his own meals, to furnish cooking utensils, fuel, and facilities without cost to the WORKER.

4. Provide after five (5) consecutive hours of employment a meal break of at least thirty (30) minutes and to provide two (2) rest periods of ten (10) minutes duration one such period to be mid morning and the other mid afternoon.

5. For each six (6) consecutive days of work, the WORKER will be entitled to one (1) day of rest, but where the urgency to finish farm work can not be delayed, the EMPLOYER may request the WORKER's consent to postpone that day until a mutually agreeable date.

III PAYMENT OF WAGES

The EMPLOYER agrees:

1. To pay the WORKER at his place of employment weekly wages in lawful money of Canada at a rate equal to the following, whichever is greatest:

- a) the wage for agricultural WORKERS provided by law in the province/territory in which the WORKER is employed; or
- b) the rate determined annually by ESDC to be the prevailing wage rate for the type of agricultural work being carried out by the WORKER in the province/territory in which the work will be done; or
- c) the rate being paid by the EMPLOYER to his regular seasonal work force performing the same type of agricultural work;

2. That the average minimum work week shall be forty (40) hours; and

- a) that, if circumstances prevent fulfilment of Section III clause- 2 above, the average weekly income paid to the WORKER over the period of employment is to be not less than an amount equal to a 40 hour week at the hourly rate for agricultural WORKERS provided by law in the province/territory; and
- b) that where, for any reason whatsoever, no actual work is possible, the WORKER, shall receive a reasonable advance to cover his personal expenses.

3. That a recognition payment of \$4.00 per week to a maximum of \$128.00 will be paid to WORKERS with five (5) or more consecutive years of employment with the same EMPLOYER, payable at the completion of the contract.

4. Vacation Pay is to be paid according to provincial/territorial legislation.

5. To allow ESDC/SERVICE CANADA or its designate access to all information and records necessary to ensure contract compliance.

6. The employer shall pay the WORKER the approved piece work rate as set out in the "Minimum Piece Rates - Hand harvested crops" published by the B.C. Ministry of Skills Development and Labour for harvesting. The worker shall be paid at least the equivalent of \$_____ per hour for every hour worked harvesting on a piece work basis.

The EMPLOYER shall pay the WORKER _____ per hour for any period spent performing duties other than harvesting. (This hourly rate shall be no less than the most current minimum wage for 2016).

The GOVERNMENT AGENT and both PARTIES agree:

7. That in the event the EMPLOYER is unable to locate the WORKER because of the absence or death of the WORKER, the EMPLOYER shall pay any monies owing to the WORKER to the GOVERNMENT AGENT and the WORKER or WORKER'S lawful heirs shall have no further recourse against the EMPLOYER for any such monies paid to the GOVERNMENT AGENT.

IV DEDUCTIONS FROM WAGES

The WORKER agrees:

1. That the EMPLOYER shall deduct a portion of the WORKER'S wages and send this amount to the GOVERNMENT AGENT for each payroll period at the time of delivering the pay sheets required by Section VI. These deductions are to cover costs associated with the physical and financial protection of the WORKER while in Canada and to ensure the WORKER'S safe arrival to Canada from his country of origin. These costs include deductions related to:

- a) airfare between the WORKER'S home country and Kingston, Jamaica.
- b) contributions to the National Insurance Scheme, as required by legislation in each country.
- c) supplementary medical coverage for any periods when the WORKER is not eligible for provincial or territorial medical insurance and for any coverage in addition to that provided by the province or territory.
- d) reasonable fees for required medical exams.
- e) government administrative fees for provision of services such as preparation of documents; ground transportation; lodging during transit to and from Canada;

orientation sessions; legal assistance; examination of worker accommodations; and, required background, security and criminal record checks.

WORKER'S Consent

2. That deductions under Section IV clause 1 can only be made with the consent of the **WORKER**, as indicated by initialing the space provided. If the **WORKER** does not consent to these deductions, the **WORKER** agrees to pay the cost of the specified goods and services directly.

3. That the total amount deducted under Section IV clause 1 shall not exceed \$5.45 per working day. A working day for the purpose of this deduction is to be such that a **WORKER** completes a minimum of four (4) hours of work in a given day.

