OMB Approval: 1205-0466
Expiration Date: 8/31/2022

Agricultural Clearance Order
Form ETA-790
U.S. Department of Labor

***IMPORTANT**: In accordance with 20 CFR 653.500, all employers seeking U.S. workers to perform agricultural services or labor on a temporary, less than year-round basis through the Agricultural Recruitment System for U.S. Workers, must submit a completed job clearance order (Form ETA-790) to the State Workforce Agency (SWA) for placement on its intrastate and interstate job clearance systems. Employers submitting a job order in connection with an H-2A Application for Temporary Employment Certification (Form ETA-9142A) must complete the Form ETA-790 and attach a completed 790A. All other employers submitting agricultural clearance orders must complete the Form ETA-790 and attach a completed 790B. Employers and authorized preparers must read the general instructions carefully, complete ALL required fields/items containing an asterisk (*), and any fields/items where a response is conditional as indicated by the section (§) symbol.*

I. Clearance Order Information

FOR STATE WORKFORCE AGENCY (SWA) USE ONLY *Questions 1 through 17*		
1. Clearance Order Number * NY1342257	2. Clearance Order Issue Date * 7/6/2020	3. Clearance Order Expiration Date * 10/8/2020
4. SOC Occupation Code * 45-2092.02	5. SOC Occupation Title * Farmworkers and Laborers, Crop	

SWA Order Holding Office Contact Information			
6. Contact's last (family) name * Gwise	7. First (given) name * Caylin		8. Middle name(s) §
9. Contact's job title * Foreign Labor and Ag Specialist			
10. Address 1 * 276 Waring Road			
11. Address 2 *(suite/floor and number)* §			
12. City * Rochester		13. State * New York	14. Postal code * 14609
15. Telephone number * 585-258-8855	16. Extension §	17. E-Mail address * h2a@labor.ny.gov	

II. Employer Contact Information

1. Legal Business Name * Jay R. DeBadts and Sons Fruit Farms, LLC			
2. Trade Name/Doing Business As (DBA), if applicable §			
3. Contact's last (family) name * DeBadts	4. First (given) name * Douglas		5. Middle name(s) § D
6. Contact's job title * member			
7. Address 1 * 6735 Mud Lane			
8. Address 2 *(apartment/suite/floor and number)* §			
9. City * Sodus		10. State * New York	11. Postal code * 14551
12. Telephone number * +1 (315) 483-9396	13. Extension §	14. Business e-mail address * etorres@michfb.com	
15. Federal Employer Identification Number *(FEIN from IRS)* * 16-1185606		16. NAICS Code * 1119	

III. Type of Clearance Order

1. Indicate the type of agricultural clearance order being placed with the SWA for recruitment of U.S. workers. *(choose only one)* *	☑ 790A (H-2A clearance order) ☐ 790B (regular clearance order)

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Public Burden Statement *(1205-0466)*

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average .03 hours per response for all information collection requirements, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing, reviewing, and submitting the collection of information. The obligation to respond to this data collection is required to obtain/retain benefits (44 U.S.C. 3501, Immigration and Nationality Act, 8 U.S.C. 1101, et seq.). Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, 200 Constitution Ave., NW, Suite PPII 12-200, Washington, DC, 20210. (Paperwork Reduction Project OMB 1205-0466). DO NOT send the completed application to this address.

OMB Approval: 1205-0466
Expiration Date: 8/31/2022

H-2A Agricultural Clearance Order
Form ETA-790A
U.S. Department of Labor

A. Job Offer Information

1. Job Title * Farmworkers and Laborers, Crops

2. Workers Needed * a. Total	b. H-2A	Period of Intended Employment	
50	50	3. Begin Date * 9/1/2020	4. End Date * 11/15/2020

5. Will this job generally require the worker to be on-call 24 hours a day and 7 days a week? * If "Yes", proceed to question 8. If "No", complete questions 6 and 7 below. ☐ Yes ☑ No

6. Anticipated days and hours of work per week *

40	**a. Total Hours**	7	c. Monday	7	e. Wednesday	7	g. Friday
0	b. Sunday	7	d. Tuesday	7	f. Thursday	5	h. Saturday

7. Hourly work schedule *
a. 8 : 00 ☑ AM ☐ PM
b. 4 : 00 ☐ AM ☑ PM

Temporary Agricultural Services and Wage Offer Information

8a. Job Duties - Description of the specific services or labor to be performed. *
(Please begin response on this form and use Addendum C if additional space is needed.)

APPLES Hand Harvest: Worker hand harvests apples to quality standards. Worker attaches picking bag around shoulder, without using straps on waist, and picks fruit while standing on ground and on ladder up to 15-feet for higher branches. Workers may not pick up fruit that has been in contact with the ground.
Employer must approve picking bag modifications.
Worker picks according to grade, color and size by grasping fruit with hands and removing from tree in motion not to harm adjacent buds on tree branches. Worker carries harness, bucket or bag up to 50 lbs. and places fruit into 18-20 bushel wooden or plastic bins. Worker fills bin from all sides and does not allow fruit to roll in bin. Worker fills bin level with top on sides and crowns center.

Quality is essential. Employer harvests different apple varieties according to established company procedures based on end use and market demands. Worker must differentiate and selectively pick between colors to meet varying standards. Employer explains and demonstrates picking requirements as needed to ensure quality standards. Worker must exercise care at all times to prevent fruit bruising, stem pulls, punctures or other damage or branch breaking. Bruising from harvest shall not exceed 1% (WNY) for fresh and 1% (WNY) for processing. Some workers may be required to examine harvested fruit in bins and sort out fruit not meeting grade, color and size specifications. Significant bruised, damaged or cull fruit may result in progressive disciplinary action as outlined in attached work rules. During special collection of drop apples and as an exception to the general application of GAP rules, workers may pick up by hand drop apples from the ground, place in 5 gallon buckets and dump the full buckets into the 18-20 bushel bins.
Pay will be piece rate.

8b. Wage Offer *	8c. Per *	8d. Piece Rate Offer §	8e. Piece Rate Units/Special Pay Information §
$ 14 . 29	☑ HOUR ☐ MONTH	$ 01 . 00	Apple Hand Harvest (Fresh – Dwarf)-$1.00 per bushel harvested

9. Is a completed **Addendum A** providing additional information on the crops or agricultural activities and wage offers attached to this job offer? * ☑ Yes ☐ No

10. Frequency of Pay. * ☑ Weekly ☐ Biweekly ☐ Monthly ☐ Other (specify): N/A

11. State all deduction(s) from pay and, if known, the amount(s). *
(Please begin response on this form and use Addendum C if additional space is needed.)
See Addendum C

H-2A Case Number: JO-A-300-20184-692496 Case Status: _____ Determination Date: _____ Validity Period: _____ to _____

B. Minimum Job Qualifications/Requirements

1. Education: minimum U.S. diploma/degree required. *

☑ None ☐ High School/GED ☐ Associate's ☐ Bachelor's ☐ Master's or Higher ☐ Other degree (JD, MD, etc.)

