

# **CONTRACT FOR THE EMPLOYMENT IN CANADA OF COMMONWEALTH CARIBBEAN SEASONAL AGRICULTURAL WORKERS – 2019**

THIS CONTRACT made on the \_\_\_\_\_ (yyyy-mm-dd) between  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
AGENT") 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.

## **I SCOPE AND PERIOD OF EMPLOYMENT**

The PARTIES agree as follows:

- 1.** The EMPLOYER will employ the WORKER assigned to them 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 not be 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 contract 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.** In the event of an employment transfer, the total term of employment must not exceed a cumulative term of eight (8) months and the worker must return to the country of origin no later than December 15 with the exception of extraordinary circumstances (e.g. medical emergencies).
- 3.** The EMPLOYER agrees to employ the WORKER assigned to them from the date the WORKER arrives in Canada until \_\_\_\_\_ or until the completion of the work for which the WORKER is hired or assigned whichever comes sooner.
- 4.** For the purpose of all deductions except statutory deductions, a working day is defined as one where the WORKER completes a minimum of four (4) hours of work in a given day. Said costs deduction withheld under this provision are to be made for the current pay period only.
- 5.** To accommodate the cyclical demands of the agricultural industry, the EMPLOYER may request of the WORKERS and the WORKERS may agree to extend their hours when the situation requires it, and where the conditions of employment involve a unit of pay.

WORKERS must not be required to work excessive hours that would be detrimental to their health or safety. Requests for additional hours of work shall be in accordance with the applicable Provincial/Territorial labour laws, customs of the district and the spirit of the program, giving the same rights to Caribbean workers as given to Canadian workers.

6. The EMPLOYER shall give the un-named WORKER a trial period of fourteen (14) actual working days from the date of the WORKER's arrival at the place of employment. For transfer workers, the EMPLOYER shall give a trial period of seven (7) actual working days from the date of arrival at the place of employment. Effective the eighth working day, such a WORKER shall be deemed to be a named WORKER. The EMPLOYER shall not discharge the WORKER except for misconduct or refusal to work during that trial period.
7. 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. On arrival at the place of employment, the WORKER agrees to provide to the EMPLOYER a copy of the contract for the Employment in Canada of Seasonal Agricultural Workers signed by the WORKER and the GOVERNMENT AGENT. The EMPLOYER agrees to sign the contract and return it to the WORKER. The WORKER further agrees that the EMPLOYER may make and keep copies of the signed contract.

## **II LODGING, MEALS AND REST PERIODS**

### **PART A: LODGING**

#### **For provinces and territories EXCEPT British Columbia:**

The EMPLOYER agrees to:

1. Provide clean, adequate living accommodations to the WORKER at no cost to the WORKER. These accommodations must be equipped with laundry facilities including an adequate number of washing machines and, where possible, dryers. Such living 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, and the GOVERNMENT AGENT. Where accommodations are not equipped with laundry facilities, the EMPLOYER must provide weekly transportation to a laundromat at no cost to the WORKER, and will provide the WORKER with \$5 per week towards laundry costs.
2. 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 their country of origin.

The WORKER:

3. Agrees that they shall maintain living quarters furnished by the EMPLOYER or the WORKER's agent in the same state of cleanliness in which it was received; and
4. Realizes that 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.

5. Agrees that the EMPLOYER may recover from the WORKER'S wages an amount to reflect utility costs recovery 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 \$2.31 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.

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

### **For British Columbia ONLY**

The EMPLOYER agrees to:

6. Provide clean, adequate living accommodations to the WORKER. These accommodations 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.
7. 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.

The WORKER agrees:

8. To 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.

### **PART B: MEALS**

#### **For provinces and territories EXCEPT British Columbia**

9. Where the WORKER and the EMPLOYER agree that the latter provides meals to the WORKER:

The EMPLOYER agrees:

- a. to provide reasonable and proper meals for the WORKER during periods of transportation and employment, at a cost to the WORKER, as agreed in Section II, Clause 9b.

The WORKER agrees:

- b.** that a sum not to exceed \$10.00 per day for the cost of meals may be deducted from the WORKER'S wages
- 10.** Where the WORKER elects to prepare their own meals, the EMPLOYER agrees to furnish cooking utensils, fuel and facilities, without cost to the WORKER.

