



U.S. Department of Labor **ETA 9082 ORDER**  
**Employment and Training Administration**

OMB Control No. 1205-0134  
 Expiration Date: November 30, 2012

**Agricultural and Food Processing Clearance Order ETA Form 790**  
**Pedido de Empleados para Agricultura y Procesamiento de Alimentos**

1. Employer's Name and Address (Number, Street, City, State, and Zip Code)/  
 Nombre y Dirección del Empleador (Numero, Calle, Ciudad, Estado y Código Postal)

Lamont Fruit Farm Inc. #2  
 12703 Stillwater Rd.  
 Waterport NY 14571  
 FID # 16-0926390

c/o ILMC, Labor Consultant  
 234 Cameron Ave/POB 630  
 Vass NC 28394 910-245-4808

Telephone number/Teléfono: 585-682-4749 Fax: 585-682-0522

2. Location and Direction to Work Site/ Ubicación y Dirección al Lugar de Trabajo

Ramshaw Road, Lyndonville  
 Bates Road, Medina  
 E. Townline Road, Medina  
 Stillwater Road, Waterport  
 S. Lyndonville Road, Lyndonville  
 Orleans County, NY -

Employer provides daily transportation from centralized location each day. Employer will notify applicant of that location the day before. all worksites are leased/controlled by employer

(If additional space is needed, use separate sheet of paper/ Si necesitas más espacio, utilices otra hoja de papel)

3. Location and Description of Housing / Dirección y Descripción de la Vivienda

Block  
 Capacity: 30  
 12889 Stillwater Road, Waterport, NY  
 (located 4.1 miles NW of Waterport off of Townline Rd.)

(If additional space is needed, use separate sheet of paper / Si necesitas más espacio, utilices otra hoja de papel)

**Nos. 4 - 8 for STATE USE ONLY**  
**Números 4 a 8 para USO ESTATAL**

4. Industry Code/Código Industrial  111331	5. Job Order No. /Num. de Orden de Empleo  NY1046084
6. Occupational Title and Code /Titulo Ocupacional y Código  Farmworker and Laborer, Crop 45-2092.02	
7. Clearance Order Issue Date / Fecha de Trámite  1/7/13	
8. Job Order Expiration Date / Fecha de Expiración  7/12/13	

9. Anticipated Period of Employment / Periodo Anticipado de Empleo

From/ Desde: 03/04/2013 To/Hasta: 11/20/2013

10. No. of Workers Requested / Num. de Trabajadores Solicitados

20

11. Anticipated Hours of Work per Week/Horas Anticipadas de Trabajo por Semana. Total: 40

Sunday / Domingo	<u>0</u>	Monday / Lunes	<u>7</u>
Tuesday / Martes	<u>7</u>	Wednesday / Miércoles	<u>7</u>
Thursday / Jueves	<u>7</u>	Friday / Viernes	<u>7</u>
Saturday / Sábado	<u>5</u>		

12. Collect Calls Accepted from/ Aceptan Llamadas por Cobrar de:

Employer / Empleador Yes/Si  No

Local Office / Oficina Local Yes/Si  No

**RECEIVED**  
 JAN 08 2013

### 13. Board Arrangements / Arreglo de Alojamiento

Housing is provided at no cost to workers who are not reasonably able to return the same day to their place of residence. This paragraph applies to such workers only. Housing is not provided to non-workers. Housing capacity is strictly regulated by the US Department of Labor, and no person, other than the eligible employees authorized by the employer, may occupy or remain overnight in employer-provided housing. The housing is offered as temporary in-season (during the employment period only) housing provided for migrant agricultural workers while they are employed at farms beyond normal commuting distance from their residence. See Attachments for more complete details.

### 14. Referral Instructions / Instrucciones sobre cómo Referir Candidatos

Local and intrastate (in state), applicants may contact their local state workforce or the employer, Rod Farrow, directly at (585) 682-4749. Applicants should call between the hours of 9:00 am - 3:00 pm (Eastern Standard Time) Monday - Thursday to schedule an interview. Completing an application, and in person interview in part of the application process. See attachment item 14 for more details.

### 15. Job Specifications / Especificaciones del Trabajo

All workers must have at least 1 months verifiable experience pruning high density fresh fruit apple trees. Apples: Workers will perform various tasks involved in planting, cultivating and harvesting fruit according to supervisor's instructions. Workers may till soil, plant stock, and do pruning activities using a variety of tools.

May aid in irrigation duties. Workers will work on top ladders that range between 8 and 16 ft tall. see attachments to the ETA 790 for more complete job specifications.

**16. Wage Rates, Special Pay Information and Deductions / Tarifa de Pago, Información Sobre Pagos Especiales y Deducciones (Rebajas)**

Crop Activities	Hourly Wage	Piece Rate / Unit(s)	Special Pay (bonus, etc.)	Deductions		Pay Period
				Yes/Sí	No	
Cultivos	Salario por Hora	Pago por Pieza / Unidad(es)	Pagos Especiales (Bono, etc.)	Deducciones		Periodo de Pago
apples	\$ 10.91 <sup>RF</sup> <del>10.56</del>	\$ see attachments		<input checked="" type="checkbox"/>	<input type="checkbox"/>	Weekly / Semanal
	\$	\$		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	\$	\$		<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bi-weekly / Quincenal
	\$	\$		<input type="checkbox"/>	<input checked="" type="checkbox"/>	if applicable / si aplicable
	\$	\$		<input type="checkbox"/>	<input checked="" type="checkbox"/>	Meals / Comidas
	\$	\$		<input type="checkbox"/>	<input checked="" type="checkbox"/>	Other (specify) / Otro (especifica)

More Details About the Pay / Mas Detalles Sobre el Pago

See attachments for more pay details.

(If additional space is needed, use separate sheet of paper. / Si necesitas más espacio, utilice otra hoja de papel)

**17. Transportation Arrangements / Arreglos de Transportación**

Employer will provide transportation at no cost to commuting and non commuting workers from designated reported site. Transportation provided will meet all applicable federal, state, and local regulations. SEE ETA 790 ATTACHMENTS FOR MORE COMPLETE TRANSPORTATION ARRANGEMENTS.

