



**U.S. Department Labor  
Employment and Training Administration**

OMB Control No. 1205-0134  
Expiration Date: October 31, 2015

**Agricultural and Food Processing Clearance Order ETA Form 790  
Orden de Empleo para Obreros/Trabajadores Agrícolas y Procesamiento de Alimentos**

(Print or type in each field block – To include additional information, go to block # 28 – Please follow Step-By-Step Instructions)  
(Favor de usar letra de molde en la solicitud – Para incluir información adicional vea el punto # 28 – Favor de seguir las instrucciones paso-a-paso)

<p>1. Employer's and/or Agent's Name and Address (Number, Street, City, State and Zip Code / Nombre y Dirección del Empleador/Patrón y/o Agente (Número, Calle, Ciudad, Estado y Código Postal):  <b>Forking Paths Vineyards Inc and Associates,          400 Barracks Road, Geneva, NY 14456          Agent: Christopher Verrill, Operations          Manager, 1565 Combs Road, Ovid, NY 14521</b></p> <p>a) Federal Employer Identification Number (FEIN) / Número federal de Identificación del Empleador:  <b>03-0425141</b></p> <p>b) Telephone Number / Número de Teléfono:  <b>607-280-6050</b></p> <p>c) Fax Number / Número de Fax:  <b>607-869-9901</b></p> <p>d) E-mail Address / Dirección de Correo Electrónico:  <b>cverrill@rochester.rr.com</b></p>	<p><b>Nos. 4 through 8 for STATE USE ONLY Números 4 a 8 para USO ESTATAL</b></p>																
<p>2. Address and Directions to Work Site / Domicilio y Direcciones al lugar de trabajo:   <b>Association Application          see attachments for Association Agreement and          member information          and for additional work site locations</b></p>	<p>4. SOC (O*NET/OES) Occupational Code / Código Industrial:  <b>45-2092-02</b></p> <p>a. SOC (ONET/OES) Occupational Title / Título Ocupacional  <b>Farmworkers and Laborers          crop</b></p> <p>5. Job Order No. / Num. de Orden de Empleo:  <b>M 1110412</b></p>																
<p>3. Address and Directions to Housing / Domicilio y Direcciones al lugar de vivienda:  <b>1) 74 Seneca          Street,          Dresden, NY          2) 80 Seneca          St East,          Dresden, NY</b></p> <p>a) Description of Housing / Descripción de la vivienda:   <b>1) Wood frame house with capacity          of 23          2) Wood frame house with capacity          of 6</b></p>	<p>6. Address of Order Holding Office (include Telephone number) / Dirección de la Oficina donde se radica la oferta (incluya el número de teléfono):  <b>(877) 466-9757</b></p> <p>a. 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).  <b>(877) 466-9757</b></p>																
	<p>7. Clearance Order Issue Date / Fecha de Emisión de la Orden de Empleo:  <b>11/4/14</b></p> <p>8. Job Order Expiration Date / Fecha de Vencimiento o Expiración de la Orden de Empleo:  <b>6/14/15</b></p>																
	<p>9. Anticipated Period of Employment / Periodo anticipado o previsto de Empleo:          From / Desde: <b>01/14/2015</b> To / Hasta: <b>11/13/2015</b></p> <p>10. Number of Workers Requested / Número de Trabajadores Solicitados:  <b>19</b></p>																
	<p>11. Anticipated Hours of Work per Week / Horas Anticipadas/Previstas de Trabajo por Semana. Total: <b>40</b></p> <table border="0"> <tr> <td>Sunday / Domingo</td><td><u>0</u></td> <td>Thursday / Jueves</td><td><u>7</u></td> </tr> <tr> <td>Monday / Lunes</td><td><u>7</u></td> <td>Friday / Viernes</td><td><u>7</u></td> </tr> <tr> <td>Tuesday / Martes</td><td><u>7</u></td> <td>Saturday / Sábado</td><td><u>5</u></td> </tr> <tr> <td>Wednesday / Miércoles</td><td><u>7</u></td> <td></td><td></td> </tr> </table>	Sunday / Domingo	<u>0</u>	Thursday / Jueves	<u>7</u>	Monday / Lunes	<u>7</u>	Friday / Viernes	<u>7</u>	Tuesday / Martes	<u>7</u>	Saturday / Sábado	<u>5</u>	Wednesday / Miércoles	<u>7</u>		
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Wednesday / Miércoles	<u>7</u>																
	<p>12. Anticipated range of hours for different seasonal activities: / Rango previsto de horas par alas diferentes actividades de la temporada:  <b>40</b></p>																
	<p>13. Collect Calls Accepted from: / Aceptan Llamadas por Cobrar de:           Employer / Empleador: Yes / Si <input checked="" type="checkbox"/> No <input type="checkbox"/></p> <p style="text-align: center;"><b>RECEIVED</b> NOV 02 2014</p>																

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14. Describe how the employer intends to provide either 3 meals a day to each worker or furnish free and convenient cooking and kitchen facilities for workers to prepare meals / Describe cómo el empleador tiene la intención de ofrecer, ya sea 3 comidas al día a cada trabajador, o proporcionar gratuitamente instalaciones para cocinar.

