CIRCULAR

PROVIDING THE MODELS AND CONTENTS OF LABOR SUPPLY CONTRACT AND GUEST WORKER CONTRACT

Pursuant to Clause 3, Article 17 of the November 29, 2006 Law on Vietnamese Guest Workers;

Pursuant to the Government’s Decree No. 106/2012/ND-CP of December 20, 2012, defining the functions, tasks, powers and organizational structure of the Ministry of Labor, War Invalids and Social Affairs;

At the proposal of the director of the Department of Overseas Labor Management;

The Minister of Labor, War Invalids and Social Affairs promulgates the Circular providing the models and contents of labor supply contract and guest worker contract.

Chapter I

GENERAL PROVISIONS

Article 1. Scope of regulation

This Circular provides the models and contents of labor supply contract and guest worker contract used in the activity of sending workers abroad.

Article 2. Subjects of application

1. Enterprises providing the service of sending workers abroad;

2. State non-business organizations sending workers abroad;

3. Enterprises winning or undertaking guest worker contracts;

4. Offshore investment organizations and individuals sending workers abroad;

5. Workers going abroad to work in the forms specified in Clauses 1 and 2, Article 6 of the Law on Vietnamese Guest Workers (below referred to as workers);
Article 3. Principles of contract conclusion, forms of contract

Contracts must be concluded on the principles of voluntariness, equality, goodwill, cooperation, truthfulness, compliance with law and conformity with social ethics.

Labor supply contracts and guest worker contracts must be established in writing.

Chapter II

LABOR SUPPLY CONTRACTS

Article 4. Definition

Labor supply contract means a written agreement between a Vietnamese enterprise or non-business organization and a foreign party on the conditions and obligations of the parties in the supply and receipt of Vietnamese guest workers.

Article 5. Contents

A labor supply contract must comply with the laws of Vietnam and the host country and has the following principal contents:

1. Information on the contractual parties

   Information on the contractual parties includes full names and transaction names of the contractual parties; representatives of the parties; business registration addresses or transaction addresses; serial numbers of enterprise registration certificates, enterprise codes, dates of issuance (if any), tax identification numbers, and account numbers; telephone numbers, fax numbers and email addresses; and other relevant information.

2. Contents on the conditions for labor supply and receipt: Number of workers to be supplied/received; occupations or jobs to be performed; workplaces; working duration; working conditions and environment; working time and rest time; occupational safety and protection; salaries, wages, other regimes and bonuses (if any); overtime pay; accommodation; health care; insurance; liability to pay expenses for travel from Vietnam to workplace and vice versa; conditions for ahead-of-schedule termination of the labor contract, liability to pay damages and expenses for worker’s return to Vietnam, and other relevant conditions.

   If the labor supply contract is only the principal contract, the contents provided in this Clause must be specified in the contract annexes.

3. Rights and obligations of the contractual parties
The contract must specify the rights and obligations of the contractual parties in selecting and training workers before their departure from Vietnam, carrying out procedures to send and receive Vietnamese guest workers, and settling problems that arise during their work abroad.

4. Brokerage commission (if any)

The contract must specify the level of, and liability to pay, brokerage commission (if any), currency of brokerage commission, and payment plan (schedule, time and method of payment).

5. Settlement of disputes

Disputes between the Vietnamese enterprise or non-business organization and the foreign party must be settled in accordance with the signed agreement.

Disputes not yet mentioned in the contract may be settled pursuant to the law of Vietnam or the host country or treaty to which Vietnam is a contracting party.

6. Contract term and extension

The contract term and conditions for contract extension must be specified in the contract.

7. Ahead-of-schedule termination of contract

The parties shall agree and specify in the contract cases of ahead-of-schedule termination of contract; order and procedures for contract termination by the parties; responsibilities of the parties after the contract is terminated; and rights of workers who have been sent abroad.

Article 6. Model labor supply contract

The model labor supply contract is provided in Appendix 1 to this Circular.

In case the host country provides a model labor supply contract which is different from that provided in Appendix 1, the two parties may agree to sign another contract which, however, must have all the contents specified in Article 5 of this Circular.