The **GOVERNMENT AGENT** agrees

4. That funds collected will only be used to recover payments made on behalf of the **WORKER** as identified in Section IV clause 1.

5. To provide the **WORKER**, in writing, with a full accounting of how the funds deducted under Section IV clause 1 were used for each **WORKER**.

6. That where the total amount deducted from the **WORKER'S** wages exceeds the actual costs of the items identified in Section IV clause 1, the excess will be promptly returned to the **WORKER** by the **GOVERNMENT AGENT**.

7. When provincial medical coverage is not immediately available, supplementary medical coverage will be arranged before the **WORKER** arrives in Canada.

The **WORKER** agrees that the **EMPLOYER**:

8. Shall provide facilities, time and the equipment so that the **WORKER** can prepare his/her own meals; in case that the **WORKER** and the **EMPLOYER** agree that the latter provides meals to the **WORKER**, the **EMPLOYER** will charge the **WORKER** the sum of \$6.00 per day for one meal, \$9.00 per day for two meals and \$12.00 per day for the cost of three meals provided to the **WORKER** as long as the meals are prepared by an unrelated third party catering company and the meal plan is reviewed and approved by a qualified nutritionist. The **WORKER** will have the right, prior or during his/her employment, to accept or refuse the payroll deduction for this service.

9. Will make deductions from the wages payable to the **WORKER** only for the following:

- a) those **EMPLOYER** deductions required to be made under law;
- b) all other deductions as required pursuant to this agreement

V INSURANCE FOR OCCUPATIONAL & NON-OCCUPATIONAL INJURY, DISEASE AND ILLNESS

The EMPLOYER agrees:

1. To comply with all laws, regulations and by-laws respecting conditions set by competent authority and, in addition, in the absence of any laws providing for payment of compensation to WORKERS for personal injuries received or disease contracted as a result of the employment, shall obtain insurance acceptable to the GOVERNMENT AGENT to provide for such compensation to the WORKER.
2. To report to the GOVERNMENT AGENT within twenty-four (24) hours, all injuries and illnesses sustained by the WORKER which require medical attention.
3. To ensure that arrangements are made for injured and ill WORKERS to receive medical attention in an expeditious manner.

VI MAINTENANCE OF WORK RECORDS AND STATEMENT OF EARNINGS

The EMPLOYER agrees to:

1. Complete and deliver to the GOVERNMENT AGENT within seven (7) days of the completion of each payroll period, copies of pay sheets indicating all the deductions in respect of the WORKER'S wages.
2. Provide to the WORKER a clear statement of earnings and deductions with each pay.
3. The EMPLOYER may pay the WORKER in advance so the WORKER can purchase food and/or personal items. The EMPLOYER and WORKER must agree to this pay advance in writing, by signing an agreement, and the EMPLOYER must make payroll deductions in accordance to Federal/Provincial legislation. The EMPLOYER can recover the net pay advanced during the first six (6) weeks of employment. In the event the WORKER leaves the place of employment prior to completing six (6) weeks of work, the EMPLOYER shall deduct the full remaining balance from the WORKER's final pay.

VII TRAVEL AND RECEPTION ARRANGEMENTS

The EMPLOYER agrees to:

1. Pay to the appointed travel agent the cost of two-way air transportation of the WORKER, as between Kingston, Jamaica, and Canada by the most economical means as expressed in the Memorandum of Understanding.

The EMPLOYER is responsible for the cost two-way airfare for the WORKER, regardless of any early termination of the contract, whether by EMPLOYER or WORKER, and for any reason except for as required under Section X EARLY CESSATION OF EMPLOYMENT.

Notwithstanding the foregoing, where the WORKER becomes a transfer worker, the transfer employer is responsible for the return airfare of the WORKER.

2. Make arrangements to meet or have his agent meet and transport the WORKER from his point of arrival in Canada to his place of employment and, upon termination of his employment to transport the WORKER to his place of departure from Canada, at no cost to the WORKER, and all such transportation will be with the prior knowledge and consent of the GOVERNMENT AGENT.