2. Work Experience: number of months required. *	3	3. Training: number of months required. *	0

4. Basic Job Requirements (check all that apply) *

- ☐ a. Certification/license requirements
- ☐ b. Driver requirements
- ☐ c. Criminal background check
- ☑ d. Drug screen
- ☑ e. Lifting requirement 50 lbs.
- ☑ g. Exposure to extreme temperatures
- ☑ h. Extensive pushing or pulling
- ☑ i. Extensive sitting or walking
- ☑ j. Frequent stooping or bending over
- ☑ k. Repetitive movements

5a. Supervision: does this position supervise the work of other employees? *	☐ Yes ☑ No	5b. If "Yes" to question 5a, enter the number of employees worker will supervise. §	

6. Additional Information Regarding Job Qualifications/Requirements.
*(Please begin response on this form and use Addendum C if additional space is needed. If no additional skills or requirements, enter "**NONE**" below)* *

See Addendum C

C. Place of Employment Information

1. Address/Location *
6735 Mud Lane,

2. City *	3. State *	4. Postal Code *	5. County *
Sodus	New York	14551	Wayne

6. Additional Place of Employment Information *(If no additional information, enter "**NONE**" below)* *
none

7. Is a completed **Addendum B** providing additional information on the places of employment and/or agricultural businesses who will employ workers, or to whom the employer will be providing workers, attached to this job order? * ☐ Yes ☑ No

D. Housing Information

1. Housing Address/Location *
6841 Mud Lane

2. City *	3. State *	4. Postal Code *	5. County *
Sodus	New York	14551	Wayne

6. Type of Housing *	7. Total Units *	8. Total Occupancy *
mobile homes	9	50

9. Housing complies or will comply with the following applicable standards: * ☐ Local ☐ State ☑ Federal

10. Additional Housing Information. *(If no additional information, enter "**NONE**" below)* *
none

11. Is a completed **Addendum B** providing additional information on housing that will be provided to workers attached to this job order? * ☐ Yes ☑ No

E. Provision of Meals

1. Describe how the employer will provide each worker with 3 meals a day or furnish free and convenient cooking and kitchen facilities. * *(Please begin response on this form and use Addendum C if additional space is needed.)*

Employer furnishes cooking facilities, utilities and utensils at no cost to worker occupying Employer provided housing. Worker purchases food and prepares meals. Employer offers no cost transportation to worker at least once a week to stores for food and other items.

2. If meals are provided, the employer: *	☑ **WILL NOT** charge workers for such meals.		
	☐ **WILL** charge workers for such meals at	$ _____ . _____	per day per worker.

F. Transportation and Daily Subsistence

1. Describe the terms and arrangement for daily transportation the employer will provide to workers. *
(Please begin response on this form and use Addendum C if additional space is needed.)

For workers eligible for housing benefit, Employer agrees to provide transportation between housing provided or secured by the employer and the employer's worksite(s) at no cost to the worker. 20 CFR 655.122(h)(3).

2. Describe the terms and arrangements for providing workers with transportation (a) to the place of employment (i.e., inbound) and (b) from the place of employment (i.e., outbound). *
(Please begin response on this form and use Addendum C if additional space is needed.)

See Addendum C

3. During the travel described in Item 2, the employer will pay for or reimburse daily meals by providing each worker *	a. no less than	$ 12 . 68	per day *
	b. no more than	$ 55 . 00	per day with receipts

G. Referral and Hiring Instructions

1. Explain how prospective applicants may be considered for employment under this job order, including verifiable contact information for the employer, or the employer's authorized hiring representative, methods of contact, and the days and hours applicants will be considered for the job opportunity. *
(Please begin response on this form and use Addendum C if additional space is needed.)

See Addendum C

2. Telephone Number to Apply *	3. Email Address to Apply *
+1 (315) 968-4738	brandon.mallory@agri-placement.com

4. Website address (URL) to Apply *
N/A

H. Additional Material Terms and Conditions of the Job Offer

1. Is a completed **Addendum C** providing additional information about the material terms, conditions, and benefits (monetary and non-monetary) that will be provided by the employer attached to this job order? *	☑ Yes ☐ No

I. Conditions of Employment and Assurances for H-2A Agricultural Clearance Orders

By virtue of my signature below, I **HEREBY CERTIFY** my knowledge of and compliance with applicable Federal, State, and local employment-related laws and regulations, including employment-related health and safety laws, and certify the following conditions of employment:

1. **JOB OPPORTUNITY**: Employer assures that the job opportunity identified in this clearance order (hereinafter also referred to as the "job order") is a full-time temporary position being placed with the SWA in connection with an H-2A *Application for Temporary Employment Certification* for H-2A workers and this clearance order satisfies the requirements for agricultural clearance orders in 20 CFR 653, subpart F and the requirements set forth in 20 CFR 655.122. This job opportunity offers U.S. workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers and complies with the requirements at 20 CFR 655, Subpart B. The job opportunity is open to any qualified U.S. worker regardless of race, color, national origin, age, sex, religion, handicap, or citizenship.

2. **NO STRIKE, LOCKOUT, OR WORK STOPPAGE**: Employer assures that this job opportunity, including all worksites for which the employer is requesting H-2A labor certification does not currently have workers on strike or being locked out in the course of a labor dispute. 20 CFR 655.135(b).

3. **HOUSING FOR WORKERS**: Employer agrees to provide for or secure housing for H-2A workers and those workers in corresponding employment who are not reasonably able to return to their residence at the end of the work day. That housing complies with the applicable local, State, or Federal standards and is sufficient to house the specified number of workers requested through the clearance system. The employer will provide the housing without charge to the worker. Any charges for rental housing will be paid directly by the employer to the owner or operator of the housing. If public accommodations are provided to workers, the employer agrees to pay all housing-related charges directly to the housing's management. The employer agrees that charges in the form of deposits for bedding or other similar incidentals related to housing (e.g., utilities) must not be levied upon workers. However, the employer may require workers to reimburse them for damage caused to housing by the individual worker(s) found to have been responsible for damage which is not the result of normal wear and tear related to habitation. When it is the prevailing practice in the area of intended employment and the occupation to provide family housing, the employer agrees to provide family housing at no cost to workers with families who request it. 20 CFR 655.122(d), 653.501(c)(3)(vi).

   Request for Conditional Access to Intrastate or Interstate Clearance System: Employer assures that the housing disclosed on this clearance order will be in full compliance with all applicable local, State, or Federal standards at least 20 calendar days before the housing is to be occupied. 20 CFR 653.502(a)(3). The Certifying Officer will not certify the application until the housing has been inspected and approved.

4. **WORKERS' COMPENSATION COVERAGE**: Employer agrees to provide workers' compensation insurance coverage in compliance with State law covering injury and disease arising out of and in the course of the worker's employment. If the type of employment for which the certification is sought is not covered by or is exempt from the State's workers' compensation law, the employer agrees to provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment that will provide benefits at least equal to those provided under the State workers' compensation law for other comparable employment. 20 CFR 655.122(e).

5. **EMPLOYER-PROVIDED TOOLS AND EQUIPMENT**: Employer agrees to provide to the worker, without charge or deposit charge, all tools, supplies, and equipment required to perform the duties assigned. 20 CFR 655.122(f).

6. **MEALS**: Employer agrees to provide each worker with three meals a day or furnish free and convenient cooking and kitchen facilities to the workers that will enable the workers to prepare their own meals. Where the employer provides the meals, the job offer will state the charge, if any, to the worker for such meals. The amount of meal charges is governed by 20 CFR 655.173. 20 CFR 655.122(g).

   For workers engaged in the herding or production of livestock on the range, the employer agrees to provide each worker, without charge or deposit charge, (1) either three sufficient meals a day, or free and convenient cooking facilities and adequate provision of food to enable the worker to prepare his own meals. To be sufficient or adequate, the meals or food provided must include a daily source of protein, vitamins, and minerals; and (2) adequate potable water, or water that can be easily rendered potable and the means to do so. 20 CFR 655.210(e).

7. **TRANSPORTATION AND DAILY SUBSISTENCE**: Employer agrees to provide the following transportation and daily subsistence benefits to eligible workers.