Chapter III

GUEST WORKER CONTRACTS

Article 7. Definition

Guest worker contract means a written agreement between an enterprise or a non-business organization and a worker on the rights and obligations of the parties in sending the worker abroad.

Article 8. Contents
1. Information on the contractual parties

Information on the enterprise or non-business organization includes full name and transaction name; representative; business registration address and transaction address; serial number of enterprise registration certificate, enterprise code, date of issuance, tax identification number (if any), and account number; telephone number, fax number and email address; and other relevant information.

Information on the worker includes full name; date of birth; permanent residence address; contact address; telephone number; identity card number; passport number, and address for receiving information when necessary.

2. The guest worker contract must specify:

- Name and address of the worker-employing company;

- Occupation or job to be performed abroad by the worker;

- Working conditions, living conditions and other benefits for the worker:
  + Contract term;
  + Working time and rest time;
  + Wage, other benefits, and bonus (if any);
  + Method of salary payment;
  + Overtime pay;
  + Occupational safety, hygiene and protection;
  + Accommodation;
  + Health care;
  + Insurance;
  + Liability to arrange a vehicle for transporting the worker from Vietnam to the entry point in the host country, and from the entry point in the host country to his/her workplace and vice versa, and pay expenses for such transportation;
  + Cases in which the worker returns to Vietnam ahead of schedule and the parties’ liability to pay travel expenses for him/her;
+ Expenses for the worker: brokerage commission (if any); service charge (if any); and deposit (if any);

+ Payable amounts of brokerage commission, service charge and deposit (if any), currency and payment plan (schedule, time, method of payment).

3. Rights and obligations of the enterprise or non-business organization

The contract must specify the rights and obligations of the enterprise or non-business organization in selecting and training workers before their departure from Vietnam, carrying out procedures to send workers abroad, providing supports for workers and handling risks that arise during the time they work abroad, and liquidating the contract.

4. Rights and obligations of the worker

The contract must specify the rights and obligations of the worker during the time of training and carrying out exit procedures, during the time he/she works abroad and when he/she completes the contract and returns to Vietnam.

5. Liquidation of contract

The parties shall specify cases of contract termination; order and procedures for contract termination by the parties; and responsibilities of the parties after the contract is terminated.

6. Settlement of disputes

Disputes between the contractual parties must be settled based on the legally effective signed contract; disputes not yet mentioned in the contract must be settled pursuant to relevant laws.

Article 9. Model guest worker contract

The model guest worker contract is provided in Appendix 2 to this Circular.

Chapter IV

IMPLEMENTATION PROVISIONS

Article 10. Transitional provisions

For labor supply contracts which take effect before the effective date of this Circular, enterprises or non-business organizations shall negotiate and sign new ones with their partners according to the model labor supply contract enclosed with this Circular within 90 days after this Circular takes effect.

For guest worker contracts which take effect before the effective date of this Circular, enterprises or non-business organizations may continue to implement them until the contracts are liquidated.
Article 11. Effect

1. This Circular takes effect on December 1, 2013.

2. Any problems arising in the process of implementation should be promptly reported to the Ministry of Labor, War Invalids and Social Affairs for study and timely additional guidance.

For the Minister of Labor, War Invalids and Social Affairs

DEPUTY MINISTER

Nguyen Thanh Hoa

APPENDIX 1

MANPOWER SUPPLY CONTRACT

(Issued together with Circular No.22/2013/TT-BLDTBXH dated October 15, 2013 of the Ministry of Labor, War Invalids and Social Affairs)

No……

Today on …/…/… at …. , The parties below:

The supplier: …. 
Address: …
Tel: …. 
Fax no……
Bank account No.: ..... opened at ....... address: ..... Swift code: ..... (if any)
Representative: ............
Position: ..................
And:
The employer ....

Address: ...

Tel: ....

Fax no......

Bank account No. ..... opened at ....... address: ..... Swift code: ..... (if any)

Representative: .........

