

## **Transfer contract for the Employment in Canada of Commonwealth Caribbean Seasonal Agricultural Workers - 2016**

THIS AGREEMENT made on the \_\_\_\_\_(yyyy-mm-dd)

between \_\_\_\_\_(called throughout "the EMPLOYER")

and \_\_\_\_\_(called throughout "the WORKER")

and \_\_\_\_\_(called throughout "the GOVERNMENT'S AGENT")

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

to act on its behalf

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 be employed by the EMPLOYER at the place of employment subject to the terms and conditions hereinafter mentioned until or until the completion of the work for which he is hired or assigned whichever comes sooner.

2. 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).

3. The EMPLOYER shall give the WORKER a trial period of seven (7) 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. Effective the eighth working day, such a WORKER shall be deemed to be a named WORKER.

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 EMPLOYER agrees to:

1. 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.

2. 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.

3. 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.

4. For each six (6) consecutive days of work, the WORKER will be entitled to one 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/SERVICE CANADA 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 forty (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 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. In the case of piecework, the WORKERS shall be paid wages at least equivalent to one hour of employment for every hour worked on the harvest.

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**

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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. That in all Provinces and Territories where coverage is not immediately available, supplementary medical coverage will be arranged before the **WORKER** arrives in Canada.

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

8. May deduct from the WORKER'S wages, a sum not to exceed \$10.00 per day for the cost of meals provided to the WORKER.

9. May deduct from the WORKER'S wage an amount to reflect utility costs in relation to the employment of the WORKER in the provinces of Alberta, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island and Saskatchewan\* only. The amount of the deduction is to be \$2.22 Canadian dollars per working day. This amount will be adjusted annually beginning January 1, by a percentage consistent with the year-over-year wage increases, based on the average percentage increase between the lowest hourly wage rates identified on the National Commodities List for the current and previous contract years for work locations in the provinces identified above. 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. Said costs recovery withheld under this provision are to be made for the current pay period only.

\* In Saskatchewan, workers employed by greenhouses and nurseries are exempt from this deduction.

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

1. those EMPLOYER deductions required to be made under law;
2. 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 in advance the cost of one-way air transportation of the WORKER, as between Canada and Kingston, Jamaica, by the most economical means as expressed in the Memorandum of Understanding.
2. Upon termination of his employment to transport the WORKER to his place of departure from Canada and all such transportation will be with the prior knowledge and consent of the GOVERNMENT AGENT.

The WORKER agrees to:

3. Pay to the EMPLOYER on account of transportation costs referred to in Section VII, clause 1. up to 50% of the total cost of air travel (i.e. from Kingston, Jamaica to Canada and back) during the period of employment only and is not to exceed the maximum amounts set out in the chart below. Costs related to air travel will be recovered by way of regular payroll deduction of the applicable sum per working day, as set out in the chart below, beginning on the first full day of employment.

<b>Arrival City</b>	<b>Maximum amount that can be deducted</b>	<b>Maximum amount per working day that can be deducted</b>
<b>Charlottetown, PEI</b>	\$609.00	\$5.00
<b>Halifax, NS</b>	\$609.00	\$5.00
<b>Fredericton/Moncton/St-John, NB</b>	\$609.00	\$5.00

<b>Arrival City</b>	<b>Maximum amount that can be deducted</b>	<b>Maximum amount per working day that can be deducted</b>
<b>St-John's, NL</b>	\$633.00	\$5.00
<b>Montreal, QC</b>	\$520.00	\$4.30
<b>Ottawa, ON</b>	\$509.00	\$4.61
<b>Toronto, ON</b>	\$443.00	\$3.75
<b>Winnipeg, MB</b>	\$675.00	\$5.00
<b>Calgary, AB</b>	\$500.00	\$4.16
<b>Regina /Saskatoon, SK</b>	\$405.00	\$3.37

The PARTIES agree:

4. Where a federal/provincial agreement on the selection of foreign worker exists with associated cost recovery fees, the cost of such provincial/territorial fees (e.g. Quebec acceptance certificate - CAQ) will be reimbursed to the EMPLOYER by the WORKER either through weekly deduction or from his final pay cheque by his election. Where a government agency reimburses an employer the latter shall not make any deductions from wages or other payment due to the worker.

## **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 Workers 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 home 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 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:
  1. 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; and
  2. the EMPLOYER may, with the approval of the GOVERNMENT AGENT, deduct from the WORKER'S wages the assessed cost if any to the EMPLOYER to maintain the quarters in the appropriate state of cleanliness.



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

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 following completion of the trial period of employment by the WORKER, the EMPLOYER, after consultation with the GOVERNMENT AGENT, shall be entitled for non-compliance, refusal to work, or any other sufficient reason, to prematurely cease the WORKER'S employment. Failing any attempts to transfer the WORKER, and at the WORKER'S request to return home and the full cost of the WORKER'S return trip to Kingston, Jamaica shall be paid by the EMPLOYER.

2. 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 which was present prior to the WORKER'S departure in which case the WORKER will pay the full cost of his/her 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, to his EMPLOYER, to the Foreign Agricultural Resource Management Service or to the Fondation des entreprises en recrutement de main-d'oeuvre agricole étrangère:

- 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: \_\_\_\_\_

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.