   A. *Transportation to Place of Employment (Inbound)*

   If the worker completes 50 percent of the work contract period, and the employer did not directly provide such transportation or subsistence or otherwise has not yet paid the worker for such transportation or subsistence costs, the employer agrees to reimburse the worker for reasonable costs incurred by the worker for transportation and daily subsistence 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. The amount of the transportation payment must be no less (and is not required to be more) than the most economical and reasonable common carrier transportation charges for the distances involved. The amount the employer will pay for daily subsistence expenses are those amounts disclosed in this clearance order, which are at least as much as the employer would charge the worker for providing the worker with three meals a day during employment (if applicable), but in no event will less than the amount permitted under 20 CFR 655.173(a). The employer understands that the Fair Labor Standards Act applies independently of the H-2A requirements and imposes obligations on employers regarding payment of wages. 20 CFR 655.122(h)(1).

   B. *Transportation from Place of Employment (Outbound)*

   If the worker completes the work contract period, or is terminated without cause, and the worker has no immediate subsequent H-2A employment, the employer agrees to provide or pay for the worker's transportation and daily subsistence from the place of employment to the place from which the worker, disregarding intervening employment, departed to work for the employer. Return transportation will not be provided to workers who voluntarily abandon employment before the end of the work contract period, or who are terminated for cause, if the employer follows the notification requirements in 20 CFR 655.122(n).

If the worker has contracted with a subsequent employer who has not agreed in such work contract to provide or pay for the worker's transportation and daily subsistence expenses from the employer's worksite to such subsequent employer's worksite, the employer must provide for such expenses. If the worker has contracted with a subsequent employer who has agreed in such work contract to provide or pay for the worker's transportation and daily subsistence expenses from the employer's worksite to such subsequent employer's worksite, the subsequent employer must provide or pay for such expenses.

The employer is not relieved of its obligation to provide or pay for return transportation and subsistence if an H-2A worker is displaced as a result of the employer's compliance with the 50 percent rule as described in sec. 655.135(d) of this subpart with respect to the referrals made after the employer's date of need. 20 CFR 655.122(h)(2).

C. Daily Transportation

Employer agrees to provide transportation between housing provided or secured by the employer and the employer's worksite(s) at no cost to the worker. 20 CFR 655.122(h)(3).

D. Compliance with Transportation Standards

Employer assures that all employer-provided transportation will comply with all applicable Federal, State, or local laws and regulations. Employer agrees to provide, at a minimum, the same transportation safety standards, driver licensure, and vehicle insurance as required under 29 U.S.C. 1841 and 29 CFR 500.105 and 29 CFR 500.120 to 500.128. If workers' compensation is used to cover transportation, in lieu of vehicle insurance, the employer will ensure that such workers' compensation covers all travel or that vehicle insurance exists to provide coverage for travel not covered by workers' compensation. Employer agrees to have property damage insurance. 20 CFR 655.122(h)(4).

8. **THREE-FOURTHS GUARANTEE**: Employer agrees to offer the worker employment for a total number of work hours equal to at least three-fourths of the workdays of the total period beginning with the first workday after the arrival of the worker at the place of employment or the advertised contractual first date of need, whichever is later, and ending on the expiration date specified in the work contract or in its extensions, if any. 20 CFR 655.122(i).

The employer may offer the worker more than the specified hours of work on a single workday. For purposes of meeting the three-fourths guarantee, the worker will not be required to work for more than the number of hours specified in the job order for a workday, or on the worker's Sabbath or Federal holidays. If, during the total work contract period, the employer affords the U.S. or H-2A worker less employment than that required under this guarantee, the employer will pay such worker the amount the worker would have earned had the worker, in fact, worked for the guaranteed number of days. An employer will not be considered to have met the work guarantee if the employer has merely offered work on three-fourths of the workdays if each workday did not consist of a full number of hours of work time as specified in the job order. All hours of work actually performed may be counted by the employer in calculating whether the period of guaranteed employment has been met. Any hours the worker fails to work, up to a maximum of the number of hours specified in the job order for a workday, when the worker has been offered an opportunity to work, and all hours of work actually performed (including voluntary work over 8 hours in a workday or on the worker's Sabbath or Federal holidays), may be counted by the employer in calculating whether the period of guaranteed employment has been met. 20 CFR 655.122(i).

If the worker is paid on a piece rate basis, the employer agrees to use the worker's average hourly piece rate earnings or the required hourly wage rate, whichever is higher, to calculate the amount due under the three-fourths guarantee. 20 CFR 655.122(i).

If the worker voluntarily abandons employment before the end of the period of employment set forth in the job order, or is terminated for cause, and the employer follows the notification requirements in 20 CFR 655.122(n), the worker is not entitled to the three-fourths guarantee. The employer is not liable for payment of the three-fourths guarantee to an H-2A worker whom the Department of Labor certifies is displaced due to the employer's requirement to hire qualified and available U.S. workers during the recruitment period set out in 20 CPR 655.135(d), which lasts until 50 percent of the period of the work contract has elapsed (50 percent rule). 20 CFR 655.122(i).

Important Note: In circumstances where the work contract is terminated due to contract impossibility under 20 CFR 655.122(o), the three-fourths guarantee period ends on the date of termination.

9. **EARNINGS RECORDS**: Employer agrees to keep accurate and adequate records with respect to the workers' earnings at the place or places of employment, or at one or more established central recordkeeping offices where such records are customarily maintained. All records must be available for inspection and transcription by the Department of Labor or a duly authorized and designated representative, and by the worker and representatives designated by the worker as evidenced by appropriate documentation. Where the records are maintained at a central recordkeeping office, other than in the place or places of employment, such records must be made available for inspection and copying within 72 hours following notice from the Department of Labor, or a duly authorized and designated representative, and by the worker and designated representatives. The content of earnings records must meet all regulatory requirements and be retained by the employer for a period of not less than 3 years after the date of certification by the Department of Labor. 20 CFR 655.122(j).

10. **HOURS AND EARNINGS STATEMENTS**: Employer agrees to furnish to the worker on or before each payday 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 three-fourths guarantee as determined in 20 CFR 655.122(i), 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. 20 CFR 655.122(k).

For workers engaged in the herding or production of livestock on the range, the employer is exempt from recording and furnishing the hours actually worked each day, the time the worker begins and ends each workday, as well as the nature and amount of work performed, but otherwise must comply with the earnings records and hours and earnings statement requirements set out in 20 CFR 655.122(j) and (k). The employer agrees to keep daily records indicating whether the site of the employee's work was on the range or off the range. If the employer prorates a worker's wage because of the worker's voluntary absence for personal reasons, it must also keep a record of the reason for the worker's absence. 20 CFR 655.210(f).

11. **RATES OF PAY**: The employer agrees that it will offer, advertise in its recruitment, and pay at least the Adverse Effect Wage Rate (AEWR), the prevailing hourly wage rate, the prevailing piece rate, the agreed-upon collective bargaining rate, or the Federal or State minimum wage rate, in effect at the time work is performed, whichever is highest. If the worker is paid by the hour, the employer must pay this rate for every hour or portion thereof worked during a pay period. If the offered wage(s) disclosed in this clearance order is/are based on commission, bonuses, or other incentives, the employer guarantees the wage paid on a weekly, semi-monthly, or monthly basis will equal or exceed the AEWR, prevailing hourly wage or piece rate, the legal Federal or State minimum wage, or any agreed-upon collective bargaining rate, whichever is highest.

