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)

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):

Donald DeMarree Fruit Farm, Inc.
7654 Townline Road
Williamson, N.Y. 14589

a) Federal Employer Identification Number (FEIN) / Número federal de Identificación del Empleador: 16-0954187

b) Telephone Number / Número de Teléfono: **315-589-9698**

c) Fax Number / Número de Fax: 315-589-4965

d) E-mail Address / Dirección de Correo Electrónico: demarreeff@aol.com

2. Address and Directions to Work Site / Domicilio y Direcciones al lugar de trabajo:

7654 Townline Road, Williamson, NY 14589 – Wayne Co.

Route 31 east to Route 14, take Route 14 north to Alton, west on Route 104 to East Williamson, north on Townline Road, farm is on right side of road.

6954 Bear Swamp Road, Williamson, NY 14589 – Wayne Co.

All worksites are owned and operated by employer.

3. Address and Directions to Housing / Domicilio y Direcciones al lugar de vivienda:

7654 Townline Road, Williamson, NY – from Route 104, 3 miles on Townline Road, on right side of road.

5200 Lake Road, Williamson, NY - from 7654 Townline Road: north on Townline Road to Lake Road, east on Lake Road, housing is on right side of road.

a) Description of Housing / Descripción de la vivienda:
7654 Townline Road: One wood frame modular and one block building – total capacity 17

5200 Lake Road: One block building, 3 wood frame buildings – total capacity 22

Workers should expect to share a bedroom with another worker.

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

4. SOC (O*NET/OES) Occupational Code / Código Industrial: 45209202

a. SOC (ONET/OES) Occupational Title / Título Ocupacional: Farmworkers and Laborers, Crop

5. Job Order No. / Num. de Orden de Empleo: NY1117997

6. Address of Order Holding Office (include Telephone number) / Dirección de la Oficina donde se radico la oferta (incluya el número de teléfono): 877-466-9757

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). 877-466-9757

7. Clearance Order Issue Date / Fecha de Emisión de la Orden de Empleo: 2/13/2015

8. Job Order Expiration Date / Fecha de Vencimiento o Expiración de la Orden de Empleo: 7/27/2015

9. Anticipated Period of Employment / Período anticipado o previsto de Empleo:
From / Desde: April 11, 2015 To / Hasta: November 11, 2015

10. Number of Workers Requested / Número de Trabajadores Solicitados: 10 See Attachment / Vea Anexo Pg 1

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

Sunday / Doming 0
Monday / Lunes 7
Tuesday / Martes 7
Wednesday / Miércoles 7
Thursday /Jueves 7
Friday / Viernes 7
Saturday / Sábado 5

12. Anticipated range of hours for different seasonal activities: / Rango previsto de horas par alas diferentes actividades de la temporada:
Hours worked each day will depend on condition of crops, weather, etc.

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

Employer / Empleador: Yes / Si ☐ No ☒

RECEIVED
FEB 11 2015

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 / Describa cómo el empleador tiene la intención de ofrecer, ya sea 3 comidas al día a cada trabajador, o proporcionar gratuitamente instalaciones para cocinar.

Workers must buy and prepare own meals. / Los trabajadores compraran y prepararan sus propios alimientos.

- Employer will NOT provide three meals per day and will deduct $ N/A per day.
- Employer will furnish free dishes, cooking utensils and convenient kitchen and cooking facilities to workers to whom housing is provided.
- 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 (9am – 3pm) Monday through Thursday or at nearest One Stop Office.
Contactar el Negocio Directamente Durante las Hors Normales de Negocio o la Oficina "One Stop" lo Mas Cerca.

