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# **Principles of Good Practice For Broker in Collaboration with Thai Union Group PCL.**



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## **Introduction**

Shrimp and seafood industry of Thailand is very important industry to drive the economy of the country. The major export markets included the United States, the European Union, Japan, Canada, Korea, and other countries. As the potential of Thai fishery production, there are many workers working in this industry throughout the production line; farms, aquatic animal processing plants, cold storage, processing plants and other supporting industries. However, in the past several years, labor situation in Thai shrimp and seafood industry has received a lot of attention from the international community. In particular, there is mention of child labor, forced labor in the fisheries industry and seafood processing. This causes a negative image in Thai fishery products in the eyes of foreigners and may also affect the export of fishery products in the future.

The project aims is to help protect workers from unacceptable behaviors such as child labor, forced labor, discrimination and substandard of working conditions.

Good Labor Practices Project is designed to help set specific guidelines for Thai Union Company and its suppliers/subcontractors.

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## **Part 1: Good labour practise**

### **1. Employment is Freely Chosen**

Forced labor is the work that people work with is not voluntary by means or cause to punish or coercion, bullying, rape to work or service. It causes to people work reluctantly or make the person is in an irresistible condition.

Forced labor is violation of basic human rights regarding freedom of work and freedom of choice. The compulsory labor force consists of two main components which indicate that labor force is compulsory:

Element 1: Workers are punished or intimidated such as

Mr. Dam, the owner of Seafood processing factory, illegally hired Mr. Win, Myanmar migrant worker. He has no work permit to work in the factory. Workers have a lot of workloads. Overtime is almost routine work every day, several hours a day. Mr. Win is tired and does not want to work overtime. Mr. Dam threatened that if he did not work overtime, he would be physically abusive, threatened weapons, threatened to use the police to arrest. Mr. Win is afraid and need to work overtime.

Element 2: Workers do not work voluntarily. Workers have freedom to accept work such as

Ms. Kamsuay, a girl from Sawannakhet City, Laos PDR, was tempted to work in Thailand at a garment factory. She gets a daily wage of 310 baht. Ms. Kamsuay believed and applied to work in Thailand. She made a passport through Thai law and paid charges legally. When she came to Thailand, there is no garment job. The broker sent her to work at canned fish factory instead. She is reluctant to work here but she has already paid for it. She has no money. She tolerates to work at the canned fish factory with reluctance and no freedom to leave from the workplace all the time such as

A group of workers from neighboring countries were tempted to work at seafood processing factory in Thailand. Employers hired them and provide accommodations to them. The employer arranges a cold storage car to get them from the accommodation to the factory every working day. They work in a factory with a high fence and barbed wire. Entry and exit must be asked for the employer's permission. There are strict rules to these employees for leaving out of the factory. They work in the factory until time out. If any day has a lot of work, employees must work overtime. They cannot leave from the factory after time out. When they return home, there are cold storage cabinets to get back together. They do this every day. When they return to their accommodation or holidays, they will be left in accommodation. They cannot leave outside.

Determining whether an employee is volunteering to work. It often has the issue of employee vulnerability, including outside pressure and indirect pressure which affects the decision of the employee to refuse the job or retention of identification documents or passports of employees.

### **Bonded Labor**

Bonded labor or debt bondage can occur when a person or family member has a loan and require labor for debt repayment. Bonded labor occurs when an employee cannot afford the debt for a long time. In some cases, the debt is indebted for life.

In the context of bonded labor in the shrimp and seafood industry can happen if the employee is an illegal migrant worker. Even though they are legally migrant workers but they have a debt burden on the cost of recruiting work with recruiters or employment agency or third party or even employers themselves. As a result, the employee has no freedom to leave. The employer uses the power to enforce the employee's obligations or compulsion to accept the terms and conditions. Or employers create debt to employees to make it difficult for employees to pay back debt. It made employees are not free to leave because of debt. This may result in forced labor.

### **Human Trafficking for labor exploitation**

Human Trafficking includes recruitment, transportation, transfer, harboring or getting a person to live in a fraudulent way. The purpose is to exploit misuse, including labor exploitation. However, the movement of illegal workers does not imply that such workers are trafficked for unlawful exploitation.

Any person can be trafficked even if he or she is illegally employed in Thailand and found that the person was in a trafficking situation. However, illegal migrants do not mean that they are trafficked for illegal exploitation. It must consider the composition of human trafficking as required by law. Normally, migrant workers who enter Thailand voluntarily assume that they will work under the conditions agreed upon at the beginning but later found out that it was not agreed. But to be a victim of human trafficking, which has no intention of fulfilling its contract of employment and compensation. Thailand has imposed penalties not only for trafficking but also for interfering with or impeding the conduct of investigations and arrests by government officials.

Due to the high risk of forced labor and human trafficking, it is imperative that Thai employers must acknowledge that the situation is forced labor. In cases where there is a possibility of trafficking and under international standards, employers should treat both Thai and migrant workers equally.

Examples of punishments that may be concerns or enforcing threats:

1. Restrictions on freedom of movement such as forbidding employees from leaving workplaces or leaving accommodations.
2. Financial penalties, such as owing a debt to an employee or paying a late wage, is a commitment to the employee.
3. Bullying and violence (bashing, sexual harassment)
4. Employee intimidation to notify police or government officials (Immigration Police)
5. Intimidation and / or conspiracy to repatriate such as illegal immigrants
6. Lodge identity papers upon commencing employment with the company such as birth certificates, passports, work permit or identification document .

7. Termination or deprivation of employees from employment in the future.
8. The exclusion of employees from life in the community and society.
9. Deprivation of rights and other benefits and refusal to feed, temporary accommodation and other necessary things.
10. Migrating workers to bad working conditions, dangerous, improper.
11. Overtime enforcement
12. To sign a letter of resignation in advance.
13. Employment contracts that allow the employee to consent without the need, such as pregnancy.
14. Do not limit freedom of movement such as toilet, leave during working hours.
15. Do not use debt bondage. It means working without compensation but to repay the debt to others in exchange for labor.
16. Binding contracts are prohibited. It means persons who are forced to work without permission to resign.
17. Do not have too many security guards in the factory. Do not use security guards responsible in addition to keeping calm and property of the factory.

**Labour Protection Act, B.E.2541, Clause 10**

- An employer shall not demand a deposit for employment or damage of work from an employee whether in form of money, property or a guarantor, except for work where the employee is required to be responsible for money or property of the employer, which may cause damage to the Employer.

**Notification of the Ministry of Labor about Criteria for obtaining collateral or collateral damage in work from employees B.E.2551 (2008)**

1. Chief Accountant, Cahier, Store keeper of precious objects such as jewelry, silver, gold, platinum and pearls, security guard, debt Control, vehicle control, warehouse, exchange, lease, property, banking. Only employees who control money or property for that purpose.
2. Collateral must not exceed 60 times the daily wage.

**2. Wages & Benefits (Not applicable for outsource)**

Paying is very necessary which affects the lives of every worker. Employees must be paid at least the minimum wage to ensure that employees are able to afford them. Employers' organization and employees' organization should be involved in the minimum wage process.

In addition, employees must be paid on time and receive a full amount of both regular and overtime wages, as well as regular paid leave. Employees should be aware of information about wages received and expenses deducted from wages. The deduction of wages should be subject to conditions and subject to the terms of the law and the mutual agreement.

Employees should be aware of wage information in a language understood by the employee and wage calculation should be explained to the employee. Normally, the employer must provide clearly pay slip to the

employee including the number of working days, wages or yield per day, number of overtime hours at premium rate, special pay, allowances and all deduction from wages. Failure to provide detailed pay slip to each employee is important to point out that employees do not know enough about their wages.

Employees who receive wages on piece rate basis must be paid at the minimum wage per hour of normal work hours even the amount of work actually done is less than the minimum wage. If the piece rate is higher than the minimum wage, employers shall pay the higher wages.

Overtime case, employers must pay overtime at the rate prescribed by law. This includes overtime pay and other benefits which is non-monetary. It may include food, shelter, or nursery costs, which are directly deducted from wages. Employers may pay a portion of the non-monetary wage. Employees must have sufficient cash to buy necessary necessities for their employees and their families.

#### **Examples of outsourcing such as:**

The owner hires Mr.A drag shrimp from the pond by agreement the amount of wage per ton of shrimp, such as 300 baht per ton. If Mr. A catches a total of 11 tons, the owner will pay to Mr. Black 3,300 baht.

The owner hired 5 workers 600 baht each, work from 04:00 to 15:00, total 11 hours.

- Normal working hour = 8 hours, minimum wage is 305 Baht per day
- Overtime = 3 hours, =  $305/8 \times 1.5 = 173.25$  Baht/hours
- Mr. A must be paid at least =  $305 + 173.25 = 478.25$  Baht

Remark:

- Total wages must be paid at least the minimum wage.
- Employees must be provided rest period at least one hour every 4 hours.
- Employees must be provided rest period at least 20 minutes before overtime work.

#### **Examples of piece rate wage employee**

Shrimp size selection. Wage will be paid by the size and quantity of the shrimps.

The owner hired 6 workers, work from 06:00 to 13:00.