    If the worker is paid on a piece rate basis and at the end of the pay period the piece rate does not result in average hourly piece rate earnings during the pay period at least equal to the amount the worker would have earned had the worker been paid at the appropriate hourly rate of pay, the employer agrees to supplement the worker's pay at that time so that the worker's earnings are at least as much as the worker would have earned during the pay period if the worker had instead been paid at the appropriate hourly wage rate for each hour worked. 20 CFR 655.120, 655.122(l).

    For workers engaged in the herding or production of livestock on the range, the employer agrees to pay the worker at least the monthly AEWR, the agreed-upon collective bargaining wage, or the applicable minimum wage imposed by Federal or State law or judicial action, in effect at the time work is performed, whichever is highest, for every month of the job order period or portion thereof. If the offered wage disclosed in this clearance order is based on commissions, bonuses, or other incentives, the employer assures that the wage paid will equal or exceed the monthly AEWR, the agreed-upon collective bargaining wage, or the applicable minimum wage imposed by Federal or State law or judicial action, whichever is highest, and will be paid to each worker free and clear without any unauthorized deductions. The employer may prorate the wage for the initial and final pay periods of the job order period if its pay period does not match the beginning or ending dates of the job order. The employer also may prorate the wage if an employee is voluntarily unavailable to work for personal reasons. 20 CFR 655.210(g).

12. **FREQUENCY OF PAY**: Employer agrees to pay workers when due based on the frequency disclosed in this clearance order. 20 CFR 655.122(m).

13. **ABANDONMENT OF EMPLOYMENT OR TERMINATION FOR CAUSE**: If a worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, employer is not responsible for providing or paying for the subsequent transportation and subsistence expenses of that worker, and that worker is not entitled to the three-fourths guarantee, if the employer notifies the Department of Labor and, if applicable, the Department of Homeland Security, in writing or by any other method specified by the Department of Labor or the Department of Homeland Security in the Federal Register, not later than 2 working days after the abandonment or termination occurs. A worker will be deemed to have abandoned the work contract if the worker fails to show up for work at the regularly scheduled time and place for 5 consecutive work days without the consent of the employer. 20 CFR 655.122(n).

14. **CONTRACT IMPOSSIBILITY**: The work contract may be terminated before the end date of work specified in the work contract if the services of the workers are no longer required for reasons beyond the control of the employer due to fire, weather, or other Act of God that makes fulfillment of the contract impossible, as determined by the U.S. Department of Labor. In the event that the work contract is terminated, the employer agrees to fulfill the three-fourths guarantee for the time that has elapsed from the start date of work specified in the work contract to the date of termination. The employer also agrees that it will make efforts to transfer the worker to other comparable employment acceptable to the worker and consistent with existing immigration laws. In situations where a transfer is not affected, the employer agrees to 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 his/her next certified H-2A employer, whichever the worker prefers. The employer will also reimburse the worker the full amount of any deductions made by the employer from the worker's pay for transportation and subsistence expenses to the place of employment. The employer will also pay the worker for any transportation and subsistence expenses incurred by the worker to that employer's place of employment. The amounts the employer will pay for subsistence expenses per day are those amounts disclosed in this clearance order. 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. 20 CFR 655.122(o).

    The employer is not required to pay for transportation and daily subsistence from the place of employment to a subsequent employer's worksite if the worker has contracted with a subsequent employer who has agreed to provide or pay for the worker's transportation and subsistence expenses from the present employer's worksite to the subsequent employer's worksite. 20 CFR 655.122(h)(2).

15. **DEDUCTIONS FROM WORKER'S PAY**: Employer agrees to make all deductions from the worker's paycheck required by law. This job offer discloses all deductions not required by law which the employer will make from the worker's paycheck and all such deductions are reasonable, in accordance with 20 CFR 655.122(p) and 29 CFR part 531. The wage requirements of 20 CFR 655.120 will not be met where undisclosed or unauthorized deductions, rebates, or refunds reduce the wage payment made to the employee below the minimum amounts required under 20 CFR part 655, subpart B, or where the employee fails to receive such amounts free and clear because the employee kicks back directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to the employee. 20 CFR 655.122(p).

16. **DISCLOSURE OF WORK CONTRACT**: Employer agrees to provide a copy of the work contract 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. For an H-2A worker coming to the employer from another H-2A employer, the employer agrees to provide a copy of the work contract no later than the time an offer of employment is made to the H-2A worker. A copy of the work contract will be provided to each worker in a language understood by the worker, as necessary or reasonable. In the absence of a separate, written work contract entered into between the employer and the worker, the required terms of this clearance order, including all Addendums, and the certified *H-2A Application for Temporary Employment Certification* will be the work contract. 20 CFR 655.122(q).

17. **ADDITIONAL ASSURANCES FOR CLEARANCE ORDERS**:

A. Employer agrees to provide to workers referred through the clearance system the number of hours of work disclosed in this clearance order for the week beginning with the anticipated date of need, unless the employer has amended the date of need at least 10 business days before the original date of need by so notifying the Order-Holding Office (OHO) in writing (e.g., e-mail notification). The employer understands that it is the responsibility of the SWA to make a record of all notifications and attempt to inform referred workers of the amended date of need expeditiously. 20 CFR 653.501(c)(3)(i).

If there is a change to the anticipated date of need, and the employer fails to notify the OHO at least 10 business days before the original date of need, the employer agrees that it will pay eligible workers referred through the clearance system the specified rate of pay disclosed in this clearance order for the first week starting with the originally anticipated date of need or will provide alternative work if such alternative work is stated on the clearance order. 20 CFR 653.501(c)(5).

B. Employer agrees that no extension of employment beyond the period of employment specified in the clearance order will relieve it from paying the wages already earned, or if specified in the clearance order as a term of employment, providing transportation from the place of employment, as described in paragraph 7.B above. 20 CFR 653.501(c)(3)(ii).

C. 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. 20 CFR 653.501(c)(3)(iii).

D. Employer agrees to expeditiously notify the OHO or SWA by emailing and telephoning 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. 20 CFR 653.501(c)(3)(iv).

E. If acting as a farm labor contractor (FLC) or farm labor contractor employee (FLCE) on this clearance order, the employer assures that it has a valid Federal FLC certificate or Federal FLCE identification card and when appropriate, any required State FLC certificate. 20 CFR 653.501(c)(3)(v).

F. Employer assures that outreach workers will have reasonable access to the workers in the conduct of outreach activities pursuant to 20 CFR 653.107. 20 CFR 653.501(c)(3)(vii).

*I **declare** under penalty of perjury that I have read and reviewed this clearance order, including every page of this Form ETA-790A and all supporting addendums, and that to the best of my knowledge, the information contained therein is true and accurate. This clearance 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. 20 CFR 653.501(c)(3)(viii). I understand that to knowingly furnish materially false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a federal offense punishable by fines, imprisonment, or both. 18 U.S.C. 2, 1001.*

1. Last (family) name *	2. First (given) name *	3. Middle initial §
DeBadts	Douglas	D
4. Title *		
member		
5. Signature (or digital signature) *		6. Date signed *
Digital Signature Verified and Retained By Certifying Officer		7/2/2020

Employment Service Statement

In view of the statutorily established basic function of the Employment Service (ES) as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the Department of Labor's Employment and Training Administration (ETA) nor the SWAs 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 ES constitute a contractual job offer to which the ETA or a SWA is in any way a party. 20 CFR 653.501(c)(1)(i).

Public Burden Statement *(1205-0466)*

Persons are not required to respond to this collection of information unless it displays a currently valid OMB control number. Public reporting burden for this collection of information is estimated to average .63 hours per response for all information collection requirements, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing, reviewing, and submitting the collection of information. The obligation to respond to this data collection is required to obtain/retain benefits (44 U.S.C. 3501, Immigration and Nationality Act, 8 U.S.C. 1101, et seq.). Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, 200 Constitution Ave., NW, Suite PPII 12-200, Washington, DC, 20210. (Paperwork Reduction Project OMB 1205-0466). DO NOT send the completed application to this address.