Position: .................

Have agreed to enter into this contract with the following conditions:

**Article 1. Legal status of contracting parties**

1.1. The Supplier is the company .... which is issued with a license No. .... for sending workers abroad by the Ministry of Labor, War Invalids and Social Affairs and has eligibility and authority to enter into this contract, and sends Vietnamese workers abroad under provisions of this contract.

1.2. The Employer is ...... which has eligibility and authority to execute this contract presented in:....

**Article 2. Supply requirements**

2.1. At the request of the Employer, the Supplier shall agree to recruit the Vietnamese worker to work at ......:

- Number of labor: ........ female worker: .....; ;

- Job: ..............;

- Workplace: ................. ;

2.2. The Supplier shall ensure that the recruited workers satisfy the following criteria:

- Age: ....

- Health condition: ..... 

- Technical competence: ..... 

- Foreign language proficiency: ....
Article 3. Working conditions

The Employer shall ensure the Worker is entitled to the following conditions:

3.1. Working duration

The work duration is …. years (probationary period is ..)

The working duration may be extended according to the worker's desire and demand of the foreign employer in compliance with regulations of the host country.

3.2. Working time and rest time

Working time: … hours/day, … days/week under provisions of the Law on … (the Worker shall receive the overtime pay if working beyond the aforesaid time)

The Worker shall be entitled to … holidays as regulated by the Law on …., including New Year’s Day, National Day, etc).

The Worker shall be entitled to annual leave of …. days as regulated by the Law on ….

3.3. Salary, overtime pay, bonus and deductions (if any)

Payment method: …. (according to day-work, products or piecework)

Basic salary: ….. (salary during probationary period is …./month)

(For special case in which the Worker is a seafarer or the host country has its own regulations on basic salary per year, both parties shall discuss with each other to include the aforementioned issues in the contract.)

Payment location:

Payment currency:

Overtime pay:

Bonus/allowance:

Amounts deducted from salary under regulations of the host country:  

(In case the manpower supply contract is the main contract, the aforementioned information must be provided in its appendix.)
3.4. Occupational safety and personal protective equipment

The Worker is provided (with or without charge) with personal protective equipment suitable for his/her job and have their safety ensured by the employer during working time specified in the contract.

The Worker must use such personal protective equipment and comply with occupational safety regulations.

3.5. Insurance

The Worker must participate in health insurance and accident insurance and enjoy the insurance benefits as regulated by… (list all required insurance as regulated by the host country)

3.6. Living conditions

The Worker is provided with accommodation and food (with or without charge).

3.7. Travel costs

Costs for travel from Vietnam to the host country shall be paid by ....

Costs for travel from the host country back to Vietnam after the contract termination shall be paid by ....

3.8. In case of illness, injury or death

The Worker may enjoy insurance benefits as per provisions of relevant laws issued by the host country.

3.9. Ahead-of-schedule termination of the contract

In case the contract is terminated and the Worker must return to Vietnam prior to the expiry date of such contract not by his/her faults, the Employer must compensate such Worker as agreed and pay the cost for travel back to Vietnam.

In case the contract is terminated and the Worker must return to Vietnam prior to the expiry date of such contract due to his/her faults, such Worker must compensate the Employer for the damage caused and pay the cost for travel back to Vietnam.

In case the contract is terminated and the Worker must return to Vietnam prior to the expiry date of such contract due to a force majeure event such as natural disasters, war, epidemics, etc, both parties shall reach an agreement on the cost for travel back to Vietnam, give assistance to such Worker and handle other issues in compliance with provisions of the law in force.
(In case the manpower supply contract is the main contract, regulations provided in this Article must be specified in its appendix.)

Article 4. Rights and obligations of the Supplier

4.1. Recruit workers based upon criteria and requirements in the Article 2;

4.2. Offer training courses in foreign language or professional skills (where necessary) and essential knowledge for the Worker;

4.3. Complete necessary procedures for exit (e.g. health check-up, visa application, etc) in accordance with this Contract;

4.4. Cooperate with the Employer in managing and protecting legal rights and benefits of the Worker and resolving issues occurring during the contract execution.