Tom DeMarree 315-589-9698

(Also See Attachment / Vea Anexo Pg 1-5)

apples, plums, peaches, cherries mb 2/13/15

16. Job description and requirements / Descripción y requisitos del trabajo:
Manually plant, cultivate and harvest fruits. Use hand tools, such as shovels, trowels, hoes, tampers, pruning hooks, shears, knives and saws. Till soil and apply fertilizers; transplant, weed, thin or prune crops (may require the use of chainsaws); apply pesticides; clean, pack and load harvested products. Construct trellis, assemble bins, repair bins, fences and farm buildings, participate in irrigation or drainage activities. Set up and operate irrigation equipment. Operate tractors, tractor-drawn machinery, and self-propelled machinery to plow, harrow and fertilize soil, or to plant, cultivate, prune, thin, train tree, spray and harvest crops. Use equipment, sanitizers and hand tools to sanitize bins, machinery and equipment to meet food safety regulations. Repair and maintain farm vehicles, implements, and mechanical equipment. Harvest fruits by hand. Apply pesticides, herbicides or fertilizers to crops. Inform farmers or farm mangers of crop progress. Identify plants, pests, and weeds to determine the selection and application of pesticides and fertilizers. Clear and maintain drainage ditches. Follow food safety procedures. Record information about crops, such as pesticide use, food safety threats or practices, yields or costs. Apples injured by bruising during picking shall not exceed 0% (WNY) for fresh and 0% (WNY) for processing. Productivity must be at least 3 bins (67.5 bushels) fresh market and/or 6 bins (120 bushels) processing fruit per day. Many fresh varieties require stem clipping of each apple before placing the apple in the picking bag. Workers are expected to work at least the number of days and hours specified. Depending on weather, crop or other conditions, workers may be requested, but not required, to work up to seven 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 duties assigned. Workers should report to work with their own suitable work clothing and foot ware. Field temperatures may range from below 0 to 90+ degrees (F) with possible wet morning conditions. Due to both worker safety and food safety concerns, workers must be able to speak and understand enough English to follow directions and communicate safety threats to the farmer, other workers and supervisors. *Workers referred against this order must have a minimum of 3 months experience in performing tasks described in this order. **Employer may conduct random drug tests, post hire, at the employer's expense.**

a. Workers must be able to demonstrate that they are physically able to perform the work as described.
b. The employer will provide 0 days of training and/or allow 0 days of work for worker to reach production standards if applicable.

c. Production Standards (if applicable): Worker must be able to: **pick at least 3 bins (67.5 bushels) fresh market and/ or 6 bins (120 bushel) processing fruit per day.** Many fresh apple varieties may require stem clipping each apple before placing it in the picking bag.
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) Abandons Job ("Job Abandonment") – is absent for five consecutive previously scheduled days without prior notification to employer.

(Also See Attachment / Vea Anexo Pg 1-5)

1. Is previous work experience preferred? / Se prefiere previa experiencia? Yes / Si ■ No ☐
2. If yes, number of months preferred: / Si es así, numero de meses de experiencia: **3 months** (of verifiable experience).
3. Check all requirements that apply:

☐ Certification/License Requirements / Certificación/Licencia Requisitos

☐ Driver Requirements / Requisitos del conductor

☐ Employer Will Train / Empleador entrenará o adiestrará

☐ Extensive Sitting / Estar sentado largos ratos

■ Exposure to Extreme Temp. / Expuesto a Temperaturas Extremas

■ Lifting requirement / Levantar o Cargar **50** lbs./libras

■ Repetitive Movements / Movimientos repetitivos

■ Criminal Background Check / Verificación de antecedentes penales *

■ Drug Screen / Detección de Drogas ** post hire at employer expense

■ Extensive Pushing and Pulling / Empujar y Jalar Extensamente

■ Extensive Walking / Caminar por largos ratos

■ Frequent Stooping / Inclinándose o agachándose con frecuencia

■ OT/Holiday is not mandatory / Horas Extras (sobre tiempo) / Días Feriados no obligatorio

*We do not hire sex offenders as we not only have children living on the farm, but have many neighbors with children or grandchildren whose backyards abut our orchards. Employees are often scattered throughout the farm and may have no direct supervision for up to 2 hours during work hours. Likewise, we are unable to continuously monitor employee whereabouts for those employees living on the farm during their "off" hours.

** Our employees drive farm equipment not only on the farm, but on town and county roads to get between orchards. Neighbors, family members and employees are often walking on our farm for exercise, relaxation or to fish or hunt. Our orchards abut most of our neighbor's backyards, where they may enter the orchards. Employees drive tractors, orchard platforms, ATVs and RTVs and other machinery during the course of employment and must not be *under the* influence of drugs or alcohol which could affect their judgment or ability to operate this equipment safely for the sake of other motorists, pedestrians and other employees working in the field.