The PARTIES agree:

3. That the EMPLOYER, on behalf of the WORKER, will advance the Work Permit Fees and will be reimbursed by the WORKER through weekly payroll deductions thirty (30) days after the WORKER'S arrival in Canada.

4. In the event that at the time of flight departure a named WORKER is unavailable to travel the EMPLOYER agrees to accept a substitute WORKER and the Supply Country shall maintain an adequate supply of pool WORKERS to assure that there shall be a WORKER on that departing flight

VIII OBLIGATIONS OF THE EMPLOYER

The EMPLOYER agrees:

1. That the WORKER shall not be moved to another area or place of employment or transferred or loaned to another EMPLOYER without the consent of the WORKER and the prior approval in writing of ESDC/SERVICE CANADA and the GOVERNMENT AGENT.
2. To provide the existing housing at no cost to the WORKER during the time in which the WORKER must wait in Canada between the end of the WORKER's employment contract and the day of the WORKER's return flight to his/her country of origin.

The EMPLOYER agrees and acknowledges:

3. That the WORKERS approved under the Seasonal Agricultural Worker Program are authorized by their work permit only to perform agricultural labour for the EMPLOYER to whom they are assigned.
4. That any person who knowingly induces or aids a foreign WORKER, without the authorization of ESDC/SERVICE CANADA, to perform work for another person or to perform non-agricultural work, is liable on conviction to a penalty up to \$50,000 or two years imprisonment or both. Immigration Act and Refugee Protection Act S. 124(1) and 125.

5. That if it is determined by the GOVERNMENT AGENT, after consultation with ESDC/SERVICE CANADA, that the EMPLOYER has not satisfied his obligations under this agreement, and where required by law, the agreement will be rescinded by the GOVERNMENT AGENT on behalf of the WORKER, and if alternative agricultural employment cannot be arranged through ESDC/SERVICE CANADA for the WORKER in that area of Canada, the EMPLOYER shall be responsible for the full costs of the WORKER'S return as between Kingston, Jamaica and Canada; and if the term of employment as specified in Section I, clause 1, is not completed and employment is terminated under Section VIII, clause 5, the WORKER shall receive from the EMPLOYER a payment to ensure that the total wages paid to the WORKER is not less than that which the WORKER would have received if the minimum period of employment had been completed.

6. That WORKERS handling chemicals and/or pesticides are to be provided with protective clothing at no cost to the WORKER, receive appropriate formal and informal training and supervision where required by law.

7. That according to the approved guidelines in the province/territory where the worker is employed the EMPLOYER shall take the WORKER to obtain health coverage in a timely manner, according to the provincial/territorial regulations.

IX OBLIGATIONS OF THE WORKER

The WORKER agrees:

1. To proceed to the place of employment as aforesaid in Canada when and how the GOVERNMENT AGENT shall approve.

2. To work and reside at the place of employment or at such other place as the EMPLOYER, with the approval of the GOVERNMENT AGENT, may require.

3. To work at all times during the term of employment under the supervision and direction of the EMPLOYER and to perform the duties of the job requested of him efficiently.

4. To obey and comply with all rules set down by the EMPLOYER and approved by the GOVERNMENT AGENT relating to the safety, discipline, and the care and maintenance of property.

5. That he shall maintain living quarters furnished to him by the EMPLOYER or his agent in the same state of cleanliness in which he received them.

6. That he shall not work for any other person without the approval of ESDC/SERVICE CANADA, the GOVERNMENT AGENT and the EMPLOYER; and

7. To return promptly to the place of recruitment upon completion of the authorized work period.

X EARLY CESSATION OF EMPLOYMENT

The PARTIES agree:

1. That if the WORKER has to be returned home due to medical reasons, which are verified by a Canadian doctor, the EMPLOYER shall pay the cost of reasonable transportation and subsistence expenses, except in instances where the WORKER'S return home is necessary due to a physical or medical condition that was present prior to the WORKER'S departure in which case the Government of the WORKER'S source country will pay the full cost of his/her return home.