A.9. Additional Crop or Agricultural Activities and Wage Offer Information

Crop ID	Crop or Agricultural Activity	Wage Offer	Per	Piece Rate Units/Special Pay Information
	Apple Hand Harvest (Fresh – Standard)	$ 01 . 00	Piece Rate	Apple Hand Harvest (Fresh – Standard) $1.00 per bushel harvested Piece rates are minimum and may change during season or hourly rates may be offered. Employer guarantees worker payment not less than state's AEWR hourly rate for each hour worked.
	Apple Hand Harvest (Process)	$ 00 . 78	Piece Rate	Apple Hand Harvest (Process) $0.78 per bushel harvested Piece rates are minimum and may change during season or hourly rates may be offered. Employer guarantees worker payment not less than state's AEWR hourly rate for each hour worked.
	Apples (Drops)	$ 00 . 75	Piece Rate	Apples (Drops) $0.75 per bushel harvested Piece rates are minimum and may change during season or hourly rates may be offered. Employer guarantees worker payment not less than state's AEWR hourly rate for each hour worked.
		$ _____ . _____		
		$ _____ . _____		
		$ _____ . _____		
		$ _____ . _____		
		$ _____ . _____		
		$ _____ . _____		
		$ _____ . _____		

H. Additional Material Terms and Conditions of the Job Offer

a. Job Offer Information 1

1. Section/Item Number *	A.11	2. Name of Section or Category of Material Term or Condition *	Deductions from Pay

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Employer will make following deductions from worker's wages:
FICA taxes if required,
Federal, state and local income tax if required,
Other deductions expressly authorized or required by state or federal law,
Other deductions worker authorizes in writing.

b. Job Offer Information 2

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Additional Information Regarding Job Qualifications/Requirements

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Job requires worker to complete tasks in general orchard labor and hand harvest of apples
Experience Requirement: 3 verifiable months recent apple hand harvest experience required (within past 5 years).
Season Commitment: Job offered requires worker be available for and worker agrees to work every day that work is available for entire employment period.
Worker must be able to perform job description duties in safe manner consistent with established safety procedures.
Drug testing not utilized as pre-employment tool. See work rule #4 for more information regarding post-employment drug testing

H. Additional Material Terms and Conditions of the Job Offer

c. Job Offer Information 3

1. Section/Item Number *	G.1	2. Name of Section or Category of Material Term or Condition *	Referral and Hiring Instructions

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Employer accepts referrals from any source. Candidates are encouraged to register at nearest employment office (i.e. One Stop), to receive terms and conditions of employment.
Applicants should apply for job opportunity at nearest SWA office. (20 CFR 655.152(j)). SWA advises applicants of material terms and conditions of employment, and only refers applicants for employment if applicant confirms he or she is qualified, able, willing, and available for employment. (20 CFR 655.155). SWA refers applicants to employer Doug DeBadts at legend460@aol.com and Brandon Mallory at brandon.mallory@agri-placement.com
Candidates may call Brandon Mallory, between 8 am to 12 pm Eastern time, Monday through Thursday at (315) 986-4738 for an interview and Employer makes hiring decision upon verification of employment qualifications.

Job order referrals are directed to:
NEAREST EMPLOYMENT ONE STOP
Local Office should advise SWA worker referrals prior to referral of terms, conditions and nature of employment. Upon hiring and by end of third work day, workers must present original document(s) to establish identity and employment eligibility required by INA to continue employment.
Employer will notify Local Office or State agency by telephone and in writing if employment terms and conditions change due to factors including crop, weather, or recruitment conditions. Work Agreement terms may be changed upon posted notice to workers and ETA Regional Administrator approval.
Employer will not employ undocumented or fraudulently documented workers. Upon hiring and by end of third work day, workers must present original document(s) to establish identity and employment eligibility required by INA to continue employment.

Candidates should check with Employer one week prior to contract start date to confirm no changes to job opportunity. Candidates referred by employment office (i.e. One Stop) should check with employment office 9 days and no later than 5 days prior to date of need to preserve rights under 20CFR653.501(d)(4).
Employer is equal opportunity employer and agrees to comply with assurance at 20 CFR 655.135
Employer will notify Local Office or State agency if employment terms and conditions change due to factors including crop, weather, or recruitment conditions. Work Agreement terms may be changed upon posted notice to workers and ETA Regional Administrator approval.

d. Job Offer Information 4

1. Section/Item Number *	F.2	2. Name of Section or Category of Material Term or Condition *	Inbound/Outbound Transportation

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Employer will not reimburse, pay for or provide inbound transportation and subsistence to worker who resides within reasonably commutable distance or who does not provide identity and employment eligibility documentation required to complete Form I-9, who has knowledge at recruitment place that worker cannot perform job order duties, who abandons employment, or who is discharged for lawful job related reasons. Employer will advance inbound transportation amount no later than first workweek.

H. Additional Material Terms and Conditions of the Job Offer

e. Job Offer Information 5

1. Section/Item Number *	F.2	2. Name of Section or Category of Material Term or Condition *	Inbound/Outbound Transportation

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Additional Outbound Information
Criteria for benefit are identical for foreign and domestic workers. Worker may select means of transportation home, however, reimbursement is limited to lesser of per worker cost of Employer provided transportation or most economical and reasonable common carrier transportation cost. Worker who arranges own transportation assumes all liability and holds Employer harmless for damages, injuries, and personal or property losses, pays for transportation and subsistence and submits expense documents to Employer for reimbursement (as detailed above) to be paid by check sent via US mail or other delivery system worker requests.
Employer will not reimburse, pay for or provide outbound transportation and subsistence to worker who resides within reasonably commutable distance, who does not provide documentation of identity and employment eligibility required to complete Form I-9, who has knowledge at recruitment place that worker cannot perform job order duties, who abandons employment, or who is discharged for lawful job related reasons

f. Job Offer Information 6

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Additional Information Regarding Job Qualifications/Requirements
Worker must possess requisite physical strength and endurance to repeat harvest and general labor process throughout workday. Worker must work at sustained pace and make good faith efforts to work efficiently as reasonable under working conditions and consistent with amount, quality and efficiency of 6 boxes (120 bushels of fruit) per day for fresh market and/or pick 8 bins (160 bushels) processing apples per day. Employer will provide 1 day of training and/or allow 3 days of work for worker to reach production standards.
Field work begins at assigned time shortly after daylight. Work may be scheduled during moderate rain, in high humidity, when trees are wet with dew/rain, and in temperatures as low as 15 degrees F and up to 105 degrees F. Worker should have suitable clothing for variable weather conditions.
Employer conducts and worker must attend orientation on workplace rules, harvest methods, crop specific issues, policies and safety information.
Employer provides and worker must comply with instructions and general supervision.
Other duties assigned under this order will be consistent with Farm Worker, Diversified Crops, under Bureau of Labor Statistics Occupational Employment Statistics Standard Occupational Classification Code 45-2092.

H. Additional Material Terms and Conditions of the Job Offer

g. Job Offer Information 7

1. Section/Item Number *	A.8a	2. Name of Section or Category of Material Term or Condition *	Job Duties - ORCHARD LABOR

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Thinning: Thinning is a manual process used to control the size and quality of grown fruit. Worker must possess ability to pick up and handle 10-foot orchard ladder weighing 40 pounds. Worker removes smallest fruit blossom, bud and/or identifiable fruit from within fruit cluster. Worker identifies and removes misshapen, damaged and/or other not quality fruit as directed by Employer.