Wage paid according to shrimp size:

- 100-119 shrimps/kg = 2.5 Baht/kg
- 80-99 shrimps/kg = 2.0 Baht/kg
- 60-79 shrimp/kg = 1.5 Baht/kg
- 40-59 shrimp/kg = 1.0 Baht/kg
- Less than 38 shrimp/kg = 0.8 Baht/kg

Remark:

- Total wages must be paid at least the minimum wage.
- Employees must be provided rest period at least one hour every 4 hours.
- Employees must be provided rest period at least 20 minutes before overtime work.

**The difference between employment contract and outsourcing contract**

<p><b>Employment contract (Shrimp dragging, Shrimp selection, permanent employment - daily wage, monthly wage or clerk, manager)</b></p>	<p><b>Outsourcing contract (Shrimp dragging, Shrimp selection, temporary employment)</b></p>
<ol style="list-style-type: none"> <li>1. The parties are called employers and employees.</li> <li>2. Employees agree to work until terminated.</li> <li>3. Work hour is important.</li> <li>4. Employers must pay their wages or salaries at all times when they work for them.</li> <li>5. Employees must work on the employer's orders and have control over each other.</li> <li>6. Tools or equipment are not required by the Employer for work unless there is a special agreement.</li> <li>7. Employees do not have to deliver work to employers because they are under the supervision of an employer.</li> <li>8. Corporate can be an employer but not an employee.</li> </ol>	<ol style="list-style-type: none"> <li>1. The parties are called employers and Contractor</li> <li>2. The contractor agrees to work until the work is completed.</li> <li>3. Work completion is important.</li> <li>4. The employer must pay wage to the employee according to the success of the agreed work.</li> <li>5. The contractor does not have to work on orders. The contractor only work to complete the contract.</li> <li>6. Tools or equipment are required by the Contractor for work unless there is a special agreement.</li> <li>7. The contractor must deliver work to the employer within time.</li> <li>8. Corporate can be both an employer and contractor</li> </ol>

**Remunerations (comparable law)**

- Pay wages and other pecuniary benefits related to employment in Thai currency unless the consent of the employee is obtained to be paid by bill or in a foreign currency. (Section 54)
- Pay and other pecuniary benefits related to employment at the workplace. If the payment is to be made elsewhere or by other means, the consent of the employee must be obtained. (Section 55)
- Pay wages to an employee equivalent to wages of a working day for the following holidays. (Section 56)
  - A weekly holiday, except for an Employee who receives Wages calculated on a daily, hourly or piece rate basis
  - A traditional holiday
  - Annual Holidays.



- Pay wages for sick leave but not exceeding thirty working days per year. Pay wages for leave for sterilization. (Section 57)
- Pay wages for military service leave. (Section 58)
- Pay wages for maternity leave (Section 59) whereas an employee receives wages calculated on a piece rate basis, the employer shall pay wages for holiday or leave equivalent to the average wages of working day received by the employee during the period of payment before such holiday or leave.
- Work overtime on a working day will be paid at a rate of not less than one and a half times. (Section 61)
- An employee who is entitled to wages on holidays, the payment shall be made in addition to wages at a rate at least equal to the hourly wage rate of a working day. An employee who is not entitled to wages on holidays, the payment shall be made at not less than two times of the hourly wage rate of a working day for the number of hours of work done. (Section 62)
- Work overtime on a holiday, the employer shall pay at the rate of not less than three times of the hourly wage rate of a working day for the number of hours of work done.
- In case of termination without fault, the employer shall pay the annual leave for the year of termination. In case the employee resigns or is terminated in all cases, the employer shall pay the accumulated annual leave . (Section 67/2551)
- In the case company stop temporarily or partially due to its inability to conduct its business as usual, employers must pay at least 75% of their wages to employees and notify workers at least 3 working days in advance. (Section 75/2551)
- An employer shall not make any deductions from wages, overtime pay, holiday pay and holiday overtime pay except the deductions made for income tax, social security, labor union, debts owed to the saving cooperatives, debts relating to beneficial to of the employee solely, with the prior consent of the employee, a deposit as compensation to the employer for damage caused by the employee, payment as contributions under an agreement relating to a provident fund. The deductions under for each case shall not be made in excess of ten per cent, and in aggregate shall not exceed one in fifths of the money to which the employee is entitled at the time of payment. (Section 76)
- Whereas an employer is required to obtain the consent of an employee or makes an agreement with an employee concerning payments, the employer shall arrange for a written consent to be signed by the employee or an agreement to be expressly made in particular.
- Announce normal working hours to employees by defining start and end of work.

### **3. Working Hour (Not applicable for outsource)**

Limiting work hours ensures that employees are safe and healthy in the workplace, have a break during work and employees can manage time to spend with family and work perfectly.

#### **Working hours (Comparable Law)**

- On a working day, an employer shall arrange a rest period during work for an employee of not less than one hour per day.
- Whereas any overtime work after normal working time is more than two hours, the employer shall arrange for the employee to take a rest period of not less than twenty minutes before the employee commences the overtime work. (Section 27)
- An employer shall not require a female Employee who is pregnant to work between 22.00 hours and 6.00 hours, to work overtime, to work on a holiday, or to perform hazardous work. (Section 39 and 39/1/2551)

#### **4. Discrimination**

Discrimination means no separation in hiring, remuneration, access to training, promotion, termination, or retirement based on race, national or social origin, caste, birth, religion, disability, HIV/AIDS, gender, sexual orientation, family responsibilities, marital status, union membership, political opinions, age, or any other condition that could give rise to discrimination.

An employer shall not engage in discrimination in work based on race both Thai employees and migrant and home workers. An employer shall not allow inappropriate behavior of sexual harassment by physical, verbal or non-verbal harassment.

The company shall involve with the exercise of personnel's rights to observe tenets or practices, or to meet needs relating to race, national or social origin, religion, disability, gender, sexual orientation, family responsibilities, union membership, political opinions, or any other condition that could give rise to discrimination.

The key element in recognizing discrimination is that female and male employees must be paid equal pay wages and benefits for equal work. In addition, Thai workers and migrant workers must have same conditions and be paid equal pay for equal work.

#### **5. Discipline and Punishment (Not applicable for outsource)**

An Employer who employs ten or more persons shall provide the work rule in Thai and the rules shall contain at least the following details:

- (1) working days, normal working time and rest periods;
- (2) holidays and rules of taking Holidays;
- (3) rules governing Overtime and Holiday Work;
- (4) ate and place of payment of Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay;
- (5) Leave and rules of taking Leave;
- (6) discipline and disciplinary measures;
- (7) lodging of grievances; and

#### (8) termination of employment, Severance Pay and Special Severance Pay

When the employer has promulgated the company work rules. Although later employers will have less than ten employees, the employer is still required to comply with the company work rules and the complaint.

The company shall not allow behavior, including gestures, language, and physical contact, that is sexually coercive, abusive or exploitative.

- An employer, supervisor or inspector are not prohibited harassment or sexual harassment against an employee. (Clause 16/2551)
- Punish physically and verbal abuse is not allowed.
- Do not have a striptease search

#### **6. Child Labor (under age 15) and Young Workers (15-18 years of age)**

Child labor is hiring the children to work until they have lost their child's life, including damaging their potential and pride, which is detrimental to the child's physical and mental development. It also means the child work is harmful to the mental, physical, social and moral conditions of the child. It is also a barrier to education, with the loss of opportunities for admission to school, the obligation for children to leave school permanently. It makes a child must go to school and work at the same time or children have long hours of work and hard work.

The worst form of child labor is where children get involved in illegal work or physically or sexually abusive work. However, it does not mean that all types of work are classified as child labor which should be eliminated. Works that do not affect the health and development of children or work that does not hinder the learning of children can encourage children to work. These include activities that help parents work at home, family business work or work outside of class time that does not affect the learning and relaxation of children.

In addition, any work that is classified as child labor depends on age, type of work and work hours by the child, the impact of work on hygiene, the development and access to education of children under international standards. Night work and long-time work are considered hazardous for child under the age of 18 years regardless of whether the work is hazardous or not.

Not only child's work in the workplace, but also work at home which is a risk for the child may work with a family member.

#### **Minimum Age and Hazardous Child labour**

Labor Protection Act, B.E.2541 and the relevant amendments cover most of the industry in Thailand. It defines employees must be at least 15 years of age in order to comply with international policies and standards. Therefore, Thai Labor Protection Act and related ministerial regulations define job duties and working environment which are considered both physical and occupational hazards or morally the minimum age for dangerous work is 18 years old.

Young workers which refer to the employee over 15 years of age but not exceeding 18 years of age, are considered vulnerable groups. As a result, these workers should not be involved in dangerous work. Therefore, Thailand has issued additional legislation on payroll, working hours and inform the Labor inspectorate to acknowledge that these young workers are protected and promoted employment.