……

Article 5. Rights and obligations of the Employer

5.1. Send a notice to the Supplier in advance of manpower demand and requirements and the recruitment procedure.

5.2. Provide the Supplier with legislative documents on labor recruitment (e.g. license for labor recruitment in Vietnam, recruitment requirement letter, power of attorney, etc)

5.3. Cooperate with the Supplier in training the Worker meeting recruitment requirements;

5.4. Notify and cooperate with the Supplier in dealing with issues arising during the contract execution;

5.5. Complete necessary procedures in order for the competent authority of ... (name of the host country) to grant and extend the work permit;

5.6. Ensure that the terms and conditions of the labor contract between the Vietnamese worker and the foreign employer are consistent with provisions of this contract;

5.7. Cooperate with the Employer in assisting the Worker in remitting his/her salary and other legal incomes to Vietnam in compliance with law provisions of the host country.

……

Article 6. Brokerage commission (if any)

The Supplier shall pay the Employer a brokerage commission of …/worker/contract for … years
Payment schedule …………………

In case the labor contract is terminated and the Worker must return Vietnam before the time specified in point … section… Article... of this contract, the Employer must partially refund the brokerage commission to the Supplier. To be specific ….

**Article 7. Compensation**

The following cases are considered damage to both contracting parties and an amount of compensation must be paid to the injured party by the wrongdoer. To be specific:

- The Worker unilaterally terminates the contract and leaves the job: ……. compensation amount: …..

- The Worker violates the employer’s rules: ….. compensation amount: …..

- The Worker has to quit the job and return to Vietnam because the Employer rejects the Worker without prior notice or assigns the job or pays salary against agreement, etc

……..

**Article 8. Applicable laws and settlement of disputes**

8.1. All contract-related disputes arising shall be settled through negotiations under principle of equality and mutual benefit in consistent with laws of the two countries and international practice.

8.2. In case no settlement can be reached through negotiations, such disputes shall be settled by… as regulated by the law on …..

**Article 9. Effective period of the contract**

9.1. This contract takes effect for 3 years from the day on which it is approved by the competent regulatory agency.

9.2. During the effective period of the contract, the party that wishes to make amendments to any provision herein must give the other party a notice in writing. Contract revision or extension is only legally accepted if it is mutually agreed by both parties in writing and approved by the competent regulatory agency.

9.3. During the effective period of the contract, if any change made to laws, policies or regulations of either country relates to the content of this contract, both parties shall provide amendments in writing to ensure the contract is conformable to relevant law provisions.

9.4. This contract is automatically extended for 3 more years unless otherwise agreed by the parties as per regulations in Clause 2 this Article.
9.5. Either party may terminate the contract ahead of schedule in the following cases:

-……

In case the contract cannot be continued due to force majeure events such as war, natural disaster and other events beyond control of both parties, the contracting parties must handle unsolved issues together, prioritize those related to the Worker benefits and ensure that the Worker is entitled to all legal rights and benefits specified herein in compliance with the law provisions of the host country.

9.6. In case this contract is terminated, the labor contract between the Vietnamese worker and the employer as well as rights and obligations of the contracting parties are still in effect until such labor contract expires.

This contract is made into … copies in Vietnamese and …. at .... on date../.../... with the same validity; each party will keep ... copy/copies for following–up and execution.

Representative of the Supplier  Representative of the Employer 

APPENDIX 2

GUEST WORKER CONTRACT

(Issued together with Circular No.22/2013/TT-BLDTBXH dated October 15, 2013 of the Ministry of Labor, War Invalids and Social Affairs)

No……

The sender001
Address: …
Tel: …. 
Fax no……
Representative: ………
Position: ……………
And
The Worker:…..
Date of birth: …

ID card number:…. Issuance date: ….. Issuer:……

Permanent residence:…..

Passport number:…. Issuance date:….. Issuer:…..

Mailing address in Vietnam:…

Information recipient:…..

