



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):

Lory Fruit + Farms, Inc.  
909 Farm View Rd  
York Springs PA 17372

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

23-2245934

b) Telephone Number / Número de Teléfono:

717-372-8621

c) Fax Number / Número de Fax:

717-528-8859

d) E-mail Address / Dirección de Correo Electrónico:

clintonlory@yahoo.com

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

645 Trolley Rd, York Springs PA 17372  
909 Farm View Rd, York Springs PA 17372  
110 Bonners Hill Rd, York Springs PA 17372

All work locations are controlled by the Employer stated above.

see attachment 1 to ETA 790 Item 2

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

645 Trolley Rd, York Springs PA 17372

a) Description of Housing / Descripción de la vivienda:

Conventional frame house -  
housing capacity - 24 persons

frame barracks -  
housing capacity - 13 persons

See attachment 1 to ETA 790 Item 3

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

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

45-2092.02

a. SOC (ONET/OES) Occupational Title / Título Ocupacional

Farmworkers & Laborers

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

9830282

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

150 V-Twin Drive

Gettysburg, PA 17325

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).

June Winebrenner

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

11/09/2015

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

06/11/2016

9. Anticipated Period of Employment / Período anticipado o previsto de Empleo

From / Desde: 01-20-16 To / Hasta: 11-01-16

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

6

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

Sunday / Domingo 0 Thursday / Jueves 6  
Monday / Lunes 6 Friday / Viernes 6  
Tuesday / Martes 6 Saturday / Sábado 5  
Wednesday / Miércoles 6

See attachment 1 to ETA 790 Item 11

12. Anticipated range of hours for different seasonal activities: / Rango previsto de horas par alas diferentes actividades de la temporada:

35-65 hrs per week

See Attachment 1 to ETA 790 Item 12

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.

In addition to providing free cooking and kitchen facilities, employer will provide free transportation to and from the neighboring closest town no less than once a week, each week for supplies and/or banking (for workers whom housing must be provided). Dining, full kitchen/cooking facilities and other common areas will be shared by all workers.

The actual employment offer is at the sole discretion of the employer. Referrals will be accepted from the State Workforce Agencies (SWA), directly from applicants, walking, gate hires, and from other sources. SWA should thoroughly familiarize each applicant with the job specifications and terms and conditions of employment before a referral is made to the employer. Workers must meet all of the following criteria:

1. Are available and indicate willingness to work the entire season
2. Have transportation to job site at the start of season for non-local workers and daily for local workers.
3. Have been fully appraised by the local employment office of the terms and 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.

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. Lory Fruit Farms, Inc. will abide by the requirements and assurances of 20 CFR 653.501 in the processing and/or hiring of individuals referred through the clearance system.

See attachment 1 to ETA 790 Item 15

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

This job requires a minimum of three months of prior work experience working in an orchard, handling both manual and machine tasks associated with commodity production and harvest activities. Workers must be able to perform manual as well as mechanized activities with accuracy and efficiency. Filled buckets weighing 40 pounds is emptied in bulk bins.

See attachment 1 to ETA 790 Item 16

1. Is previous work experience preferred? / Se prefiere previa experiencia? Yes / Si  No  If yes, number of months preferred: / Si es así, número de meses de experiencia: 3

Three months of previous experience required in the job description.

2. Check all requirements that apply:

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

Because the work qualifies as exempt under 29 USC 213 (b) (6), overtime rates are not applicable unless required by State Law.

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

Crop Activities	Hourly Wage	Piece Rate / Unit(s)	Special Pay (bonus, etc.)	Deductions*	Yes/Sí	No	Pay Period / Período de Pago
Cultivos	Salario por Hora	Pago por Pieza / Unidad(es)	Pagos Especiales (Bono, etc.)	Deducciones			/ /
Peaches and apples	\$ 11.29/hr.	\$		Social Security / Seguro Social	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Weekly / Semanal
See attachment 1 to ETA 790 Item 17				Federal Tax / Impuestos Federales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	\$	\$		State Tax / Impuestos Estatales	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Bi-weekly / Quincenal
	\$	\$		Meals / Comidas	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	\$	\$		Other (specify) / Otro (especifica)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Monthly/Mensual
See attachment 1 to ETA 790 Item 17							Other/Otro
							<input type="checkbox"/>

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

The employer guarantees to offer, advertise, and pay a wage defined as the highest of the USDOL - promulgated A&WR, the prevailing hourly rate/wage or piece rate, and agreed upon collective bargaining wage (this employer is not subject to a collective bargaining unit agreement) or the federal or state minimum wage in effect at the times work subject to the provisions of this job order is performed. This guaranteed wage will not be based on commission, bonuses, or other incentives.

