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):

Big O Farms, Inc.
P.O. Box 276
5520 North Byron Road
Elba, NY 14058

a) Federal Employer Identification Number (FEIN) / Número federal de Identificación del Empleador:
16-0977781

b) Telephone Number / Número de Teléfono:
716-560-4945

c) Fax Number / Número de Fax:
585-757-2528

d) E-mail Address / Dirección de Correo Electrónico:
bigofarms@gmail.com

2. Address and Directions to Work Site / Domicilio y Direcciones al lugar de trabajo: 5520 North Byron Road, Elba, NY14058
6420 Strouts Road, Elba, NY 14058
7148 Oak Orchard Road, Elba, NY 14058
5003 Hundredmark Road, Elba, NY 14058
5808 Oak Orchard Road, Elba, NY 14058
5652 Quaker Hill Road, Elba, NY 14058
5929 Oak Orchard Road, Elba, NY 14058
11388 Schuler Road, Cato, NY 13033
Schuler Road, Conquest Victory Townline Road, Transit Road, New Guinea Road, Spoilbank Road, West Spoilbank Road, Sheeler Road, Oak Orchard Road, Route 98, and miscellaneous unnamed farm lanes in Elba Muck, Town of Barre, Elba, Clarendon, and Byron.
All worksites owned and operated by employer.
See Box #28

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

5833 Cook Road, Elba, NY 14058
5632 Morgan Road, Clarendon, NY 14470
5745 Oak Orchard Road, Elba, NY 14058
See Box #28

a) Description of Housing / Descripción de la vivienda:

5833 Cook Road, Elba, NY 14058 (10) - One story concrete block/frame house, with 1 complete bathroom, kitchen area, and 5 bedrooms.
5632 Morgan Road, Clarendon, NY 14470 (18) - 3 mobile homes, each with 1 complete bathroom, kitchen facility, and 3 bedrooms.
5745 Oak Orchard Road, Elba, NY 14058 (12) - One story concrete block and metal building with 1 complete bathroom with shower, kitchen facility with dining room, and 5 bedrooms.
See attached Housing Rules.

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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
Farmworker & Laborer Crop

5. Job Order No. / Num. de Orden de Empleo:
NY1165359

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:
4/4/2016

8. Job Order Expiration Date / Fecha de Vencimiento o Expiración de la Orden de Empleo:
8/17/2016

9. Anticipated Period of Employment / Período anticipado o previsto de Empleo:
From / Desde: 6/3/16 To / Hasta: 11/1/16

10. Number of Workers Requested / Número de Trabajadores Solicitados:
40

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

Sunday / Domingo 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:
See Box #28

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

Employer / Empleador: Yes / Si ☐ No ☒

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. Employer will furnish free and convenient cooking and kitchen facilities to the workers that will enable the workers to prepare their own meals. Employer will provide weekly transportation to grocery store so that workers may purchase food and other incidentals.

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 Maureen Marshall at 716-560-4945 Monday-Friday during hours of 1-4 pm to arrange for an interview or contact 877-466-9757 for your nearest State Workforce Agency to review ETA 790 and attachments before arranging for an interview with Maureen Marshall.
Workers must meet all of the following criteria:

1. Are available and indicate willingness to work for entire season.
2. Have transportation to job site at start of season for non-local workers and daily for local workers.
3. Have been fully apprised by the State Workforce Agency (SWA's) of the terms, conditions, and nature of employment.
4. Are legally entitled to work in the U.S.
5. Are able, willing, and qualified to perform the work.
6. Are able to work Saturdays.

Workers must possess documentation required to enable employer to comply with the employment verification requirements of IRCA. Accurate completion of Form I-9 will be required of each worker within (3) days of employment pursuant to U.S. law.

16. Job description and requirements / Descripción y requisitos del trabajo: Will hand weed onions as directed by supervisor. Will place weeds and debris in 5 gallon bucket and take to the end of the field to dump out. Will bend repetitively and continuously during work day while walking. Will walk behind harvester to pick up onions or potatoes that are left behind. Will unload onions or potatoes from truck and dump into boxes. Will pick out any stones or debris while filling bins on unloading machine and will level off boxes so they are able to be stacked. Workers will need to help onions or potatoes to flow on the conveyor. Will also pick up any loose onions that are on the ground. Will place covers on full bins and secure with rubber cords. Will place and take off full onion bags from grader, tie and stack full onion bags or containers on pallet or in bins. Will move empty bins. Will clean onion waste from grading area. Will fix empty boxes. Will maintain hedges, prep fields, and cover commodity sheds. Will drive bus to transport workers to work location. Not all workers requested to drive. Those that are requested to drive will be required to possess appropriate license. No one will be rejected for the position that does not possess a driver's license. Three months experience in commercial, conventional farming in the jobs listed is required. Workers referred against this order must have a minimum of 3 months verifiable experience in performing the tasks posted in this job order. Random drug and alcohol testing may be done if required by a government regulation, post-hire at employer's expense Cell phones or other electronic devices cannot be used during working hours. Failure to abide by this policy may result in disciplinary action including termination.