(If additional space is needed, use separate sheet of paper. / Si necesitas más espacio, utilices otra hoja de papel)

18. Is it the prevailing practice to use Farm Labor Contractors (FLC) to recruit, supervise, transport, house, and/or pay workers for this (these) crop activity (ies)? / Es la práctica habitual de usar Contratistas de Trabajo Agrícola para reclutar, supervisar, transportar, dar vivienda, y/o pagarle a los trabajadores para esta(os) tipo(s) de cosecha(s)? Yes / Sí  No

If you have checked yes, what is the FLC wage for each activity? / Si contesto "Sí," cual es el salario que le pagas al Contratista de Trabajo Agrícola por cada actividad?

n/a

19. Unemployment insurance provided? Seguro de Desempleo?

Yes/Sí  No   
if applicable/si aplicable

20. Workers' compensation insurance provided? Se le provee seguro de compensación/indemnización al trabajador.

Yes/Sí  No

21. Are tools provided at no charge to the workers? / Se les proveen herramientas sin costo alguno a los trabajadores?

Yes/Sí  No

22. List any arrangements which have been made with establishment owners or agents for the payment of a commission or other benefits for sales made to workers. (If there are no such arrangements, enter "None") / Enumere todos los acuerdos o convenios hechos con los propietarios del establecimiento o sus agentes para el pago de una comisión u otros beneficios por ventas hechas a los trabajadores. (Si no hay ningún acuerdo o convenio, indique "Ninguno")

NONE / NINGUNO

23. List any strike, work stoppage, slowdown, or interruption of operation by the employees at the place where the workers will be employed.  
(If there are no such incidents, enter "None") / Enumere toda huelga, paro o interrupción de operaciones de trabajo por parte de los empleados en el lugar de empleo. (Si no hay incidentes de este tipo, indique "Ninguno")

NONE / NINGUNO

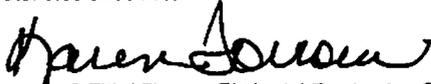
24. Address of Order Holding Office (Include Telephone number)/Dirección de la Oficina donde se radica la oferta (incluya el número de teléfono)

(585) 589-5335 EJ 1/4/13  
Stop by your nearest One Stop Office

25. Name of Local Office Representative (Include direct dial telephone number) / Nombre del Representante de la Oficina Local (Incluya el número de teléfono de su línea directa)

(585) 589-5335 EJ 1/4/13  
Stop by your nearest One Stop Office

26. Employer's Certification: This job order describes the actual terms and conditions of the employment being offered by me and contains all the material terms and conditions of the job.  
Certificación del Empleador: Esta orden de trabajo describe los términos y condiciones del empleo que se le ofrece, y contiene todos los términos y condiciones materiales ofrecidos.



Employer's Signature & Title/ Firma y Título del Empleador Office Manager Date: 1/3/13

READ CAREFULLY, in view of the statutorily established basic function of the Employment Service as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the ETA nor the State agencies are guarantors of the accuracy or truthfulness of information contained on job orders submitted by employers. Nor does any job order accepted or recruited upon by the One-Stop Career Center constitute a contractual job offer to which the One-Stop Career Center, ETA or a State agency is in any way a party.

LEA CON CUIDADO, En vista de la función básica del Servicio de Empleo establecida por ley, como una entidad de intercambio laboral sin comisiones, es decir, como un foro para reunir a los empleadores y los solicitantes de empleo, ni ETA ni las agencias del estado pueden garantizar la exactitud o veracidad de la información contenida en las órdenes de trabajo sometidas por los empleadores. Ni ninguna orden de trabajo aceptado o contratado en el Centro de Carreras (One-Stop Career Center) constituyen una oferta de trabajo contractuales a las que el One-Stop Career Center, ETA o un organismo estatal es de ninguna manera una de las partes.

**Public Burden Statement**

The public reporting burden for responding to ETA Form 790, which is required to obtain or retain benefits (44 USC 3501), is estimated to be approximately 60 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and reviewing the collection. The public need not respond to this collection of information unless it displays a currently valid OMB Control Number. This is public information and there is no expectation of confidentiality. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden, to the U.S. Department of Labor, Migrant and Seasonal Farmworker Program, Room S4209, 200 Constitution Avenue, NW, Washington, DC 20210.

**ATTACHMENT 10 EIA 790**

Workers recruited under this Job Order are recruited to work on the employer's farm shown on the addendum in the certified occupation during the period of employment shown in Item 9. The employer/members will offer US workers at least the same opportunities, wages, benefits, and working conditions as those which the employer offers or intends to offer to non-immigrant foreign workers. **\*Use of the masculine pronoun herein is for convenience of reference only.**

1. Name and address of employer: Lamont Fruit Farm Inc. #2 12703 Stillwater Rd., Waterport NY 14571.

9. Anticipated dates of employment: 03/04/2013 until 11/20/2013.

10. The number of workers show is the aggregate number of foreign workers that will be employed by the employer under this temporary employment certification. The approximate maximum number of workers (foreign and domestic) to be employed in the certified occupation is shown on the addendum. The numbers shown are approximations provided for the governing administrative agencies. The actual number of workers employed in the certified job opportunities of the grower at any given time may be more or less than the approximate numbers shown in the addendum, depending upon crop conditions, weather, markets or other circumstances that develop during the season.

11. Anticipated Hours of Work: Worker will report to work at the designated time and place as directed by the Grower each day. The standard workweek is 7 hours per day Monday-Friday and 5 hours on Saturday is normal; however, workers may be requested to work 10+ hours per day depending upon the conditions in the fields and maturity of the crops but will not be required to do so. Also, the workers may be requested to work on federal holidays and on their Sabbath but will not be required to do so. Workers may volunteer to work additional hours when work is available. Down Time: Workers should expect occasional periods of little or no work because of weather, crop or other conditions beyond the employer's control. These periods can occur anytime throughout the season.

13. Employers will furnish free cooking and kitchen facilities to those workers who are entitled to live in the employers' housing so that workers may prepare their own meals. Workers will buy their own groceries. Once a week the employers will offer to provide (on a voluntary basis by the workers) free transportation to assure workers access to the closest store where they can purchase groceries.