See Attachment 1 to ETA 790 Item 18

19. Transportation Arrangements / Arreglos de Transportación

The employer will reimburse the worker in the first week of work for costs accrued by the worker for VISA application, border crossing fees, transportation fees, and reasonable subsistence from the place from which the worker departed to work for the employer to the place of employment, to the extent that such worker-home expenditures reduce the workers' earnings below the FLSA minimum wage in the first work week. Pursuant to 20 CFR 655.122 (h) (2), the employer will reimburse the worker in full for forementioned transportation costs and reasonable subsistence not later than at the halfway point in the work contract (50% period) if such payment was not already paid in full ~~for that~~ to worker prior to the 50% period. The minimum travel subsistence of \$11.86 per day or the current minimum subsistence amount in the Federal Register will be paid to the workers who can not provide receipts, and the maximum travel subsistence of \$46.00 per day or the current maximum subsistence amount published in the Federal Register will be paid to workers with acceptable receipts. The transportation reimbursement shall be calculated on the workers actual cost but no more than the most economical and reasonable similar common carrier transportation charges for the distance involved. See Attachment 1 to ETA 790 Item 19

10. 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?

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

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

13. 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

14. 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

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

None

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

Yes/Sí  No

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

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

Clinton Lory  
Employer's Signature / Firma y Título del Empleador

10-22-15  
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 número de la sección e incluya archivos adjuntos, si es necesario.

See attachment 1 to ETA 790 for continuations of Item 2, Item 3, Item 11, Item 12, Item 15, Item 16, Item 17, Item 18, and Item 19

\* Workers Compensation Insurance

Carrier: Travelers Indemnity Company

Policy: HKUB - HD 71074 - A14

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**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 Clinton Lory Date: 10-22-15

Employer's Signature Clinton Lory

**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.**

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Item 2. Address and Directions to Work Site (continued from ETA 790, page 1, Item 2)

- 645 Trolley Road, York Springs, PA 17372 – Directions: North Rt. 15 on Rt.94 turn at 3<sup>rd</sup> left
- 909 Farm View Road, York Springs, PA 17372 – Directions: From Rt. 94 in York Springs go north to left on Trolley Road to right on Farm View Road to Orchard on right
- 110 Bonners Hill Road, York Springs, PA 17372 – Directions: From intersections of Rt. 94 & US Rt. 15, take Rt. 15 1 mile to left on Bonner Hill Road to business on left

Item 3. Address and Directions to Housing (continued from ETA 790, page 1, Item 3)

Housing is provided at no cost only to non-commuting workers. "Non-commuting workers" are those who are not reasonably able to travel to and from the residence he/she occupied at the time of employment offer each work day. Housing will be provided to workers only. No person who is not an employee and has not been assigned housing will be permitted to occupy the housing.

Employer retains the possession and control of the housing premises at all times and worker, if provided housing under the terms of this agreement, shall vacate the housing promptly upon termination of employment with the employer who provides the housing, in accordance to the state law.

645 Trolley Road, York Springs, PA 17372 – Directions go north on Rt. 94 from Rt. 15, 1 mile turn left, go ¼ mile on left

Should rental and/or public accommodations be listed in Item 3, the employer attests that such housing complies with all local, state, or federal housing safety standards pursuant to 20 CFR 655.122(d)(1)(ii). All housing charges for rental will be paid by the employer directly to the owner or operator of the rental and/or public accommodation unit(s).

If one has not already been performed at the time of this filing, Lory Fruit Farms, Inc. requests a timely inspection of employer-provided worker housing be representatives of the State Workforce Agency, the State Health Department and/or the US Employment and Training Administration to verify the condition of such housing so as to ensure that all worker housing meets standards not later than 30 days prior to occupancy.

Workers occupying the housing will be responsible for maintaining the housing and their living quarters in a neat, clean manner and in compliance with Work Rules which will be provided upon hiring and are attached hereto and incorporated by reference in this application. Failure to comply with these rules will result in disciplinary action as described in the Work Rules.

**ETA 790-Attachment 1**

**Lory Fruit Farms, Inc.**

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Workers will be assigned to employer-provided housing by a designated company manager and must occupy the quarters assigned to them.

**Item 11. Anticipate Hours of Work per Week (continued from ETA 790, page 1, Item 11)**

The work day is from 7:00am until 3:00pm Monday thru Friday and 7:00 am until 12:00pm on Saturday, with an unpaid lunch break (7hours/week days and 5hours/on Saturday). The worker may be requested, but not required, to work as much as 12 hours per day and/ or on the workers Sabbath, depending on weather and other conditions. Extreme heat, cold, or drought may affect working hours. Employer 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.

**Item 12. Anticipated Range of Hours for Different Seasonal Activities (continued from ETA 790, page 1, Item 12)**

(See Item 16 for a complete description of scope of job duties). As a general matter, working hours will be divided between peach and apple production depending on the employers need. Given that the demands of agricultural production are unpredictable and driven by factors including weather, crop conditions, market demands and seasonal task needs and numerous other factors, it is impossible to predict with any degree of accuracy what percentage of time will be dedicated to specific tasks described in Item 16.