#### **Section 47, 49, 51**

- Employers are prohibited young worker under the age of eighteen working between 22.00 and 06.00.
- Do not work in dangerous places.
  - (1) casting,
  - (2) metal work
  - (3) heat, cold, vibration, sound and light work which different from normal It may be dangerous as prescribed in the Ministerial Regulations
  - (4) work on harmful chemicals as prescribed in the Ministerial Regulations
  - (5) work on toxic microorganisms, which may be viruses, bacteria, fungi or other infections as prescribed in the Ministerial Regulations
  - (6) Work on poisonous substances, explosives or flammable objects except for jobs in fuel stations as prescribed in the Ministerial Regulations
  - (7) Driving or driving a fork or crane as prescribed in the Ministerial Regulations
  - (8) Power saw or power saw
  - (9) Subterranean work in a cave, tunnel or crater in the mountains
  - (10) Radioactive work as prescribed in the Ministerial Regulations
  - (11) cleaning of machinery or engine while machine or engine is running
  - (12) Work to be done on a scaffold that is ten meters above the ground
  - (13) Other works as prescribed in the Ministerial Regulations
- Do not get deposits or any guarantee
- Do no pay the wages to other people
- The Ministerial Regulations stipulate places where employers are prohibited from employing children under 18 years of age, B.E. 2559
- Prohibit employment young worker under eighteen years of age to work the follow:
  - (1) Aquatic Plants according to the factory law.
  - (2) Aquatic animals\* processing plant according to the Fisheries Decree, BE 2558.

\*Shrimp Size

#### **7. Women Labor, Harassment and Inhumane Treatment**

An Employer shall not require a female Employee to do any of the following work:

- (1) Mining or construction work to be performed underground, underwater, in a cave, or in a tunnel or mountain shaft, except where the nature of the work is not hazardous to the health and safety of the Employee;
- (2) Work must be done on the scaffolding ten meters or more above the ground
- (3) Producing or transporting explosive or inflammable material.

An Employer shall not require a pregnancy Employee perform any of the following work:

- (1) Work involving vibrating machinery or engines;
- (2) Driving or going on vehicle;
- (3) Lifting, carrying on her shoulders, carrying by head, pulling or pushing loads in excess of fifteen kilograms;
- (4) Working in a boat
- (5) Other works as prescribed in the Ministerial Regulations

An Employer shall not require a pregnancy Employee to work:

- (1) between 24.00 hours and 6.00 hours
- (2) overtime work or rest day or holiday work

Where an employee who is a pregnant woman works in the position of management, administrative financial or accounting officer, the employer may allow the employee to work overtime on working days as long as there are no adverse effects on the health of the employee who is pregnant with the prior consent of the employee.

In case of the women labor work between 24.00 hours to 06.00 hours and Labor Inspector is of the opinion that the work may be hazardous to her health and safety, the Labor Inspector shall report it to the Director-General or a person entrusted by the Director-General for consideration, and shall order the Employer to change or reduce the female Employee's working hours, as inspector deems appropriate, and the Employer shall comply with such order.

A female Employee who is pregnant shall be entitled to maternity leave of not more than ninety days for each pregnancy. Any Leave taken under paragraph one shall include holidays during the period of leave.

Whereas a female Employee who is pregnant presents a certificate from a first class physician certifying that she is unable to continue in her previous duties, the Employee shall be entitled to request the Employer to temporarily change her duties before or after delivery, and the Employer shall consider changing her duties to suitable work for such an Employee.

An Employer shall not terminate the employment of a female Employee on the grounds of her pregnancy.

## **8. Freedom of Association (Not applicable for outsource)**

Freedom of Association means the right of all personnel to form and join trade unions of their choice and to bargain collectively about working conditions and employment conditions which is basic human rights. Both employer and employee should be interconnected. If an employee has no freedom of association, collective bargaining cannot take place because employees cannot express their opinions freely. Employees must be free to choose an employee representative. And the employer must not interfere in the selection process.

The small and medium size enterprises are not established in the establishment or employees do not interest in establishing trade unions. However, it is important that employees have the rights to establish and be an employee representative. Employers must respect the rights of employees and not interfere with the employee association.

When an employee joins collective bargaining and negotiations with an employer. It is important for employers to respect workers' collective bargaining and not to interfere with the employee who participates in. In addition, if an employee wants to join a negotiating group with an employer in a required condition for work and legal benefits. Employers should allocate time to negotiate openly with employees and integrity act for obtaining positive results together.

There are many channels to develop the open communication between employees and employers positively. It is important that company should have willingness and seek for ways for negotiation. The establishment should find ways to listen employee complaints for negotiation and solutions and inform employees for collective action about working conditions. In addition, the company should have a process to listen the conflicts and grievances in a respectful way to each other, both employer and employee.

### **Freedom of Association (Comparable Laws)**

1. The company shall not terminate or do any action which may result in employees or employees not being able to continue working due to members of a union, petition making, or collective bargaining.
2. The company shall not interrupt employees or leaving the member of union.
3. The company shall not impede the union work or the employees' rights in union member.
4. The company shall not threaten both direct and indirect to employees to become members or leaving from members.
5. In a place of business with fifty Employees or more, an Employer shall arrange for the establishment of a welfare committee at the place of business, comprising of at least five Employee representatives. (Section 96-98)
6. An Employer shall hold a meeting with the welfare committee at a place of business at least once every three months; or upon request with appropriate reason.
7. Provide a complaint system

## **Section 2: Verification the traceability processed of labor and productivity**

Traceability verification is a process to ensure that brokers' labor management complies with basic labor law and business ethics and labor practices in working with TUG. It is also important to ensure that the output delivered by the broker is consistent with the culture of the farm and the plant throughout the process.

**The documents should be included in the review of the traceability process for the output of the pond as follow:**

1. Aquatic Animal Fry Movement Document  
*Data in FMD in Section 1, 2 and 3 completed*
2. Aquatic Animal Movement Document  
*Data in MD in Section 1, 2, 3 or other sections until the delivery to the processing plant*
3. Fish sampling documents (mixed size, size classification, pond separation)
4. Fish weighing documents captured from the farm of the pond. (Weight, size, weight, size, weight, pond)
5. Estimation of the remaining number of aquatic animals in the pond in case of catching some aquatic animals
6. Aquaculture document of pond handle
7. Broker lists
8. Register Shrimp Transport

**The documents should be included in the consideration of the traceability process of the captured labor of the pond.**

1. Company Work Rules
2. Employee List (if: employees more than 10)
3. Subcontractor list (If: transportation, selection, lane spray, shrimp pond cover)
4. Personnel file
5. Migrant registration
6. Employment agreement
7. Time record
8. Payroll
9. Annual Holidays announcement

### **Section 3: Criteria for interviewing and verifying the traceability process**

#### **Criteria for assessment**

Fundamental means the requirements which be strictly adhered to and the evaluation results must be consistent only.

N/A means No application of the requirement.

Y means Comply with the requirements.

N means Non-compliance with the requirements

**Audit Score Summary**

Total N/A	$\sum NA$
Total requirements	$103 - \sum NA$
Total conformity	$\sum Y$
Total minor non-conformity	$\sum N$
<b>Score =</b>	$\frac{\sum Y \times 100}{103 - \sum NA}$

**Audit Score Detail**

- Brokers who wish to have business with TU must pass the audit of Principles of good practice in collaboration with TU
  - In the case of a new broker (Never had business with TU before) the broker must resolve the non-conformity to complete before starting the business.
  - In the case of an current broker (have business with TU Prior audit the Labour Code) must have score more than 50.00%
- The results of the current cycle assessment will determine the frequency of the next audit as the table below**

Grade	Score	Follow up Time	Audit Frequency
A	80 – 100	Closing at site within 30 days	Every 3 years
B	70 – 79	Closing at site within 30 days	Every 2 years
C	60 – 69	Closing at site within 15 days	Every 2 years
D	50 – 59	Closing at site within 7 days	Every 1 years
F	≤ 49	Closing at site within 7 days	Discontinue and cancel pending order



**Criteria for the number of employees interviewed during the audit**

<b>Sample size for interview</b>		
<b>Total No of employees</b>	<b>Individual interview</b>	<b>Remark</b>
1 – 10	5 (individual)	
11 – 30	5 (individual)	
31 – 100	5 for 31-60, 10 for 61-100 (individual)	
100 up	15 (individual)	

**Traceability verification criteria**

**Number of traceability exams =  $\sqrt{\text{The number of farms that the brokers go to catch}}$**

**Appendix: Other relevant standards**

<http://tls.labour.go.th/>

- Good Labor Practices for Preliminary Seafood Processing Establishments in the Shrimp and Seafood Processing Industry in Thailand

<http://www.labour.go.th/th/doc/law/>

- The Ministerial Regulation prescribes places where employers are prohibited from employing employees who are under 18 years of age BE 2556.
- Ministerial Regulation on Labour Protection in Marine Fisheries, B.E.2557
- Ministerial Regulations on Labour Protection in Agriculture, BE 2557
- Labor Protection Act, B.E.2541
- Notification of Ministry of Labour about The criteria for obtaining collateral or collateral damage in work from employees, B.E. 2551
- Notification of the Ministry of Labor about the standardization of safety management, B.E.2549
- Ministerial Regulation about the Establishment of the Standard on Safety Management, B.E. 2553 (Addition from B.E. 2549)
- Ministerial Regulation on Welfare in the company, B.E. 2548

<http://bap.gaalliance.org/>

- Good Aquaculture Practices Standards Fish and shrimp farms (BAP Farm)

<http://www.brcglobalstandards.com/Manufacturers/Food/FoodIssue7.aspx>

- British Retailer Association, Vol. 7 (BRC Issue 7)

<http://www.acfs.go.th/standard/>

- Agricultural Standard Good practice in post-catchment care มทษ. 7430-2556
- Agricultural Standard Good Hygienic Practices for the Marco Polo Bridge, มทษ 7431-2559.

