

## AGRICULTURAL STREAM

### Instruction Sheet to Accompany the Employment Contract

The purpose of an employment contract is to:

- have a written, detailed description of the job offer;
- describe the terms and conditions of employment such as the number of work hours per week, the wage rate, the vacation days and the overtime payment;
- articulate the employer and temporary foreign worker rights and responsibilities;
- help ensure that the temporary foreign worker gets fair working arrangements.

**Note:** The employment contract must respect provincial labour laws that set out minimum employment standards such as the minimum wage and deductions for accommodations.

#### Enforcing the Terms and Conditions of the Employment Contract

In accordance with its mandate under section 203 of the *Immigration and Refugee Protection Regulations* (IRPR), Employment and Social Development Canada (ESDC)/Service Canada has put in place policies to protect temporary foreign workers (TFW) in the Agricultural Stream. ESDC/Service Canada requires the signature of the employer and the TFW on a valid employment contract that reflects Program requirements. As part of its due diligence, ESDC/Service Canada shall ensure that the employer and the TFW have agreed to the terms and conditions of employment that are consistent with TFWP standards and those identified in the LMO application.

It is the responsibility of the employer and the temporary foreign worker to familiarize themselves with laws that apply to them and to look after their own interests.

The Government of Canada is not a party to the employment contract. ESDC/Service Canada has no authority to intervene in the employer-worker relationship or to enforce the terms and conditions of employment.

Should a conflict arise between the parties, the provincial Labour Board is the body responsible for assisting in resolving the issue.

#### Sample Employment Contract

Before applying for an LMO, the employer must complete and sign the attached employment contract or another contract which includes all the same terms and conditions, and send the signed contract to the TFW for signature. Additional provisions may be added as long as they do not contradict the terms and conditions.

The employer must complete and sign the employment contract and send it to the temporary foreign worker with a copy of the LMO confirmation letter he/she received from ESDC/Service Canada. The temporary foreign worker must sign the contract and provide both documents to Citizenship and Immigration Canada (CIC) through the Canadian mission abroad in order to get a work permit.

#### Third-Party Representative/Recruiter

A third-party representative/recruiter cannot be a party to the employment contract nor can they sign on behalf of the employer. The employer who is responsible for the LMO must be the person signing the employment contract.

# Employment Contract

## Employer Information

Legal Business Name: \_\_\_\_\_

Employer Last Name: \_\_\_\_\_

Employer First Name: \_\_\_\_\_

Business Address: \_\_\_\_\_

Business Telephone Number: \_\_\_\_\_

Business Fax Number: \_\_\_\_\_

E-mail Address (if applicable): \_\_\_\_\_

## Temporary Foreign Worker Information

Last Name (as written in the passport): \_\_\_\_\_

First Name (as written in the passport): \_\_\_\_\_

Home Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-mail Address (if applicable): \_\_\_\_\_

## The Parties Agree As Follows

### 1. Duration of Contract

1.1. This contract shall have a duration of \_\_\_\_\_ months from the date the **temporary foreign worker** assumes his/her functions.

1.2. Both parties agree that this contract is conditional upon the issuance of a valid work permit to the **temporary foreign worker** by Citizenship and Immigration Canada (CIC) pursuant to the *Immigration and Refugee Protection Regulations (IRPR)*, and his/her successful entry to Canada.

### 2. Job Description

2.1. The **temporary foreign worker** agrees to carry out the following tasks (provide a detailed description):

### 3. Work Schedule

3.1. The **temporary foreign worker** shall work \_\_\_\_\_ hours per week and shall receive \_\_\_\_\_ % more than the regular wages for the hours worked over this limit, where provincial law permits. His/her workday shall begin at \_\_\_\_\_ and end at \_\_\_\_\_ or, if the schedule varies by day, specify:

\_\_\_\_\_ .

3.2. The **temporary foreign worker** shall be entitled to \_\_\_\_\_ minutes of break time per day (lunch, coffee breaks, etc.).

3.3. The **temporary foreign worker** shall be entitled to \_\_\_\_\_ day(s) off per week, on \_\_\_\_\_ .

3.4. The **temporary foreign worker** shall be entitled to \_\_\_\_\_ weeks or \_\_\_\_\_ days of paid vacation, where provincial law permits.