**Item 15, Referral Instructions and Hiring Information (continued from ETA 790, page 3, Item 15)**

Lory Fruit Farms, Inc. will abide by the requirements and assurances of 20 CFR 653.501 in the processing and/or hiring of individuals referred through the clearance system. Referrals of individuals shall be made through the order holding office of the Adams County CareerLink in order to ascertain current employment, crop or housing information and to enable proper arrangements to be made. It will be the responsibility of the referring SWA office to inform job seekers of the terms and conditions of this clearance order. The referring SWA office after coordinating the referral with the order holding office will contact the employer's agent or the employer directly and advise the agent and the employer of the referral or referrals. When possible, SWA office should furnish translator services if necessary. Interviews either in person or on the telephone will be conducted by the employer during the hours of 9:00am and 4:00pm, Monday through Friday. Employer to contact for interview.

**Lory Fruit Farms, Inc.**

**Clinton Lory**

**110 Bonners Hill Road**

**York Springs, PA 17372**

**PHONE # 717-372-8621 FAX 717-528-8859**

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ETA 790-Attachment 1

Lory Fruit Farms, Inc.

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Applicants will be interviewed by telephone at the time of the referral or as soon thereafter as possible. If a holding office plans to refer several applicants at the same time, it is requested that the employer be advised in advance and a time scheduled for the interview.

A hiring decision will be communicated directly to the applicant at the telephone number, address, email address or other contact information in the event that such a decision cannot be rendered at the time of the interview. The applicant should be advised to stay in touch with the referring SWA office in any case.

**Order holding office.**

**Adams County CareerLink**

150 V-Town Drive

Gettysburg, PA 17325

(717)334-1173

Lory Fruit Farms, Inc. will abide by the assurances set forth in 20 CFR 655.135 including but not limited to specific regulations regarding hiring practices, positive recruitment, compliance with all applicable Federal, State, and Local laws, and all specific obligations set forth in subpart (a) through (l) for all workers who apply and/or are hired to perform the specific work described in this clearance order.

**Item 16. Job Description and Requirements (continued from ETA 790, page 3, Item 16)**

Pick apples and peaches from trees for fresh market or processing. Productivity must be at least 200 bushels per day of fresh fruit or 200 bushels per day of processing fruit. Workers must be physically able to pick tree fruit, most of which is done from ladders, with lower branches being picked from the ground. Picked fruit is placed in a metal-framed canvas covered picking bucket with canvas straps that slip over the head and rest on the shoulders. Filled bucket, weighing up to and including 40 pounds is emptied into bulk bins. When necessary, workers are required to handle and pick from ladders up to and including 20 ft. in length and weighing 35 to 50 pounds. Worker places ladder firmly against or within tree to secure position so as not to break limbs or knock off fruit and to prevent slipping and falling. All fruit must be handled with care to avoid bruising. Each tree will be picked according to instructions given each day by the orchard foreman. Primary duties will be thinning and harvesting of fruit; however other duties may be offered including hand thinning apples, picking roots, rocks and other debris, mulching, pruning, cutting shoots and suckers, raking cuttings and debris, inserting and removing tree spreaders, pulling or cutting thorny plants, weeds and vines from around trees (some weeds may be noxious), hand placement of rodent baits around trees, operation and maintenance of tractors and other equipment, cleaning and clearing of fence rows and farm buildings, irrigation, ditching, shoveling, hoeing, hauling, ground preparation and other tasks related to general farming. Employer expects workers to work with or without supervision at such tasks.

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Must be able safely maneuver ladders up to 20 feet in length on steep and uneven terrain. Must be experienced in distinguishing between apple varieties and be able to spot pick trees for acceptable color. Field supervision monitors workers to ensure fruit is not bruised in picking. Must be able to sort out fruit with defects.

Work will also include heavy mechanized orchard work using power equipment, by way of example and limitation power equipment may include tractors, sprayer, chainsaws, and weed eaters. Workers will be expected to be able to operate agricultural equipment with or without direction. Workers must be able to perform all duties of entry level workers as well as perform additional mechanized activities with accuracy and efficiency.

Work is to be done for long periods of time. Workers are expected to perform duties including boxing, weighing, and loading of product. Workers will assist in loading trucks with product weighing up to and including 60 pounds and lifting to a height of 5 feet for long periods of time. Workers should be able to work on their feet in bent positions for long periods of time. Work requires repetitive movements and extensive walking. Allergies to ragweed, goldenrod, insect spray, related chemicals, etc. may affect workers ability to perform the job. Workers are exposed to wet weather early in the morning through the heat of the day, working in fields. Temperatures may range from 10 to 100 F. Workers may be required to work during occasional showers not severe enough to stop field operations. Workers should be physically able to do the work required with or without reasonable accommodations. Saturday work required. Employer – paid post – hire drug testing is required.