**For British Columbia ONLY:**

- 11.** Where the WORKER and the EMPLOYER agree that the latter provides meals to the WORKER:

The EMPLOYER agrees:

- a.** To provide reasonable and proper meals for the WORKER during periods of transportation and employment, as a cost to the WORKER, as agreed in Section II, clause 11b.

The WORKER agrees that the EMPLOYER:

- b.** 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 their employment, to accept or refuse the payroll deduction for this service.

- 12.** Where the WORKER elects to prepare their own meals, the EMPLOYER agrees to furnish cooking utensils, fuel, time and facilities, without cost to the WORKER.

**PART C: REST PERIODS**

- 13.** 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.

- 14.** 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 cannot 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 their place of employment weekly wages in lawful money of Canada at a rate at least 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 the 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, 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 their personal expenses.
3. That when an EMPLOYER asks a worker to drive, the WORKER will be paid for their time and when WORKERS are required to relocate from one work site to another during the workday, travel time should be included as part of the working hours.
4. 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.
5. That Vacation Pay is to be paid according to provincial/territorial legislation.
6. The GOVERNMENT AGENT and both PARTIES agree 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. This money shall be held in trust by the GOVERNMENT AGENT for the benefit of the WORKER. The GOVERNMENT AGENT shall take any or all steps necessary to locate and pay the money to the WORKER or, in the case of death of the WORKER, the WORKER'S lawful estate. The WORKER or WORKER'S lawful estate shall have no further recourse against the EMPLOYER for any such monies paid to the GOVERNMENT AGENT.
7. Upon early cessation of employment, the worker shall be paid all wages and outstanding compensation prior to departing for country of origin.

**For provinces and territories EXCEPT British Columbia:**

8. That in the case of piecework, the WORKERS shall be paid wages at least equivalent to one hour of employment for every hour worked. For British Columbia ONLY:
9. That in the case of piecework, the EMPLOYER shall pay the WORKER the approved piecework 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 piecework basis.
10. 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).
11. To allow ESDC/SERVICE CANADA or its designate access to all information and records necessary to ensure contract compliance.

## **IV PAY ADVANCES**

1. 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 a contract, 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.

## **V DEDUCTIONS FROM WAGES**

Both PARTIES agree that:

1. In the event that the EMPLOYER purchases merchandise on behalf of the WORKER (e.g. equipment) for the WORKER'S personal use, the EMPLOYER and WORKER may enter into an agreement to arrange for repayment by the WORKER, provided the following conditions are met:
  - a. the WORKER and the EMPLOYER agree that the amount for repayment must not include any interest;
  - b. both parties sign a document detailing the terms of the arrangement including reason for repayment, item(s) purchased if applicable, total amount of monies advanced by the EMPLOYER, repayment amount, repayment terms, and repayment method;
  - c. the GOVERNMENT AGENT, EMPLOYER and WORKER are provided with a signed copy of the above agreement; and
  - d. the EMPLOYER files a copy of this agreement in the event of a compliance inspection.

The WORKER agrees:

2. 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 VII. 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 their 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 (Section VI)
  - 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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3. That deductions under Section V, clause 2 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.
4. That the total amount deducted under Section V, clause 2 shall not exceed \$5.45 per working day.

The GOVERNMENT AGENT agrees

5. That funds collected will only be used to recover payments made on behalf of the WORKER as identified in Section V, clause 2.
6. To provide the WORKER, in writing, with a full accounting of how the funds deducted under Section V, clause 2 were used for each WORKER.
7. That where the total amount deducted from the WORKER'S wages exceeds the actual costs of the items identified in Section V, clause 2, the excess will be promptly returned to the WORKER by the GOVERNMENT AGENT.

The WORKER agrees that the EMPLOYER:

8. 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 contract.

## **VI HEALTH AND SAFETY OF WORKERS**

The GOVERNMENT AGENT and both PARTIES agree that:

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 EMPLOYER shall not require the WORKER to perform job duties for which they have not received complete and proper training, in accordance with provincial and territorial legislation, and the WORKER may decline to perform said duties, without penalty or consequence of any kind.

The EMPLOYER agrees:

3. That according to the approved guidelines and regulations in the province/territory where the WORKER is employed the EMPLOYER shall take the WORKER to obtain health coverage in a timely manner.
4. To obtain insurance acceptable to the GOVERNMENT AGENT to provide compensation to WORKERS for personal injuries received or disease contracted as a result of the employment, that complies 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 such compensation to the WORKER.
5. To report to the GOVERNMENT AGENT within twenty-four (24) hours, all injuries and illnesses sustained by the WORKER which require medical attention.
6. To ensure that arrangements are made for injured and ill WORKERS to receive medical attention in an expeditious manner.