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

Crop Activities / Cultivos	Hourly Wage / Salario por Hora	Piece Rate / Unit(s) / Pago por Pieza / Unidad(es)	Special Pay (bonus, etc.) / Pagos Especiales (Bono, etc.)	Deductions* / Deducciones	Yes/Sí	No	Pay Period / Periodo de Pago / /
Orchard work, plums, peaches, cherries	$11.26	$ N/A	N/A	Social Security / Seguro Social	■	☐	Weekly / Semanal ■
Pick fresh apples, dwarf	$ 11.26	$0.90 per bushel	N/A	Federal Tax / Impuestos Federales	■	☐	
Pick fresh apples, standard trees	$11.26	$0.90 per bushel	N/A	State Tax /Impuestos Estatales	■	☐	Bi-weekly/ Quincenal ☐
Pick process apples	$11.26	~~$0.00~~ per bushel .65	N/A	Meals / Comidas	☐	■	
Pick drop apples	$11.26	$0.60 per bushel	N/A	Other (specify) / Otro (especifica)	☐	■	Monthly/Mensual ☐
							Other/Otro ☐

mb 2/13/15

18. More Details About the Pay / Mas Detalles Sobre el Pago:
The employer will offer, advertise in its recruitment, and pay a wage that is the highest of the AEWR, 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 AEWR requires an increase such increase will be paid as of the effective date of the increase. Also if the AEWR 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: Those required by law, such as Social Security, income tax, and garnishment of wages; and 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 ¾ ("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 ¾ 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 ¾ 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 ~~$718.80~~ $450.40 (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: Building, Labor camp and equipment cleaning, maintenance and repair, and/or orchard block sign construction & installation
h. Employer will maintain adequate payroll records. Workers will be paid weekly on Fri. for work through the previous Wed.

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(Also See Attachment/Vea Anexo Pg 1-5)

19. Transportation Arrangements / Arreglos de Transportación

Transportation and subsistence arrangements apply only to those workers who are not able to return to their residence at the end of each day:

The employer will not advance transportation and subsistence costs to Workers for transportation to the place of employment.

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 18c 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.

(Also See Attachment / Vea Anexo Pg 1-5)

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 ☐

The employer assures that Policy # Z557 920-6 issued by The NYS Insurance Fund 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.

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 ☐

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

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/Sí ☒ 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.

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

Thomas DeMarree Pres
Employer's Signature / Firma y Título del Empleador

February 11, 2015
Date / Fecha

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 numero de la sección e incluya archivos adjuntos, si es necesario.

SEE ATTACHMENTS TO THE ETA 790 FOR DETAILS CONCERNING THIS JOB OPENING.

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 Thomas DeMarree Date: February 11, 2015

Employer's Signature Thomas DeMarree Pres

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.

Attachment to ETA 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, wage, benefits and working conditions as those 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: Donald DeMarree Fruit Farm, Inc. #1 7654 Townline Road, Williamson, NY 14589
A. 3.Housing

a. Housing and utilities are provided at no cost to H-2A workers and those workers in corresponding employment who 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.

9. Anticipated dates of employment: 4/11/15 until 11/11/15

10. The number of workers shown is the aggregate number of foreign workers that will be employed by the employer under thi temporary employment certificate. The approximate number of workers (foreign and domestic) to be employed in the certified occupation is **11** between April 11 through August 16, 2015 and a total of approximately 35 from August 17 through November 11 2015. 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 that the approximate numbers shown, 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 12 hours per day depending upon the conditions in the orchards and the 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 employers control. These periods can occur anytime throughout the season.

12. Starting and ending times are generally 7am to 2:30pm Monday through Friday and 7am to noon on Sat. but may vary according to weather and crop conditions. If a worker is offered and agrees to work more than the scheduled hours Monday-Saturday, they must report to work on their other scheduled days, unless arrangements are approved in advance with the owner. Choosing to work longer hours during the week does not exclude you from working each scheduled work day. Not reporting to work on your scheduled work day will be counted as an unexcused absence.

