

CONTRACT OF EMPLOYMENT

Entered into between _____
(hereinafter referred to as "the employer")

and

(hereinafter referred to as "the farm worker") (ID Number: _____)

1. **STARTING DATE:** _____

2. **JOB TITLE:** _____

3. **WORKPLACE**

4. **JOB DESCRIPTION:**

The list of duties above are the farm worker's main duties only. The farm worker will be required to carry out other related duties as and when instructed by the employer.

5. **AGE**

5.1 The farm worker is currently _____ years old.

5.2 The farm worker certifies that he is not younger than 15 years.

6. **ACCOMODATION AND SECURITY OF TENURE**

6.1 The employer hereby lets to the farm worker who hires from the employer the following premises ("the premises"):

6.2 The monthly rental for the premises shall be R_____ ("the rental"). The farm worker shall remain liable for the payment of the rental for so long as he continues to occupy the premises on termination of his employment for any reason.

6.3 The farm worker shall only be allowed to live in the premises together with the following dependants:

6.4 The farm worker acknowledges and undertakes that his occupation of the premises on the farm is conditional on his employment with the employer and that he has acquired no other right to occupy or live on the farm. In particular, the farm worker acknowledges that he is not a labour tenant or that he has any right to use cropping or grazing land on the farm.

6.5 The farm worker acknowledges that he has been supplied with an information document in the _____ language which sets out the rights of the parties in terms of the Extension of Security of Tenure Act, 1997 ("the Act");

(Note: We suggest that you hand a copy of the Department of Rural Development and Land Reform document to the farm worker. The Department will make these documents available in all eleven official languages.)

6.6 The farm worker undertakes together with his dependants, on compliance with the provisions of the Act by the employer, to vacate his accommodation on termination of this agreement for any grounds recognised by the Act as sufficient. The farm worker hereby specifically acknowledges and confirms that he has alternative accommodation should he be required to vacate the premises for any reason;

6.7 The farm worker shall have the rights relating to visitors as set out in the Rules of Conduct attached hereto as Annexure "A".

6.8 The farm worker shall have the following rights relating to access to water:

6.9 The farm worker undertakes to effect no improvements of whatsoever nature to the premises without first obtaining the written consent of the employer, which consent shall not be unreasonably refused. On the vacation of the premises by the farm worker for whatever reason, the employer shall, provided written consent had been obtained, fairly compensate the farm worker for any permanent improvements made to the premises by the farm worker.

7. DAYS TO BE WORKED

The farm worker shall work the following days of the week:

8. HOURS OF WORK

8.1 Subject to the provisions of 8.3 below, the farm worker shall work _____ ordinary hours per day and no more than 45 ordinary hours per week.

8.2 The normal working hours are from _____ to _____.

8.3 Extension of working hours

The parties hereby agree to extend the ordinary working hours of the farm worker as is set out in Annexure "B" hereto.

9. MEAL BREAKS

9.1 The following meal breaks will apply: _____

9.2 Time off for meal breaks do not form part of hours of work.

(Note: A farm worker may not work longer than 5 hours continuously without a meal interval of at least one hour, although you may agree with the farm worker that this be reduced to 30 minutes. Tea breaks are not compulsory. A meal break of more than 75 minutes may be allowed only to a worker residing on the farm.)

10. TIME OFF

The farm worker is entitled to the following time off:

Day(s) per week: _____

Weekend(s) per month: _____

(Note: See the provisions of section 15 of the BCEA and section 19 of the Sectoral Determination)

11. OVERTIME, SUNDAYS AND PUBLIC HOLIDAYS

The farm worker undertakes, subject to the provisions of the BCEA and sections 13 and 14 of the Sectoral Determination to work overtime, on Sundays and on Public holidays as and when required.

12. WAGES

12.1 Pay

The farm worker will be paid as follows:

12.1.1 In cash: R_____ per hour/ R_____ per day/ R_____ per week/
R_____ per month

12.1.2 A cash bonus of R_____ will be paid on _____ to the worker

12.1.3 Payment to be done daily/ weekly/ fortnightly/ monthly

12.1.4 Payment will be done on the _____ day of the week/ month

12.2 The cash wage shall be paid in cash/by cheque or in bank account no _____

(Note: Please refer to the website of the Department of Labour <http://www.labour.gov.za>)

12.3 Payment in Kind

The value of payment in kind per month (specify if applicable):

_____ R _____
 _____ R _____
 _____ R _____

(Note: Payment in kind is contentious and should, where possible, be avoided.)