<http://food.fda.moph.go.th/law/>

- Notification of the Ministry of Public Health No. 61 BE 2524 (1981) on drinking water in Sealed Containers
- Notification of the Ministry of Public Health No. 135 (BE 2534) on drinking water in sealed containers (No. 2)

### Outsourcing Agreement

at.....

Date.....

This agreement is made between .....Address no.....  
Moo..... Soi..... Road..... Sub-district.....  
District..... Province..... hereinafter called the "Employer"  
and..... age ..... years address .....  
Moo..... Soi..... Road ..... Sub-district .....  
District ..... Province ..... ID Card no.....  
Issued by..... hereinafter called "Outsourcing"

The Employer and the Outsourcing for the consideration named agree as follow:

Article 1. The employer agrees to hire and the Outsourcing to do .....  
Address..... Sub-district ..... District .....  
Province..... to be accurate in accordance with the form and details of the work attached to the contract in all respects and shall be considered as part of this contract.

Article 2. The Outsourcing will accept the contract as specified in the Article 1 to complete within ..... days from the date of this contract, which falls on .....

In the case of any force majeure which causes the operation of the business must be suspended without the fault of the contractor, the contract will be extended the time limit in the preceding paragraph equal to the time lost due to such reasons.

If the Outsourcing cannot complete the work within the deadline, the employer has the rights to terminate the contract.

Article 3. On the contract date, the Outsourcing has the collateral as a guarantee of .....  
.....for percentage ..... of the price .....baht  
(.....) to be provided to the employer to ensure compliance with the contract.

Such collateral shall be insured after the date on which the business is completed within the stipulated liability of the contract. If the date of completion of the contract must be extended for any reason, the Outsourcing must bring the collateral to the employer to guarantee the full liability of the contract.

The employer shall return the collateral to the contractor when the Outsourcing is released from the contract.

Article 4. The Employer agrees to pay the Outsourcing for a total of ..... Baht  
(.....) by paying ..... installments based on the completion of the work.  
The details are as follows:

1<sup>st</sup> installment: Payment..... Baht (.....) Paid to the contractor when ..... which will be completed on (date.....)

2<sup>nd</sup> installment: Payment..... Baht (.....) Paid to the contractor when ..... which will be completed on (date.....)

3<sup>rd</sup> installment: Payment..... Baht (.....) Paid to the contractor when ..... which will be completed on (date.....)

4<sup>th</sup> installment: Payment..... Baht (.....) Paid to the contractor when ..... which will be completed on (date.....)

If the Employer fails to pay the Outsourcing under this contract regardless of any period. The contractor has the rights to terminate this contract. And any damages due to non-payment of contractual wages, the Employer is responsible for compensation for the Employer.

Article 5. The Outsourcing provides materials and equipment used in the work, as well as the necessary luggage. The materials and equipment will be qualified the quality and craftsmanship as stated in the details attached to this contract until completion.

Article 6. Amendment of the form and details of the contract, the employer shall notify the contractor in written document. The contractor has the right to accept or reject the change. The cost of such changes is the responsible by the employer by taking into consideration the necessity and the potential damage caused by such amendment.

Article 7. The Outsourcing promises not to take any work or part of this contract to another Outsourcing unless the contractor agrees that the work may not be completed within deadline in Article 2. The Outsourcing will take another part of the contract to another Outsourcing with the written permission of the employer.

Article 8. The Outsourcing must control the work at all times when the work is not completed or to assign another person to supervise the work on his behalf. In such case, the Outsourcing shall notify the employer of the name of the person designated in writing. The supervisor instead of the Outsourcing shall be responsible for the contractor. The order has been notified to the representative of the Outsourcing has been notified by the Outsourcing

Article 9. The Outsourcing must be responsible for the accident or danger. Any damage caused by the work of the Outsourcing. The Outsourcing shall be liable for any damage caused to the Employer's property located in the area under this contract by the action of the mechanic or the Outsourcing.

Article 10. The Employer shall inspect the work within 7 days from the date the Employer has notified. If the Employer cannot inspect the work within the deadline, the Employer shall be deemed to have accepted the work by default.

Article 11. If the Outsourcing sends the work beyond the contract date. But the Outsourcing has not terminated the contract. The Outsourcing allows the employer to do the following.

1. Fine the Outsourcing ..... baht per day (.....) from the day after deadline of the contract until the completion date.

2. Claims damage from the delay of the employer (if any).

3. Job control expense must be paid by the Outsourcing because the Employer must hire the supervisor after deadline of the contract until the completion date.....Baht per day. (.....)

During the fine period, if the Employer considers that the Outsourcing cannot continue the contract. The Employer has the rights to terminate the contract and exercise the contractual right other than the fine until the termination of the contract.

Article 12. If the Employer terminated the contract, the Outsourcing allows the Employer to do the following.

1. Confiscation defined in Article no.3 of the contract.

2. Allow the Employer charges more expenses to the Contractor because they hire another person to do the work until the work is complete.

3. Charging to the Outsourcing for supervisor hired by the Employer until the work is completed.

4. Charging for damage (if any) from the Outsourcing.

Article 13. When the Employer terminated the contract and the employer has to hire another person to clear the pending work until completion. If it appears that the remaining work paid is not enough for work, the Outsourcing must allow the employer to deduct that amount from the unpaid wage and have to pay the missing amount until completion.

After deduction for the fine and damages from wage of the contract and it still remain, the Employer will return the fund to the Outsourcing.

Article 14. The Outsourcing promises to keep cleaning all the time until the work is completed.

Article 15. Assume that the form and details in the attached contract is a part of the contract.

The Employer and the Outsourcing have read and understood the terms of this agreement throughout that's correct and signed the signature among the witness.

Signature ..... Employee  
( ..... )

Signature ..... Outsourcing  
( ..... )

Signature ..... Witness  
( ..... )

Signature ..... Witness  
( ..... )

**COMPANY WORK RULES EXAMPLE**

Name of an establishment.....  
 Location of head office address no..... Moo..... Soi.....  
 Road..... Sub-district.....District.....  
 Province..... Telephone no.....  
 Branch/ Factory/ Working unit address no..... Moo..... Soi.....  
 Road.....Sub-district..... District.....  
 Province..... Telephone no.....  
 Type of business.....

**1. Working day, Working hour and Rest time**

**1.1 Working day**

Head office: working for.....days a week  
 Form.....to.....  
 Branch/ factory/ working unit: working for.....days a week  
 From..... to.....

**1.2 Working Hour**

Head office: working for.....hours a day  
 From.....to.....  
 Branch/ Factory/ working unit: working for.....hours a day  
 From.....to.....  
 Shift work: working for.....hours a day  
 1<sup>st</sup> shift: from.....am./pm. to .....am./pm.  
 2<sup>nd</sup> shift: from.....am./pm. to .....am./pm.  
 3<sup>rd</sup> shift: from.....am./pm. to .....am./pm.  
 The work that may harms an employee’s health and safety as is/are (specify a type of work)  
 ..... and working for..... hours a day. From..... am./pm. to .....am./pm.  
 The work of land transportation: working for .....hours a day. From..... am./pm.  
 to.....am./pm.

**1.3 Rest time**

**a. During the normal working hours**

Head office:

From.....am./pm. To.....am./pm.

Branch/ Factory/ working unit:

From.....am./pm. To.....am./pm.

For young worker:

From.....am./pm. To.....am./pm.

And from.....am./pm. To.....am./pm.

For the work of land transportation:

From.....am./pm. To.....am./pm.

**b. Before the commencement of overtime work**

Where at least 2 hours of overtime work is required after normal working hours, the interval of rest time is.....minutes before the overtime commencement.

2. Holiday and Leave Rules

**2.1 Weekly holiday**

Head office: ..... day (s) a week

Branch/ Factory/ working unit: .....day (s) a week

An employer agrees to pay to an employee the weekly-holiday wages equal to the daily wages. (A daily, hourly or piece-based employee who excluded from this payment must be identified)

**2.2 Traditional holidays**

An employee is entitled to take traditional holidays with pay at least 13 days per annum as follows:

- 1. The Labour Day
- 2. ....
- 3. ....
- 4. ....
- 5. ....
- 6. ....
- 7. ....
- 8. ....
- 9. ....
- 10. ....
- 11. ....
- 12. ....
- 13. ....

(Or announcing in advance by an employer in each year)

If a traditional holiday falls on a weekly holiday, the next working day is substituted for such traditional holiday.

**2.3 Annual leave**

An employee who works consecutively for 1 year is entitled to take..... working days for annual leaves with pay. Thereof, the dates of leaves can be specified by an employer or under mutual agreement



and must be taken within the next following year. The accumulation of untaken leave (s) must be added up into the next years.

For the Employee who has not completed one year of service, the Employer may set annual Holidays for the Employee on a pro rata basis.