While the employer does not require prospective applicants to take and pass a drug test prior to a hiring decision, the employer has no-exceptions drug policy requiring newly –hired employees to take and pass on employer–paid drug test. Every new hire must undergo testing before starting work with the company. All testing is conducted uniformly after an initial job offer has been extended and accepted by the new hire. If an employee tests positive, he/she is immediately terminated and paid for all hours worked between the first date of employment and the date of termination, if any. In the case of a non-local or foreign worker who is terminated for failure to pass a drug test, the employer will arrange for least – cost transportation to the workers place of recruitment, at the workers expense. The employer will also test upon reasonable suspicion of use and after a worker has an accident at work.

Employer assures that workers will be provided transportation from living quarters to work site every day (for workers who must be provided housing under the applicable regulations.)

Persons seeking employment as experienced orchard worker must be available for the entire period requested by the employer. Applicants must be able to furnish job reference(s) from recent employer(s) establishing acceptable prior to experience. Successful applicants will be subject to a trial period of up to five days during which their performance of required tasks will be evaluated. If the performance during the trial period is not acceptable to the employer the workers employment will be terminated.

Raises and/or bonuses may be offered to any seasonal worker employed pursuant to this job order, at the company's sole direction, based on factors including work performance, skill, and tenure.

Employer retains the right to discharge an obviously unqualified worker, malingerer or recalcitrant worker who is physically able but does not demonstrate the willingness to perform the work necessary for the employer to grow premium quality product, or for any other lawful reason. (See also attachment 2, General Conditions).

All terms and conditions included in the job order will apply equally to all workers, both U.S. workers and H2A workers, employed in the occupation described in this clearance order.

Item 17 Wage Rates, Special Pay Information and Deductions (continued from ETA 790, page 4, Item 17)

Piece Rate: All work is compensated at the above hourly rate except for the following work activities which are compensated on a piece rate productivity incentive basis according to the following schedule.

\$.65 per bushel for apple harvest

No piece rate work will be performed at less than the stated piece rates. When work is performed according to the stated piece rate schedule, workers are guaranteed that they will be paid no less than the stated AEWR hourly rate for each hour worked. In instances when working or crop conditions indicate, the employer may, at his discretion, suspend the piece rate scheme in favor of hourly pay at the stated AEWR hourly rate in order to assure workers fair earnings.

The employer guarantees to offer the workers employment for at least  $\frac{3}{4}$  of the work hours of the total period during which the work order and all extensions thereof are in effect, beginning with the first work day after the arrival of the workers at the place of employment and ending on the termination date specified in the work order or its extension, if any. If the employer offers the worker during such period less employment than required under this provision, the worker will be paid the amount he/she would have earned had he/she, in fact, worked for the guaranteed number of hours. Any employee who is terminated for cause for will not be entitled to this guarantee.

The employer agrees to maintain adequate and accurate payroll records, in accordance with the requirements of 20 CFR 655.122 (j)(1), and to retain such records for a period of not less than three (3) years after the date of certification. The employer will furnish to each worker on pay day an itemized accounting of earnings and of all legally-required and worker authorized deductions. Deductions for FICA and federal/state tax withholding, and deductions including court-ordered child support, garnishments and liens, and any other such legally-required deductions will be made in individual circumstances as required by law. All deductions will be made in accordance with FLSA regulations. Advances and/or loans made to workers, if

any, may be repaid by pre-authorized payroll deductions. The employer does not envision other uniform workforce-wide payroll deductions. Reasonable repair costs of damage to housing other than that that caused by normal wear and tear will be charged to workers found to have been responsible for such damage to housing. If a worker makes a long distance telephone call using the employers' telephone line, the worker will be deemed to have consented to the deduction of the cost of such call(s) from his/her paycheck and will probably confirm such authorization in writing. If the worker does not pay the cost of such telephone call(s) within a reasonable time after asked to do so, the worker will be subject to discipline in accordance to the employers' policies.

**Item 18. More Details about the Pay (continued from ETA 790, Item 18)**

In the event the USDOL decrease the stated AEWR for any reason during the pendency of the employer's positive recruitment and term of labor certification in the instant applications, the employer will correspondingly reduce his offered/paid hourly wage rate so long as the newer lower AEWR remains the highest of the aforementioned rates in effect at the time the work is performed. In the event the workforce agency promulgates an hourly wage rate higher than the federal AEWR which is subsequently superseded by a prevailing wage rate identified by an industry or employer provided countervailing survey, accepted and approved by the USDOL, the employer reserves the right to pay the lower rate at his discretion but in any case not less than the highest of the aforementioned rates in effect at the time the work is performed.

If, before the expiration date specified in this clearance order, 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 contract impossible, the employer may terminate the work contract. Whether such an event constitutes a contract impossibility will be determined by the Certifying Officer in accordance with the law. In the event of such termination of a contract, the employer will fulfill three-fourths guarantee for the time that has elapsed from the first day of employment to the time of its termination as described in 20 C.F.R. 655.122(i). The employer will make efforts to transfer the worker to a comparable employment acceptable to the worker, consistent with existing immigration law, as applicable. If such transfer is not affected, the employer will.