13. DEDUCTIONS

The farm worker agrees to the following deductions being made from his wage:

Pension/provident fund: R _____
 Loans: R _____
 Rental: R _____
 Accommodation (10% of minimum wage) R _____
 Food (10% of minimum wage) R _____
 Payments to third parties: R _____
 UIF R _____
 Other (specify): R _____

(Note: Only 10% of the wage may be deducted for accommodation and then only if the house has a waterproof roof, glass windows, electricity where the infrastructure for electricity exists on the farm, water on tap in the house or within 100 metres from the house, a flush toilet or a pit latrine in or near the house.)

14. LOANS

The farm worker authorises the employer to deduct from his wages (or other amounts owing to him) specified repayments of any loans granted.

15. BONUS

If the farm worker's work and progress is satisfactory he may, at the discretion of the employer, receive an annual bonus in _____(month) every year, the amount of which will be _____% of his basic pay for a complete year of service. Should the farm worker not have completed a full year of service, such bonus, if paid, will be in proportion to the number of months worked.

(Note: There is currently no legal obligation to give increases or pay a bonus).

16. BREAKAGES

Breakages of items belonging to the employer or on the employer's premises will be treated in the following manner:

17. ANNUAL LEAVE

17.1 The farm worker is entitled to _____ days' paid annual leave per year for each completed year of service. Specific leave dates must be approved by the employer.

(Note: According to the Sectoral Determination a worker is entitled to at least 3 weeks leave per year.)

17.2 Annual leave will not run concurrently with any period of sick leave nor with any period of notice of termination of contract of employment.

17.3 Leave not taken in any year will accumulate to the following year.

17.4 Leave which is due to the farm worker but not taken will be paid out upon termination of the farm worker's service with the employer, provided that he/she was employed for at least 4 months.

18. SICK LEAVE

The farm worker is entitled to 36 days' paid sick leave per cycle of 36 months if he/she works a six day week and 30 days' paid sick leave in a cycle of 36 months if he/she works a 5 day week.. Absence for more than 2 consecutive working days requires a medical or other approved certificate. If no medical or other approved certificate can be provided, such days of absence will be treated as unpaid leave.

19. MATERNITY LEAVE AND FAMILY RESPONSIBILITY LEAVE

The provisions of clauses 23 and 24 of the Sectoral Determination shall apply should the farm worker require maternity leave or family responsibility leave.

20. DISCIPLINE AND CONDUCT

- 20.1 The farm worker will apply himself dutifully and diligently to his work and obey all reasonable and lawful instructions of the employer.
- 20.2 The farm worker undertakes to adhere to the Rules of Conduct (Annexure "A") and Disciplinary Code (Annexure "C") which forms part of this Contract of Employment.

21. TERMINATION

- 21.1 This Contract of Employment will be terminated by either party giving _____ weeks/months notice.. The farm worker must work this notice period unless the employer specifies otherwise. *(Clause 26 of the Sectoral Determination determines that the contract may be terminated with one week's notice if the farm worker has been employed for no more than six months and thereafter with one month's notice.)*
- 21.2 The farm worker will, unless he deserts, be issued with a Certificate of Service upon termination of employment.
- 21.3 If applicable, the farm worker will be given his UIF card upon termination of employment.

22. MUTUAL FREEDOM

The employer and the farm worker undertake to respect one another's privacy, political convictions and freedom to associate and to organise.

23. SUMMARY TERMINATION

Subject to compliance with fair labour practice, the employer shall have the right to terminate the employment without notice for any cause recognised by law as sufficient.

24. DEEMED DESERTION

If the farm worker is absent from work for any reason, he must immediately inform the employer. If he should be absent for more than 3 (THREE) consecutive days without having reported to or informed the employer of the reasons for his absence, the farm worker will be deemed to have absconded and his services will be terminated automatically.

25. MOBILITY

The farm worker shall mainly be employed at _____ but hereby undertakes, should it be required, to work at any other farm or location where the employer conducts farming operations.

26. NON-VARIATION

No alteration, variation or suspension of any of the terms hereof or any consensual cancellation hereof shall be of any force or effect unless reduced to writing and signed by both parties.

27. THE BCEA AND THE SECTORAL DETERMINATION 13: FARM WORKER SECTOR

- 27.1 The parties acknowledge that the provisions of the BCEA and the Sectoral Determination are applicable to them and that such minimum provisions shall apply where this Contract of Employment is silent.
- 27.2 The farm worker acknowledges that he has in terms of section 30 of the BCEA been handed a statement of his rights in the _____ language. Such a statement is attached hereto as Annexure "D".

DATED AT _____ ON _____ DAY OF _____ 200____.

EMPLOYER

FARM WORKER

ANNEXURE "A"

RULES OF CONDUCT

(For use with both Permanent & Temporary workers)

1. **Housing**
 - 1.1 A responsible person will be appointed for every house. If no such person is specifically appointed, the farm worker will be the responsible person.
 - 1.2 The owner has the right to inspect the house at any reasonable time. This right will be exercised in such a way so as not to infringe on the occupiers' right to privacy.
 - 1.3 The occupiers must keep houses in a neat condition. This applies to the inside and outside of the house.
 - 1.4 Pets and other animals may only be kept if the permission of the owner is obtained to do so.