Employer will not provide 3 meals per day and will deduct \$ N/A per day

Employer will furnish free dishes, cooking utensils, and convenient kitchen and cooking facilities

Employer will provide transportation to assure workers access to stores where they can purchase groceries, other incidentals, and/or medical necessities.

15. Referral Instructions and Hiring Information / Instrucciones sobre cómo Referir Candidatos/Solicitantes- (Explain how applicants are to be hired or referred, and the Employer's/Agent's available hour to interview workers / Explique cómo los candidatos serán contratados o referidos, y las horas disponibles del empleador/agente para entrevistar a los trabajadores). See instructions for more details / Vea las instrucciones para más detalles.

Contact employer directly during normal business hours Monday - Friday, 9am-4:30pm, or nearest One Stop Office  
Chris Verrill, 607-280-6050

16. Job description and requirements / Descripción y requisitos del trabajo:

Manually plant, cultivate, and harvest grapes. Use hand tools, trowels, hoes, tampers, pruning hooks, shears, knives. Duties may include tilling soil and applying fertilizer, transplanting, weeding, thinning, or pruning crops, apply pesticides, cleaning, packing, loading harvest product. ~~May~~ construct or maintain trellises, fences, and farm buildings, or participate in irrigation activities. Set up and operate irrigation equipment, operate tractors, tractor drawn machinery, and self propelled machinery to plow, harrow, fertilize soil, or to plant, cultivate, spray, and harvest crops. Harvest grapes by hand. Apply pesticides, fertilizers, and herbicides to crops. Inform farmers and farm managers of crop progress, identify plants, pests, and weeds to determine the selection and application of pesticide usage, yield, or costs. Clear and maintain irrigation or drainage ditches and equipment. Record information about crops such as pesticide use, yields, or costs. Workers are expected to work at least the number days and hours specified. Depending on the weather, crop, or other conditions, workers may be requested, but not required to work up to 7 days per week and/or on the Sabbath, and up to 12 hours per day. Employer will furnish to workers, without cost, all tools and equipment required in the performance of the duties assigned. Workers should report to work with their own suitable and appropriate work clothing. Field temperatures may range from below 0 to 90(+) degrees (F) with possible wet conditions. \* Workers referred against this order must have a minimum of 1 month experience in performing the tasks described above.

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1. Is previous work experience preferred? / Se prefiere previa experiencia? Yes / Si  No  If yes, number of months preferred: / Si es así, numero de meses de experiencia: 1

2. Check all requirements that apply:

- |   |   |
|---|---|
| <input type="checkbox"/> Certification/License Requirements / Certificación/Licencia Requisitos   | <input type="checkbox"/> Criminal Background Check / Verificación de antecedentes penales                         |
| <input type="checkbox"/> Driver Requirements / Requisitos del conductor                           | <input type="checkbox"/> Drug Screen / Detección de Drogas  |
| <input checked="" type="checkbox"/> Employer Will Train / Empleador entrenará o adiestrará        | <input checked="" type="checkbox"/> Extensive Pushing and Pulling / Empujar y Jalar Extensamente                  |
| <input type="checkbox"/> Extensive Sitting / Estar sentado largos ratos                           | <input checked="" type="checkbox"/> Extensive Walking / Caminar por largos ratos                                  |
| <input checked="" type="checkbox"/> Exposure to Extreme Temp. / Expuesto a Temperaturas Extremas  | <input checked="" type="checkbox"/> Frequent Stooping / Inclinandose o agachándose con frecuencia                 |
| <input checked="" type="checkbox"/> Lifting requirement / Levantar o Cargar <u>50</u> lbs./libras | <input type="checkbox"/> OT/Holiday is not mandatory / Horas Extras (sobre tiempo) / Días Feriados no obligatorio |
| <input checked="" type="checkbox"/> Repetitive Movements / Movimientos repetitivos                |   |

17. 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*	Yes/Si	No	Pay Period / Período de Pago
Cultivos	Salario por Hora	Pago por Pieza / Unidad(es)	Pagos Especiales (Bono, etc.)	Deducciones			/ /
vineyard work	\$ 11.22 or AEWR	\$ N/A	N/A	Social Security / Seguro Social	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Weekly / Semanal
trabajo de vinedo	\$ 11.22 or AEWR	\$ N/A	N/A	Federal Tax / Impuestos Federales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	\$	\$		State Tax / Impuestos Estatales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bi-weekly / Quincenal
	\$	\$		Meals / Comidas	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	\$	\$		Other (specify) / Otro (específica)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Monthly/Mensual
							Other/Otro
							<input type="checkbox"/>

18. More Details About the Pay / Mas Detalles Sobre el Pago:

Employer will pay worker a hourly wage rate as determined by the AEWR (currently \$11.22 / hour). Based on the 40 hour work agreement, the employer will pay the worker \$448.80 per pay week/pay period. The pay week/pay period runs from Saturday-Friday, with pay checks issued the following Friday. All

applicable State and Federal taxes and withholdings will be withheld by the employer as required by law. All hours above the 40 hour base agreement that are offered and accepted, will be paid the same hourly wage rate established by the AEWR. (currently \$11.22/hour).