The worker agrees to be available for work and perform the assigned work whenever work is available through the full period of employment shown in item 9. The worker understand 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 ¾ guarantee and reimbursement of certain transportation cost 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.

14. Employer will furnish free cooking and kitchen facilities to those workers who are entitled to live in the employers' housing so that they may prepare their own meals. Workers will buy their own groceries. Once a week the employer will offer to provide (on the voluntary basis by the workers) free transportation to assure workers access to the closest store when 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 worker 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 29CFR 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. Workers who reside in such housing agree to be responsible for maintaining the housing and grounds surrounding the housing in a neat and clean manner. Workers residing in employer housing may have mail directed to them at the employer's address on attached addendum.

15. Local and intrastate (in state), applicants may contact their local state workforce or the employer, Thomas DeMarree directl at (315)589-9698 to state interest in the job and provide contact information for previous employers to verify the candidates work experience during regular business hours, 9am to 3pm Monday through Thursday. State employment service agency staff is encouraged to call to make a referral while the applicant is at the Job Service office. Interviews will be conducted over the telephone for non-locals to create less of a burden for applicants after previous employers have been contacted and verify work experience requirements. Workers should read the work order or 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 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 or farm residents.** 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 interviewing/hiring 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.

16. Job Specifications: All workers must have at least 3 month's verifiable experience pruning and harvesting fresh apples and peaches and operating equipment. **Applicants need to provide the employer with current contact information from recent employers' establishing acceptable prior experience.**

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 orchards 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 operations must meet standards contained in the farm food safety plan and certification process.

Worker must possess requisite physical strength and endurance to repeat the harvest process throughout the work day, 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 reasonable under climatic and other working conditions, considering also the amount, quality and efficiency of work accomplished by their co-workers. 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 work described with or without reasonable accommodation. Must display the ability to move, place, climb and work from orchard ladders up to 18 feet in height, making the necessary adjustments to various procedures while carrying up to 40 pounds.

mb 2/13/15

Orchard Development and Maintenance: Workers ~~may~~ will be required to plant, adjust planting depth by the tree graft union, stomp soil around newly planted trees, spread fertilizer, pick up roots, stones, and limbs, hoe trees, strip suckers or unwanted growth from trees, dig root suckers, rub out buds, remove vines, lay irrigation pipe or tube, repair and maintain irrigation system, strap, paint tree trunks and tie or thin out the crop load on fruit trees. Employer provides 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.

Pruning: While pruning trees, workers will receive proper tools for the particular job, i.e., saw, pruners, loppers and hand snips. These tools will be returned to the employer at the end of the task. The supervisor will set a standard or pattern for each orchard and will demonstrate and communicate to his workers. Workers will be assigned rows of trees and must prune each tress according to the predetermined standard. In some instances, pruning will be done from an 8 or 18 foot ladder weighing up to 30 pounds. All workers must be able to lift and carry ladder, as well as work from the top of a ladder. Workers must remove all resulting materials from the trees rendered from performing pruning tasks without damaging apples, dropping said prunings to the orchard floor. Workers are required to pick up and return ladders to the designated location at the end of each work day.

Apple & Peach Harvest: Workers will be assigned rows, usually with a partner(s) and is responsible for picking all the proper fruit from those rows, row or partial row. Fruit is selected and harvested from the tree according to size, color standard and/or degree of maturity as set by the picking supervisor for each variety and orchard. In some instances, fruit harvest will be done from a 8, 12, 16 or 18 foot ladder weighing up to 40 lbs. All workers must be able to lift and carry ladder, as well as work from the top of the ladder. The entire tree is checked to ensure removal of all fruit meeting picking requirements. Fruit may be required to be stem clipped before the fruit is placed in the picking container. Fruit is placed gently in the picking container until the 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 field bin. All fruit in the bin must be free of bruise, sticks, leaves, decay or damage leading to decay and other foreign matter. Bins must be filled to capacity, but not over-filled so that fruit will be bruised when full bins are stacked for transport from the field. Workers are required to stay on their assigned row unless directed by a supervisor to change, or to help someone sporadically. Workers will be required to pick up and return ladders assigned to them when moving to another orchard or at the end of each work day. Workers must report any condition that would lead to a food safety violation upon discovery to receive instructions on how to proceed.