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: 3

2. 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 60 lbs./libras
- ☒ Repetitive Movements / Movimientos repetitivos
- ☐ Criminal Background Check / Verificación de antecedentes penales
- ☒ Drug Screen / Detección de Drogas
- ☒ 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

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 / /
Weed Onions	$ 11.74	$		Social Security / Seguro Social	☒	☐	Weekly / Semanal ☒
Harvest Onions Hand stack onions	$ 11.74 11.74	$		Federal Tax / Impuestos Federales	☒	☐	
Harvest Potatoes	$ 11.74	$		State Tax /Impuestos Estatales	☒	☐	Bi-weekly/ Quincenal ☐
Maintain hedges	$ 11.74	$		Meals / Comidas	☐	☒	
Prep Fields Cover Commodity Sheds	$ 11.74 11.74	$		Other (specify) / Otro (especifica)	☐	☒	Monthly/Mensual ☐
							Other/Otro ☐

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

Workers will be paid on an hourly basis for all hours worked at the Wage Rate in effect at the time work is performed, required at 20 CFR 655.122 (l) and 655.120 (a). The required wage may be different than it is at the time of filing this job offer.

19. Transportation Arrangements / Arreglos de Transportación

After the worker has completed 50% of the work contract period, the employer shall reimburse the worker for cost of transportation and subsistence from the place from which the worker has come to work for the employer. Upon completion of the work contract employer will pay reasonable costs of return transportation and subsistence, to the place from which the worker departed to work for the employer, as required at 20 CFR 655.122 (h), except when the worker will not be returning to the place of recruitment, due to subsequent employment with another employer who agrees to pay such cost, in which case this employer only pays for the transportation to the next job. The amount of the transportation payment will be equal to the most economical and reasonable similar common carrier transportation charges for the distance involved, "except that any worker protected pursuant to the Fair Labor Standards Act will be paid in compliance with the FLSA beginning in the first workweek."

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.

Maureen Marshall, Director of Human Resources
Employer's Printed Name & Title / Nombre y Título en Letra de Molde/Imprenta del Empleador

Maureen Marshall
Employer's Signature / Firma y Título del Empleador

3/31/16
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.

Box #2 - Address and Directions to Work Site

5520 North Byron Road, Elba, NY 14058 - Main location, directions are given from this starting location.

6420 Strouts Road, Elba, NY 14058 - From main location turn left and go approximately 1/2 mile until Strouts Road, turn right on Strouts Road and head north, location is on your left.

7148 Oak Orchard Road, Elba, NY 14058 - From main location turn left and go approximately 1 mile until Barrville Road. Turn left on Barrville Road and follow until Route 98. Barrville Road turns into Chapel Street. Turn left on Route 98 and head south, location will be on your right.

5003 Hundredmark Road, Elba, NY 14058 - From main location turn right and go approximately 50 feet east until you reach Transit Road. Turn left on Transit Road and head north until Spoilbank Road. Turn left on Spoilbank Road and follow until Hundredmark Road. Turn left on Hundredmark Road and location is on your right.

5808 Oak Orchard Road, Elba, NY 14058 - From main location turn right and go approximately 50 feet east until you reach Transit Road. Turn left on Transit Road and head north until Spoilbank Road. Turn left on Spoilbank Road and follow until Oak Orchard Road. Turn right on Oak Orchard Road and location is on your right.

5652 Quaker Hill Road, Elba, NY 14058 - From main location turn left and head east until Route 98. Turn right on Route 98 and follow until Orleans County and location is on your left.

5929 Oak Orchard Road, Elba, NY 14058 - From main location turn left and head east until Oak Orchard Road. Turn right on Oak Orchard Road and location is on your right.