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19. Transportation Arrangements / Arreglos de Transportación

The employer agrees to reimburse inbound transportation and subsistence expenses (~~\$11.18~~ <sup>\$11.56</sup> /day) without receipts or up to \$46/day with receipts to each worker, or any person, government agency, or private organization which, on behalf of the worker, has paid or advanced such transportation and subsistence expenses, from the place from which the worker has come to work for the employer, whether in the US or abroad, to the place of employment after the worker has completed 50% of the stipulated period of employment, from the initial date of need, or from the day after the actual day of arrival of the worker if later than the stated date to report.

The employer will provide or pay the cost of return transportation and subsistence to each worker who completes the employment period, or who is terminated for medical reasons, or as the result of fire, weather, or Acts of God as determined by the certifying officer, from the place of employment to the place of recruitment, except if the worker is not returning to his/her place of recruitment and has subsequent employment with the employer who will bear transportation expenses, in which case this employer only pays for the transportation to the next job.

20. 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 usar Contratistas de Trabajo Agrícola para reclutar, supervisar, transportar, dar vivienda, y/o pagarle a los trabajadores para este(os) tipo(s) de cosecha(s)? Yes / Si  No

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

21. Are workers covered for Unemployment Insurance? / ¿Se le proporcionan Seguro de Desempleo a los trabajadores? Yes/Si  No

22. Are workers covered by workers' compensation? / ¿Se le provee seguro de compensación/indemnización al trabajador? Yes/Si  No

23. Are tools, supplies, and equipment provided at no charge to the workers? / ¿Se les proveen herramientas y equipos sin costo alguno a los trabajadores? Yes/Si  No

24. 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

25. 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

26. Is this job order to be placed in connection with a future Application for Temporary Employment Certification for H-2A workers? / ¿Esta orden de empleo ha sido puesta en conexión con una futura solicitud de certificación de empleo temporal para trabajadores H-2A?

Yes/Si  No

27. 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.

Forking Paths Vineyards Inc and  
Associates, Agent: Christopher Verrill,  
Operations Manager

Employer's Printed Name & Title / Nombre y Título en Letra de Molde/Imprenta del Empleador



Employer's Signature / Firma y Título del Empleador

Date / Fecha

10/31/14

**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 Employment and Training Administration (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 American Job Center constitute a contractual job offer to which the American Job 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 (American Job Center) constituyen una oferta de trabajo contractuales a las que el American Job 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, Employment and Training Administration, Office of Workforce Investment, Room C-4510, 200 Constitution Avenue, NW, Washington, DC 20210.

#### DECLARACION DE CARGA PÚBLICA

La carga de información pública para responder a la Forma ETA 790, que se requiere para obtener o retener beneficios (44 USC 3501), se estima en aproximadamente 60 minutos por respuesta, incluyendo el tiempo para revisar las instrucciones, buscar fuentes de datos existentes, recopilar y revisar la colección. El público no tiene por qué responder a esta recopilación de información a menos que muestre un número de control OMB válido. Esta información es pública y no hay ninguna expectativa de confidencialidad. Envíe sus comentarios acerca de esta carga o cualquier otro aspecto de esta colección, incluyendo sugerencias para reducir esta carga, al U.S. Department of Labor, Employment and Training Administration, Office of Workforce Investment, Room C-4510, 200 Constitution Avenue, NW, Washington, DC 20210.

28. Use this section to provide additional supporting information (including section Box number). Include attachments, if necessary. / Utilice esta sección para proporcionar información adicional de apoyo; incluya el número de la sección e incluya archivos adjuntos, si es necesario.

**20 CFR 653.501  
Assurances**

**INTRASTATE AND INTERSTATE CLEARANCE ORDER**

The employer agrees to provide to workers referred through the clearance system the number of hours of work per week cited in Item 10 of the clearance order for the week beginning with the anticipated date of need, unless the employer has amended the date of need at least 10 working days prior to the original date of need by so notifying the Order-Holding Office (OHO). If the employer fails to notify the OHO at least 10 working days prior to the original date of need, the employer shall pay eligible workers referred through the intrastate/interstate clearance system the specified hourly rate or pay, or in the absence of a specified hourly rate or pay, the higher of the Federal or State minimum wage rate for the first week starting with the original anticipated date of need. The employer may require workers to perform alternative work if the guarantee is invoked and if such alternative work is stated on the job order.

The employer agrees that no extension of employment beyond the period of employment shown on the job order will relieve the employer from paying the wages already earned, or specified in the job order as a term of employment, providing transportation or paying transportation expenses to the worker's home.

The employer assures that all working conditions comply with applicable Federal and State minimum wage, child labor, social security, health and safety, farm labor contractor registration and other employment-related laws.