Whereas an employer did not use annual Holidays, the employer shall pay wages to the employee for annual holidays equal to the rest day rate.

Whereas an Employer terminates the employment without any fault made by the Employee under section 119, the Employer shall pay Wages to the Employee for annual Holidays in the year of termination equal to the proportion of annual Holidays to which the Employee is entitled, including annual Holidays accumulated under Section 30.

Whereas an employee resigns or whereas an employer terminates in case of no severance pay, an employee is entitled to be paid for accumulated annual holidays.

### 3. Rules of Overtime Work and Holiday Work

#### **Rules**

An employer may require an employee to work as necessary on working day, holiday overtime or holiday without his/her consent in writing in case of a work with its character or nature needs to be carried on or its stoppage must cause damage or an emergency work.

An employer may requires an employee to perform work on a holiday where the work is adhered to a hotel, an entertainment place, a transportation, a food shop, a beverage shop, a club, an association, or a medical establishment.

Any of work apart of those mentioned in paragraph 1 and 2 can be assigned o an employee to work overtime on a working day or a holiday, or work at working time on a holiday only where consent of the employee is conveyed in each occasion to an employer.

The overtimes on a working day and holiday, and the holiday work for the works mentioned in paragraph 1, and 3 and must totally not over 36 hours a week.

In a land-transport work, an employer can require an employee to work overtime for driving a vehicle only where he/she gains the employee's written consent but not xcess 2 hours a day except in a situation of uncontrollable force, accident or traffic obstacle.

#### **Overtime pay**

3.1 On w working day when an employee performs a work over the normal-working hours, he/she is entitled to the overtime pay as follows:

- a. Not less than 1.5 times of hourly wages on a working day for each hour of overtimes.

b. Not less than 1.5 times of piece-based wages per unit in a working day for each unit performed in overtime for an employee who receives wages on piece-based rate.

3.2 On a holiday when an employee performs a work over a normal working hours defined for a working day, he/she is entitled to the holiday overtime pay as follows:

a. 3 times of hourly wages on a working day for each hour of overtimes performed.

b. Not less than 3 times of piece-based wages per unit on a working day for each unit performed in overtime for an employee who receives wages on piece-based rate.

### **Holiday-work pay**

3.3 An employee with entitlement of holiday pay, weekly-holiday pay, traditional-holiday pay and an annual-leave pay is entitled at least onetime of hourly wages on a working day for each hour of work on a holiday For an employee who receives wages on piece-based rate, the wages are at least onetime of piece-based wages per unit for each unit performed on a holiday.

3.4 An employee without entitlement of weekly holiday wage is entitled at least 2 times of hourly wage on a working day for each working hour on a holiday. For an employee who receives wages on piece-based rate, the wages are at least 1 time of piece-based wages for each piece performed on a holiday.

## **4. Time and place for paying wages, overtime wages, holiday wages and overtime-**

4.1 Unless otherwise agree in mutual for the interest of an employee, an employer must pay wages, overtime wages, holiday wages, overtime-holiday wages and other benefits to the employee at least 1 time a month at a workplace of the employee. The payment can only be made at the other places or in other ways (e.g. via a bank account) with consent of an employee.

4.2 In case of dismissal or resignation is made before the time of wage payment, overtime payment or holiday work payment etc., an employer must pay such payment to an employee within 3 days of the date of dismissal or the resignation.

## **5. Leave and its rule**

5.1 Sick leave. An employee is entitled to a sick leave with pay as long as she/he is actually sick of not excess 30 working days a year.

An employer can request a certificate issued by a first-class physician or by a governmental medical establishment (e.g. health center) in case of leave for 3 working days or more. An employee must inform the employer if she/he is unable to present such certificate. In case that a physician is provided by the employer, a certificate will be issues by such physician except the employee is unable to examined.

A sick leave does not include any day that an employee cannot work because of occupational injury or sickness, or a maternity leave.

5.2 Leave for sterilization. An employee is entitled to a leave with pay for sterilization and a leave related to sterilization within a period specified in a certificate issued by a first-class physician.

5.3 Leave for necessary business. An employee is entitled to a necessary business leave for .....days a year. (With pay or without pay must be clearly specified)

5.4 Leave for military service. An employee is entitled to, with not over 60 days a year pay, a military service leave for the military inspection, military drilling or for readiness testing under a law concerning to military service. (a conscription is excluded)

5.5 Leave for training or knowledge development. An employee is entitled a leave for training course or knowledge development as following:

a. For the interest of labor and labor welfare or the increase of skill in order to improve an employee's working efficiency.

b. For an educational examination set up or permitted to set up by the government but not including to a further educational leave.

To take this leave, an employee must inform an employer at least 7 days prior to commencing date and the employee can stop working only when a permission of the employer is made. (With pay or without pay must be clearly specified)

An employee under 18 years of age is entitled to take a leave with pay of not over 30 day a year for a seminar, a training course or other matters that set up by an educational isitute, a government agency or a private unit approved by the Director-General of Department of Labour Protection and Welfare. To take the leave, the employee must inform it to an employer prior a date of commencement with reason of the leave and information concerned (if any).

5.6 Maternity leave. A pregnant employee is entitled to take a maternity leave of not excess 90 days per each pregnancy and of not over 45 days with pay. In this regards, all holidays exist during are included into the 90 days leave.

The pregnant employee should inform an employer of her pregnancy.

The pregnant employee is entitled to request an employer for temporarily change of her job, either pre or post-delivery. The employee must present a certificate issued by a first-class physician for approving the inability to continue the present assignment. The employer is to consider in changing to the employee a suitable job.

## 6. Discipline and disciplinary

- 6.1 An employee must follow the Work Rules.
- 6.2 An employee must comply and follow a lawful order of a commander.
- 6.3 An employee must perform work on the time assigned and make the working time in record.
- 6.4 An employee must perform work with honor and must not persecute or intend to cause any damage to an employer or other employees.
- 6.5 An employee must perform work actively with utmost effort.
- 6.6 An employee must follow a regulation on occupational safety.
- 6.7 An employee, as necessary or as suitable to his duty, must maintain machine, tool and equipment to be in a good condition and well keeping.
- 6.8 Employees must carefully carry out surveillance and prevention against the potential loss or damage made by a person or other ominous incidents to property in working place or factory compound with full of ability.
- 6.9 Employees must keep a workplace or factory compounds clean and clear.
- 6.10 An employee must not make a brawl with or an assault against any person, in a workplace or factory compounds.
- 6.11 An employee must not take an illegal drug, a lethal weapon or an explosive substance into a workplace or factory compound.

An employee who acts against this discipline will be warned in oral, warned in writing, suspended or dismissed according to the leave of his/her offence.

Whereas an Employee alleged to have committed an offence is under investigation by an Employer, the Employer may order the suspension from work of the Employee during such investigation. The Employer shall issue a written order of the suspension stating the offence committed and the period of suspension of not exceeding seven days, and notify the Employee prior to the suspension.

During the suspension under paragraph one, the Employer shall make payments to the Employee according to the rate specified in the work rules or the agreement on conditions of employment agreed between the Employer and Employee. Such rate shall not be less than fifty percent of the Wages of a Working Day received by the Employee prior to his or her suspension.

Upon the completion of investigation, if it appears that the Employee is not guilty, the Employer shall pay Wages to the Employee equivalent to the Wages of a Working Day from the date of the suspension. The

payment made by the Employer shall be included as part of the Employee's Wages under this Section plus interest at a rate of fifteen per cent per annum.

## 7. Complaint

### 7.1 Scope and meaning

Complaint is a process that an employee submits to an employer concerning a working dissatisfaction or a working trouble either on a working condition, an employment condition, a commanding procedure, a working command or assignment, a payment of remuneration or other benefits, or an inappropriate act between an employee and a commander or an employer or among the employees. The submission is made in order to ask an employer to solve the working dissatisfaction or settle a working trouble that leads to a good relationship between the employer and the employee and the work done be a pleasant employee.

### 7.2 Step and process

An employee with working dissatisfaction or trouble as mentioned above should submit a complaint directly and rapidly to a commander or a supervisor. In case of a matter to be complained involving with the commander and the supervisor, the complaint is submitted to a next higher-level person.

In submission, the complaint must be filled into a form designed. (For having a same format and gained significant information sufficiently)

### 7.3 Investigation and consideration

Whenever a complaint is received, a commander must urgently conduct an investigation to find out the truth, as much as possible. The commander can conduct an investigation with or without any assistance of an employer. An employer who makes the complaint should provide the fact concerned to the commander.

When the investigation is finished, the commander must consider that is this matter under his/her duty and responsibility. If it is, he/she must urgently make it dissolved. Then, he/she must urgently make it dissolved. Then, he/she must inform the complaining employee and make a report the result to an employer.

If that matter is over his/her duty and responsibility, he/she must submit the complaint with the recommendation or opinion involved for setting to a higher commander.

The higher commander must carry out an investigation and consideration on the complaint under a requirement similar as the first-level commander is assigned.

The commander in each level must urgently conduct the complaining process of not more 7 days from the date of receiving the complaint.