Housing is provided at no cost to workers who are not reasonably able to return the same day to their place of residence. This paragraph applies to such workers only. Housing is not provided to non-workers. Housing capacity is strictly regulated by the US Department of Labor, and no person, other than the eligible employees authorized by the employer, may occupy or remain overnight in employer-provided housing. Employer-provided housing must meet the full set of DOL Occupational Safety and Health Administration (OSHA) standards set forth at 29 CFR 1910.142, or the full set of standards set at §§ 654.404 through 654.417, whichever are applicable under § 654.401. The housing is offered as temporary in-season (during the employment period only) housing provided for migrant agricultural workers while they are employed at farms beyond normal commuting distance from their residence. Workers provided housing by the employer must promptly vacate the housing upon termination of employment. No charge will be made for beds or cooking utensils and similar items furnished to workers to whom housing is provided. All housing is group housing in which all workers will share kitchens and common areas without regard to gender. Female workers, however, will be provided with sleeping facilities shared only with other family members or with other females. Sex-segregated toilets facilities will be provided. Workers who reside in such housing agree to be responsible for maintaining the housing in a neat and clean manner. Workers residing in employer's housing may have mail directed to them at the employer's address on attached addendum. When public accommodations (hotel or motel) are used, the workers will be provided 3 meals per day for \$11.13 per day, or the current subsistence amount as posted in the Federal Register. Pursuant to the regulations at 20 CFR 655.122(d)(1)(ii), we, the employer, will provide rental and public accommodations or another substantially similar class of habitation which will meet local standards for such housing. In the absence of applicable local or State standards, DOL OSHA standards at 29 CFR 1920.142 will apply, during the period of employment that is the subject of the labor certification application, as attested to in the ETA Form 9142 – Appendix A.2.

14. Local and intrastate (in state), applicants may contact their local state workforce or the employer, Rod Farrow, directly at (585) 682-4749 to schedule an interview. Applicants should call between the hours of 9:00 am – 3:00 pm (Eastern Standard Time) Monday – Thursday. For interstate (out of state) applicants should apply at their local state employment agency. State employment service agency staff is encouraged to call to make a referral while the applicant is at the Job Service office during times disclosed above. Interviews will be conducted over the telephone to create less of a burden for applicants, once the employer has fulfilled their requirements of disclosing all terms and conditions of the job and received written confirmation of this. Participation and monitoring of the interview process by SWA staff guarantees proper disclosure of the terms and conditions and protects the integrity of the interview process. Workers should be fully

apprised by the local employment office of the terms, conditions and nature of employment prior to referral. This will enable applicants to review all the information and make an informed decision about the job and will ensure compliance with disclosure requirements.

Workers are screened for compliance with the following criteria: a) confirm ability, availability, qualifications and willingness to perform work described and confirm intention to work the entire season, 2) local workers confirm availability of reliable daily transportation to and from the job site for the entire season. Non local workers confirm availability of transportation to job site to begin work, 3) confirmation of full disclosure of all terms, condition, and nature of work-job by local employment staff, 4) affirmative confirmation of legal qualifications to work in the US as described below. **The employer may terminate the worker (foreign and/or domestic) with notification to the employment service if employer discovers a criminal conviction record or status as a registered sex offender that employer reasonably believes, consistent with current law, will impair the safety and living conditions of other workers.** Workers recruited against the Job Offer from within normal commuting distance will not be provided with housing, subsistence and transportation. Completion of an application is part of the interview process. An in person interview is required for all local applicants.

Only workers legally entitled to work in the United States and who possess original identity and employment eligibility documents sufficient to complete INS Form I-9, as required by the Immigration and Nationality Act, will be permitted to complete the hiring process. Workers referred against this order should be informed that they must have these documents in their possession when they arrive at the place of employment. Provided that workers complete section 1 of form I-9, workers will have three business days to produce the required documentation to complete section 3 of form I-9, as provided in the Act. Workers not providing this documentation will not be allowed to go to work on the fourth business day of employment, or any subsequent days until the documentation is provided, as provided in the Act.

**15. Job Specifications:** All workers must have at least 1 month verifiable experience pruning high density fresh fruit apple trees.

**For food and general personal safety purposes, all workers will be required and expected to follow common sanitary practices at all times. This is particularly critical when hand harvesting crops for human consumption. Employees are required to cleanse their hands by washing them thoroughly with soap and water after using the bathroom and before entering the produce fields for harvest activities. There will be no tobacco usage in the field or packing areas at any time. Workers must use care when performing duties listed below not to break or damage the trees. All operation must meet standards contained in the employer's contract with the buyer.**

Worker must possess requisite physical strength and endurance to repeat the harvest process though out the workday, working quickly and skillfully to perform activities for which they were hired. Workers must work at a sustained, vigorous pace and make bona fide efforts to work efficiently and consistently that are reasonable under the climatic and other working conditions, considering also the amount, quality, and efficiency of work accomplished by their coworkers. Workers may not leave trash, or other discarded items in work areas or vehicles but must dispose of such items in provided receptacles. Workers must wash hands with soap and water after all bathroom and meal breaks. Allergies to varieties of ragweed, goldenrod, insecticides, related agricultural chemicals, etc, may affect workers ability to perform the work described herein. Workers should be physically able to do the worker described with or without reasonable accommodation. Must display the ability to move, place, climb and work from orchard ladders up to 16 foot in height, making the necessary adjustments for various procedures while carrying up to 30 pounds.

**Apples:** Workers will perform various tasks involved in planting, cultivating, and harvesting fruit according to supervisor's instructions. Workers may till soil, plant stock, and do pruning activities using a variety of tools. May aid in irrigation duties. May aid in minor repair of wooden fruit containers. Workers will harvest fruit according to color, size and degree of maturity as specified by supervisor and place into 3/4-bushel baskets taking the extra time, care and effort not to bruise or scar the fruit.

The following description of job activities applies to apples.

**Harvest:** Workers will be assigned a row usually with a partner and is responsible for picking all the proper fruit from that row, or half row. Fruit is selected from the tree according to size and/or color standard set by the picking supervisor. In some instances, fruit harvest will be done from a 8 or 16 foot ladder weighing up to 30 lbs. All workers must be able to lift and carry ladder, as well as work from the top of the ladder. The entire tree must be checked to ensure removal of all fruit meeting-picking requirements. Fruit is placed gently in the picking container until container is full. The full picking container weighing up to 50 lbs. is then gently emptied into a field bin, taking care not to spill or bruise the fruit in the container or in the field bin. Field bin volume may be checked and determined by weight on state certified scales.

workers are required to stay on their assigned row unless directed by a supervisor to change, or to help someone sporadically. Picking units will be kept free of limbs, leaves or mushy fruit. Workers will be required to pick up and return picking ladders to the ladder wagon provided by the grower at the end of each work day or as directed by the grower or designated supervisor.