2. **Visitors**
 - 2.1 The owner should as far as possible be informed when occupiers expect visitors.
 - 2.2 Visitors may only use the following access routes: _____

 - 2.3 No visitor may visit any occupier for a period longer than one week except with the permission of the landowner.
 - 2.4 The responsible occupier (see clause 1.1) will be responsible for any damage caused by his/her visitors.

3. **Water and electricity**
 - 3.1 Running water and/or electricity will be supplied to every house and the occupiers will be obliged to pay for the cost of consumption on a monthly basis. The owner will present them with proof of such consumption.
or
Water and electricity will be provided free of charge.
 - 3.2 No person may attempt to repair faulty electrical connections; all faults must be reported to the owner.
 - 3.3 Children should not be allowed to play with electrical installations.

4. **The lighting of fires**
 - 4.1 Fires may only be lighted in areas designated for the lighting of fire.

5. **Transport to church meetings and shop**
 - 5.1 Farm workers and their families will, upon request be transported to the nearest church meeting on Sundays.
(Note: This clause is optional)
 - 5.2 Farm workers and their families will be transported to the nearest shop _____ per week/month.
(This clause is optional)

6. **Telephone**
 - 6.1 The use of the telephone will be dealt with on request. The person making the call will be responsible for the cost thereof.
or
The use of the phone will only be allowed in emergencies.

7. **Dangerous weapons**
 - 7.1 No firearm, ammunition or other dangerous weapons shall be brought onto the farm without the prior written permission of the owner.

8. **Trading**

Unauthorised trading on the farm is prohibited.

9. **General behaviour**
 - 9.1 All occupiers shall refrain from disorderly, drunken or abusive conduct.
 - 9.2 Occupiers do not have an automatic right to be buried on the farm. Burial may only take place on the farm with the written permission of the owner.
 - 9.3 The catching or snaring of wild animals on the farm is prohibited.

10. **Livestock**
 - 10.1 No livestock may be kept on the farm.
or
 - 10.1 A maximum of _____ adult head of cattle may be kept by each farmworker.
 - 10.2 Calves will be regarded as adults when they are one year old.
 - 10.3 All adult animals must be tagged or branded.
 - 10.4 A monthly fee of R_____ will be levied for every adult animal.
 - 10.5 Cattle will only be allowed to graze in the following area(s): _____

(give a very detailed description of the area and extent in hectares)
 - 10.6 The health care programme laid down for cattle by the owner must be adhered to.

ANNEXURE "B"

EXTENSION OF WORKING HOURS AGREEMENT
(For use with both Permanent & Temporary workers)

1. The employer and the farm worker hereby agree that the ordinary working daily hours of the farm worker shall be extended by _____ hours per day to a maximum of 5 per week.
(Note: See section 12 of the Sectoral Determination 13: Farm Workers section.)
(Note: Maximum extension: no more than 10 hours per day.)
2. The period of extended hours shall commence on _____ of every year and terminate on _____ of every year ("the extended period"), amounting to a total of _____ working days.
(Note: Maximum period: 4 months in any 12 month period)
3. In exchange for the period in 2 above, the farm workers hours of work will be reduced by _____ hours per week during the period _____ to _____.
(Note: the reduced working hours must be granted within the same 12 months period)
4. Alternatively to clause 3 above, the employer undertakes during the remaining period to reduce the ordinary hours worked by the farm worker by the total extended hours worked by him during the extended period.
5. During the period that the farm worker works extended or reduced hours, the employer shall pay the farm worker the wage he would have received had he been working ordinary working hours.
6. Should the ordinary working hours not have been reduced:
 - 6.1 within the remaining period; or
 - 6.2 on the termination of his employment;the employer shall pay the farm worker for the extended hours worked an amount calculated at the rate of one and one-half times the farm workers normal wage.

ANNEXURE "C"

DISCIPLINARY CODE

(For use with both Permanent & Temporary workers)

1. PENALTIES

Penalties that may be imposed for a failure to maintain the employer's standards or for unsatisfactory or unacceptable behaviour:

- 1.1 summary dismissal;
- 1.2 dismissal with payment in lieu of notice;
- 1.3 final written warning;
- 1.4 written warning;
- 1.5 informal warning or reprimand.

2. CATEGORIES OF OFFENCES FOR THE PURPOSE OF DETERMINING APPROPRIATE DISCIPLINARY ACTION

The penalties listed in the different categories serve as a guide only. The intention is not to prescribe rigid rules, but to create just, fair and, as far as possible, consistent disciplinary action. When implementing disciplinary action it is important to bear in mind that the conduct and working conditions of farm workers differ.