Pruning: Pruning numerous varieties of apple trees according to established company procedures based on difference in treatment of different varieties. Worker performs pruning on trees for long periods of time using variety of pruning equipment including hand shears, hand loppers, hand saws, and 12-foot ladders. Pruning and thinning may be done from ground or up to 12 feet ladder or from motorized platform. Worker may be required to selectively prune only certain size trees as instructed by Employer.

Worker must possess or acquire pruning skills in order to identify and remove stubs or broken branches, downward-growing branches, branches which rub against each other, shaded interior branches, dead wood and shoots/suckers with hand pruning saws and clippers, mechanized equipment in pruning activities.

Tree planting: Trees will be unbundled and handled with care as not to break and damage young trees. Trees are planted mechanically with a planter and by hand. Worker will ride the machine and place plants in the holes as the machine moves along the row. Tree graft union height will be adjusted by pulling the tree until at a specific height using a specially marked stick as a measure. Straighten tree and compact soil around tree. Worker will be required to unload 100 pound boxes of trees to be planted.

Tree transplanting: Worker will dig up tree and transplant to new location then follow steps described for planting tree.

Trellis system construction/install: Placement of anchor post, end angle post and of inline post, with, but not limited to the following equipment: excavator, loader with auger, loader with anchor attachment. Tools will be used such as shovel or posthole digger. Posts may be re-aligned after placement with shovel, posthole digger, and level. Post will be drilled to install wire. Tree support will then be installed. This may be performed by motorized platform or up to an 8' ladder. Worker will be required to lift up to 100 pounds, between two workers.

Irrigation maintenance: Worker will be required to check, operate and maintain all working components of irrigation system which include: irrigation lines, micro sprinklers, headers, mainlines, valves, any other irrigation equipment. Workers will be required to fix leaks as directed by supervisor.

Irrigation installation: Worker will install irrigation lines, headers, mainline, valves, micro sprinklers, and any other irrigation equipment.

Equipment Operation: Worker will be required to safely drive and operate tractors, tractor-drawn machinery and self-propelled machinery to plow, harrow and fertilize the soil, or to plant, cultivate, spray and harvest crops.

h. Job Offer Information 8

1. Section/Item Number *	A.8a	2. Name of Section or Category of Material Term or Condition *	Job Duties - Other Job Specifications include

3. Details of Material Term or Condition (*up to 3,500 characters*) *

1. Worker cares for young non-producing fruit trees including weeding, hoeing, trunk painting, hand fertilizing and growth selection by hand and clipping.

2. Worker tills soil.

3. Worker clears and maintains irrigation ditches.

4. Worker applies pesticides, herbicides or fertilizers to crops.

5. Worker prunes, trains and positions apple trees to trellis, including clipping and tying limbs and shoots to wire from ground or up to 12-foot ladder or from motorized platform.

6. Worker provides general labor to assist in new orchard establishment by clearing property, planting trees, building trellis, repair and spreading of composted material and any other labor considered necessary for efficient structure of new orchard properties.

7. Worker cares for trees during growing process

a. Recognizes tree disease such as of blighted branches in apples.
b. Inform farmers or farm managers of crop progress identify plants, pests and weeds to determine the selection and application of pesticides and fertilizers
c. Record information about crops, such as pesticide use, yields or cost

8. Worker completes harvest preparation including spreading liners in bins, rolling bins into blocks by hand.

9. Worker props and ties apple trees and limbs

10. Worker loads harvested product.

11. Worker loads and unloads empty bins and places in orchard.

12. Worker completes farm clean up tasks to include picking up garbage around orchard, removing old string and wire from trellis and orchard blocks, and other hand tasks.

13. Worker repairs fences and farm buildings.

14. Worker repairs and maintains farm vehicles, implements and mechanical equipment.

15. Worker will be required to use hand tools such as shovels, trowels, hoes, tampers, pruning hooks, shears and knives.

Pay will be hourly.

H. Additional Material Terms and Conditions of the Job Offer

i. Job Offer Information 9

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements - Housing Terms

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Employer retains possession and control of housing and will conduct weekly inspections for compliance with below rules. Worker and other housing occupants must vacate housing within 48 hours of termination of employment. No person not authorized by Employer may occupy housing. When it is the prevailing practice in the area of intended employment and the occupation to provide family housing, the employer agrees to provide family housing at no cost to workers with families who request it. 20 CFR 655.122(d), 653.501(c)(3)(vi). Washing machines are available to occupants at no cost. Wash tubs are also available to occupants at no cost.
Employer retains possession and control of housing. Worker and other housing occupants must promptly vacate housing upon termination of employment. No person not authorized by Employer may occupy housing.
Employer distributes and posts housing rules listed below. Workers who do not comply with housing rules will face progressive discipline, up to and including termination of employment and removal from housing. Employer generally uses 4-step disciplinary process:
1) verbal coaching for first violation,
2) written warning for second violation,
3) written warning for third violation,
4) termination upon fourth violation.

See work rules below for additional information regarding disciplinary process.

j. Job Offer Information 10

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements - Housing Rules

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Housing Rules:
1. Occupant may occupy only Employer assigned housing unit.

2. No person not assigned housing may occupy bed or stay overnight in housing.

3. Occupant may not separate the bunk beds.

4. Occupant must maintain housing unit in clean condition and good repair.

5. Occupant must report housing compliance issue or potential issue immediately to Employer.

6. Occupant may use kitchen facilities and other common areas and must clean promptly.

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

8. Occupant must not from remove batteries from smoke detectors for any reason.

9. Occupant must not drop paper, cans, bottles or other trash in housing units or surrounding area, including common areas and must place trash in dumpsters and cover with lids.

10. Occupant living in Employer's housing may not entertain guests in or on housing premises after 10:00 p.m. Sunday through Friday, or after 12 midnight on Saturday.

11. Occupant may not interrupt other workers' rest/sleep period by excessive noise, including no loud music after 9:00 p.m. Sunday through Friday or after 11:00 p.m. on Saturday.

12. Occupant may not fight, horse play, scuffle, throw things, be drunk, loud or rowdy or threaten or harass other occupants.

13. Occupant may not bring firearms or other weapons onto housing premises.

14. Occupant may not post nor remove any notices, signs, posters, bulletin boards, or other documents from Employer provided housing without Employer permission.

15. Occupant must not willfully abuse, damage or destroy any housing property or contents.

16. Occupant may not remove beds, refrigerators, stoves, tables, chairs, or any other furniture/equipment from housing premises without Employer permission.

17. Occupant will be terminated and removed from housing for stealing from Employer or other occupants,

H. Additional Material Terms and Conditions of the Job Offer

k. Job Offer Information 11

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements - Workers' Compensation & Pay Period Info

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Worker's Compensation Insurance Carrier: New York State Insurance Fund
Policy Number: Z-588 457-2
Deadline for filing claim: 24 hours
Contact information for person who is to be notified in order to file a claim: David DeBadts at 585-944-0253

Pay Period: Pay period is Wednesday through Tuesday, paid Friday.
Employer issues paper checks.

l. Job Offer Information 12

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements - THREE-FOURTHS GUARANTEE

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Contract hours represent anticipated work schedule. Prevailing practice results in adjusting hours and work schedule to meet agriculture needs due to crop conditions, weather, and requirement to send product to market when fresh. When hours per day exceed job order hours, Employer offers, but not requires worker additional hours.