The GOVERNMENT AGENT agrees:

7. That when provincial/territorial medical coverage is not immediately available, supplementary medical coverage will be arranged before the WORKER arrives in Canada.

## **VII 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, daily deductions and 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.

## **VIII 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.
2. Make arrangements to meet or have the WORKER's agent meet and transport the WORKER from their point of arrival in Canada to their place of employment and, upon termination of employment to transport the WORKER to the starting point of their air travel to depart 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 WORKER will pay the cost of the work permit processing fee directly to Immigration, Refugees and Citizenship Canada.

### **WORKER'S Consent**

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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 pool of WORKERS to assure that there shall be a WORKER on that departing flight.

### **For provinces and territories EXCEPT British Columbia**

The WORKER agrees:

5. Pay to the EMPLOYER on account of transportation costs referred to in Section VIII, clause 1 up to 50% of the actual 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>Prince Edward Island, Nova Scotia, New Brunswick</b>	\$634.00	\$5.28
<b>St-John's, NL</b>	\$662.00	\$5.51
<b>Montreal, QC</b>	\$575.00	\$5.00
<b>Ottawa, ON</b>	\$476.00	\$3.96
<b>Toronto, ON</b>	\$456.00	\$3.80
<b>Winnipeg, MB</b>	\$685.80	\$5.00
<b>Calgary, AB</b>	\$500.00	\$4.16
<b>Regina / Saskatoon, SK</b>	\$405.00	\$3.37

The PARTIES agree:

6. For WORKERS in Quebec, the cost of the Quebec acceptance certificate - CAQ will be reimbursed to the EMPLOYER by the WORKER either through weekly deduction or from the WORKER's final pay cheque if they elect to do so. Where a government agency reimburses an EMPLOYER, the latter shall not make any deductions from wages or other payment due to the WORKER.

#### **For British Columbia ONLY**

7. The EMPLOYER is responsible for the cost of 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 XI - 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.

## **IX OBLIGATIONS OF THE EMPLOYER**

The EMPLOYER acknowledges and agrees:

1. That the WORKER shall not be moved to another area or place of employment or transferred or assigned to another EMPLOYER without the consent of the WORKER and the prior approval in writing of ESDC/SERVICE CANADA and the GOVERNMENT AGENT.

2. 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.
3. 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 outside the scope of the Labour Market Impact Assessment (LMIA), is liable on conviction to a penalty up to \$50,000 or two years imprisonment or both under the *Immigration and Refugee Protection Act* S. 124(1) and 125.
4. That if it is determined by the GOVERNMENT AGENT, after consultation with ESDC/SERVICE CANADA, that the EMPLOYER has not satisfied their obligations under this contract, and where required by law, the contract 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 IX, clause 4, 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.
5. That WORKERS handling chemicals and/or pesticides are to be provided with personal protective equipment at no cost to the WORKER, and receive appropriate formal and informal training and supervision where required by law. The EMPLOYER will ensure re-entry intervals are adhered to by the WORKER, as prescribed by the label of the pesticide and in accordance with provincial/ territorial legislation and the *pesticide control act*.
6. To provide the WORKER with a uniform for work, when required by the EMPLOYER, and, where permitted by provincial/territorial labour standards, at least 50% of the cost will be borne by the EMPLOYER.
7. To be responsible for transportation to and from a hospital or clinic whenever the worker needs medical attention. The Government Agent will work in partnership with the employer to ensure proper medical attention is provided to the WORKER in a timely fashion.
8. To be responsible for taking the worker(s) for SIN registration whenever necessary as soon as possible after the worker's arrival.

## X OBLIGATIONS OF THE GOVERNMENT AGENT

The GOVERNMENT AGENT acknowledges and agrees:

1. That where there is reason to suspect abuse or mistreatment in the workplace, the Government Agent will report any allegations to Employment and Social Development Canada, including Service Canada, and will provide all information that may assist in an integrity inspection, should one be initiated.
2. That if the WORKER must be removed from a situation of exploitation and/or abuse and a transfer to another employer is being arranged, the GOVERNMENT AGENT will coordinate as appropriate to facilitate such a transfer.

- 3.** To ensure that the future SAWP participation of any WORKER who reports abuse or mistreatment in the workplace is not negatively affected as a result of those allegations, unless ESDC determines that the allegation was unfounded or misleading.