11388 Schuler Road, Cato, NY 13033 - From main location turn left and go approximately 1 mile until Barrville Road. Turn left on Barrville Road and follow until Route 98. Barrville Road turns into Chapel Street. Turn left on Route 98 and head south into Batavia. Turn left onto Interstate 90 and follow east until exit 41 for Route 414 toward Waterloo Clyde. Keep right at the fork and merge onto 414 south. Turn left onto Route 318 east, turn left onto Route 20 east, turn left onto Route 90 north, turn right onto Route 31 east, turn left onto Route 38 north, turn left onto Conquest Victory Townline Road, turn right onto Schuler Road and location is on the right. Fields are located on both Schuler Road and Townline Road on both the east and west sides of road.

Transit Road - From main location turn right and go approximately 50 feet east until you reach Transit Road. Turn left on Transit Road and head north approximately 1 mile until you enter the Elba muck land area. Fields are located on both the east and west sides of Transit Road continuing north and down various unmarked laneways off of Transit Road. There are no numbers assigned to fields or laneways. Transit Road is a dead end.

Spoilbank Road is the first road on the left once you enter the muck area. Turn left on Spoilbank Road and fields are located on both the north and south sides of the road for approximately 5 miles. Spoilbank Road turns into West Spoilbank Road after crossing Oak Orchard Road.

Sheeler Road is the second left hand turn off of Transit Road and is north of Spoilbank Road. Turn left on Sheeler Road and fields are located on both the north and south sides of the road for approximately 1 mile.

New Guinea Road is the only right hand turn off of Transit Road and is just north of Sheeler Road. Turn right on New Guinea Road and fields are located on both the north and south sides of the road for approximately 1 mile.

Oak Orchard Road - From main location turn left and follow North Byron Road to Oak Orchard Road. Turn right on Oak Orchard Road and fields are located on both the north and south sides of the road.

Route 98 - From main location turn left and follow North Byron Road to Route 98. Turn right on Route 98 and fields are located on both the north and south sides of the road.

Box #3 - Address and Directions to Housing

5833 Cook Road, Elba, NY 14058 - From main location turn right and go approximately 50 feet east until you reach Transit Road. Turn left on Transit Road and head north approximately 1 mile until you reach Shelt Road. Turn right on Shelt Road and go approximately 1/2 mile until you reach Merriman Road. Turn left on Merriman Road and head north until you reach the big curve and go straight at curve onto laneway. Housing will be on your left.

5632 Morgan Road, Clarendon, NY 14470 - From main location turn right and go approximately 50 feet east until you reach Transit Road. Turn left on Transit Road and head north approximately 1 mile until you reach Shelt Road. Turn right on Shelt Road and go approximately 1/2 mile until you reach Merriman Road. Turn left on Merriman Road and head north continuing right on curve. Road will turn into Cook Road. Follow until Upper Holley Road. Turn left and head north on Upper Holley Road until designated laneway for 5532 Morgan Road and turn left. Housing will be on both sides of the lane.

5745 Oak Orchard Road, Elba, NY 14058 - From main location turn right and go approximately 50 feet east until you reach Transit Road. Turn left on Transit Road and head north until you reach Spoilbank Road. Turn left on Spoilbank Road and follow until Oak Orchard Road. Turn right on Oak Orchard Road and housing is on the right.

Box #12 - Anticipated Range of Hours for Different Seasonal Activities

The anticipated work week is 40 hours, consisting of 7 hours per day, Monday through Friday, 8 am to 3:30 pm with 1/2 hour unpaid lunch break and 5 hours on Saturday 8 am to 1:30 pm. The work day may begin earlier or later on any given day. The worker may be requested, but not required, to work as much as 12 hours per day and/or on the worker's Sabbath, depending on weather and other conditions. Extreme heat, cold, rain, drought or market conditions may affect working hours. Employers will offer 40 hours/week, weather and crop conditions permitting. Worker will report to work at designated time and place as directed by employer each day. Workers will be instructed the previous day of any anticipated change in the starting time.

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 Maureen Marshall Date: 3/31/16

Employer's Signature Maureen J Marshall

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
ETA 9142 – Form ETA 790 Attachment #1
Clarifications of Items on Form ETA 790

CLARIFICATION OF ITEMS ON FORM ETA 790

Item 1: Email address: bigofarms@gmail.com

Item 3: Housing

a. Housing and utilities are provided at no cost to workers who are unable to return to their place of residence the same day.
b. 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.
c. 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.
d. Housing provided will be shared without regard to the gender of the workers.
e. Housing beds, bedding and mattresses will be furnished at no cost to the workers.
f. Housing will be clean and meet the applicable Federal and State housing standards.
g. Workers will be responsible for maintaining housing and surrounding areas in a neat clean manner. Legal action may be taken against any workers found to have been responsible for damage to housing or furnishings.
h. No tenancy in employer-provided housing is created by this arrangement. The employer retains possession and control of the housing premises at all times. Workers provided housing under the terms of this Clearance Order shall vacate the housing promptly upon termination of employment with the employer.