H. Additional Material Terms and Conditions of the Job Offer

m. Job Offer Information 13

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements - No Complete, No Re-Hire

3. Details of Material Term or Condition (*up to 3,500 characters*) *

No Complete, No Re-Hire: Voluntary termination, abandonment or termination for lawful job-related reasons before specified end date will disqualify worker from future employment opportunities with Employer. For worker who resigns employment voluntarily, Employer will consider and evaluate special circumstances and hardship on case by case basis. Worker is required to notify Employer prior to voluntarily terminating employment to be considered and eligible for exemption to no complete, no rehire policy. If no notice provided, Employer sends wages due to worker's last known address. Worker must provide complete accurate address no later than first day of employment.
Worker may be disciplined and/or terminated for cause for violating following work rules.

n. Job Offer Information 14

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements - Adverse Effect Wage Rate (AEWR)

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Wage offered is current AEWR or as amended by law.

H. Additional Material Terms and Conditions of the Job Offer

o. Job Offer Information 15

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Work Rules/Standards Of Conduct/Performance 1 of 2

1. ; Disciplinary Process: Worker must work productively and in compliance with Employer policies and job instructions. Failure to follow rules and policies will result in worker discipline and may result in termination. Without limitation on at-will status, Employer generally uses 3-step disciplinary process: 1) verbal coaching for first violation, 2) written warning for second violation 3) written warning for third violation 4) termination for fourth violation. Certain violations are so severe that they may result in termination without prior warning. Discipline Process is not contractual or guarantee of progressive discipline. Employer reserves right to determine appropriate discipline based on circumstances including the following lawful job-related reasons: a) not work efficiently or otherwise refuse without justified cause to perform directed work included in contract; b) commit serious act(s) of misconduct or serious or repeated violation(s) of employer work rules; c) fail after completing training period to perform work; d) abandon employment; e) falsify identification, personnel, medical, production or other records; f) fail or refuse to take drug test when requested (Employer reserves right to conduct for cause, non-discriminatory drug testing at Employer expense.. Drug test will not be utilized as pre-employment tool.); or g) fail to obey directions.
2. Prohibition on Charging Fees: Workers may not charge fees to other workers, including but not limited to kickbacks, bribes, recruitment fees, processing fees, and placement fees. Workers must report any fee immediately to Employer.

3. No Illegal Activities Permitted On Farm: Worker must not participate in, or allow illegal activities on farm or worker housing areas, including, but not limited to theft, assault, and illegal drug use. Any worker who physically threatens another worker, the employer or any supervisor with any tool or weapon will be subject to immediate discharge.
4. Alcoholic Beverages, Marijuana, Firearms, And Illegal Drugs: Alcohol, marijuana, firearms and illegal drugs are not permitted in any field, farm building or work area. This includes weapons under local carry and concealed weapons laws.
5. Alcohol And/Or Drug Use: Worker must not be under influence or impaired by alcohol, prescription legal or illegal drugs or medications, or other substances that may adversely affect alertness, coordination, reaction response or safety during work hours. Employer may require alcohol and drug testing if reasonable suspicion that worker is under influence at work, when worker suffers injury and requires medical attention or regulatory agency reporting either while on duty, or while on Employer's work premises. Testing may also be required if worker is involved in workplace injury resulting in damage to property or injury to others. Grounds for reasonable suspicion include, but are not limited to observation of slurred speech, bloodshot eyes, erratic behavior, difficulty walking, difficulty performing assignments, paraphernalia, and/or the smell of alcohol or drugs on worker. Worker agrees to testing as a condition of employment. Testing done at employer's expense and not utilized as a pre-employment tool.

p. Job Offer Information 16

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Work Rules/Standards Of Conduct/Performance 2 of 2

6.Discrimination / Harassment, Discrimination and/or harassment against Worker on protected characteristics is prohibited. Concerns of prohibited harassment or discrimination should be reported to Employer, worker's Supervisor, or Aaron TeCroney. Employer will investigate reports and take reasonable responsive action as warranted to correct or prevent violations. Retaliation against worker who takes good faith actions under policy is prohibited.
7. Bottles, Cans And Trash: In work areas, worker must place trash in proper trash containers. Glass bottles, cans or food containers are not allowed in fields or food handling, packing/storage areas. Worker must pick up all paper and trash brought to fields.
8. Headphones: No use of headphones is permitted during work activity and/or while driving company vehicles.
9. Ladders: Up to 16 feet ladders are an essential tool in pruning, thinning and picking fruit. Workers must use ladders in safe manner. Workers may not lean ladder on leaders, may not lean off to one side of ladder, and may not stand on last two steps. Workers may not climb trees. Workers may direct questions on how to safely set ladders to supervisors. Workers are required to return ladder to finished row end or where directed by supervisor. Ladders must be placed in upright position against tree. Workers must not lay ladders flat on ground. When workers use metal ladders, middle leg must be set on ground. Workers must hold and move ladders by their sides and not by their rungs in order to maintain clean hands. The top 2-3 rungs may be held onto since pickers are not to step that high on the ladder.

H. Additional Material Terms and Conditions of the Job Offer

q. Job Offer Information 17

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements - Field and Work Area Rules 1 of 3

3. Details of Material Term or Condition (*up to 3,500 characters*) *

10. No Children In Fields And Work Areas: Children are never allowed in fields, in or around worker cars near field, on or about farm equipment, or in food handling or storage areas. Worker must not misrepresent age or falsify age documents to gain employment, access or other purpose.
11. Visitor Policy: No visitors allowed on farm premises, except worker housing, without Employer permission. Visitors must report to office and sign visitor registration log.
12. Spraying: Worker and vehicles must leave field during spraying. If spraying occurs while Worker is at housing, Worker must take shelter inside housing unit and remain until spraying is complete. Workers will be provided additional training and Personal Protective Equipment (PPE) if involved in spray application.
13. Parking: Parking allowed in designated areas only.
14. Work Hours: Employment hours are influenced by factors such as weather, harvest and market conditions, customer expectations and other business reasons.
15. Job Assignments: Employer assigns work and provides instructions. Worker must not begin work prior to scheduled time. Worker must not leave job assignment area unless authorized.
16. Absences/Tardiness: Unless excused in advance, worker is expected to work all scheduled hours of all scheduled days. Unexcused tardi¬ness is treated as an unexcused absence. Absences from work must be reported by 7:00 am.
17. Lunch Period: Worker must take unpaid lunch at Employer direction. Worker may not work during lunch period. Employer will deduct confirmed lunch periods from hours worked.
18. Breaks: For hourly rate work, worker will have two scheduled breaks each day. Breaks shall not exceed 15 minutes. Restroom visits should occur during scheduled breaks if possible
19. Piece Rate and Time Keeping: Worker will maintain piece rate records for purposes of comparison to Employer records and turn in as directed. Worker who leaves for any reason during workday must mark out and in again at return. If worker fails to properly mark in and out, Employer may adjust time to reflect absence. Worker will be required to clock in and out using electronic system provided by employer. Worker must not clock in for another worker, for any reason.
20. Pay Check Receipt: Worker must personally take delivery of own paychecks. Worker may not pick up another worker's check.
21. Worker may never ride on agricultural equipment not designed for riding purposes. All work-related injuries must be immediately reported to Employer.
22. Worker must wear assigned personal protective equipment at all required times. Worker must wear proper clothing and footwear for conditions and all footwear must be closed-toe.
23. Worker Health and Hygiene: Worker must follow proper sanitation and hygiene practices including water, bathroom and hand washing facility use. Worker must wash hands before beginning or returning to work. Worker may not urinate or defecate in growing areas.
24. Designated Eating and Smoking Areas: Smoking is permitted only in designated areas. Worker may not eat, drink or smoke in fields or farm buildings except for Employer designated areas. Workers may store food and eat in buses or vans. Employer will provide potable, safe drinking water to workers.