In deciding on the appropriate penalty the following facts amongst others will be taken into account, namely: the category in which the offence falls, the seriousness, and the circumstances under which the offence was committed; the penalties imposed for similar offences; written warnings issued to the farm worker that have not yet lapsed; the farm worker's age, position, length of service and meritorious service rendered by him, the marital status of the farm worker, whether the farm worker supports any dependants as well as any submissions that the farm worker may make regarding an appropriate penalty.

2.1 Category A

Offences in respect of which a competent penalty for a first conviction may in appropriate circumstances be dismissal of the farm worker without a prior warning having been issued:

- 2.1.1 intentional absence without leave or without a valid reason for 3 (three) consecutive working days;
- 2.1.2 refusing or failing to obey lawful and reasonable instructions, failure to work, or to commence work, or to resume work, failure to obey safety rules and procedures;
- 2.1.3 intimidation;
- 2.1.4 victimisation;
- 2.1.5 inciting, encouraging or persuading other farm workers to disobey lawful and reasonable instructions, to refuse to work, or to commence or resume work, or to disobey safety rules and procedures;
- 2.1.6 inciting, encouraging or procuring any person to commit violence against any person or property;
- 2.1.7 assault, or attempted assault, with intent to do grievous bodily harm;
- 2.1.8 serious insubordination or disrespect;
- 2.1.9 fraud, theft, unauthorised possession of employer property, or of any property for which the farm worker is unable to give a satisfactory explanation, misappropriation of money, goods or property or pilfering, or any other offence relating to dishonesty;
- 2.1.10 bribery;
- 2.1.11 falsification of any documents;
- 2.1.12 supplying false information in or knowingly omitting relevant information from his application for employment or when undergoing a medical examination;
- 2.1.13 gross negligence;
- 2.1.14 breach of contract in respect of which summary dismissal is justified under the common law;
- 2.1.15 possession of a dangerous weapon at the workplace without having obtained the prior written authority of the employer;
- 2.1.16 malicious damage to property;
- 2.1.17 working for anybody else or engaging in any other business;
- 2.1.18 other than in the normal course of his duties, or when legally obliged to do so while giving evidence before a court of law, disclosing any information that could be detrimental to the interests of the employer;
- 2.1.19 serious incompetence, where the farm worker has misled the employer about his ability to perform the work.

2.2 Category B

Offences in respect of which a competent penalty may in appropriate circumstances be imposed:

First offence:

Final written warning, or dismissal if the nature and circumstances of the offence should warrant it;

Second offence:

Dismissal, if a final written warning which has not yet expired, was previously issued. A warning issued in respect of an offence in this category will lapse 1 (one) year from the date of issue thereof;

- 2.2.1 absence without leave for a period of up to 5 (five) consecutive working days, without a valid reason;
- 2.2.2 indecent, improper or contemptuous conduct;
- 2.2.3 poor performance relating to quality and quantity of work;
- 2.2.4 failure to report loss or damage to employer property or property for which the employer is responsible;
- 2.2.5 wilful damage to, or serious neglect of the employer's or fellow farm workers' property, equipment, tools, material or goods, or property, equipment, tools, material or goods for which the employer is responsible;
- 2.2.6 appropriation for private purposes and misuse of the employer's or fellow farm workers property;
- 2.2.7 revealing confidential information to any unauthorised person;
- 2.2.8 committing any criminal offence while on duty, or on the employer's premises, or in relation to the employer's affairs;
- 2.2.9 intoxication while on the employer's premises or while driving or in charge of a vehicle of the employer;
- 2.2.10 the possession and/or use of liquor or any other prohibited intoxicating or habit-forming substance or drugs, on the employer's premises while the farm worker is on duty.

2.3 Category C

Offences in respect of which dismissal is usually preceded by two written warnings and a final written warning. A warning issued in respect of an offence in this category will lapse 6 (six) months after the date of issue thereof:

- 2.3.1 absence without leave for up to 2 (two) consecutive working days without a valid reason;
- 2.3.2 reporting late for work or leaving the workplace before time, and failure to adhere to the prescribed working hours and tea and lunch breaks;
- 2.3.3 absence from the workplace, without permission of the superior, during working hours;
- 2.3.4 sleeping while on duty;
- 2.3.5 minor performance or behaviour problems;
- 2.3.6 exceeding defined limits of authority;
- 2.3.7 failure to exercise proper employer and supervisory functions;
- 2.3.8 failure to wear prescribed uniform or protective clothing;
- 2.3.9 excessive use of telephone for personal calls;
- 2.3.10 negligence;
- 2.3.11 loafing.