**Pruning:** While pruning trees, workers will receive proper tools for the particular job, i.e., saw, pruners, and hand snips. These tools will be returned to the employer at the end of the task. The cost of tools destroyed maliciously or lost carelessly will be deducted from worker's wages. The supervisor will set a standard or pattern for each orchard and will demonstrate and communicate this to workers. Workers will be assigned rows of trees and must prune each tree according to the predetermined standard. In some instances, pruning will be done from a 8 or 16 foot ladder weighing up to 30 lbs. All workers must be able to lift and carry ladder, as well as work from the top of the ladder. Workers must remove all resulting materials from the trees rendered from performing pruning tasks. When pruning is complete on each tree, each worker is required to rake and scatter the resulting brush in the center of the tractor/equipment middles. Workers will be required to pick up and return pruning ladders to the ladder wagon provided by the grower at the end of each work day or as directed by the grower or designated supervisor.

**Orchard Maintenance:** Workers involved in orchard maintenance may be required to hoe trees, girdle, spread fertilizer, pick up roots and limbs, strip suckers or unwanted growth from trees, dig root suckers, remove vines, lay irrigation pipe, repair and maintain irrigation system, and strap and tie fruit trees. Employer will provide all equipment. Instruction will be given for each task and standards of performance communicated to workers. The specific standards for a job will be disclosed and demonstrated by the supervisor before the work begins.

**Packing Operation:** Workers will perform various activities associated with packing produce harvested in the orchards. Workers may be required to grade, fill, level, make boxes, and stack produce. Workers may perform support jobs that include bin and pallet repair and after hours clean up.

**Farm Equipment Operation:** During the growing seasons, workers may be required to operate various pieces of farm equipment, incidental to their crop. These could include tractors, forklifts, and trucks. Before any worker is required to operate a equipment, the worker will be instructed in the proper and safe operation. Workers will be required to operate assigned equipment according to instructions and in a manner that protects the operator, other workers and equipment. Repeated failure to obey operating and safety instructions may result in termination.

**Farm, Field and Shed Sanitation** All workers will be responsible for picking up trash, cleaning bathrooms, sweeping floors and other farm and shed sanitation duties.

Job specifications can change frequently during the season due to crop or market conditions, even on the same crop. Workers will be expected to conform to the specific instructions given by the supervisor for each days work.

**GENERAL CONDITIONS APPLICABLE TO ALL CROPS:** Fieldwork begins at assigned time shortly after daylight. Work is performed during light rain and in high humidity and in temperatures ranging from 100 (+) degrees to below 35 degrees F. Workers will work on their feet in bent position for long periods of time. Workers will supply their own work clothes. All the tasks in this Job Description constitute one (1) job; the employer may assign workers to different tasks on any day or to multiple tasks during the same day in the sole judgment of the employer. Workers may be required to perform work, on the farm, that is incidental to farming the crops listed in the application, such as performing hand cultivation tasks, weeding or hoeing, cleaning and repairing farm buildings, seed beds, racks, grounds, operate tractor/farm equipment incidental crop set up and move irrigation pipes and equipment, gardening, weeding and shrubbing, etc. This is a very demanding and competitive business in which quality specifications must be rigorously adhered to. Sloppy work cannot and will not be tolerated.

Work specifications, can change from time to time during the season due to crop or market conditions, even on the same crop. Workers will be expected to conform to the specific instructions given for each days work.

The farm owner/supervisor or a designated employee will provide specific instructions and close supervision. Workers will be expected to perform their duties in a timely and proficient manner and will have close supervision to insure adherence to instruction. Work will be closely monitored and reviewed for quality.

**Full Growing Season Commitment:** The job offered requires that the worker be available for work seven hours per day Monday through Friday and five hours on Saturday every day that work is available for the full period of employment shown in Item 9, even though work may be slack for brief periods at any point during the season. The worker agrees to be available for work and perform the assigned work for the employer whenever work is available through the full period of

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The worker understands that if he abandons his employment or is terminated for cause prior to the end of the period of employment shown in Item 9 he will forfeit the 3/4 guarantee and reimbursement of certain transportation costs described elsewhere in this job order. Excessive absences and/or tardiness, as defined in the Work Rules attached hereto, cannot be tolerated and may result in termination.

Daily individual work assignments, crew assignments, and location of work, will be made by and at the sole discretion of the farm manager and/or farm supervisor as the needs of the farming operation dictate. Workers may be assigned a variety of duties in any given day and /or different tasks on different days. Workers will be expected to perform any of the listed duties and work on any crop as assigned by the worker's supervisor.

Employers will provide tools and equipment (pruning shears, hoes, etc.) at no cost for workers to perform the above tasks. Non-mechanical tools and equipment may include ladders, shovels, hoes, tampers, pruning hooks, shears or handsaws.

When beginning a crop activity for the first time, the employer will provide instructions and/or training in the proper way to perform the crop activity. Thereafter the worker will be expected to perform the task with diligence as instructed. By the beginning of the second working day (7 hours of work completed), workers in all activities will be expected to keep up with fellow workers, not to adversely affect the productivity of the others workers, and to perform the work in a manner specified by the employer and described herein. After the one-day (7 hour) training and acclimation period, workers who fail to meet this standard and/or who fail to perform the work in the manner specified may be terminated.

16. Wage Rates, Special Pay Information and Deductions: Harvesting specifications, in particular, can change from time to time during the season due to crop or market conditions, even on the same crop. Workers will be expected to conform to the specific instructions given for each day's work. Employer reserves the right to add a piece rate for any of the crops listed as an incentive to increase wages. Employer also reserves the right to pay by the hour rates listed as piece rates.

The tasks in the crops listed below will be paid at the piece rates listed. All other work will be paid the adverse effect wage rate (AEWR) of \$10.91 per hour.