#### **7.4 Procedure on complaint settlement**

Once a commander in each level carried out consideration, dissolution and settlement on the complaint, and the result was sent to a complaining employee, the employee must inform the commander if he/she satisfies with. Without satisfaction, she/he can make an appeal by making appellate matter filled in form designed by an employer within 7 days of acknowledgement of the result sending by a first-level commander.

The top commander will make consideration and dissolution or settlement on the appeal complained and inform to a complaining employee the result within 15 days.

If a complaining employee is not satisfied with the appellate result, she/he can take her/his right seeking for other lawful procedures. (May submitting to an employee for establishing an arbitrator to make an adjudication on the matter)

#### **7.5 Protection of complainant and person involved**

Accepted that a good faith of complaint creates the common benefit for both employer and employee. Accordingly an employee who submits a complaint, a testimony, an information, a fact or an evidence involved, and an employee who carries out a consideration with good faith on the complaint are assured by an employer that the conduct they made will not be a reason or deemed as a reason for dismissal, punishment or other actions affecting such employees.

## **8. Dismissal, severance pay and special**

### **8.1 Normal dismissal**

#### **Dismissal means;**

- (1) any act that an employer refuses an employee to work and refuses to pay wages because of an expiry of employment contract or other causes;
- (2) when an employee does not work and receives no wages because an employer cannot continue the business.

The severance pay must be paid to an employee dismissed as following;

- a. an employee who has worked for an uninterrupted period of 120 days less than 1 year must receive payment of not less than his/her last rate of wages for 30 days, or of not less than his/her wages for the last 30 days for an employee who receives wages on a piece rate basis;

- b. an employee who has worked for an uninterrupted period of 1 year but less than 3 years must receive payment of not less than his/her last rate of wages for 90 days, or of not less than his/her wages for the last 90 days for an employee who receives wages on a piece rate basis.
- c. An employee who has worked for an uninterrupted period of 3 years but less than 6 years must receive payment of not less than his/her last rate of wages for 180 days or of not less than his/her wages for the last 180 days for an employee who receives wages on a piece rate basis;
- d. An employee who has worked for an uninterrupted period of 6 years but less than 10 years must receive payment of not less than his/her last rate of wages for 240 days for an employee who receives wages on a piece rate basis; or
- e. An employee who has worked for an uninterrupted period of 10 years or more must receive payment of not less than his/her last rate of wages for 300 days, or of not less than his/her wages for the last 300 days for an employee who receives wages on a piece rate basis.

#### **The exception to severance pay**

An employer is entitled not to pay the severance pay to an employee dismissed in each following acts of the employee;

- (1) performing his/her duty dishonestly intentionally committing a criminal offence against an employer;
- (2) intentionally causing damage to an employer;
- (3) causing serious damage to an employer as a result of negligence;
- (4) violating the lawful and just work rules or regulations or orders of an employers, and after receiving written warning of an employer. In this regard, such written warning must be valid of not more than 1 year. Except in a serious case, an employer is no need to give warning.
- (5) Leaving his/her duty without justifiable reason for 3 consecutive working days regardless of there is holiday in between or not; or
- (6) Being imprisoned by a final judgment, except there is the penalty for offense arising out of negligence or for petty offense.

#### **Termination of employment contact**

- (A) An employment with the time end, a contract is terminated when the employment period is complete. In this regards, en advance notice by an employer or an employee is not needed.
- (B) An employment with timeless, an employer or employee may terminate a contract by giving, in written and not less than one round of wages-payment, to the other party an advance notice.

**a. The termination of employment as a result of the reorganization of an undertaking, production line, sale or service**

Due to the adoption of machinery or the change of machinery or technology which cause a reduction of the number of employees, an employer must acts as following:

- (1) Notice, at least 60 days prior to the dismissal, to the dismissal, to the potentially dismiss employee (s) the date specified, a dismissal reason and the name-list of such employee(s). In case that an employer is unable to give a notice or a notice is made but less than 60 days, the special severance pay equal to the last 60 days wages or equal to the last wage of 60 days work for an employee who receives wages on piece-based rate will be palced instead.
- (2) Pay an employee with more than 9 consecutive years of work the special severance pay in addition to the severance pay under Article 8,1, This special severance pay per 1 year service is equal to the last 15 days wage or the last wage of 15 ays for an employe who receives wages on piece-based rate. The pspecial severance pay is not over the last 360 days wage or the last wage of 360 days work for an employee who receives wages on piece-based rate.

If a working period is not complete 1 year but its fragment is over 180 days, the fragment is deemed as a one-year service.

**8.3 Relocation of establishment**

Where a relocation of establishment is affect to a normal living of an employee or his family, an employer must inform to an employee at least 30 days prior to the relocation. In case that an employer is unable to give a notice or a notice is made but less than 30 days, a special severance pay equal to the last 30 days wages or equal to the last wage of 30 days work for a piece-based employee will be placed instead.

An employee who not willing to work at the relocation place has a right to terminate a contract and also has another right to a special severance pay of at least 15% of the severance pay under Article 8.1

An employee has a right to submit, with 30 days of relocation, to the Committee of Labour Welfare for making consideration on whether an employer must give an advance notice or an employee is entitle to terminate a contract with a special severance pay.





Date of notification.....  
Signature.....  
(.....full name.....)  
Position.....  
Date.....

**Ministerial Regulation on Labor Protection in Agriculture**

**Chapter 1 General Provisions**

**Section 7.** A claim for or the acquisition of a right or benefit under this Act shall not deprive an Employee of a right or benefit to which he or she is otherwise entitled under other laws.

**Section 8.** The Minister shall have the power to appoint the competent official whose qualification is not lower than a Bachelor's degree in law to have the power to institute a prosecution or defend a labor suit for an Employee or a statutory heir of a deceased Employee, and, upon notification to the court by the Minister of Labor and Social Welfare, to have the power to continue any proceedings to their completion.

**Section 9.** Whereas an Employer fails to pay back a deposit under Section 10 paragraph two, or fails to pay Wages, Overtime Pay, Holiday Pay or Holiday Overtime Pay within the period prescribed under Section 70, Severance Pay under Section 118, or Special Severance Pay under Section 120, Section 121 and Section 122, the Employer shall pay interest to the Employee at a rate of fifteen percent per annum during the default period.

Whereas an Employer intentionally fails to pay back or make a payment under paragraph one without reasonable cause, after the lapse of seven days from the due date of restitution or payment, the Employer shall pay to the Employee additional fifteen percent of the amount due every for even days that the amount remains outstanding.

Whereas an Employer is ready to return or to pay the money under paragraph one and paragraph two and remits the money to the Director-General or to a person entrusted by the Director-General in order to pay to the Employee, the Employer shall not pay any interest or additional money as from the date of remission of such money.

**Section 10.** Under Section 51 paragraph two, an Employer shall not demand or accept a deposit for employment or damage of work from an Employee, except for work where the Employee is required to be responsible for money or property of the Employer, which may cause damage to the Employer. The description or nature of work of which an Employer is allowed to demand or accept a deposit from an Employee, as well as the amount of money and the means of keeping, shall be in accordance with the rules and procedures prescribed by the Minister.

Whereas an Employer demands or accepts a deposit or makes a guaranteed contract with an Employee to compensate for damage done by the Employee, upon the termination of employment by the Employer or the resignation by the Employee or the expiry of the guaranteed contract, the Employer shall pay back the deposit thereof plus interest, if any, to the Employee within seven days from the date of the termination of employment by the Employer or the resignation by the Employee or the expiry of the guaranteed contract, as the case may be.

**Section 11.** The occurrence of debt as a result of a failure of an Employer to pay Wages, Overtime Pay, Holiday Pay, Holiday Overtime Pay, Severance Pay, Contributions, Supplementary Contributions or additional money to an Employee or to the Department of Labor Protection and Welfare, as the case may be, shall have a preferential right on all property of the indebted Employer at the same rank as the preferential right in taxes and duties under the Civil and Commercial Code.

**Section 11/1.** Where an entrepreneur has entrusted any individual to recruit persons to work, which is not a business of employment services, and such work is any part of manufacturing process or business operation under the entrepreneur's responsibility, and regardless of whether such person is the supervisor or takes the responsibility for paying wages to the persons who perform work, the entrepreneur shall be deemed as an Employer of such workers. The entrepreneur shall provide contract employees, who perform work in the same manner as employees under the employment contract, to enjoy fair benefits and welfare without discrimination.

**Section 12.** Whereas an Employer is a Sub-contractor, all the Sub-contractors before him, if any, including the First Contractor, shall be jointly liable with the Sub-contractor who is the Employer for payment of Wages, Overtime Pay, Holiday Pay, Holiday Overtime Pay, Severance Pay, Special Severance Pay, Contributions, Supplementary Contributions or additional money.

The First Contractor or Sub-contractors under paragraph one shall have the right to take recourse for the money paid under paragraph one from the Sub contractor who is the Employer.

**Section 13.** Whereas there is a change of Employer in any business due to a transfer, inheritance, or in any other cases, or whereas an Employer is a juristic person and a change, transfer or merger with another juristic person is registered, all rights due to an Employee from the previous Employer shall continue to be due to the Employee, and the new Employer shall assume all rights and duties relating to such Employee.

**Section 14.** An Employer shall treat an Employee properly in accordance with the rights and duties as prescribed under the Civil and Commercial Code unless otherwise prescribed in this Act.