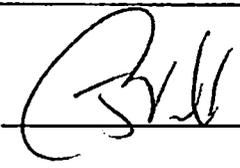
The employer agrees to expeditiously notify the OHO or State agency by telephone immediately upon learning that a crop is maturing earlier or later, or that weather conditions, over recruitment, or other factors have changed the terms and conditions of employment.

The employer, if acting as a farm labor contractor, has a valid farm labor contractor registration certificate.

The employer assures the availability of no cost or public housing which meets applicable Federal and State standards and which is sufficient to house the specified number of workers requested through the clearance system.

The employer also assures that outreach workers shall have reasonable access to the workers in the conduct of outreach activities pursuant to 20 CFR 653.107.

Employer's Name Forking Paths Vineyards Inc and Associates, Agent: Christopher Verrill, Operations Manager Date: 10/31/14

Employer's Signature 

**Besides the material terms and conditions of the employment, the employer must agree to these assurances if the job order is to be placed as part of the Agricultural Recruitment System. This assurance statement must be signed by the employer, and it must accompany the ETA Form 790.**

**New York State Department of Labor  
Form ETA 790 Attachment  
Terms and Conditions/Clarifications and Assurances/  
Additional Information**

**A: CLARIFICATION OF ITEMS ON FORM ETA 790**

**Item 3: Housing**

- a. Housing and utilities are provided at no cost to H-2A workers and those workers in corresponding employment who are unable to return to their place of residence the same day.
- b. Housing beds, bedding, and mattresses will be furnished at no cost to the workers.
- c. Housing will be clean and meet the applicable Federal and State housing standards.
- d. Workers will be responsible for maintaining housing and surrounding areas in a neat, clean manner.

**Item 14: Board Arrangements**

Employer will  will not  provide three meals per day and will deduct \$ n/a per day.  
Employer will  will not  furnish free dishes, cooking utensils and convenient kitchen and cooking facilities.  
Employer will  will not  provide transportation to assure workers access to stores where they can purchase groceries and/or other incidentals, and/or medical necessities.

**Item 16: Job Specifications**

- a. Workers must be able to demonstrate that they are physically able to perform the work as described.
- b. The employer will provide 14 days of training and/or allow 14 days of work for worker to reach production standards if applicable.
- c. Production Standards (if applicable): After completion of training or break-in period, employer will expect worker to: ~~Keep pace with the crew~~
- d. Employer may terminate worker with timely notification to the NPC and DHS, if the worker:
  - 1) Refuses, without cause, to perform work for which the worker was recruited and hired;
  - 2) Commits serious acts of misconduct;
  - 3) ~~Fails, after completing any training or break-in period, to reach production standards (if applicable); or~~
  - 4) Abandons Job ("Job Abandonment") – is absent for five consecutive previously scheduled days without prior notification to employer.

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**Item 17: Wage Rates, Special Pay Information and Deductions**

The employer will offer, advertise in its recruitment, and pay a wage that is the highest of the AEW, the prevailing hourly wage or piece rate, the agreed upon collective bargaining wage, or the Federal or State minimum wage, except where a special procedure is approved for an occupation or specific class of agricultural employment. Employer assures that if a change in the AEW requires an increase such increase will be paid as of the effective date of the increase. Also if the AEW is decreased this will become the wage effective on the date of the decrease.

- a. If piece rate earnings for total hours of work at a piece rate during a pay period do not result in average hourly earnings equal to the guaranteed minimum hourly rate, the worker will receive make-up pay to the guaranteed minimum wage rate.
- b. In New York State, the only deductions that can be taken from worker pay are:
  - 1. Those required by law, such as Social Security, income tax, and garnishment of wages; and
  - 2. Those that benefit workers and are authorized in writing, such as life insurance, or a savings account.