Workers are guaranteed that their total earnings will be at least equal to the AEWR, prevailing wage, the agreed-upon collective bargaining wage or the Federal or State minimum wage per hour for all hours worked in a pay period. If a worker's total earnings in any pay period in which the worker has worked at a piece rate are less than the disclosed wage rate for all hours worked in the pay period, the employer will increase the worker's pay to the guaranteed minimum of AEWR, prevailing wage, the agreed-upon collective bargaining wage or the Federal or State minimum wage per hour for the total hours worked in the pay period.

<u>Apple Harvest Type</u>	<u>Piece Rate/ Unit</u>	<u>Est. Hourly Earnings</u>
Fresh Mkt-Dwarf	\$.850 per 1 Bushel	\$10.91
Fresh Mkt-Standard	\$.900 per 1 Bushel	\$10.91
Processing	\$.60 per 1 Bushel	\$10.91
Juice	\$.60 per 1 Bushel	\$10.91

Employer may temporarily raise piece rate, due to market and crop conditions. Employer may also choose to pay a by the hour wage rate, to ensure a quality produce is picked. A few scrapes or scratches could make the difference between a top-grade fruit and fruit to be used in processing.

Harvesting specifications, in particular, can change from time to time during the season due to crop or market conditions, even on the same crop. Workers will be expected to conform to the specific instructions given for each days work. The farm owner/supervisor or a designated employee will provide specific instructions and close supervision. Workers will be expected to perform their duties in a timely and proficient manner and will have close supervision to insure adherence to instruction. Work will be closely monitored and reviewed for quality.

All other work will be paid the adverse effect wage rate (AEWR) of \$10.91 per hour. In the event that the Department Of Labor promulgates a new AEWR applicable to any portion of the period of employment covered by this job order which is higher or lower than the AEWR herein, the employer will pay the higher AEWR, and may, at the employer's discretion pay the lower AEWR, beginning with the effective date of the new AEWR. Employer will pay the highest of the AEWR, prevailing wage, the piece rate, the agreed-upon collective bargaining wage or the Federal or State minimum wage at the time the work is performed.

All domestic and/or nonresident seasonal farm workers employed pursuant to this job order who satisfactorily completed the previous crop season may be compensated above the stated hourly wage rate. This is not promised or guaranteed. The decision to pay above the stated rates will be made by the employer, at their sole discretion, and will be based on factors including the recipients' performance and tenure.

A. The employer will make the following deductions from the Worker's wages: FICA taxes and State and Federal Income tax as required by law. FICA, State and Federal taxes will not be deducted from those worker's wages that are working under a temporary, agricultural visa, unless requested by the worker, or if it is discovered that it is a requirement. No deduction not required by law will be made that brings the worker's hourly earnings below the statutory federal or state minimum wage.

B. Employers guarantee to offer employment for the hourly equivalent of 3/4 of the workdays of the total specified period during which the work contract and all amendments thereof are in effect, beginning with the first workday after the workers' arrival at the assigned Grower's farm, ready, willing, able, and eligible to work and ending on the expiration date specified in the work contract and all extensions thereof or upon the termination of this employment as provided below. For purposes of this guarantee, a "workday" consists of seven hours Monday-Friday and five hours on Saturday. The worker is not required to work on his Sabbath or on federal holidays which are New Year's Day, January 1; Martin Luther King, Jr.'s birthday, the third Monday in January; Presidents Day, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Columbus Day, the second Monday in October; Veteran's Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25. On certain of these days, work may be available. If the worker at the conclusion of his work agreement has been afforded less employment opportunity than required under this provision, the worker will be paid at his average hourly rate for the hours, in addition to those actually offered, up to the hourly equivalent of the guaranteed number of days. In determining whether the guarantee of employment has been met, any hours which the Worker fails to work during a workday, when the Employer offers him the opportunity to work, and all hours of work actually performed shall be counted toward meeting this guarantee. In addition the employer may count hours of work offered all hours for which work was offered and not worked which do not exceed a total of hours worked and hours offered but not worked of the normal work hour. The guarantee described in this paragraph shall not apply if the worker voluntarily abandons this employment before the end of the contract period or in the event the worker is terminated for a lawful job-related reason. The guarantee described in this paragraph shall not apply to an H-2A alien worker who is terminated because of the employer's compliance with the requirement to employ all qualified eligible US workers who apply during the first 50 percent of the employment period in accordance with the rule at 20 CFR 655.122(i)(4).

C. This employment guarantee shall be terminated before the end of the Period of Employment if the services of the workers are no longer required for reasons beyond the control of the Employer due to fire, frost, flood, drought, hail, other Act of God which makes fulfillment of this contract impossible. In such cases, the employer will make efforts to transfer worker to other comparable employment acceptable to worker. If such transfer is not effective, workers will be returned at Employer's expense to the place from which Worker, without intervening employment, came to work for employer. In the event of such termination, the 3/4-guarantee period ends on the date of termination. The guarantee shall be void from the beginning should the Worker voluntarily abandon this employment before the end of the contract period or in the event the Worker is terminated for lawful job-related reason, and the employer notifies the NPC, and DHS in the case of an H-2A worker, in writing or by any other method specified by the Department or DHS in a manner specified in a notice published in the Federal Register not later than 2 working days after such abandonment occurs.

D. Workers will be paid weekly.

All domestic and/or nonresident seasonal farm workers employed pursuant to this job order who satisfactorily completed the previous crop season may be compensated above the stated hourly wage rate. This is not promised or guaranteed. The decision to pay above the stated rates will be made by the employer, at their sole discretion, and will be based on factors including the recipients' performance and tenure.

A. The employer will make the following deductions from the Worker's wages: FICA taxes and State and Federal Income tax as required by law. FICA, State and Federal taxes will not be deducted from those worker's wages that are working under a temporary, agricultural visa, unless requested by the worker, or if it is discovered that it is a requirement. No deduction not required by law will be made that brings the worker's hourly earnings below the statutory federal or state minimum wage.