Item 15: Referral Instructions

Workers hired under this Job Order will be required to show evidence of right to work in the United States of America.

Item 16: Job Specifications

a. Workers must be able to demonstrate that they are physically able to perform the work as described.
b. Employer may terminate worker with notification to the New York State Department of Labor and the Chicago National Processing Center, if the worker:
   (1) refuses, without just cause, to perform work for which the worker was recruited and hired;
   (2) commits serious acts of misconduct; or
   (3) fails to comply with established company sanitary and safety practices.
c. When beginning the crop activity for the first time of the season, the employer will provide instructions in the proper way to perform the crop activity due to planting conditions. Thereafter the worker will be expected to perform the task with diligence as instructed. Workers will be expected to keep pace 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.

Item 17: Wage Rates, Special Pay Information and Deductions

a. Workers will be paid on an hourly basis for all hours worked at the Wage Rate in effect at the time the work is performed, required at 20 CFR 655.122(I) and 655.120(a). The required wage may be different than it is at the time of filing this job offer.

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,
   2. Those that benefit workers and are authorized in writing, such as life insurance or a savings account.

   Any other deduction is illegal. This includes deductions:
   - (or deposits) for tools, boots, raincoats, or uniforms necessary for the job;
   - As fines or penalties for being late, misconduct, or quitting without giving notice;
   - For cash shortages;
   - For spoilage or breakage, or
   - For damages or losses of any kind.

c. Pursuant to regulations at 20 CFR 655.122 (o), if, before the expiration date specified in the work contract, the services of the worker are no longer required for reasons beyond the control of the employer due to fire, weather, or other Act of God that makes the fulfillment of the contract impossible, the employer may terminate the work contract. Whether such an event constitutes a contract impossibility will be determined by the CO. In the event of such termination of a contract, the employer must fulfill a ¾ guarantee for the time that has elapsed from the start of the work contract to the time of its termination, as described in paragraph (i)(1) of this section. 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 employers expense, to the place from which the worker (disregarding intervening employment) came to work for the employer, or transport the worker to the workers next certified H2A employer, whichever the worker prefers (2) reimburse the worker the full amount of any deductions made from the workers 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 employers place of employment. Daily subsistence must be computed as set forth in paragraph (h) of this section. 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.

d. The employer will provide workers referred through the interstate clearance system <u>40</u> hours of work for the week beginning with the anticipated date of need, <u>unless</u> employer has amended the date of need by notifying the local office no later than 10 business days before the date of need. If the employer fails to notify the order-holding office, then employer shall pay an eligible worker referred through the clearance system $469.60 (or $82.18 per day for partial week) for the first week starting with the originally anticipated date of need. If worker referred fails to notify the NYS Department of Labor (preferably the order-holding office)

of continued interest in the job at least 5 days before date of need, worker will be disqualified from this assurance. Employer will not require worker to perform alternative work if the guarantee cited in this section is invoked.

e. Employer will maintain adequate payroll records. Workers will be paid weekly on Friday for work through the previous Thursday through Wednesday. On or before each payday the employer will provide to each worker in one or more written statements the following information: (1) the workers total earnings for the pay period; (2) the workers hourly rate and/or piece rate of pay; (3) the hours of employment offered to the worker (showing offers in accordance with the ¾'s 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; (8) the employer's name, address, and FEIN.

f. The employer may terminate workers' employment hereunder at any time with timely notification to the NPC and DHS;
    a. Refusing, without just cause, to perform the duties for which the worker was recruited and hired; or
    b. Committing a serious act of misconduct or breach of discipline; or
    c. Job abandonment – being absent for more than five consecutive scheduled workdays, without prior notification to the employer.

Whenever the worker is terminated under any of these provisions, or if the worker voluntarily terminates his employment, the employer shall not be responsible for the three-fourths guarantee during the worker's period of employment.