**Section 14/1.** A contract of employment between an Employer and an employee, work rule, regulation or order of an Employer result in the Employer being in exploitation of the Employee, the Court shall have a power to order such contract of employment, work rule, regulation or order being enforceable only to the extent as it is fair and reasonable.

**Section 15.** An Employer shall treat male and female Employees equally in employment unless the description or nature of work prevents such treatment.

**Section 16.** An Employer or a person who is a chief, supervisor, or inspector shall be prohibited from performing an act of sexual harassment against an Employee who is a woman or a child.

**Section 17.** A Contract of Employment shall expire upon the completion of the period specified in the Contract of Employment without the need to give advance notice.

Whereas no definite period is specified in the Contract of Employment, an Employer or an Employee may terminate the contract by giving advance notice in writing to the other party before or at the date a wage payment falls due in order to take effect on the following date a wage payment falls due in order to take effect on the following date a wage payment falls due, but advance notice of more than three months is not required.

Whereas an Employer terminates a Contract of Employment, if the Employer fails to state any reasons for termination in the notice of termination of the Contract of Employment, the Employer shall not subsequently cite a cause under Section 119.

Upon termination of the Contract of Employment under paragraph two, the Employer may pay Wages, at the amount to be paid, up to the due time of termination specified in the notice and dismiss the Employee immediately. The payment of Wages under this paragraph shall be deemed as remuneration paid to the Employee under Section 582 of the Civil and Commercial Code.

Advance notice under this Section shall not apply to the termination of employment under Section 119 of this Act, and Section 583 of the Civil and Commercial Code.

**Section 18.** Whereas this Act prescribes that an Employer is required to notify any act to a Labor Inspector, the Employer shall notify the Labor Inspector in person, by mail or facsimile, as the case may be, at the place specified by the Director-General.

**Section 19.** For the purpose of calculating the period of employment of an Employee under this Act, Holidays, Leave, days off permitted by the Employer for the benefit of the Employee, and days off ordered by the Employer for the benefit of the Employer shall also be counted in the period of employment of the Employee.

**Section 20.** Whereas an Employee has not worked continuously on account of an intention of the Employer to deprive such Employee of any right under this Act, irrespective of which duty assigned by the Employer to the Employee and of how lengthy a lapse between each period of employment is, each period of employment shall be counted together for the purpose of the acquisition of any right by such Employee.

**Section 21.** Whereas this Act requires that an Employer is required to carry out any act for which expenses are incurred, the Employer shall bear all expenses for such act.

## **Chapter 2 Employment of Labor in General**

**Section 37.** An Employer shall not require an Employee to lift, carry on his or her shoulders, carry on his or her head, pull or push loads in excess of the weights prescribed in the Ministerial Regulations.

## **Chapter 3 Employment of Women**

**Section 38.** An Employer shall not require a female Employee to do any of the following work:

- (1) Mining or construction work to be performed underground, underwater, in a cave, or in a tunnel or mountain shaft, except where the nature of the work is not hazardous to the health and safety of the Employee;
- (2) Work must be done on the scaffolding ten meters or more above the ground;
- (3) Producing or transporting explosive or inflammable material; Or

(4) Other work as prescribed in the Ministerial Regulations.

**Section 39.** An Employer shall not require a female Employee who is pregnant to work between 22.00 hours and 6.00 hours, to work overtime, to work on a Holiday, or to perform any of the following work:

- (1) Work involving vibrating machinery or engines;
- (2) Driving or going on vehicle;
- (3) Lifting, carrying on her shoulders, carrying by head, pulling or pushing loads in excess of fifteen kilograms;
- (4) Working in a boat; or
- (5) Other works as prescribed in the Ministerial Regulations.

**Section 39/1.** An Employer shall be prohibited to require a female employee who is pregnant to work between 10.00 p.m. and 06.00 a.m., to work overtime or to work on holidays. Where the female employee who is pregnant works in an executive position, academic work, clerical work or work relating to finance or accounting, the Employer may require the employee to work overtime in the working days as long as there is no effect on the health of pregnant employee and with prior consent of the pregnant employee on each occasion.”

**Section 40.** Whereas an Employer requires a female Employee to work between 24.00 hours and 6.00 hours and the Labor Inspector is of the opinion that the work may be hazardous to her health and safety, the Labor Inspector shall report it to the Director-General or a person entrusted by the Director-General for consideration, and shall order the Employer to change or reduce the female Employee’s working hours, as inspector deems appropriate, and the Employer shall comply with such order.

**Section 41.** A female Employee who is pregnant shall be entitled to maternity leave of not more than ninety days for each pregnancy.

Any Leave taken under paragraph one shall include Holidays during the period of Leave.

**Section 42.** Whereas a female Employee who is pregnant presents a certificate from a first class physician certifying that she is unable to continue in her previous duties, the Employee shall be entitled to request the Employer to temporarily change her duties before or after delivery, and the Employer shall consider changing her duties to suitable work for such an Employee.

#### **Chapter 4: Employment of Young Workers**

**Section 47.** An Employer shall not require a young worker under eighteen years of age to work between 22.00 hours and 6.00 hours unless written permission is granted by the Director-General or a person entrusted by the Director-General.

The Employer may require a young worker under eighteen years of age who is a performer in film, theater or other similar acts to work during such hours; provided that the Employer shall provide the young worker with proper rest periods.

**Section 49.** An Employer shall not require a young worker under eighteen years of age to perform any of the following work:

- (1) Metal smelting, blowing, casting or rolling;
- (2) Metal pressing;
- (3) Work involving heat, cold, vibration, noise and light of an abnormal level which may be hazardous as prescribed by the Ministerial Regulations;
- (4) Work involving hazardous chemical substances as prescribed in the Ministerial Regulations;
- (5) Work involving poisonous microorganisms which may be a virus, bacterium, fungus or any other germs as prescribed in the Ministerial Regulations;
- (6) Work involving poisonous substances, explosive or inflammable materials, other than work in a fuel service station as prescribed in the Ministerial Regulations;
- (7) Driving or controlling a forklift or a crane as prescribed in the Ministerial Regulations;
- (8) Work using an electric or motor saw;
- (9) Work that must be done underground, underwater, in a cave, tunnel or mountain shaft;
- (10) Work involving radioactivity as prescribed in the Ministerial Regulations;
- (11) Cleaning of machinery or engines while in operation;
- (12) Work which must be done on scaffolding ten meters or more above the ground; or
- (13) Other work as prescribed in the Ministerial Regulations.

**Section 51.** An Employer shall not pay the Wages of a young worker to any other.

An Employer shall not demand or accept a deposit of any purposes from a young worker.

Whereas an Employer, a young worker, or the parent or guardian of a young worker has paid or received money or any other benefit in advance of employment, at the time of employment or before each period of payment to the young worker, that payment shall not be deemed to be the payment or receipt of Wages for the young worker and the Employer shall not deduct such money or benefits against Wages which are payable to the young worker at the specified time.

## **Chapter 5: Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay**

**Section 53.** Whereas the work is of the same nature and quality and equal quantity, an Employer shall fix equal Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay to be paid to an Employee, notwithstanding that the Employee is male or female.

**Section 55.** An Employer shall pay Wages, Overtime Pay, Holiday Pay, Holiday Overtime Pay and other pecuniary benefits related to employment to an Employee at the place of work of the Employee. If the payment is to be made elsewhere or by other means, the consent of the Employee must be obtained.

**Section 57.** An Employer shall pay Wages to an Employee for sick leave under Section 32 equivalent to Wages of a Working Day throughout the Leave period, but not exceeding thirty Working Days per year.

Whereas an Employee takes Leave for sterilization under Section 33, the Employer shall pay Wages to the Employee for such Leave.

**Section 70.** An Employer shall pay Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay correctly and in accordance with the following time:

(1) whereas Wages are calculated on a monthly, daily, or hourly basis, on the basis of another period of not more than one month, or on a piece rate basis or payment shall be made not less than once a month, unless otherwise agreed upon in favor of the Employee;

(2) whereas Wages are calculated other than prescribed in (1), payment shall be made at a time agreed between the Employer and the Employee; and

(3) Overtime Pay, Holiday Pay and Holiday Overtime Pay shall be paid not less than once a month.

Whereas an Employer terminates the employment of an Employee, the Employer shall pay the Employee all Wages, Overtime Pay, Holiday Pay, and Holiday Overtime Pay to which the Employee is entitled within three days from the date of the Employee's termination.

**Section 76.** An Employer shall not make any deductions from Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay except the deductions made for:

(1) payment of income tax in an amount shall be paid by an Employee or other payments provided by law;

(2) payment of labor union dues according to the regulations of a labor union;

(3) payment of debts owed to the saving cooperatives or other cooperatives of the same description, or of debts relating to beneficial to of the Employee solely, with the prior consent of the Employee;

(4) payment as a deposit under Section 10, or as compensation to the Employer for damage caused by the Employee either willfully or with gross negligence, with the prior consent of the Employee; or

(5) payment as Contributions under an agreement relating to a provident fund.

The deductions under (2), (3), (4) and (5) for each case shall not be made in excess of ten per cent, and in aggregate shall not exceed one in fifths of the money to which the Employee is entitled at the time of payment under Section 70, except with the prior consent of the Employee.