**Any other deductions are illegal.**

- c. The employer guarantees to offer employment for a minimum of  $\frac{3}{4}$  ("three-fourths guarantee") of the hours in the workdays during the period of the contract, and all extensions thereof. This guarantee begins with the first workday after the worker's arrival at the place of employment and ends on the date specified on the job order or extensions thereof. In fire, weather, or Act of God terminations (as determined by the Certifying Officer) the  $\frac{3}{4}$  guarantee period ends on the date of termination. The employer must make efforts to transfer the worker to other comparable employment acceptable to the worker, consistent with existing immigration law, as applicable. If such a transfer is not affected, the employer must (1) return the worker, at the employer's expense, to the place from which the worker (disregarding intervening employment) came to work for the employer, or transport the worker to the worker's next certified H-2A employer, whichever the worker prefers; (2) reimburse the worker the full amount of any deductions made from the worker's pay by the employer for transportation and subsistence expenses to the place of employment; and (3) pay the worker for any costs incurred by the worker for transportation and daily subsistence to that employer's place of employment. Daily subsistence must be computed as set forth in paragraph (h) of 655.122. The amount of the transportation payment must not be less (and is not required to be more) than the most economical and reasonable common carrier transportation charges for the distances involved provide the guarantees in Item 19 (a) below.
- d. Workers will not be required to work more than the number of hours specified in the job order for a workday or on their Sabbath or federal holidays to meet this guarantee. The worker's average hourly earnings will be used under this guarantee where wages are paid on a piece rate basis. Workers who are terminated for cause or who voluntarily abandon their job are not entitled to this guarantee if employer provides timely notification to the NPC and DHS.
- e. On or before each payday the employer will provide to each worker in one or more written statements the following information: (1) the worker's total earnings for the pay period; (2) the worker's hourly rate and/or piece rate of pay; (3) the hours of employment offered to the worker (showing offers in accordance with the  $\frac{3}{4}$  guarantee as determined in paragraph (i) of the regulations at 20 CFR sec. 655.122(k), separate from any hours offered over and above the guarantee); (4) the hours actually worked by the worker; (5) an itemization of all deductions made from the worker's wages; (6) if piece rates are used, the units produced daily; (7) beginning and ending dates of the pay period; and (8) the employer's name, address, and FEIN.
- f. Workers with school age children who have migrated with such children and who depart in time to return home for the beginning of the school year shall be paid, in addition to the basic wages, any bonus or other incentive payments or other expenses to which they would be entitled had they stayed the entire job order period.
- g. The employer will provide workers referred through the interstate clearance system 40 hours of work for the week beginning with the anticipated date of need, unless employer has amended the date of need by notifying the SWA no later than 10 business days before the date of need. If the employer fails to notify the NYS Department of Labor, then the employer shall pay an eligible worker referred through the clearance system \$448.80 (number of hours of work x AEWR/prevailing wage/minimum wage) for the first week starting with the originally anticipated date of need. If worker referred fails to notify the NYS Department of Labor of continued interest in the job at least 5 days before date of need, worker will be disqualified from this assurance. Employer will  will not  require worker to perform alternative work if the guarantee cited in this section is invoked.  
Alternative work:
- h. Employer will maintain adequate payroll records. Workers will be paid weekly on Friday for work through the previous Friday.

**Item 19: Transportation**

Employer agrees to reimburse inbound transportation and subsistence expenses (\$11.58 per day minimum to a maximum of \$46.00 per day) to each worker, or any person, government agency, or private organization which, on behalf of the worker, has paid or advanced such transportation and subsistence expenses, from the place from which the worker has come to work for the employer, whether in the U.S. or abroad to the place of employment, after the worker has completed 50% of the stipulated period of employment, from initial date of need or from the day after actual arrival of worker if later than the stated date to report.

- a. Employer will provide or pay the cost of return transportation and subsistence to each worker who completes the employment period, or who is terminated for medical reasons, or as the result of fire, weather, or an Act of God (as determined by the Certifying Officer), from place of employment to place of recruitment, except if the worker prefers not to return to his place of recruitment and has subsequent employment with an employer – see Item 17 (c) above. Employer will not be responsible for providing return cost of transportation and subsistence from place of employment to place of recruitment if the worker voluntarily abandons the job or is terminated for cause and employer provides timely notification to the NPC and DHS.
- b. The amount of the transportation payment will be equal to the most economical and reasonable similar common carrier transportation charges for the distance involved. All transportation provided by the employer will be by common carrier or other transportation facilities which conform to the applicable regulations of the Interstate Commerce Commission or the United States Department of Labor. The amount of daily subsistence will be in accordance with current rates published in the *Federal Register* (for workers with and without receipts).
- c. If requested by the worker, employer will assist in making transportation arrangements.
- d. Employer will provide transportation, at no cost to the worker, from the employer provided housing to the actual work site and return at the end of the day.

**Item 22: Workers' Compensation**

The employer assures that Policy # (see attached certificates) issued by \_\_\_\_\_ provides the required insurance for injuries arising out of and in the course of employment. Employer's proof of insurance coverage will be provided to the Chicago Processing Center before certification is granted.

**Item 23: Tools and Equipment**

The employer will furnish without cost all tools, supplies, or equipment required in the performance of work.

**B: OTHER CLARIFICATIONS AND ASSURANCES**

1. The employer agrees to abide by the regulations at 20 CFR 653.501 and 20 CFR 655.135.
2. The employer will expeditiously notify the 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.
3. Outreach workers shall have reasonable access to the worker in the conduct of outreach activities pursuant to 20 CFR 653.501(xvi).
4. If applicable, the employer is certified in the use and application of pesticides per Federal Environmental Protection Agency and State Department of Environmental Conservation requirements. The employer assures that workers hired under this order who will be handling pesticides will be provided appropriate training, if applicable.
5. The employer will provide to an H-2A worker no later than the time at which the worker applies for the visa, or to a worker in corresponding employment no later than on the day work commences, a copy of the work contract between the employer and the workers in a language understood by the worker.