CHERRIES: Workers will harvest cherries with stems, discarding cherries with defects (cracks, decay, bird pecks, etc.), as instructed.

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

mb 2/13/15

Farm Equipment Operation: Observe and listen to machinery operation to detect equipment malfunctions. During the growing or harvest season, workers ~~may~~ will 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 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, trees 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.

General Conditions Applicable to All Crops: Field work begins at assigned time shortly after daylight. Work may be performed during high humidity, temperatures ranging from 95+ degrees to below 32 degrees F and occasionally in light rain or frosty conditions. Workers will supply their own work clothes and foot ware and must dress appropriately. Ill fitted, torn and dirty clothing are a physical hazard (could get caught in equipment) and a food safety hazard (could contaminate produce) and will not be tolerated. All the tasks in this Job Description constitute one 1) job; the operator ~~may~~ will 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~~ will 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. 2/15/15 MB

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 day's work.

The farm owner/supervisor or a designated employee will provide specific instructions and close supervision. Workers will be expected to perform 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.

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 other 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.

18: More Details About the Pay:

Social Security, Federal and State taxes will not be deducted from those worker's wages that are working under a temporary, agricultural visa, unless it becomes required or if the worker requests withholdings.

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.

Harvesting specifications can change from morning to afternoon or from orchard to orchard due to the crop or market conditions, even on the same apple variety. Workers will be expected to conform to the specific instructions given for each fruit variety in any given orchard. The employer reserves the right, at the employer's sole discretion, to temporarily raise the above listed piece rates due to crop conditions or to pay by the hour, if crop conditions warrant to ensure a high quality product. At no time will the worker be paid less than the highest available wage.

19: Transportation

This subparagraph applies only to workers who cannot reasonably return to their residence the same day. After the worker 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 voluntarily chose not to reside in 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 costs, whether commuting from inside or outside the area of intended employment. Employer will not pay for voluntary trips back to their residence due to family emergencies or vacations.

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 16 © 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: 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. Where appropriate, 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.
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 Thomas DeMarree Pres

3-2015

Donald DeMarree Fruit Farm, Inc. Work Rules

Although not intended to be a complete list, these work rules are intended to provide guidance to workers of standards of conduct expected of them.

Notice is provided that violation of lawful job-related employer requirements, including these work rules, will be considered grounds for immediate termination of a worker's employment. Penalties such as suspension from work opportunity for the remainder of a day to three days may be made in the case of less serious violations.

Workers are expected to comply with all rules relating to discipline, attendance, work quality and effort, and the care and maintenance of all property provided to them by the employer.

1. Workers must perform the assigned work in a careful, workmanlike manner in accordance with the provisions of the job order.

2. The illegal possession, illegal use or illegal distribution of drugs on company property, while performing work, in housing property or company vehicles/equipment is strictly prohibited. The possession, use or distribution of alcoholic beverages on worksites or in company vehicles/equipment is strictly prohibited. Workers suspected to be under the influence of drugs or alcohol will not be permitted to work. Workers may be required to take a drug test and/or alcohol test, post hire. Workers may not fail or refuse to take such tests.

3. Excessive absences will not be permitted. This is regular, every day work for which employees are expected to be present, able and willing to perform every scheduled work day. This is not sporadic or "day work". Any absence from work must be reported by 7am. Five consecutive workdays of unexcused absence will constitute abandonment of employment and the worker will be terminated. Excessive or repeated tardiness is defined as 2 unexcused tardies in a row or 5 unexcused tardies in 30 day period. **Workers will be discharged for excessive tardiness.**

4. Worker must report at the assigned time and place each workday as direct by the supervisor.

5. Workers must follow supervisor's instructions. Insubordination (the refusal to perform assigned work, the use of malicious or profane language or other conduct which undermines a supervisors authority) is cause for dismissal.

6. Workers may not take unauthorized breaks from work nor leave the field or other assigned work area without permission of the employer or person in charge.