Agree to enter into a contract and commit to abide by the following provisions:

Article 1: General provisions

Pursuant to the manpower supply contract No… dated… signed with…. the Sender shall send the Worker to work at …. with working period and job as follows:

- Labor contract period: …month(s)…year(s) (from the date on which the Worker enters ….);
- Job:…..;
- Workplace:…..;
- Employer: …. (Name of the Employer, name of legal representative, job title, business address);

Article 2: Rights and obligations of the Worker

2.1. Complete the training course in … (enter the name of vocation/job) for…… (days) The tuition fee shall be paid by the…. (enter “worker” or “employer”) (if any);

2.2. Complete the training course in … language (enter name of the foreign language) for…. (days) The tuition fee shall be paid by the…. (enter "worker" or "employer") (if any);

2.3. Complete the course in knowledge improvement prior to working abroad offered by the Employer for … (days) including 74 training periods then sit an examination to obtain a training certificate. The tuition fee shall be paid by the…. (enter "worker" or "employer") (if any);

2.4. Fees and charges:

- Service charge (if any):

  + Amount: …/contract of …years
+ Payment schedule:…

- Brokerage commission (if any):
  + Amount: .../contract of ...years

+ Payment schedule:…

- Other costs (if any): ....

+ Passport and visa application cost:…

+ Payment for flight ticket:...

+ Payment for health check-up:...

+ Tuition fee for foreign language course: …

+ Tuition fee for advanced vocational training course: …

+ Tuition fee for necessary knowledge improvement course: …

+ Overseas Worker Assistance Fund contribution: …

.......

Total:…

2.5. Contract conclusion and execution;

2.6. Probationary period (if any):

Probationary period: ....month(s).

During or after the probationary period, if the Worker fails to satisfy the Employer’s job requirements, the Sender shall reach an agreement with the Worker on...(giving such Worker another job with appropriate salary or sending such Worker back to Vietnam and the cost of which is covered by…).

Such agreement shall be issued on the date the Worker and Sender successfully reach an agreement and considered an integral part of this contract.

2.7. Working time and rest time

Working time: …hours/day, …days/week under provision of the Law on… Working hours beyond the aforesaid time is considered working overtime.
The Worker shall be entitled to … holidays as per provisions of the Law on …, including New Year’s Day, National Day, etc).

Moreover, the Worker shall be entitled to annual leave of … days as per provisions of the Law on ….

2.8. Salary, overtime pay, bonus and deductions (if any)

Salary: … (salary during probationary period is …./month)

(For special case in which the Worker is a seafarer or the host country has its own regulations on basic salary per year, both parties shall discuss with each other to include the aforementioned issues in the contract.)

Overtime pay:

Bonus/allowance (bonus for dedication, allowances for meals and accommodation or shift pay, etc):

Amounts deducted from salary:

Payment method:

Payment date:

2.9. Living conditions

The Worker shall be provided with accommodation and food (with or without charge) or cooking equipment (electricity, gas, etc) for self-cooking.

2.10. Insurance

The Worker shall be entitled to participate in health insurance and accident insurance and enjoy insurance benefits as regulated by ….

2.11. Personal protective equipment:

The Worker shall be provided with personal protective equipment according to his/her job position as per provisions of the Law on … and regulations of the Employer (with or without charge).

2.12. Travel costs:

Costs for travel from Vietnam to the host country shall be paid by …
Costs for travel from the host country back to Vietnam after contract execution shall be paid by...

In case the Worker must return Vietnam prior to the contract expiration due to faults of …, the cost for flight ticket shall be paid by….

2.13. In case of illness, injury or death

The Worker is entitled insurance benefits as per provisions of the law on…

In case of illness, injury, death or ahead-of-schedule-returning, the Worker may receive an allowance from funds for working abroad.

2.14. The Worker must go to the enterprise to finalize this contract within 180 days from the termination date of the labor contract. If the Worker fails to show up to finalize it, the enterprise may unilaterally finalize this contract as regulated by law.