6. The employer assures that if acting as a farm labor contractor (FLC) or farm labor contractor employee (FLCE) on the order, he/she has a valid federal FLC certificate or FLCE identification card.
7. The applicant assures that he/she complies with NYS registration requirements. Farm labor contractors anticipating employment contracting with growers or processors in New York State, growers or processors in New York State who use the services of a farm labor contractor, and growers or processors in New York State who, without using the services of a farm labor contractor, are responsible for bringing into the state five or more out-of-state migrant farm or food processing workers, **not including H-2A workers**, are required to register with the New York State Department of Labor and pay a registration fee in addition to any other fees that may be applicable. This statement applies only to H-2A employers who also employ five or more out-of-state migrant workers.

Employer Signature \_\_\_\_\_

A handwritten signature in black ink, appearing to be 'ESL', is written over a horizontal line that serves as a signature line.

3-2014

## **Forking Path Vineyards and Associates Agreement for 2015 Calendar Year**

### **Sections**

Members in the Association  
Intent  
H2A Employees  
Common Support and Management  
Financial Responsibilities  
Labor Scheduling  
Payroll  
Labor Billing and Payment  
Transportation to Work  
Housing  
Breach  
Signatures

### **Members of the Association**

**(Company Name / Company Representative)**  
Forking Paths Vineyards, Inc – Morten Hallgren  
Lucas Vineyards, Inc– Jeff Houck  
Standing Stone Vineyards – Tom Macinski  
Wagner Farms – Mark Wagner  
Wagner Vineyards, LLC – John Wagner

### **Intent**

The intent of this Association Agreement is to define the relationship and obligations of each party listed above in regards to the H2A agreement submitted on or about October 30<sup>th</sup> 2014 and of which a copy is attached to this document. This Agreement is for the 2015 calendar year. The parties intend to coordinate activities and share in a fair and equitable manner the labor and obligations of the employees covered under the H2A agreement. We also intend to employ a single person for common support, to recruit, train, and support and monitor performance. The document applies to the Association Members listed above and any successor to the Association Members. This document supersedes any and all previous agreements between the Association Members relating to any previous H2A Employment Agreement.

### **H2A Employees**

The Association Members are committed to the following number of H2A Employees for each Association Member and agree to be financially responsible under the terms of the H2A Program for all related expenses pertaining to their H2A employees. There are two groups of H2A employees.

The primary group of H2A Employees will have signed an employment agreement not to exceed 10 months with planned contract dates of 01/14/2015-11/13/2015.  
The second group of H2A Employees will have a shorter contract period with planned

**Forking Path Vineyards and Associates Agreement for 2015 Calendar Year**

contract dates of 01/14/2015 - 7/24/2015. This second group of H2A employees will be allocated based on the percentage of 10-month H2A employees allocated to each associate member.

Association Member Members	Representative	Seven Month H2A Employees	Ten Month H2A Employees
Forking Paths Vineyards, Inc	Morten Hallgren		6
Lucas Vineyards Inc	Jeff Houck		2
Standing Stone Vineyards	Tom Macinski		2
Wagner Farms	Mark Wagner		4
Wagner Vineyards	John Wagner		5
	<b>Total H2A Employees</b>	<b>9</b>	<b>19</b>

Employees will be randomly assigned to each Association Member by drawing of names or any other mutually agreed process. The Association Members will be directly responsible for the employees assigned to the Association Member. Each Association Member will have access at all times to the H2A employees assigned to the Association Member unless the Association Member agrees to allow the H2A employee to assist other Association Members to this agreement. If the employee is unsatisfactory or ceases employment early, the Association Member's H2A employee will not be replaced unless mutually agreed to between the remaining Association Members.

**Common Support and Management**

The Association Members to this agreement agree to utilize the agreed upon person(s) to provide common support and management of the H2A employees. This person hereafter designated a H2A Supervisor will be paid by each Association Member as an individual employee of each Association Member. The H2A Supervisor will be paid per the attached table.

Amount	Description
13% of the H2A Weekly Salary	Each Association Member is responsible to pay the H2A Supervisor 13% of the H2A employee's total number of hours worked for the individual Association Member.
Recruiting Cost	All Association Members agree to reimburse the H2A Supervisor for certain expenses associated with the recruitment of H2A employees. These expenses include transportation, food and lodging. The estimated cost of recruitment and hiring an H2A Employee is estimated to be \$100 to \$150 /H2A Employee. The expense is to be

**Forking Path Vineyards and Associates Agreement for 2015 Calendar Year**

	paid proportionally by each Association Member for each H2A employee under the Association Member's responsibility.
Other Expenses	Will be mutually agreed prior by the expense being incurred.

The H2A Supervisor's responsibilities will include travel and recruitment of the H2A employee, training, time sheets, supervision, and coordination of the Association Member's labor requirements. It is not the H2A Supervisor's responsibility to solve any issues involving coordination, schedules or any other activities not explicitly listed in this section of the agreement.

**Financial Responsibilities**

Each Association Member will be responsible to pay for all associated costs for the H2A employees to which the Association Member committed. This cost includes but is not limited to hiring and recruiting costs, travel, pay, transportation, and housing. The associated H2A supervisor cost will also be allocated based on the committed number of H2A employees for each Association Member.