7. Workers may not enter the employer's premises without authorization.

8. Workers may not begin work prior to scheduled starting time or continue working after stopping time unless authorized by the supervisor.

9. Workers may not deliberately restrict production, damage plants or bruise fruit.

10. Workers may not possess weapons or ammunition on company property, housing or vehicles/equipment nor physically threaten another person with any tool or weapon.

11. Workers will be discharged for fighting, horseplay or scuffling on the employer's premises, including housing premises and vehicles/equipment, at any time.

12. Workers will not falsify identification, personnel, medical, production, time worked or other legal or work- related records. Falsifying legal records is grounds for dismissal.

13. 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 or neighboring properties.

14. 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.

15. Workers must not misuse or remove from the farm premises, housing or vehicles any employer-owned or fellow worker property, without authorization. Workers will be discharged if they steal from fellow workers or the employer.

16. Workers must obey all safety rules and common safety practices and must report any injuries or accidents promptly to their supervisor or the employer's office.

17. Workers may not engage in the harassment of others.

18. Workers may not display immoral or indecent conduct on company property, including housing and vehicles/equipment.

19. Only workers are allowed on company property and vehicles/equipment. All employees will notify their supervisor of unauthorized persons on company property or vehicles.

20. Workers may not use cell phones for personal calls, texts or emails during working times. Cell phones must be kept secure (buttoned or zippered pocket) to prevent phones from falling into fruit containers or bins. Phone use must be limited to break time and lunch breaks. Employees who need to make long distance emergency calls to family members should immediately notify and make arrangements with their supervisor.

21. All workers are trained in food safety practices and rules. These rules must be followed at all times. Employees must use provided waste receptacles at all times. No food, bottles or other waste is to be dropped on the ground or on building or vehicle floors.

22. Personal vehicles are permitted only in designated areas of orchards or fields.

23. A worker may be dismissed if he or she accepts a job at Donald DeMarree Fruit Farms, Inc, and does not report for orientation and or the first day of work at the specified date, time and location and fails to notify the employer.

23. Workers who fail to complete the season may not be eligible for rehire the next season.

24. Except as otherwise noted above and below (Housing Rules), employees who violate work rules will be disciplined according to the following schedule:

First offense:	oral warning and correction
Second offense:	written warning and unpaid leave for balance of day
Third offense:	immediate discharge with written fact statement. Employee will be asked to sign written fact statement

Housing Rules:

1.Workers may only occupy housing to which they are assigned. They may only sleep in the area assigned by the employer.

2.Workers living in employer's housing must be considerate of other workers in housing and may not entertain guests in housing premises overnight. All workers in housing must recognize the right of co-workers' right to a quiet environment for rest and sleep after 10:30pm work nights and 12 midnight on Saturday.

3. **ALL** workers assigned housing, shall cooperate in maintaining cleanliness of common kitchen, living, bath, bedrooms and grounds surrounding the housing to meet NYS Department of Health cleanliness inspections.

4. Promptly report any housing problems (leaking; faucets, toilets or shower heads, lights, electrical outlets or heat not working properly, or equipment such as washer, dryer, stoves, refrigerators, televisions, telephone or microwave ovens not functioning properly) **when first observed**.

4. All posters required by federal and state law will be posted at each camp. They are not to be removed, defaced or altered in any way. Workers who wish copies may request them from their supervisor.

5. All housing must be locked each morning before leaving for work. **Lights, televisions** and **unnecessary heat should be turned OFF** and doors and windows CLOSED when leaving the room or building.

6. Workers must leave mattresses in the bed frame. Mattresses are NOT to be placed on the floor.

7. Workers must not disable or tamper with smoke detectors. Violation is cause for immediate termination.

8. All cooking must take place on provided stove tops, ovens or microwave ovens. Workers must remain present when operating stove tops, ovens or microwave ovens. These appliances must be turned OFF if unattended.

9. Workers may not drop paper, cans bottles or other trash in fields, work areas or on housing premises. Trash and waste receptacles must be used.

10. No smoking, pets or other animals are permitted in farm housing, buildings, vehicles or surrounding areas.

***Use of the masculine pronoun herein is for convenience of reference only.**