## **XI 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 them 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 not work for any other person without the approval of ESDC/SERVICE CANADA, the GOVERNMENT AGENT and the EMPLOYER.
- 6.** To return promptly to the place of recruitment upon completion of the authorized work period.

## **XII 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, and must notify the worker a minimum of seven (7) days prior to dismissal except when dismissal is for cause in accordance with the applicable provincial employment standards legislation requiring immediate removal and done in consultation with the Government Agent.

### **For provinces and territories EXCEPT British Columbia**

The Parties agree:

- 2.** That failing any attempts to transfer the WORKER, if the EMPLOYER prematurely ceases the WORKER'S employment, and the WORKER requests to return home, the cost of the WORKER'S return trip to Kingston, Jamaica shall be paid as follows:
  - a.** if the WORKER was requested by name by the EMPLOYER, the full cost of return shall be paid by the EMPLOYER;

- b. if the WORKER was selected by the GOVERNMENT and 50% or more of the term of the contract has been completed, the WORKER shall be responsible for the full cost of their return;
    - c. if the WORKER was selected by the GOVERNMENT and less than 50% of the term of the contract has been completed, the WORKER shall be responsible for the full cost of their return home and shall also reimburse the EMPLOYER for the monetary difference between the actual cost of transportation of the WORKER to Canada and the amount collected by the EMPLOYER under Section VIII, clause 5, actual cost being the net amount paid to the Carrier plus the Travel Agent's Commission at the International Air Transportation Association Approved Rate.
- 3. That if, in the opinion of the GOVERNMENT AGENT, in consultation with the EMPLOYER, personal domestic circumstances exist in the island of recruitment which make return home of the WORKER desirable or necessary prior to the expected date of termination of the contract, the GOVERNMENT AGENT shall assist the WORKER'S return home, and where,
  - a. the WORKER was requested by name by the EMPLOYER, the full cost of return to Kingston, Jamaica, shall be paid by the EMPLOYER;
  - b. the WORKER was selected by the GOVERNMENT and 50% or more of the term of the contract has been completed, the EMPLOYER shall pay 25% of the cost of reasonable transportation and subsistence expenses of the WORKER in respect of their return to Kingston, Jamaica;
  - c. the WORKER was selected by the GOVERNMENT and less than 50% of the term of the contract has been completed, the WORKER shall be responsible for the full cost of their return home.
- 4. Where the WORKER has to return 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 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 their return home.

#### **For British Columbia ONLY**

The PARTIES agree

- 5. That if it is determined by the GOVERNMENT AGENT, after consultation with ESDC/SERVICE CANADA, that the EMPLOYER has not satisfied their obligations under this contract, the contract will be rescinded by the GOVERNMENT AGENT on behalf of the WORKER.
- 6. If the employment is terminated under Section XII, clause 5, and the term of employer as specified in Section I, clause 1 is not completed and alternative agricultural employment cannot be arranged through ESDC/SERVICE CANADA for the WORKER in that area of Canada, 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.

7. The EMPLOYER is responsible for the cost of two-way airfare for the WORKER to Kingston, Jamaica, regardless of any early termination of the contract, whether by EMPLOYER or WORKER, and for any reason.
8. 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.
9. Upon early cessation of employment, the worker shall be fully paid all wages and outstanding compensation prior to departing for country of origin.

### **XIII 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 the WORKER's employment hereunder shall be repaid by the WORKER to the EMPLOYER.
2. That any expenditure incurred by the GOVERNMENT AGENT in repatriating the WORKER by reason of their employment being terminated under this contract shall be repaid by the WORKER to the GOVERNMENT.

### **XIV GOVERNING LAWS**

1. All provisions of this contract 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.

### **XV TRANSFER OF WORKERS**

In the case of Transferred WORKERS, the TRANSFERRING EMPLOYER and the RECEIVING EMPLOYER agree that:

1. The term of employment shall consist of a cumulative term of not less than 240 hours.
2. For a WORKER transfer to take place:
  - a. The WORKER does not need to seek a new work permit, provided the WORKER has a valid work permit and has not completed eight (8) months of employment.
  - b. The RECEIVING EMPLOYER must be a SAWP EMPLOYER with a positive LMIA received in writing from ESDC/SERVICE CANADA prior to the transfer of the WORKER.