r. Job Offer Information 18

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements - Field and Work Area Rules 2 of 3

3. Details of Material Term or Condition (*up to 3,500 characters*) *

25. Illness and Injury: Worker who has diarrhea or infectious diseases symptoms must not handle produce and must immediately report condition to Employer. Cuts or other open injuries must be treated by proper first aid supplies and be properly covered. Worker must report if produce comes in contact with blood or other bodily fluid. Contacted produce must be discarded. Equipment or containers exposed to any bodily fluid must be disinfected prior to reuse, including harvesting buckets and plastic lugs.
26. Contamination Of Produce: Worker must inspect produce and containers. Worker must notify Employer immediately and contaminated produce must be discarded if: (1) evidence of glass, metal, plastic, or other dangerous object found in field, packing area or farm building, (2) worker knows produce is contaminated by chemicals, petroleum, pesticides. Produce must be discarded, and containers cleaned and disinfected if produce is spilled on ground or comes in contact with unsanitary surface. Worker must report unknown persons handling produce or in unauthorized areas.
27. Harvesting Containers and Equipment: Harvesting containers must not be used for carrying anything except produce. Worker must clean harvesting containers prior to use. Worker must repair or discard damaged containers. Worker must use care to remove or keep dirt, sand, and mud from entering harvest or storage containers during harvest.
28. Animals: Animals are not allowed in fields or packing areas. Domestic or wild animal evidence must be reported.
29. Orchard Areas: Bins shall be in compliance with rodent and insect protection. Any rodent droppings or insect damage shall be reported. Worker must remove any foreign objects including broken glass, plastic, metal, rocks, rotten apples etc. Worker shall report dirty bins to supervisor. Worker may not put any person items such as food, clothes, bottles etc. in bins or picking bags. Bins designated to store something other than fruit will be marked with a large “X”.
30. Personal Hygiene Rules in Orchard: Worker must tie back or cover long hair, roll up sleeves, keep nails cut short without nail color, not wear jewelry, chew gum or chew/spit tobacco. Worker must wash hands at start of production and after returning from break, lunch, or restroom. If gloves required, worker must wear when working and must remove before breaks, lunch, or bathroom use. Worker must use designated hand sanitizer prior to putting on gloves. Hand sanitizer is not a substitute for required hand washing. Worker personal items must not be stored in orchard areas.
31. Access: Entry to Employer's fields and facilities is limited to workers and authorized personnel only. Entry by unknown persons must be reported immediately. Workers may not enter employer’s premises without authorization. Workers must pay attention to re-entry intervals (REI) and signs in treated growing areas and posting areas. Workers must not enter treated area where there is a restricted re-entry in effect.
32. Storage Of Harvested Produce: Before harvesting produce into bins, worker must inspect bins to assure good condition.
33. Willful Damage: Worker may not willfully abuse or destroy any machinery, truck or other vehicle, equipment, tools or other property belonging to the employer or other worker.

H. Additional Material Terms and Conditions of the Job Offer

s. Job Offer Information 19

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements - Field and Work Area Rules 3 of 3

3. Details of Material Term or Condition (*up to 3,500 characters*) *

34. Equipment Operation: 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.
35. Misuse/Removal of Employer-Property: Workers must not misuse or remove from the farm premises without authorization any employer-owned property
36. First Aid: Workers must report all accidents, sickness and injuries to their supervisor. First aid kits are located in the wash house, buses, vans, and supervisor's vehicles. These supplies are available for minor cuts and abrasions. For serious injuries and emergencies call 911. There is a telephone in the wash house and all supervisors have cell phones
37. Emergencies: In case of emergency and worker needs POLICE, FIRE OR AMBULANCE, call 911. Employer provides telephone located in the wash house and all supervisors carry cell phones.
38. No Tampering with Product: Worker must not tamper or alter harvested or packed products.

t. Job Offer Information 20

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements - Driving Requirements & Rules

3. Details of Material Term or Condition (*up to 3,500 characters*) *

39. Driver requirements: Workers operating employer vehicles must follow policies and use good judgment. Employer reserves right to revoke driving privileges.
Drivers must:
• Possess valid driver's license
• Maintain acceptable driving record and provide official proof of no infractions (if license was issued outside of U.S.)
• Review and comply with local driving laws
• Obtain medical physical requirements certification (WH-515)
40. Vehicle Use: Employer vehicle use is limited to business purposes by approved drivers unless otherwise Employer authorized.
41. Vehicle Care: No smoking allowed in employer vehicles. Workers must keep vehicles in a clean, well-maintained condition. Trash must be removed. Report vehicle maintenance issues such as oil changes or maintenance lights to supervisor.
42. Accidents & Traffic/Parking Violations: Report/Cooperate with law enforcement and report to employer accidents and traffic/parking violations. Carry valid insurance card, vehicle registration and driver's signed medical certificate in employer vehicle.
43. Safety:
• Drivers must operate a vehicle only at speed appropriate to the road, traffic and weather conditions, must exercise caution to secure loads and when backing up, and is responsible for ensuring all occupants use seat belts
44. Cell Phone Usage:
Drivers may not use cell phone or other electronic device while operating vehicle for texting, phone calls or any other purpose. Keep cell phone and bluetooth off while the vehicle is moving.If driver needs to place a call, driver must pull off the road to a safe location and stop the vehicle before using phone.
•Vehicles should be locked when parked on employer property outside of work hours, or anytime vehicle is left unattended off employer property.
•Drivers are responsible for refueling vehicles at employer tanks. Drivers must notify manager before refueling. Employer will notify drivers of refueling schedule.

H. Additional Material Terms and Conditions of the Job Offer

u. Job Offer Information 21

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Job Requirements - Training Provided

3. Details of Material Term or Condition (*up to 3,500 characters*) *

-Good Agricultural Practices
-Worker Protection Standards
-Right to Know
-Heat Safety

v. Job Offer Information 22

1. Section/Item Number *	A	2. Name of Section or Category of Material Term or Condition *	NYS Specific Assurances

3. Details of Material Term or Condition (*up to 3,500 characters*) *

New York State Specific Assurances:
3. Housing for Workers: Article 6 of the NYS Labor Law, sections 193.1 and 193.2, prohibit an employer from deducting monies, either through payroll deduction or by separate transaction, any amount or charge which is not authorized by NYS labor law.
Therefore, the employer may NOT require workers to reimburse them for damage caused to housing by the individual worker(s) found to have been responsible for the damage.
12. Frequency of Pay: Article 6 of the NYS Labor Law, section 191.1a, requires that employer pay wages weekly to manual workers (farmworkers are manual workers) no later than 7 calendar days after the end of the week in which wages are earned. Therefore, manual workers can be paid weekly or biweekly (up to date; where all days, including payday hours are paid).
15. Deductions from Worker's Pay: Article 6 of the NYS Labor Law, sections 193.1 and 193.2, prohibit an employer from deducting monies, either through payroll deduction or by separate transaction, any amount or charge which is not authorized by NYS labor law. Therefore, the employer may NOT make any other deductions NOT required by law.
Additional Assurances:
a. Per the Farm Laborer Fair Labor Protections Act, effective January 1, 2020, all farmworkers , including H-2A foreign guest workers, will earn one and a half times the regular rate for all hours worked over 60, and for any hours voluntarily worked on a workers day of rest.
b. NYS Labor Law section 201g requires that employers adopt a sexual harassment prevention policy. Interactive training and a copy of the written policy must be provided to all workers. The policy must be provided in the language spoken by the workers.