Item 19: Transportation

a. Employer agrees to reimburse inbound transportation and subsistence expenses 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 residence, place of last employment or place of recruitment to the job site 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.

b. 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 an Act of God, from place of employment to place of recruitment, except when the worker is not returning to his place of recruitment and had subsequent employment with an employer who will bear transportation expenses, in which case this employer only pays for the transportation to the next job.

c. 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. Daily subsistence $12.09 per day for workers with no receipts and up to $51.00 for workers with documentation of actual expenses.

d. 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. If requested by worker, the employer will assist in making transportation arrangements. The amount of daily subsistence will be in accordance with current rates published in Federal Register (for workers with and without receipts).

e. 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: Worker's Compensation

The employer assures that Policy # HE-UB-4D705998-16 issued by The Travelers Insurance Company 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.

Workers should report for work with their own suitable clothing, including a warm jacket, waterproof work boots, and work gloves. Field temperatures may range from 30 degrees to 85 degrees with possible wet morning ground conditions.

OTHER CLARIFICATIONS AND ASSURANCE

a. The employer agrees to abide by the regulations at 20CFR 653.501 and 20CFR 655.135.
b. The employer will expeditiously notify the order-holding office or State agency by telephone immediately upon learning that a crop is maturing earlier or later, or that weather conditions, over-recruitment, or other factors have changed in terms and conditions of employment.
c. Outreach workers shall have reasonable access to the worker in the conduct of outreach activities pursuant to 20CFR 653.501(xvi).
d. 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.
e. A copy of this Job Clearance Order will be provided to the worker by the employer no later than on the day the work commences.
f. The applicant also 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.
g. Employees who are H-2A workers are notified that they are required to leave the U.S. at the end of the period of certified employment, or if separated from employment early, unless the H-2A worker is being sponsored by an employer for a future H-2A contract.

Housing Rules

This housing is temporary in-season housing provided for migrant agricultural workers employed by Big O Farms, Inc. who are unable to commute daily from their normal place of residence. The housing provided is group housing. All residents must be mindful of the rights of other residents for quiet enjoyment of employer-provided housing. For the protection of the employer and the employer's property, and to assure the comfort of all residents, the following housing rules will apply. Violators of the housing rules will be subject to disciplinary action, which may include termination of employment and/or removal from the housing.

1. Housing assignments will be made exclusively by the employer. Workers may occupy only the housing to which they are assigned. Workers may only sleep in rooms, areas, or units as assigned by the employer or designated supervisor.

2. Workers assigned to bunk beds may not separate the bunk beds, as open floor space in sleeping rooms is needed by all occupants.

3. No person not assigned to the housing unit by the employer may occupy a bed or stay overnight in the housing unit.

4. Occupants must cooperate with the employer and other workers in maintaining the housing unit in a clean condition and in good repair. Workers will be required to keep the exterior area surrounding the housing clean and clear of debris.

5. Workers shall report any problem with the housing or any potential problem with compliance immediately upon discovery to the employer or designated supervisor.

6. Kitchen facilities and other common areas are for the use of all residents of the housing unit. Please be considerate of your fellow workers. Each person using the kitchen facilities must clean them up promptly after each use. All occupants must cooperate and share in the responsibility for keeping all common areas clean and maintaining them in good condition.

7. No cooking is permitted in sleeping rooms or any other non-kitchen areas.

8. No cooking grease is to be dumped down the sink, nor out the window. Grease should be put in a tin can and disposed of in the garbage dumpster.

9. Occupants are forbidden from tampering with and/or removing batteries from smoke detectors for any reason. **VIOLATION WILL BE CAUSE FOR IMMEDIATE TERMINATION.**

10. Occupants must not drop paper, cans, bottles, personal items or other trash in the housing units, yard or surrounding area. Trash and waste receptacles must be used. Lids **MUST** remain on these receptacles at all times as required by law.

11. Workers living in employer's housing may not entertain guests in or on housing premises after 10:00 p.m. Sunday through Friday, nor after 12 midnight on Saturday.

12. Occupants may not interrupt other workers rest/sleep period by excessive noise or commotion. Workers must not play loud music after 9:00 p.m. Sunday through Friday, nor after 11:00 p.m. on Saturday.

13. Fighting, horseplay, scuffling, throwing things, drunkenness, loud or rowdy behavior and threatening or harassing other occupants will not be tolerated and may be cause for termination and removal from the housing.

14. Any worker who verbally or physically threatens another person with any tool or weapon **WILL BE SUBJECT TO IMMEDIATE DISCHARGE.**

15. Occupants may not post nor remove any notices, signs, posters, bulletin boards, or other such documents from the employer provided housing without specific authority from the employer.

16. Occupants may not willfully abuse or destroy any property at the housing owned and provided by the employer or the property belonging to other employees.

17. Lights and unnecessary heat should be turned off; doors and windows closed in event of rain and when heat is turned on. No electric heaters are to be used.