**Labor Scheduling**

Each Association Member will coordinate its labor requirements with the H2A Supervisor. If there is a conflict in the scheduling needs of the Association Members a Association Member can request the other(s) to reschedule the proposed labor schedule of the H2A employees. If the reschedule is not agreed to the Association Member can exercise its right and require the Association Member's H2A employees to work as described above in the H2A Employees section of this agreement. It is the Association Member's obligation to request modification of the labor schedule proposed by the H2A Supervisor from the other Association Member(s).

The basic work schedule is for 2 weeks of 4 work days/weeks with 2 open days, and 1 week of 5 work days/week with 1 open day. This is to allow for inclement weather days and for schedule flexibility. Adjustments to the work schedule are made through the defined H2A Labor Supervisor.

To assure that all Association Members have proportionate access to the H2A employees the Association Members will be allocated to each Association Member as follows:

Pruning thru tying will be allocated as 1 crew of all H2A employees and the days of work at each Association Member will be based on the number of 10 Month H2A employees assigned to each member divided by 2. A rotation schedule will be defined and managed throughout the term of the H2A employees.

Upon completion of tying the 1 crew of 19 people will be divided into 2 crews. One crew will be of 6 H2A employees and assigned to Forking Paths Vineyards. The second crew of 13 H2A employees will be assigned to Lucas Vineyards, Standing Stone

## **Forking Path Vineyards and Associates Agreement for 2015 Calendar Year**

Vineyards, Wagner Farms and Wagner Vineyards. The rotation for both crews will be handled in a similar manner as defined above.

The two crews will be consolidated into a single crew through harvest. With harvest work activities as scheduled by mutual agreement.

The schedule and/or rotation can be modified by mutual agreement between the Association Members and it does not prevent any Association Member from requiring the Association Members H2A Employees work at the Association Member's location.

### **Payroll**

The H2A employees' pay will be based on the time records and detailed information provided by the H2A Supervisor. The detailed information will include the employee's name, the name of the H2A Association Member's Farm, the days and the hours worked. The H2A Supervisor will provide detailed information pertaining to the workweek, which is from Saturday to Friday to the Labor Coordinator by 5 PM of the Saturday immediately following the workweek. Chris Verrill will provide the payroll expense information to each H2A Association Member by noon on Monday. Each H2A Association Member will provide the required payroll checks by Thursday at 5 PM. Each H2A Association Member is obligated to pay the H2A Employees used by the H2A Association Member per the H2A Program requirements and obligations. Failure to do so is a Breach of this agreement.

### **Labor Billing and Payment**

It is agreed by all Association Members to coordinate schedules and labor requirements as defined above. The Payroll Coordinator will provide copies of all employees' timesheets to the Association Members on a weekly basis. It is the responsibility of each Association Member to review the timesheets and to bill any other Association Member for Custom Vineyard Labor, which utilizes the H2A Employees of the Association Member.

In case of dispute the Association Members involved agree to negotiate in good faith to resolve the issue. Either of the Association Members could also request consideration and review of the issue by the other Association Members. If the other Association Members agree to review the issue a non-binding recommendation could be made. This does not prevent either party to the issue from pursuing any additional legal actions.

### **Transportation to Work**

## **Forking Path Vineyards and Associates Agreement for 2015 Calendar Year**

John Wagner is the Transportation Coordinator. The Transportation Coordinator is responsible to assure arrangements are in place to provide transportation of the H2A Employees to their scheduled work location.

Transportation costs will be billed monthly and will be allocated to each Association Member based on the % of days work at any Association Member during the month. Any allocated transportation expenses can be billed by one Association Member to another as part of the bill for Custom Vineyard Labor.

### **Housing**

Tom Macinski is the Housing Coordinator. The Housing Coordinator is responsible to assure arrangements are in place to provide suitable housing for the H2A Employees. Housing costs will be billed monthly and will be allocated to each Association Member based on the number of H2A at each farm during a month divided by the total days worked at all farms during the same month. . If bad weather affects the unfairly affects the distribution of housing expenses it can be discussed and modified by mutual agreement.

### **Breach**

An Association Member will be considered in Breach of this agreement under any of the following circumstances.

Failure to satisfy all State and Federal audits which involve include any H2A criteria.

Failure to follow all of the requirements and obligations of the H2A Program.

Failure to pay all bills and related financial obligations as described in this agreement.

If a Association Member is in breach of this agreement, he is to be considered in violation of the H2A Application and Program requirements and the labor contract for his employees is cancelled with the Association Member in Breach being fully responsible for any contractual payments and bills associated with the H2A Employee(s). The Association Member in Breach expressly agrees to make all payments to the H2A Employee, other Association Members, or any other party as defined in this Agreement, H2A Application, and H2A Program. The payments will be made within 30 days or the Association Member in Breach agrees to pay a late payment penalty of 2% per month beyond the 30 days. The Association Member in Breach also agrees to reimburse any or all of the other Association Members for any legal expenses associated with the Breach or collection of the payments.

**Forking Path Vineyards and Associates Agreement for 2015 Calendar Year**

**Signatures of Authorized Representative**

This agreement supersedes any previous agreement signed prior to the date this agreement is signed by the Authorized Representatives.