3.5. The **temporary foreign worker** shall be entitled to \_\_\_\_\_ days of sick leave per year.

### 4. Wages and Deductions

4.1. The **employer** agrees to pay the **temporary foreign worker**, for his/her work, a wage of \$ \_\_\_\_\_ per hour or per piece rate (applicable in British Columbia only as set out in the "Minimum Piece Rates - Hand harvested crops" published in the British Columbia Ministry of Skills Development and Labour for harvesting). These shall be paid at intervals of \_\_\_\_\_ .

4.2. The **employer** agrees to pay all taxes and submit all deductions payable as prescribed by law (including, but not limited to, Employment Insurance, Canadian income tax, and Canada Pension Plan or Quebec Pension Plan premiums).

4.3. The **employer** shall not recoup from the **temporary foreign worker**, through payroll deductions or any other means, any costs incurred in recruiting or retaining the **temporary foreign worker**. This includes, but is not limited to, any amount payable to a third-party representative/recruiter.

4.4. The **employer** agrees to review and adjust the wage of the **temporary foreign worker** to ensure it meets or exceeds, at all times, the prevailing wage requirements as indicated on the National Commodities List wage tables, or for unionized positions, as established under the collective agreement.

### 5. Transportation Costs. Choose the appropriate clause between 5.1 and 5.2 by crossing out and initialing the clause that does not apply.

5.1. If the **temporary foreign worker** is outside Canada, the **employer** agrees to assume the transportation costs of the **temporary foreign worker's** round trip travel between his/her country of current residence \_\_\_\_\_ and the location of work in Canada \_\_\_\_\_. It is the **employer's** obligation and responsibility to pay for the transportation costs and they cannot be passed on to the **temporary foreign worker** (e.g. the **temporary foreign worker** must not pay for his/her transportation costs and be reimbursed by the employer at a later date). Under no circumstances are the transportation costs recovered from the **temporary foreign worker**.

Or

5.2. If the **temporary foreign worker** is already in Canada, it is the employer's obligation and responsibility to pay for the **temporary foreign worker's** transportation costs between his/her current Canadian address \_\_\_\_\_ and the **employer's** location of work in Canada \_\_\_\_\_. The employer shall also pay for one-way transportation back to the temporary foreign worker's country of permanent residence \_\_\_\_\_. It is the **employer's** obligation and responsibility to pay for the transportation costs and they cannot be passed on to the **temporary foreign worker** (e.g. the **temporary foreign worker** must not pay for his/her transportation costs and be reimbursed by the employer at a later date). Under no circumstances are the transportation costs recovered from the **temporary foreign worker**.

5.3. If there is a termination of employment and the **temporary foreign worker** is hired by a **new employer** who has a neutral or positive LMO, the **temporary foreign worker** shall release the **original employer** from the obligation of return transportation costs to his/her country of permanent residence. The **new employer** is responsible for the **temporary foreign worker's** transportation costs to the new location of work in Canada and back to the **temporary foreign worker's** country of permanent residence. The **employer** is obliged to and responsible for paying the transportation costs (e.g. the **first employer** pays incoming transportation costs and the **new employer** pays for the return transportation costs to the country of current residence).

**Note: A temporary foreign worker** who changes jobs must contact CIC to get his/her work permit modified accordingly. An **employer** who wants to hire a **temporary foreign worker** who is already in Canada must apply to ESDC/Service Canada to obtain a new LMO.

## 6. Housing

6.1. The housing must be suitable for the **temporary foreign worker** and annually inspected by a provincial, municipal or private inspector in accordance with the provisions of the policy for National Minimum Standards for Agricultural Accommodations.

6.2. At any time during employment, the **temporary foreign worker** may choose to leave the employer-provided housing in favour of private accommodations at no charge from the employer.

6.3. Housing type and rent. Choose the appropriate clause between 6.3.1, 6.3.2 or 6.3.3, by crossing out and initialing the clauses that do not apply.

6.3.1 The **employer** agrees to provide the **lower or higher-skilled temporary foreign worker** with on farm housing. The employer can deduct a maximum of \$30 per week (pro-rated for partial weeks) from the **temporary foreign worker's** wage, unless applicable provincial/territorial labour standards specify a lower amount. Amount deduction per week: \$ \_\_\_\_\_.

and/or

6.3.2 The **employer** agrees to provide the **lower-skilled temporary foreign worker** with off-site housing. The employer can deduct a maximum of \$30 per week (pro-rated for partial weeks) from the **temporary foreign worker's** wage, unless applicable provincial/territorial labour standards specify a lower amount. Amount deduction per week: \$ \_\_\_\_\_.

and/or

6.3.3 The **employer** is the leaseholder, the owner of the dwelling, or other (specify): \_\_\_\_\_, agrees to provide the **higher-skilled temporary foreign worker** with off-site housing. When the dwelling accommodates multiple **temporary foreign workers**, the **employer** must determine the rent according to the market rate, and divide the cost equally between **temporary foreign workers**.