2. That if it is determined by the GOVERNMENT AGENT, after consultation with ESDC/SERVICE CANADA, that the EMPLOYER has not satisfied his obligations under this agreement, the agreement will be rescinded by the GOVERNMENT AGENT on behalf of the WORKER, and if alternative agricultural employment cannot be arranged through ESDC/SERVICE CANADA for the WORKER in that area of Canada, the EMPLOYER shall be responsible for the full costs of the WORKER'S return to Kingston, Jamaica; and if the term of employment as specified in Section I, clause 2, is not completed and employment is terminated under Section X, clause 2, the WORKER shall receive from the EMPLOYER a payment to ensure that the total wages paid to the WORKER is not less than that which the WORKER would have received if the minimum period of employment had been completed.

3. That if a transferred WORKER is not suitable to perform the duties assigned by the receiving EMPLOYER within the seven (7) days trial period, the EMPLOYER shall return the WORKER to the previous EMPLOYER and that EMPLOYER will be responsible for the cost of the WORKER'S return home.

XI FINANCIAL UNDERTAKINGS

The PARTIES further agree:

1. That any bona fide debt to the EMPLOYER voluntarily incurred by the WORKER in respect of any matter incidental or relating to his employment hereunder shall be repaid by him to the EMPLOYER.

2. That any expenditure incurred by the GOVERNMENT AGENT in repatriating the WORKER by reason of his employment being terminated under this Agreement shall be repaid by the WORKER to the GOVERNMENT.

XII GOVERNING LAWS

1. All provisions of this Agreement affecting the obligations created:
 - a) between the WORKER, the EMPLOYER and ESDC/SERVICE CANADA or the GOVERNMENT AGENT, the EMPLOYER and ESDC/SERVICE CANADA shall be

governed by the laws of Canada, and of the province/territory in which the WORKER is employed; and

- b) between the WORKER and the GOVERNMENT, shall be governed by the laws of the sending country;

2. The French and English versions of this contract have equal force.

XIII MISCELLANEOUS

1. If the WORKER dies during the period of employment, the EMPLOYER shall notify the GOVERNMENT AGENT and upon receipt of instructions from the GOVERNMENT AGENT either, provide standard burial or alternatively make a contribution towards the body's repatriation in the amount equal to what the burial cost would have been.

2. The WORKER agrees that the following personal information held by the Federal government of Canada and the government of the province/territory in which the work is performed may be released to the GOVERNMENT AGENT, the WORKER's EMPLOYER, or to the WESTERN AGRICULTURE LABOUR INITIATIVE (WALI).

- a) information held under the Employment Insurance Act, (including the WORKER's Social Insurance Number); and
- b) any health insurance number, social service or accident compensation related information, including any unique alpha-numerical identifier used by any province/territory.

3. In the event of a fire, the EMPLOYER, the GOVERNMENT AGENT and the WORKER, will bear the replacement cost of the worker's personal property up to a maximum of \$650.00 each.

4. This contract may be executed in any number of counterparts, in the language of the signatory's choice, with the same effect as if all PARTIES signed the same document. All counterparts shall be construed together and shall constitute one and the same contract.

5. The PARTIES agree that no term or condition of this agreement shall be superseded, suspended, modified or otherwise amended, in any way, without the express written permission of the GOVERNMENT OF CANADA, the GOVERNMENT AGENT, the EMPLOYER and the WORKER.

In witness whereof the PARTIES state they have either read or had explained to them and agreed with all the terms and conditions stipulated in the present contract.

DATE: _____

NAME OF EMPLOYER: _____

ADDRESS: _____

CORPORATE NAME: _____

ACCOUNT NUMBER FOR "WORKER'S COMPENSATION BOARD OF BC":

TELEPHONE: _____

FAX NO.: _____

PLACE OF EMPLOYMENT OF WORKER IF DIFFERENT FROM ABOVE:

EMPLOYER'S SIGNATURE: _____

WITNESS: _____

NAME OF WORKER: _____

WORKER'S SIGNATURE: _____

WITNESS: _____

GOVERNMENT AGENT'S SIGNATURE: _____

To enhance readability, the masculine gender is used to refer to both men and women.