- (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 H-2A 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 employer's place of employment, if such payments were not already paid to the worker prior to separation of employment. Daily subsistence must be computed as set forth in 20 C.F.R. 655.122(h). The amount of the transportation payment will equal the most economical and reasonable common carrier transportation charges for the distance involved.

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The employer will provide without charge all tools, supplies, and equipment necessary to perform duties assigned.

All workers referred to the job through a State Workforce Agency shall contact that agency, or preferably the local holding office, to verify the date of need cited in the job order no sooner than nine (9) working days and no later than (5) working days prior to the original date of need cited in the job order. Failure to contact such office shall disqualify the worker from the assurance provided in 20 CFR 653.501(d)(ii)(v)(A) & (D).

If the worker voluntarily abandons employment before the end of the job order period or is terminated for job related reasons or misconduct, the employer will notify DOL (and DHS, in the case of an H-2A worker) not later than two(2) working days after such abandonment occurs; five (5) consecutive workdays of unexcused absence shall constitute abandonment of employment. The employer will not be responsible for providing or paying return transportation and subsistence an expense of the worker and the worker is not entitled to the three-quarter guarantee described above.

The employer will advise H-2A visa beneficiaries of their responsibility to return to their country of origin, or to subsequent employment-authorized work, at the end of the term of employment.

The employer prohibits the payment of recruitment fees by workers. If a worker is asked to pay such a fee or has actually paid such a fee, he or she shall inform the employer immediately so that the employer may take appropriate action.

Each worker will be paid individually by check available on Friday. The payroll period is weekly. The employer will furnish to the worker, on or before each payday, one or more written statements showing the worker's total earnings for the pay periods, the beginning and ending dates of the pay period, the workers hourly rate and/or piece rate of pay, the units produced daily (if paid by piece rate), the hours of employment which were offered to the worker (broken out by the hours offered in accordance with and over and above  $\frac{3}{4}$  guarantee), the hours actually worked by the worker, an itemization of all; deductions that the employer has made from the workers wage, and the employers name, address, and FEIN.

The employer agrees to make earnings records and statements available for inspection and transcription upon request by the Secretary of Labor or a duly authorized and designated representative, and by the worker and representatives designated by the worker when appropriate authorization is provided.

Employer will provide workers compensation covering injury and disease arising out of and in the course of workers employment. Proof of workers compensation insurance will be provided to the certifying officer prior to the certification date.

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Item 19. Transportation Arrangements (continued from ETA 790, page 4, Item 19)

If the worker completes the period of employment, the employer will provide or pay for the workers transportation and reasonable subsistence from the place of employment to the place from which the worker came to work for the employer, except when the worker has accepted subsequent employment with another employer who agrees to accept the return transportation costs, in which case the employer only pays for the transportation to the next job.

Reimbursement of inbound and return transportation costs applies only to persons recruited from outside normal commuting distance (to and from their permanent place of residence each day; see page one). Return transportation will not be provided to workers who voluntarily abandon employment before the end of employment period or who are terminated for cause.

The employer will provide transportation at no cost to the worker from the employer provided housing to the worksite and return to such housing on a daily basis. Such transportation shall be in accordance with applicable local, State, and Federal laws and regulations and meet all safety, licensure, and insurance requirements. The use of this transportation is voluntary; no worker will be required as a condition of employment to utilize the transportation and subsistence if applicable. No daily transportation is provided by employer to local workers other than from farm to worksite.

Lory Fruit Farms, Inc.

General Conditions

To be hired for employment under this job order, the worker must be able, willing and qualified and be available at time and place needed to perform the work described in this job order.

The worker understands that if he quits or is terminated for causes prior to the end of the period of employment he will not receive certain transportation reimbursement discussed under Item 17 and may not be eligible for rehire in future years.

Employer may terminate the worker for lawful job-related reasons and so notify the Job Service local office if the worker(s) abandons the employment; five consecutive workdays of unexcused absence shall constitute abandonment or employment; employee must notify the employer and secure permission for necessary absences; (b) malingers or otherwise refuse without justified cause to perform as directed the work for which the worker was recruited and hired; (c) commits serious act(s) of misconduct or serious or repeated violation(s) of the employers work rules (a copy of general rules is attached); (d) fails after completing the allowable there day training period or five day trial period, whichever is applicable, to perform in a workmanlike manner to enable the employer to produce and sell a premium quality product; (e) is found to have a criminal convictions record or status as a registered sex offender that the employer reasonably believes, consistent with current law, will impair the safety and living conditions of the workers; (f) provide other lawful job-related reasons for termination of employment, including termination of a non-US worker because a US worker makes himself available for the job under the DOL 50% rule.