18. Occupants may not remove beds, refrigerators, stoves, tables, chairs, etc., or any other equipment from the housing premises without specific authorization from the employer. **VIOLATORS WILL BE SUBJECT TO IMMEDIATE DISCHARGE.**

19. Occupants must not deface, damage or destroy the housing or contents. **VIOLATORS WILL BE SUBJECT TO IMMEDIATE DISCHARGE.**

20. **WORKERS WILL BE DISCHARGED** for stealing from the employer or from other workers.

21. The use or possession of illegal drugs will be cause for immediate termination and removal from the housing.

22. Workers must vacate the housing and remove their belongings promptly upon termination of employment with the employer.

23. Workers will not knowingly or deliberately engage in any type of behavior or take any action that might cause the housing or the grower to be out of compliance with any local, state, or federal law.

24. Occupants must notify their supervisor if any fire extinguisher has been discharged for any reason.

25. Occupants are prohibited from smoking inside the housing facilities. Smoking is only allowed in outside designated areas.

26. Use or possession of alcoholic beverages or illegal drugs is strictly prohibited in employer provided housing. Use or possession of alcoholic beverages or illegal drugs, failing or refusing to take a drug test will be **CAUSE FOR IMMEDIATE TERMINATION.**

27. No Pets allowed in housing unit or the surrounding yard outside.

Work Rules

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

1. Workers who perform fraudulent or sloppy work, as defined under Job Specification will be suspended without pay for the remainder of the day, or for up to three days, in the sole judgment of the Employer, depending on the seriousness of the infraction, the worker's prior record, and other relevant factors. Discharge of the worker may result from any subsequent offense. Workers must perform their assigned work in a careful, workmanlike manner in accordance with the provisions of the work contract. Sloppy work will not be tolerated.

2. Use or possession of alcoholic beverages or illegal drugs is strictly prohibited during work time or during any workday before work is completed for the day (such as during meals); workers may not report for work under the influence of alcoholic beverages or illegal drugs. Illegal drugs or alcoholic beverages may not be used or kept on any employer premises, including housing at any time. Use or possession of illegal drugs or alcoholic beverages, failing or refusing to take a drug test will be **CAUSE FOR IMMEDIATE TERMINATION.**

3. Excessive absences and/or tardiness will not be permitted. Employees are expected to be present, on time, able, and willing to perform the assigned work every scheduled workday. This is not sporadic or "day work." Excessive absences are defined as: ~~Two~~ Five consecutive days of unexcused absences or three unexcused absences in a thirty-day period. Violation will be **CAUSE FOR IMMEDIATE TERMINATION.** Workers must report at assigned time and place each workday as directed by the supervisor. **WORKERS WILL BE DISCHARGED FOR EXCESSIVE TARDINESS**. Excessive tardiness is defined as three unexcused tardies in a row or five unexcused tardies in a period of thirty days.

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4. Workers must not drop paper, cans, bottles and other trash in fields, packing house, or on employer's premises. Trash and waste receptacles must be used. No glass of any type will be allowed within proximity to any farm produce.

5. Workers may not take unauthorized breaks from work.

6. Workers may not leave the field or other assigned work area without permission of grower or supervisor in charge.

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

8. Workers may not deliberately restrict production, damage plants or bruise vegetables.

9. **Any worker who verbally or physically threatens another worker, the farmer, or any supervisor with any tool or weapon WILL BE SUBJECT TO IMMEDATE DISCHARGE.**

10. **WORKERS WILL BE DISCHARGED for fighting on the employer's premises, including housing premises, at any time.**

11. Workers may not post or remove any notices, signs, or other instructions or documents from the employer's bulletin boards or the employer's property without specific authority from the employer.

12. **WORKERS WILL BE DISCHARGED** if they steal from fellow workers or from the employer.

13. Workers may not falsify identification, personnel, medical, production, or other work-related records. **VIOLATORS WILL BE SUBJECT TO IMMEDIATE DISCHARGE.**

14. Workers may not willfully abuse or destroy any machinery, truck or other vehicle, equipment, tools or other property belonging to the employer or to other employees. **VIOLATORS WILL BE SUBJECT TO DISCHARGE IMMEDIATELY.**

15. 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.

16. Workers may not misuse or remove from the farm premises without authorization from his supervisor and employer, property such as trucks and other vehicles, beds, refrigerators, tools, etc. **VIOLATORS WILL BE SUBJECT TO DISCHARGE IMMEDIATELY.**

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