**Chapter 6: Wage Committee (Not applicable)**

**Chapter 7: Welfare (Not applicable)**

**Chapter 8: Occupational Safety, Health and Environment (Not applicable)**

**Chapter 9: Supervision**

**Section 112.** An Employer who employs ten or more persons shall provide the record of Employees in Thai and shall keep such record at the place of business or the Employer's office available for inspection by a Labor Inspector during working time.

The record of Employees under paragraph one shall be done by Employer within fifteen days from the date of employment of an Employee.

**Section 113.** The record of Employees shall contain at least the following particulars:

- (1) name and surname;
- (2) sex;
- (3) nationality;
- (4) date of birth or age;
- (5) present address;
- (6) date of commencement of employment;
- (7) position or duties;
- (8) rate of Wages and other benefits agreed to be given to the Employee by the Employer; and
- (9) date of the termination of employment.

When a change in any item contained in the record of Employee is required, the Employer shall amend completely the record of Employees within fifteen days from the date of changing, or within fifteen days from the date that the Employee notified the Employer of the change.

**Section 114.** An Employer who employs ten or more employees shall provide documents relating to the payment of Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay, which shall contain at least, the following particulars:



(1) working days and working time;

(2) work done by Employees who receive Wages on a piece rate basis; and

(3) rate and amount of Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay received by each Employee.

Upon the payment of Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay to Employees, the Employer shall arrange for the Employees to sign the documents under paragraph one as evidence of payment.

The particulars in the documents under paragraph one may be contained in one volume or several volumes.

Whereas the Employer pays Wages, Overtime Pay, Holiday Pay or Holiday Overtime Pay to Employees by direct transfer to deposit accounts with commercial banks or other financial institutions, the document of the Employee's deposit account transferring shall be deemed to be the evidence of payment.

**Section 115.** An Employer shall keep the record of Employees for not less than two years from the date of termination of employment of each Employee; and the Employer shall keep the documents relating to the payment of Wages, Overtime Pay, Holiday Pay or Holiday Overtime Pay of not less than two years from the date of such payment.

Whereas there is a complaint made under Chapter 12 of this Act, or there is a labor dispute under the law on labor relations, or a lawsuit is commenced, the Employer shall retain the record of Employees and documents relating to the payment of Wages, Overtime Pay, Holiday Pay and Holiday Overtime Pay until the order of judgment in respect of such matter has been final.

**Section 115/1** For the purpose of performing duties of the Labour Inspector under Section 139, an Employer who employs 10 employees or more shall submit a report form on conditions of employment and working conditions to the Director-General or a person entrusted by the Director-General within every January. The Labour Inspector shall provide the form as prescribed by the Director-General to the employer within every December. Where there is any change in the facts on conditions of employment and working conditions submitted under paragraph one, the Employer shall inform the Director-General or a person entrusted by the Director-General in writing of the change within the following month after the existence of such change.

**Chapter 10: Suspension from Work (Not applicable)**

**Chapter 11: Severance Pay (Not applicable)**

**Chapter 12: Lodgment and Consideration of Complaints**

**Section 123.** Whereas an Employer violates or fails to comply with an Employee's entitlement to receive any payments prescribed under this Act, and the Employee wishes the Labor Inspector to enforce the entitlement

under this Act, the Employee is entitled to lodge a complaint, in a form prescribed by the Director-General, to the Labor Inspector of the locality where the Employee works or where the Employer's domicile is located.

With regards to any entitlement to receive any payments prescribed under this Act, if an Employee is dead, his or her statutory heir is entitled to lodge the complaint to the Labor Inspector.

**Section 124.** If a complaint has been lodged under Section 123, a Labor Inspector shall investigate the facts and make an order within sixty days from the date of receipt of the complaint.

If, as the result of a valid reason, the Labor Inspector is unable to make an order within the period prescribed under paragraph one, the Labor Inspector shall apply with reasons to the Director-General or a person entrusted by the Director-General for an extension of the period of time, and the Director-General or person so entrusted may grant permission as deemed appropriate, but the extension of time shall not exceed thirty days from the expiry date prescribed under paragraph one.

Upon investigation, if the Labor Inspector finds that the Employee is entitled to any money to be paid by the Employer as prescribed under this Act, the Labor Inspector shall order the Employer to pay such money to the Employee or to the statutory heir of the deceased Employee in the form prescribed by the Director-General within fifteen days from the date of having been notified or having been deemed to acknowledge the order.

The Employer shall pay the money prescribed under paragraph three to the Employee or to the statutory heir of the deceased Employee at the work place of the Employee. Upon request by the Employee or the statutory heir of the deceased Employee, the Labor Inspector shall order the Employer to pay such money at the office of the Labor Inspector or at another place as agreed by the Employer and the Employee or the statutory heir of the deceased Employee.

Whereas the Employee or statutory heir of the deceased Employee fails to receive such money within fifteen days as from the date of the Labor Inspector issuing the order, the Labor Inspector shall remit such money to the Employee Welfare Fund by depositing it into the bank. The interest or fruit producing from such deposit shall belong to the Employee or the statutory heir of the deceased Employee who is entitled to receive such money.

Whereas the Labor Inspector deems that the Employee or the statutory heir of the deceased Employee is not entitled to the money under Section 123, the Labor Inspector shall make such an order and notify the Employer and Employee or the statutory heir of the deceased Employee in writing.

**Section 125.** Where the Labor Inspector has made an order under section 124, if the Employer, Employee or statutory heir of the deceased Employee is not satisfied with such order, he or she shall bring the case to the Court within thirty days from the date of receipt of the order.

Whereas the Employer, Employee or statutory heir of the deceased Employee fails to bring the case to the Court within the specified period of time, such order shall be as final.

Whereas the Employer brings the case to the Court, he or she must deposit money with the Court equal to the outstanding amount that the Employer is required to pay to the Employee, prior to file the case.

Whereas the case is final and the Employer is liable to pay money of any amount to the Employee or to the statutory heir of the deceased Employee, the Court shall have the power to pay the money deposited with the Court by the Employer to the Employee or to the statutory heir of the deceased Employee.

### **Chapter 13: Employee Welfare Fund**

**Section 126.** There shall be an Employee Welfare Fund in the Department of Labor Protection and Welfare which aims to be a supporting fund for Employees in case of termination of employment or death, or in any other case as prescribed by the Employee Welfare Fund Committee.

**Section 127.** The Employee Welfare Fund shall consist of:

- (1) Contributions and Supplementary Contributions;
- (2) money belonging to the Employee Welfare Fund under Section 133 and Section 136;
- (3) additional money under Section 131;
- (4) fines received from the punishments of offenders under this Act;
- (5) donated money or properties;
- (6) subsidies paid by the Government;
- (7) other income; and
- (8) interest or fruit of the Employee Welfare Fund.

The Employee Welfare Fund shall arrange the following accounts:

- (1) an account of each member stating Contributions, Supplementary Contributions and fruit produced by such money; and
- (2) a central account stating particulars of other money besides that in (1).

**Section 128.** A fine which is remitted under Section 127(4) into the Employee Welfare Fund and the due of remittance of such money shall be made under the rules prescribed by the Employee Welfare Fund Committee which are published in the Government Gazette.

**Section 129.** For the benefit of the execution of this Act, the money and properties of the Employee Welfare Fund under Section 127 shall belong to the Department of Labor Protection and Welfare without having to be remitted to the Ministry of Finance as state revenue.

There shall be an Employee Welfare Fund Committee consisting of the Permanent Secretary of the Ministry of Labor and Social Welfare as chairman, a representative of the Ministry of Finance, a representative of the Board of National Economic and Social Development, a representative of Bank of Thailand, five representative of Employers and five representative of Employees appointed by the Minister as members, and the Director-General of the Department of Labor Protection and Welfare as a member and secretary.

The Employee Welfare Fund Committee shall have powers and duties as follows:

- (1) to prescribe policy concerning the administration and payment of the Employee Welfare Fund with the consent of the Minister;
- (2) to consider and comment to the Minister on the issue of Royal Decrees, Ministerial Regulations, Notifications, or Rules for execution under this Act;
- (3) to make rules of the receipt, payment, and safe-keeping of money belonging to the Employee Welfare Fund with consent of the Minister;
- (4) to make rules of the provision of benefits to the Employee Welfare Fund with consent of the Minister;
- (5) to allocate money belonging to the Employee Welfare Fund not exceeding ten per cent of the fruit per annum as an administration expense of the Employee Welfare Fund; and
- (6) to perform other matters as prescribed to be powers and duties of the Employee Welfare Fund Committee under this Act or any other laws or as assigned by the Minister.

Section 78 paragraph two, Section 80, Section 81, Section 82 paragraph one, Section 83 and Section 84 shall apply to the Employee Welfare Fund Committee *mutatis mutandis*.

**Section 134.** For the payment of money allocated from the Employee Welfare Fund in cases other than that prescribed under Section 133, the Employee Welfare Fund Committee shall prescribe the rules of payment of the supporting money, the rate and the period of payment by considering the amount of the Employee Welfare Fund which is not in the part to be paid under Section 133.