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 Certifying Officer in accordance with law. In the event of such termination of a contract, the employer will fulfill the three-fourths guarantee for the time that has elapsed from the first day of employment to the time of its termination as described in 20 CFR 655.122(i). The employer will make efforts to transfer the worker to other comparable employment acceptable to the worker, consistent with existing immigration law, as applicable. If such transfer is not affected, the employer will.

- (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 H-2A 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

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**Lory Fruit Farms, Inc.**

- (3) Pay the worker for any costs incurred by the worker for transportation and daily subsistence to that employer's place of employment, if such payments were not already paid to the worker prior to separation of employment. Daily subsistence must be computed as set forth in 20 C.F.R. 655.122(h). 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 distance involved.

A copy of the Agricultural Work Agreement and Work Rules containing all of the provisions required by 20 CFR 655. 122 (q) will be provided to the worker in a language understood by the worker no later than the time at which the employer applies for the visa, or to a worker in corresponding employment, no later than on the date work commences. In the absence of a separate, written work contract entered into between the employer and the worker, the required terms of this job order and the certified Application for Temporary Employment Certification will be the work contract.

## Lory Fruit Farms, Inc. Work Rules

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

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

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

1. Workers who perform sloppy work may be suspended without pay for the remainder of a workday or for up to three days in the sole judgment of their supervisor, depending on the degree of infraction, the workers prior record and other relevant factors. Discharge of the worker may result from any subsequent offense.
2. No use or possession of beer, liquor or illegal drugs is permitted 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 beer, liquor or illegal drugs. Employees may be terminated for excessive use of alcohol, drunk and/or disorderly conduct in housing after hours. Illegal drugs may not be used, sold, manufactured, or kept on any employer premises, including housing.
3. Excessive absences will not be permitted. This is regular, everyday work for which employees are expected to be present, able and willing to perform every scheduled workday. This is not sporadic or "day work". Excessive or repeated tardiness is not acceptable. Any absence from work must be reported by 7am. Five consecutive workdays of unexcused absence will constitute abandonment of employment and work will be terminated.
4. Workers shall maintain any living quarters provided to them clean and in good repair, given reasonable wear and tear. Workers shall cooperate in maintaining common kitchen and living areas. No pets of any kind are permitted.
5. All posters required by federal and state law will be posted at each camp. They are not to be removed, defaced, or altered in any way. Workers who wish copies may ask supervisor.
6. All housing must be locked each morning before leaving for work. Lights and unnecessary heat should be turned off; doors and windows closed in the event of rain and when heat is on.
7. Workers living in the employers housing assigned to bunk beds may not separate bunk beds, as floor space in sleeping rooms is needed by all occupants.
8. Workers living in the employers housing may not cook in sleeping rooms or any other non-kitchen areas. Employer furnishes cooking facilities and equipment.
9. Workers may not drop paper, cans, bottles, and other trash in fields, work areas, or on housing premises. Trash and waste receptacles must be used.
10. Workers may not take unauthorized breaks from work.
11. Workers may not leave the field or other assigned work area without permission of employer or person in charge.
12. Workers may not enter employers' premises without authorization.
13. Workers may not begin work prior to scheduled starting time or continue working after stopping time.

### Lory Fruit Farms, Inc. Work Rules

14. Workers living in employers housing may not entertain guests in housing premises after 9.00pm except on Saturday night on which night guest's hour's end at 10.00pm. No persons, other than workers assigned by employer to a room, may sleep in any room.
15. Workers may not deliberately restrict production, damage plants or bruise fruit.
16. Any worker who physically threatens another worker, the employer or any supervisor with any tool or weapon will be subject to immediate discharge.
17. Any worker who is found carrying, using or possessing any dangerous or deadly weapon will be subject to immediate discharge.
18. Workers will be discharged for fighting on the employers premises, including housing premises, at any time.
19. Workers will be discharged if they steal from fellow workers or the employer.
20. Workers will not falsify identifications, personnel, medical, production, or other related records.
21. 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.
22. 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.
23. Workers must not misuse or remove from the farm premises without authorization any employer-owned property.
24. Workers must obey all safety rules and common safety practices and must report any injuries or accidents promptly to their supervisor of the employers' office.
25. Workers must follow supervisor's instructions. Insubordination is cause for dismissal.
26. Long distance telephone call are prohibited without prior permission of employer and costs such calls, if made by workers without employers prior permission, will be charged to workers.
27. Except as otherwise noted above, employees who violate work rules will be disciplined according to the following schedule.

First Offense. oral warning and correction

Second Offense. written warning and unpaid leave for balance of the day

Third Offense. immediate discharge with written fact statement (Employee will be asked to sign a written fact statement.

AGRICULTURAL WORK AGREEMENT

WITNESSETH: The employer under this agricultural Work Agreement ("Work Agreement") agrees to employ employee during the Period of Employment provided herein to perform any assigned duties with the Job Description herein on the terms and conditions set forth in this Work Agreement. The worker agrees to perform diligently and faithfully any of the assigned duties with the Job Description under the direction of the employer, including the employer's supervision. This employment shall be governed by the following terms and conditions.