B. Employers guarantee to offer employment for the hourly equivalent of 3/4 of the workdays of the total specified period during which the work contract and all amendments thereof are in effect, beginning with the first workday after the workers' arrival at the assigned Grower's farm, ready, willing, able, and eligible to work and ending on the expiration date specified in the work contract and all extensions thereof or upon the termination of this employment as provided below. For purposes of this guarantee, a "workday" consists of seven hours Monday-Friday and five hours on Saturday. The worker is not required to work on his Sabbath or on federal holidays which are New Year's Day, January 1; Martin Luther King, Jr.'s birthday, the third Monday in January; Presidents Day, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Columbus Day, the second Monday in October; Veteran's Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25. On certain of these days, work may be available. If the worker at the conclusion of his work agreement has been afforded less employment opportunity than required under this provision, the worker will be paid at his average hourly rate for the hours, in addition to those actually offered, up to the hourly equivalent of the guaranteed number of days. In determining whether the guarantee of employment has been met, any hours which the Worker fails to work during a workday, when the Employer offers him the opportunity to work, and all hours of work actually performed shall be counted toward meeting this guarantee. In addition the employer may count hours of work offered all hours for which work was offered and not worked which do not exceed a total of hours worked and hours offered but not worked of the normal work hour. The guarantee described in this paragraph shall not apply if the worker voluntarily abandons this employment before the end of the contract period or in the event the worker is terminated for a lawful job-related reason. The guarantee described in this paragraph shall not apply to an H-2A alien worker who is terminated because of the employer's compliance with the requirement to employ all qualified eligible US workers who apply during the first 50 percent of the employment period in accordance with the rule at 20 CFR 655.122(i)(4).

C. This employment guarantee shall be terminated before the end of the Period of Employment if the services of the workers are no longer required for reasons beyond the control of the Employer due to fire, frost, flood, drought, hail, other Act of God which makes fulfillment of this contract impossible. In such cases, the employer will make efforts to transfer worker to other comparable employment acceptable to worker. If such transfer is not effective, workers will be returned at Employer's expense to the place from which Worker, without intervening employment, came to work for employer. In the event of such termination, the 3/4-guarantee period ends on the date of termination. The guarantee shall be void from the beginning should the Worker voluntarily abandon this employment before the end of the contract period or in the event the Worker is terminated for lawful job-related reason, and the employer notifies the NPC, and DHS in the case of an H-2A worker, in writing or by any other method specified by the Department or DHS in a manner specified in a notice published in the Federal Register not later than 2 working days after such abandonment occurs.

D. Workers will be paid weekly.

E. Employer will provide a worker referred through the SWA Interstate System forty (40) hours of work for the week beginning with the anticipated date of need, unless the employer has amended the date of need by notifying the local employment service office at least 10 working days prior to the original date of need. If the employer fails to notify the Central H2a office in Albany, then employer shall pay an eligible worker referred through the interstate clearance system \$10.56 per hour for the first week, starting with the original anticipated date of need. 40 hrs x \$10.56 = \$422.40 Gross (before taxes). The employer may require the worker to perform alternative work if the guarantee cited in this section is invoked. If the worker fails to notify the local office of his continuing interest in the job no sooner than nine working days and no later than five working days before the date of need, the worker will be disqualified from the above-mentioned assurance. Alternative work will be general labor and maintenance activities including, cleaning and maintaining migrant housing, fence mending and the repair and maintenance of farm buildings and equipment.

F. The Employer will furnish to the worker, on or before each payday one or more written statements showing the worker's total earnings for the pay period, his hourly rate or piece rate (if applicable); the hours of work which have been offered to

the worker, the total hours actually worked by the worker, an itemization of all deductions made from the worker's wages; the worker's net pay; the units produced daily, if piece rate are used; the beginning and ending dates of the pay period; the employer's name, address and IRS identification number. Employer will abide by regulations as stated at 20 CFR 655.122(j)(k).

17. Transportation: The Employer will not advance transportation and subsistence costs to Workers for transportation to the place of employment.

This subparagraph applies only to Workers who cannot reasonably return to their residence the same day. After the workers has completed 50% of the work contract. All eligible applicants will have their inbound reasonable transportation expenses reimbursed, one time only. Domestic applicants from outside of the normal commuting distance that voluntary chose not to reside in the employer provided housing, the employer will pay for the initial inbound transportation reimbursement. However, the employer will not reimburse any workers for daily transportation cost whether commuting from inside or outside of the area of intended employment. Employer will not pay for voluntary trips back to their residence due to family emergencies, or vacations.

The amount of such transportation payment will be equal to the Worker's actual transportation costs not to exceed the most economical and reasonable common carrier transportation charges for the distance involved. In lieu of the above payments to the workers for transportation, the employer reserves the right to charter or otherwise arrange to provide for transportation at the employer's election. Subsistence reimbursement shall be \$11.13 per day, without producing documentation of actual expenses, or will otherwise be paid as per 20 CFR 655.122(h) only to those employees who are eligible under the H-2A program regulations for subsistence pay. Maximum Amount to be reimbursed with receipts is \$46.00. By way of illustration and not in limitation of the foregoing, the employer will not pay transportation for such worker if he does not have suitable documents to comply with proof of identity and employment eligibility requirements of IRCA, if he is discharged for lawful job-related reasons, if he has knowledge at the place of recruitment that he cannot perform the duties of the job as described above (see 17a other conditions of employment), or if he abandons this employment when he is needed by the Grower.

Employer will provide, pay, or reimburse transportation and subsistence under this agreement if the worker is terminated because of work related injury caused by this/these crop activities and is so certified by a doctor acceptable to employer before leaving employers farm, or termination resulting from an Act of God which makes fulfillment of this contract impossible as provided in paragraph 16C or if the worker is displaced by a U.S. worker under DOL's 50% rule.

Employer will offer free transportation for workers living in employer's housing facility both to and from the daily work site. The use of the transportation by the worker is voluntary; no worker will be required as a condition of employment to utilize the transportation offered by the employer. Workers are free to choose their own means of transportation at their own expense.