- c. All parties, including the WORKER, TRANSFERRING EMPLOYER, RECEIVING EMPLOYER and GOVERNMENT AGENT in Canada must agree to the transfer.
- 3. At the time of transfer, the TRANSFERRING EMPLOYER will provide the RECEIVING EMPLOYER with an accurate record of earnings and deductions up to the date of transfer, and clearly state which deductions, if any, may still be recovered from the WORKER. The RECEIVING EMPLOYER may continue to deduct expenses associated with the program, starting from the aggregate amount deducted by the first EMPLOYER, without exceeding the amounts indicated in Section VIII, Clause 5.
- 4. The RECEIVING 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. Effective the eighth working day, such a WORKER shall be deemed to be a named WORKER. Further, following completion of the trial period, the RECEIVING EMPLOYER agrees to pay the travel agent in advance the cost of one-way air transportation of the WORKER's return trip as between Kingston, Jamaica and Canada.
- 5. Following completion of the trial period of employment by the WORKER, the EMPLOYER, after consultation with the GOVERNMENT AGENT, shall be entitled to prematurely cease the WORKER'S employment for reasons of non-compliance, refusal to work, or any other sufficient reason. Failing any attempts to transfer the WORKER to an alternative EMPLOYER and at the WORKER'S request to return home, the cost of the WORKER'S return trip between Kingston, Jamaica and Canada shall be paid by the RECEIVING EMPLOYER.
- 6. In the case of a double transfer, the ORIGINAL EMPLOYER will be responsible for paying the cost of the WORKER's return airfare from Canada to Kingston, Jamaica.
- 7. If a TRANSFERRED WORKER is not suitable to perform the duties assigned by the RECEIVING EMPLOYER within the seven (7) day trial period, the RECEIVING EMPLOYER shall return the WORKER to the TRANSFERRING EMPLOYER and the TRANSFERRING EMPLOYER will be responsible for the cost of the WORKER'S return trip as between Kingston, Jamaica and Canada.
- 8. Following completion of the seven (7) day trial period and no later than ten (10) days of employment, the RECEIVING EMPLOYER will provide the GOVERNMENT AGENT with written confirmation of the name(s), identity code(s), the actual date of transfer, and anticipated end date of employment of all TRANSFERRED WORKERS. EMPLOYERS in Ontario, Quebec, and Atlantic Canada will provide this information to their designated Third Party.
- 9. The GOVERNMENT AGENT is responsible for-notifying the supplementary medical insuring company of the WORKER TRANSFER.

## XVI MISCELLANEOUS

- 1. The WORKER and the EMPLOYER agree that 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 ESDC/SERVICE CANADA, to Immigration, Refugees and Citizenship Canada (IRCC), to the respective Caribbean GOVERNMENT AGENT, to the Foreign Agricultural Resource Management Service, (FARMS), to the Fondation des

entreprises en recrutement de main-d'oeuvre agricole étrangère, (FERMES), to the Western Agriculture Labour Initiative (WALI) and to the Insurance Company designated by the GOVERNMENT AGENT. Information shared must be necessary to facilitate the operation of the Seasonal Agricultural Worker Program, and includes:

- a. information held under the Employment Insurance Act, (including the WORKER'S Social Insurance Number);
  - b. any health insurance number, social service or accident compensation related information, including any unique alpha-numerical identifier used by any province/territory; and
  - c. any other relevant information contained in the Labour Market Impact Assessment.
2. 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.
  3. 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.
  4. The EMPLOYER, the GOVERNMENT AGENT, and the WORKER agree that in the event that this contract is frustrated in its entirety through no fault of any party (e.g. due to an act of nature), any party may terminate this contract.
  5. The PARTIES agree that no term or condition of this contract 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.
  6. The PARTIES agree that this contract is complete and absolute and that any purported addendums to this contract that do not adhere to Section XVI, Clause 5, may result in being found non-compliant with the Seasonal Agricultural Workers Program.

**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:

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NAME OF EMPLOYER:

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ADDRESS:

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CORPORATE NAME:

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TELEPHONE:

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FAX NO

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PLACE OF EMPLOYMENT OF WORKER

IF DIFFERENT FROM ABOVE:

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EMPLOYER'S SIGNATURE

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WITNESS:

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NAME OF WORKER:

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WORKER'S Identity Card No.

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WORKER'S address in Canada:

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WORKER'S SIGNATURE:

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WITNESS:

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GOVERNMENT AGENT'S SIGNATURE:

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