The market rental rate is \$ \_\_\_\_\_, divided between (number) \_\_\_\_\_ of **temporary foreign workers**. Therefore the rent will be \$ \_\_\_\_\_ for each temporary foreign worker per \_\_\_\_\_ (e.g. week, month). The **employer** must ensure that the rent does not cost more than 30% of the **temporary foreign worker's** gross monthly earnings.

Describe the type of housing to be provided to the **temporary foreign worker** (e.g. bunkhouses, apartment, house) :

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## 7. Health Care Insurance

7.1. The **employer** agrees to arrange and pay for the **temporary foreign worker's** private health insurance at no cost to the **temporary foreign worker**. The coverage will begin from the time the TFW arrives in Canada until the **temporary foreign worker** is covered by the appropriate provincial/territorial health insurance plan. The private insurance provided to the **temporary foreign worker** will be equivalent to the insurance plan.

## 8. Workplace Safety

8.1. **Choose the appropriate clause between 8.1.1 or 8.1.2** by crossing out and initialing the clause that does not apply.

8.1.1 The **employer** agrees to arrange, and pay for, the **temporary foreign worker's** workplace safety insurance coverage from the provincial/territorial workplace safety insurance provider (e.g. Workers Compensation Board, or equivalent), where required by law.

8.1.2 The **employer** agrees to arrange, and pay for, the **temporary foreign worker's** workplace safety insurance coverage from a private insurance provider. The coverage provided by the **employer** to the **temporary foreign worker** will provide the same or better coverage as that offered by the province or territory and all employees on the worksite will be covered by the same provider.

The coverage provided to the **temporary foreign worker** from a private workplace safety insurance provider must be acceptable under provincial/territorial regulations and must correspond to the **temporary foreign worker's** first day of work in Canada.

### NOTE:

The **employer** agrees not to recover the cost related to workplace safety from the wages of the **temporary foreign worker**.

**9. Notice of Resignation**

9.1. Should the **temporary foreign worker** wish to terminate the present contract, he/she agrees to give the **employer** a written notice at least one week in advance.

The **employer** will complete a Record of Employment (ROE) and send it to the **temporary foreign worker** within five days of the date he/she stops working. It is the **temporary foreign worker's** responsibility to provide the **employer** with the address where the ROE should be mailed.

**10. Notice of Employment Termination**

10.1. The **employer** must give the **temporary foreign worker** a written notice before terminating the employment contract if the **temporary foreign worker** has completed three months of uninterrupted service with the **employer** and if the contract is not about to expire. This notice shall be provided at least one week in advance.

The **employer** will complete an ROE and give it to the **temporary foreign worker** within five days of the date he/she stops working. It is the **temporary foreign worker's** responsibility to provide the **employer** with the address where the ROE should be mailed.

**11. Contract Subject to Provincial Labour and Employment Legislation and Applicable Collective Agreements**

11.1. The **employer** must abide by the standards set out in the relevant provincial *Labour Standards Act* and, if applicable, the terms of any collective agreement in place. He/she must abide in particular by these standards and terms with respect to how wages are paid, how overtime is calculated, meal periods, statutory holidays, annual leave, family leave, benefits and recourse. Any terms of this employment contract which are less favourable to the **temporary foreign worker** than the standards stipulated in the relevant labour standards act are null and void.

**In witness whereof** the parties state that they have read and accepted all the terms and conditions stipulated in the present contract.

**Employer**

Signed at (location): \_\_\_\_\_

Employer's name: \_\_\_\_\_

Employer's signature: \_\_\_\_\_

Date : YYYY-MM-DD \_\_\_\_\_

**Temporary foreign worker**

Signed at (location): \_\_\_\_\_

Temporary Foreign worker's name (as written in the passport):  
\_\_\_\_\_

Temporary Foreign worker's signature: \_\_\_\_\_

Date : YYYY-MM-DD \_\_\_\_\_