For US workers who complete the work contract and are eligible for the outbound transportation benefit, or if the employee is terminated without cause, and the worker has no immediate subsequent H2a employment, or an H2a workers that is displaced due the employers obligation under the USDOL 50% rule, the Employer will provide or pay for the worker's reasonable cost of return transportation and subsistence from the place of employment to the place from which the worker departed to work for the employer, except when the worker will not be returning to the place of recruitment due to subsequent employment with another employer. If the subsequent employer has not agreed to provide or pay for the worker's transportation to the subsequent place of employment, the Employer will provide or pay for the transportation and subsistence to the subsequent place of employment in lieu of providing or paying for such expenses from the place of employment to the place from which the worker departed to work for the employer. If the subsequent employer has agreed to provide or pay for the worker's transportation and subsistence to the subsequent place of employment the Employer will not provide or pay for such expenses. The Employer reserves the right to arrange charter or other return transportation. Workers eligible for this benefit who do not wish to avail themselves of employer arranged return transportation would be provided their outbound transportation and subsistence by check. In those circumstances, the grower will distribute the checks as soon as all work is completed, as determined by the employer, and the worker is ready to depart. Workers may select any means of transportation home they choose, however, the reimbursement is limited to the most economical and reasonable common carrier transportation cost for the distance involved. Workers who arrange their own transportation understand they assume all liability and hold harmless the growers/association for any damages, injuries, and personal or property losses.

Other Conditions of Employment: A). Discipline and/or Termination: Employer may discipline and/or terminate the worker for lawful job-related reasons and so notify the Job Service local office of the termination if the worker: a) refuses without justified cause to perform work for which the worker was recruited and hired, b) commit serious act(s) of misconduct or

serious or repeated violation(s) of Work Rules attached hereto. c) fails after completing the training period to perform the work as specified in Item 15 and Attachment, d) malingers or otherwise refuses without justified cause to perform as directed the work for which the Worker was recruited and hired; e) provides other lawful job-related reason(s) for termination of employment, f) abandons his employment; g) fails to meet applicable production standards or keep up with fellow workers. h) falsifies identification, personnel, medical, production or other work related records, i) fails or refuses to take a drug test, or j) commits acts of insubordination, **k) the employer may terminate the worker (foreign or domestic) with notification to the employment service if employer discovers a criminal conviction record or status as a registered sex offender that employer reasonably believes, consistent with current law, will impair the safety and living conditions of other workers.** Reason beyond employer's control" includes termination of workers, if he not a U.S. worker because a U.S. worker makes himself available for the job under DOL's 50% rule. Workers must notify the employer prior to voluntarily terminating their employment. All wages due will be forwarded to the last known address for Workers that leave without providing notice. It is imperative that workers provide a complete and accurate address to the employer no later than the first day of employment. These employers have a no complete, no rehire policy. Termination for lawful job related reasons before the specified ending date listed in this application will disqualify the employee from future employment opportunities with this employer. Workers who abandon their employment without notice during the period covered by this work agreement will be disqualified from future employment opportunities with this employer. Voluntary resignation before the specified ending date listed in this application may disqualify the employee from future employment opportunities with this employer. For workers who resign their employment voluntarily, the employer will consider and evaluate special circumstances and hardship cases on a case-by-case basis. Employees, without exception, are required to notify appropriate supervisory staff prior to voluntarily terminating their employment to be considered and eligible for exemption to the no complete - no rehire policy.

B. The employer may discipline the worker, including requiring the worker to leave the field ("time out") for a period determined by the foreman, suspension from employment for up to three days, or termination of employment as described in termination (A) above.

C. Injuries: Worker will be covered by Worker's Compensation Insurance or equivalent employer provided insurance for injuries arising out of and in the course of employment. Employer's proof of insurance coverage will be provided to the Regional Administrator before certification is granted. All workers must report all injuries and illnesses to their employer. Failure not to do so may result in termination.

D. Employer Obligation if Employment Extended: No extension of employment beyond the Period of Employment specified in the job order shall relieve the Employer from paying the wages already earned, or if specified in the job order as a term of employment, providing return transportation or paying return transportation expenses to the Worker.

E. Employer Notification of Changes in Employment Terms and Conditions: Employers will expeditiously notify the H-2A Central office or State agency by telephone immediately upon learning that a crop is maturing earlier or later, or that weather conditions, over recruitment, or other factors have changed the terms and conditions of employment. The terms of this Work Agreement thereafter may be changed upon posted notice to the Worker.

F. Outreach Workers: Outreach workers shall have reasonable access to the Worker in the conduct of outreach activities.

G. Training: There will be a short demonstration period (up to 1 hr.) to familiarize workers with job specifications, to demonstrate proper methods and other crop specific issues. The employer will not provide separate formal orientation or training periods for each different crop or each different type of task or job assignment covered within the job description. After completion of the training period the employer will expect all workers to possess the skills to work in the production of the crops noted in Item II. For purposes of this section six or more hours will be considered one day.

H. Work Agreement: A copy of the contract or Job Clearance Order and work rules (copy attached) will be provided to the worker by the employer no later than on the day the time at which the worker applies for the visa (for foreign workers), or to a worker in corresponding employment no later than when the employment is offered, in a language understood by the worker.

I. U.S. workers may or may not be covered by unemployment insurance and may or may not be eligible under current unemployment regulations.

J. Employer agrees to abide by the regulations at 20 CFR 655.135, Assurances, and 20 CFR 653.501.

K. The employer as a part of positive recruitment as per 20 CFR 655.122(h) (1-4) is willing, if and when any substantial number of applicants are available, to coordinate group transportation arrangements (to facilitate their purchase of bus tickets etc.), where appropriate, and to provide any additional information that workers need to coordinate their arrival.

L. We are an equal opportunity employer. Women and minorities are encouraged to apply to these positions.

N. For workers covered by MSPA 29 CFR 500.075(8) there are not any arrangements made with establishment owners or agents for the payment of a commission or other benefits for sales made to the workers.

O. SUBSTANCE ABUSE POLICY: This employer will strive to provide a safe and healthful work environment, free of substance abuse, for the protection of our associates, employees and visitors. The use, possession or being under the influence of illegal drugs or alcohol during working time is prohibited. (Alcohol may be permitted in the housing facility outside work hours.) Employees may also be requested to take random drug tests at no cost to the worker. Workers are subject to random drug testing effective their first date of work. Failure to comply with the request or testing positive will result in immediate termination.

Q. Pursuant to 20 CFR 655.135 (l)(i), each employee that enters the United States with an H-2A temporary work visa must return at the end of the period certified by the U.S. Department of Labor or upon separation from the employer, whichever is earlier, unless the employee is being sponsored by another subsequent H-2A employer.