1. Definitions.

A. Name, Address, and Telephone Numbers of Employer.

Lory Fruit Farms, Inc.  
Mr. Clinton Lory  
110 Bonners Hill Road  
York Springs, PA 17372  
Office Phone: (717) 372-8621  
FEIN: 232245934

Worker Primary Contact: Mr. Clinton Lory  
Cell Phone: (717-372-8621)  
Home Phone:

B. Name and Address of Employee at the Time of Recruitment.

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

C. Place of Recruitment.

- a.  PA \_\_\_\_\_
- b.  Mexico/Home
- c.  Other \_\_\_\_\_

D. Wage Rate

\$11.29 per hour, or no less than the highest of the USDOL – promulgated AEW, the prevailing hourly wage or piece rate, an agreed-upon collective bargaining wage ( this employer is not subject

to a collective bargaining agreement), or the Federal or state minimum wage in effect at the time work subject to the provisions of the job order is performed. In the event the USDOL increases or reduces the stated AEWR for any reason during the period of employment, the employer will correspondingly increase or reduce his offered/paid hourly wage rate so long as the newer AEWR remains the highest of the aforementioned rates in effect at the time the work is performed.

**E. Area of Employment.**

645 Trolley Road, York Springs, PA 17372

909 Farm View Road, York Springs, PA 17372

110 Bonners Hill Road, York Springs, PA 17372

**F. Period of Employment.**

06/01/15 to 11/10/15 or such later beginning date and such other termination date pursuant to the terms below.

**G. Job Description.**

This requires a minimum of three months of prior experience working in an orchard, handling both manual and machine tasks associated with commodity production and harvest activities. Workers must be able to perform manual as well as mechanized activities with accuracy and efficiency.

Pick apples and peaches from trees for fresh fruit market and/or processing. Productivity must be at least 200 bushels per day of fresh market fruit or 200 bushels per day of processing fruit. Workers must be physically able to pick tree fruit, most of which is done from ladders, with lower branches being picked from the ground. Picked fruit is placed in a metal-framed canvas covered picking bucket with canvas straps that slip over the head and rest on the shoulders. Filled bucket weighing up to and including 40 pounds is emptied into bulk bins. When necessary, workers are required to handle and pick from ladders up to 20 ft. in length and weighing 35 to 50 pounds. Worker places ladder firmly against or within tree in a secure position so as not to break limbs or knock off fruit and to prevent slipping or falling. All fruit must be handled with care to avoid bruising. Each tree will be picked according to instructions given each day by the orchard foreman. Primary duties will be roots, rocks, and other debris, mulching, pruning, or cutting thorny plants, weeds and vines from around trees (some weeds may be noxious), hand placement of rodent baits around trees, operation and maintenance of tractors and other equipment, cleaning and clearing fence rows and farm buildings, irrigation, ditching, shoveling, hoeing, hauling, ground preparation and other tasks related to general farming. Employer expects works to work with or without supervision at such tasks.

Workers must be able to safely maneuver ladders up to 20 ft. in length on a steep and uneven terrain. Workers must be experienced in distinguishing between apple varieties and able to spot pick trees for acceptable color. Field supervision monitors workers to ensure fruit is not bruised in picking. Workers must be able to sort out fruit defects.

Work will also include heavy mechanized orchard work using power equipment. By way of example and not limitation power equipment may include tractors, sprayer, chainsaws, and weed eaters. Workers will be expected to be able to operate agricultural equipment with or without directions. Workers must be able to perform all duties of entry level workers as well as perform additional mechanized activities with accuracy and efficiency.

Work is to be done for long periods of time. Workers are expected to perform duties including boxing, weighing and loading of product. Workers will assist in loading trucks with product weighing up to and including 60 pounds and lifting to a height of 5 feet for long periods of time. Work requires repetitive movements and extensive walking. Allergies to ragweed, goldenrod, insect spray, related chemicals, etc. may affect workers' ability to perform the job. Workers are exposed to wet weather early in the morning through the heat of the day, working in fields. Temperatures may range from 10-100F. Workers may be required to work during occasional showers not severe enough to stop field operations. Workers should be physically able to do the work required with or without reasonable accommodations. Saturday work required. Employer-paid post hire drug testing is required.

While the employer does not require prospective applicants to take and pass a drug test prior to hiring decision, the employer has a no-exceptions drug policy requiring newly-hired employees to take and pass an employer-paid drug test. Every new hire must undergo testing before starting work with the company. All testing is conducted uniformly after an initial job offer has been extended and accepted by the new hire. If an employee tests positive, he/she is immediately terminated and paid for all hours worked between the first date of employment and the date of termination, if any. In the case of a non-local or foreign worker who is terminated for failure to pass a drug test, the employer will arrange least-cost transportation to the workers place of recruitment, at the workers expense. The employer will also test upon reasonable suspicion of use and after a worker has an accident at work.