**Forking Paths Vineyards, Inc**

Morten Hallgren 10/30/14  
Morten Hallgren Date

**Lucas Vineyards, Inc**

Jeff Houck 10/30/14  
Jeff Houck Date

**Standing Stone Vineyards**

Tom Macinski 10/30/14  
Tom Macinski Date

**Wagner Farms**

Mark Wagner 10/30/14  
Mark Wagner Date

**Wagner Vineyards**

John Wagner 10/30/14  
John Wagner Date

## Attachment 2

### Addresses of farms where H2A crew will be employed:

#### Lucas Vineyards, Inc.

3862 County Road # 150, Interlaken, New York 14847

#### Standing Stone Vineyards

9934 Route 414, Hector, New York 14841

#### Wagner Vineyards

9322 State Route 414, Lodi, New York 14840

Upper Lake Road, Lodi, New York 14840

9501 State Route 414, Lodi, New York 14840

State Route 414, Valois, New York 14841

#### Wagner Farms

9224 State Route 414, Lodi, New York 14840

County Road 137, Valois, New York 14841

Seneca Road, Valois, New York 14841

#### Forking Paths Vineyards, Inc.

14630 State Route 54, Hammondsport, NY 14840

400 Barracks Road, Geneva, NY 14456

3774 Carpenter Road, Burdett, NY 14818

1565 Combs Road, Ovid, New York 14521

1650 Combs Road, Ovid, New York 14521

6784 Skyline Drive, Bluff Point, NY 14478

**STATE OF NEW YORK  
WORKER'S COMPENSATION BOARD  
CERTIFICATE OF NYS WORKERS' COMPENSATION INSURANCE COVERAGE**

<p><b>1a. Legal Name and address of Insured (Use street address only)</b>                  Forking Paths Vineyards Inc.                  400 Barracks Road                  Geneva, NY 14456</p> <p>DBA: Ravines Wine Cellars</p> <p><i>Work Location of Insured (Only required if coverage is specifically limited to certain location in New York State, i.e. a Wrap-Up Policy)</i></p>	<p><b>1b. Business Telephone Number of Insured</b>                  315-781-7007</p> <p><b>1c. NYS Unemployment Insurance Employer Registration Number of Insured</b></p> <p><b>1d. Federal Employer Identification Number of Insured or Social Security Number</b>                  030425141</p>
<p><b>2. Name and Address of the Entity Requesting Proof of Coverage (Entity Being Listed as the Certificate Holder)</b>                  US Dept of Labor, Employment &amp; Training Administration                  Office of Foreign Labor Certification, Chicago National Processing Ctr                  11 West Quincy Court                  Chicago, IL 60604</p>	<p><b>3a. Name of Insurance Carrier</b>                  Technology Insurance Company</p> <p><b>3b. Policy Number of entity listed in box "1a":</b>                  TWC3415250</p> <p><b>3c. Policy effective period:</b>                  5/12/2014 to 5/12/2015</p> <p><b>3d. The Proprietor, Partners or Executive Officers are:</b></p> <p><input type="checkbox"/> included (Only check box if all partners/officers included)</p> <p><input checked="" type="checkbox"/> all excluded or certain partners/officers excluded</p>

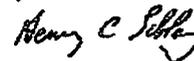
This certifies that the insurance carrier indicated above in box "3" insures the business referenced above in box "1a" for workers' compensation under the New York State Workers' Compensation Law. (To use this form, New York (NY) must be listed under Item 3A on the INFORMATION PAGE of the workers' compensation insurance policy). The Insurance Carrier or its licensed agent will send this Certification of Insurance to the entity listed above as the certificate holder in box "2".

*The Insurance Carrier will also notify the above certificate holder within 10 days IF a policy is canceled due to nonpayment of premiums or within 30 days IF there are reasons other than nonpayment of premiums that cancel the policy or eliminate the insured from the coverage indicated on this Certificate (These notices may be sent by regular mail.) Otherwise, this Certificate is valid for one year after this form is approved by the insurance carrier or its licensed agent, or until the policy expiration date listed in box "3c", whichever is earlier.*

**Please Note:** Upon the cancellation of the workers' compensation policy indicated on this form, if the business continues to be named on a permit, license or contract issued by a certificate holder, the business must provide that certificate holder with a new Certificate of Workers' Compensation Coverage or other authorized proof that the business is complying with the mandatory coverage requirements of the New York State Workers' Compensation Law.

Under penalty of perjury, I certify that I am an authorized representative or licensed agent of the insurance carrier referenced above and that the named insured has the coverage as depicted on this form.

Approved By: Henry C. Sibley  
 (Print name of authorized representative or licensed agent of insurance carrier)

Approved By:  10/30/2014  
 (Signature) (Date)

Title: Underwriting Manager

Telephone Number of authorized representative or licensed agent of insurance carrier: Carrier Phone

*Please Note: Only insurance carriers and their licensed agents are authorized to issue the C-105.2 form. Insurance brokers are NOT authorized to issue it.*