**Article 3: Rights and obligations of the Sender**

3.1. Collect money amount specified in Point 2.4 Article 2 of this contract;

3.2. Offer courses consisting of 74 periods as regulated for improving necessary knowledge to the Worker, offer or cooperate with training facilities to offer training courses in advanced skills and foreign language prior to working abroad in order to meet requirements of the employer;

3.3. Complete necessary procedures for sending the Worker abroad;

3.4. Ensure that the employment contract between Worker and the Employer is conformable with provisions of this contract;

3.5. Instruct the Worker to depart for workplace from Vietnam and vice versa under provisions of the signed contract;

3.6. Cooperate with the Sender and the Employer to give assistance to the Worker in remitting his/her salary and other legal incomes to Vietnam in compliance with law provisions;

3.7. Protect legal rights and benefits of the Worker during the time working abroad;

3.8. Assist the Worker in conducting procedures for enjoying benefits from the Overseas Worker Assistance Fund as regulated and state assistance policies;

3.9. Compensate the Worker or the guarantor for damage caused by the Sender as regulated by laws;
3.10. Request the Worker or the guarantor to pay compensation for damage cause by such Worker (if any). The compensation amount shall vary according to the damage caused under provisions of Vietnamese laws;

3.11. Unilaterally finalize the guest worker contract as regulated by laws.

**Article 4. Departure time**

The Sender shall send the Worker abroad within.... days/months from the date on which this contract is signed.

During the period of time committed by the Sender, if the Worker no longer wishes to work abroad, the Sender shall return the job application to such Worker and the Worker shall reimburse the Sender the costs of sending him/her to work abroad, including the application preparation cost, health check-up cost, tuition fees, cost of learning material, costs for meals and accommodation during the training time (if any) and visa application cost.

In case the Sender fails to send the Worker abroad by the deadline, he/she must provide explanation for such Worker. For the case in which the Worker no longer wishes to work abroad, the Sender shall return the job application and all money amount paid to such Worker, including cost for making job application, tuition fees (if any), visa application cost, cost for flight ticket, service charge, brokerage commission and refund the deposit to the Worker within 15 days from the day on which the notice from such Worker is received.

**Article 5. Compensation**

The following cases are considered damage to both contracting parties and an amount of compensation must be paid to the injured party by the wrongdoer. To be specific:

- The Worker quits the job and leave the Employer’s enterprise: ........ compensation amount: .....

- The Worker quits the job or returns to Vietnam as the job or salary is not conformable with the agreement,..

- ....

**Article 6. Contract finalization**

6.1. The contracting parties shall finalize the contract in the following cases:

- The Worker no longer wishes to work abroad;

- The Sender fails to send the Worker abroad;

- The Worker returns to Vietnam;
- The Worker illegally quits the job and illegally takes another job;

- Other cases prescribed by law provisions

6.2. Upon consideration of the cause for ahead-of-schedule termination of the labor contract, the contracting parties shall reach an agreement on liquidation of this contract. To be specific:

- In case the contract cannot be continued due to force majeure events such as war, natural disaster and other events beyond control of both parties, the contracting parties must handle the other issues together and the Sender shall give assistance to the Worker as per provisions of the law in force;

- In case the labor contract is terminated and the Worker must return to Vietnam prior to the expiry date of such contract not by his/her faults, the Sender must make payments as regulated and compensate such Worker under agreement (specify whether the Worker has worked for less or more than half of the initial contract duration);

- In case the contract is terminated and the Worker must return to Vietnam prior to the expiry date of such contract due to his/her faults, such Worker must compensate the Employer and the Sender for the damage caused.

Article 7. Applicable laws and settlement of disputes

7.1. This contract is clarified and regulated under the Vietnamese laws.

7.2. All contract-related disputes arising shall be settled through negotiations under principle of equality and mutual benefits.

7.3. In case no settlement can be reached through negotiations, such disputes shall be settled by …. under provisions of the law of …. 

This contract is made in Vietnamese into... copies at ... on date.../.../... with the same validity; each party will keep ... copy/copies for following-up and execution.

Representative of the Sender          The Worker

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