## WORK RULES

The following work rules are intended to provide guidance to workers on the standards of conduct and performance expected of them by the Employer, these work rules are only a suggestion to the employer. The employer's use of these work rules is entirely voluntary. The employer may develop and enforce his/her own work rules. Violation of these rules or other lawful job-related employer requirements, including these work rules, would be considered grounds for discipline or immediate discharge. Penalties for infractions may include suspension from work without pay for the remainder of the day, or for up to three days, in the sole judgment of the Employer, depending on the seriousness of the infraction, the worker's prior record, and other relevant factors. Repeated, serious, or aggravated infractions may result in immediate discharge. Workers are expected to comply with all rules relating to discipline, attendance, work quality and quantity, and the maintenance of all property.

1. Workers must perform their assigned work in a careful, workman-like manner in accordance with the provision of the work contract. Sloppy work will not be tolerated.
2. Use or possession of alcoholic beverages or illegal drugs is strictly prohibited during work time or during any workday before work is completed for the day (such as during meals); workers may not report for work under the influence of alcoholic beverages or illegal drugs. Illegal drugs may not be used or kept on any employer premises, including housing at any time. Use or possession of illegal drugs, failing or refusing to take a drug test will be **CAUSE FOR IMMEDIATE TERMINATION.**
3. Excessive absences and/or tardiness will not be permitted. Employees are expected to be present, on time, able and willing to perform the assigned work every scheduled workday. This is not sporadic or "day work." Excessive absences are defined as: Three unexcused absences in a 30-day period. Five consecutive days of unexcused absences is considered abandonment of their position. Violation will be **CAUSE FOR IMMEDIATE TERMINATION.** Workers must report at assigned time and place each workday as directed by the grower or supervisor. **WORKERS WILL BE DISCHARGED FOR EXCESSIVE TARDINESS.** Excessive tardiness is defined as 2 unexcused tardies in a row or 5 unexcused tardies in a period of thirty days.
4. Workers shall maintain and keep the living quarters provided to them in compliance with OSHA 1910.142 Standards as posted in the housing and in clean condition and in good repair, allowing for reasonable wear and tear. Workers shall cooperate with other workers assigned to such housing in maintaining common kitchen and living areas in good condition. Workers will be required to keep the exterior area surrounding the camp clean and clear of debris. Workers shall promptly report any problems with housing to the employer or designated supervisor.
5. Workers living in employer's housing assigned to bunk beds may not separate bunk beds, as floor space in sleeping rooms is needed by all occupants.
6. Workers living in employer's housing may not cook in sleeping rooms or any other non-kitchen areas. Workers are forbidden from removing batteries from smoke detectors for any reason. **VIOLATION WILL BE CAUSE FOR IMMEDIATE TERMINATION.**
7. Workers must not drop paper, cans, bottles and other trash in fields, packing house, or on housing premises. Trash and waste receptacles must be used.
8. Workers may not take unauthorized breaks from work.
9. Workers may not leave the field or other assigned work area without permission of farmer or person in charge.
10. Workers may not enter employer's premises without authorization.
11. Workers may not begin work prior to scheduled starting time or continue working after stopping time unless authorized by the employer.

12. Workers living in employer's housing may not have guests in housing premises after 10:30 p.m. except on Saturday night on which guest hours end at 12:00 p.m. No persons, other than workers assigned by employer to a room, may sleep in any room.
13. Workers may not deliberately restrict production.
14. Any worker who verbally or physically threatens another worker, the farmer or any supervisor with any tool or weapon **WILL BE SUBJECT TO IMMEDIATE DISCHARGE.**
15. **WORKERS WILL BE DISCHARGED** for fighting on the employer's premises, including housing premises, at any time.
16. Workers may not post or remove any notices, signs, or other instructions from the employer's bulletin boards or the employer's property without specific authority from the employer.
17. **WORKERS WILL BE DISCHARGED** if they steal from fellow workers or from the employer.
18. Workers may not falsify identification, personnel, medical, production or other work-related records. **VIOLATORS WILL BE SUBJECT TO IMMEDIATE DISCHARGE.**
19. Workers may not willfully abuse or destroy any machinery, truck or other vehicle, equipment, tools or other property belonging to the employer or to other employees. **VIOLATORS WILL BE SUBJECT TO DISCHARGE IMMEDIATELY.**
20. Workers may not use or operate trucks or other vehicles, machines, tools or other equipment and property to which the worker has not been specifically assigned by his supervisor. Workers may not use or operate trucks or other vehicles, tools or other equipment or property for their personal use unless expressly authorized by the employer.
21. Workers may not misuse or remove from the farm premises without authorization from his supervisor any employer property such as trucks and other vehicles, beds, refrigerators, tools, etc. **VIOLATORS WILL BE SUBJECT TO DISCHARGE IMMEDIATELY**
22. Workers must obey all safety rules and common safety practices and must report any injuries or accidents to their supervisor or the employer's as soon as is reasonably possible. **UNSAFE WORK BEHAVIOR MAY SUBJECT THE VIOLATOR TO DISCHARGE.**
23. Workers must follow supervisor's instructions.
24. Workers may not commit acts of insubordination - failure to regard authority.
25. After the training period, workers are expected to possess the skills necessary to perform the job described in the work agreement and to the standard set by the employer.
26. Workers may not interrupt other workers rest/sleep period by excessive noise or commotion. Workers must not play loud music after 9:00 PM on work nights or after 12:00 PM on Saturday night.
27. Workers will not knowingly engage in any type of behavior or take any action that might cause the grower to be out of compliance with any local, state, or federal law.

rev.11/10

# Addendum - Lamont Fruit Farm Inc #2

Employers		Total Workers Employed	Starting Date Ending Date	Housing Type	Housing Location County	Total Capacity	Total H2A Wrkrs
Roderick Farrow Lamont Fruit Farm Inc #2 12703 Stillwater Rd Waterport, NY, 14571 (585) 682-4749 Apples	(7019)	85	3/4/13 11/20/13	2 BLOCK	Orleans	72	20

<b>Total Workers Employed</b>	<b>85</b>
<b>Total Housing Capacity</b>	<b>72</b>
<b>Total H2A Workers Requested</b>	<b>20</b>
<b>Total Employers</b>	<b>1</b>