Employer assures that workers will be provided transportation from living quarters to work site every day (for workers who must be provided housing under the applicable regulations.)

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Persons seeking employment as experienced orchard worker must be available for the entire period requested by the employer. Applicants must be able to furnish job reference(s) from recent employer(s) establishing acceptable prior experience. Successful applicants will be subject to a trial period of up to five days during which their performance of required tasks will be evaluated. If the performance during the trial period is not acceptable to the employer, the workers employment will be terminated.

Raises and/or bonuses may be offered to any seasonal worker employed pursuant to this job order, at the company's sole discretion, based on factors including work performance, skill, and tenure.

Employer retains the right to discharge an obviously unqualified worker, malingerer or recalcitrant worker who is physically able but does not demonstrate the willingness to perform the work necessary for the employer to grow a premium quality product, or for any other lawful reason.

All terms and conditions included in the job order will apply equally to all workers, both U.S. workers H-2A workers, employed in the occupation described in this clearance order.

**2. Full Crop Commitment.**

The REGULAR work for the period of Employment is generally six (6) days a week. Employer will offer 40 hours/week, weather and crop conditions permitting.

**3. Hours.**

Worker shall report to work at the designated time and place as directed by employer each day. The work day will begin at an assigned time, generally 7:00am Monday thru Friday and 7:00am on Saturday, and typically continue until 3:00pm Monday thru Friday and until 12:00pm on Saturday, or such other period as the employer may establish, with an unpaid lunch break. The worker agrees to work at least 7 hours Monday thru Friday, and 5 hours on Saturday, excluding the workers Sabbath and Federal Holidays. The worker may be requested to work more than 6 hours per day and/or on the weekends, Sabbath and Federal Holidays depending on the conditions in the fields, weather and maturity of the crop.

**4. Housing and Meals.**

Housing is provided at no cost to the workers who are not reasonably able to travel to and from the residence occupied at the time of employment offer each work day. This paragraph applies only to such employees. Housing will be in compliance with applicable federal and local housing standards when made available for occupancy. Charges will not be made for bedding and similar items furnished to workers to whom housing is provided hereunder.

Workers will be assigned to employer-provided housing by a designated company manager and must occupy the quarters assigned to them. Should rental and/or public accommodations be provided, such housing will be in accordance with all applicable local, State, or Federal housing safety standards. All charges for rental accommodations will be paid directly to the owner or operator of the unit(s).

Dining, full kitchen/cooking facilities and other common areas will be shared. Workers buy their own groceries.

No tenancy in any such housing is created; employer retains possession and control of the housing premises at all times, and worker, if provided housing under the terms of this Work Agreement, shall vacate the housing promptly upon termination of employment with the employer, in accordance with state law.

The worker, if he resides in such housing, agrees to be responsible for maintaining the housing in a neat and clean manner. Reasonable repair costs of damage other than that caused by normal wear and tear will be charged to workers found to have been responsible for such damage to housing. If a worker makes a long distance telephone call using the employer's telephone line, the worker will be deemed to have consented to the deduction of the cost of such call(s) from his/her paycheck and will promptly confirm such authorization in writing. If the worker does not authorize such a deduction in writing, the worker will be expected to repay the employer for such telephone use upon demand. If the worker does not pay the cost of such telephone call(s) within a reasonable time after being asked to do so, the worker will be subject to discipline in accordance with the employer's policies.

5. Transportation

This paragraph applies only to workers for whom the employer is legally obligated to supply housing. The employer will reimburse in the first workweek for costs incurred by the worker for visa applications fees (if applicable), border crossing fees (if applicable), transportation costs, and reasonable subsistence from the place which the worker departed to work for the employer to the place of employment, to the extent that such worker-borne expenditures reduce the workers' earnings below the FLSA minimum wage in first workweek. The employer will reimburse the worker in full for aforementioned transportation costs and reasonable subsistence no later than upon completion of fifty percent (50%) of the Period of Employment (beginning with the workday after the worker reports ready, willing, able, and eligible to work for employer's farm, if worker arrives there after beginning of Period of Employment stated above), if such payment was not already paid in full to the worker prior to the 50% period. The minimum travel subsistence of \$11.86 per day or the current minimum subsistence amount published in the Federal Register will be paid to workers who cannot provide receipts, and the maximum travel subsistence of \$46.00 per day or the current maximum subsistence amount published in the Federal

Register will be paid to workers with acceptable receipts. The amount of the transportation payment will equal the most economical and reasonable similar common carrier transportation charges for the distance involved.

Upon satisfactory completion of the full available Period of Employment, the employer will provide for workers hereunder at no charge to them their return transportation and reasonable subsistence from the place of employment to the place from which the worker came to work for the employer, except when such worker has accepted subsequent employment with another employer who agrees to pay such costs, in which case this employer will pay only for the transportation to the next job.

Workers who are furnished housing under this paragraph will be furnished, without cost, daily transportation between the employer's housing and the work site. Employer-provided transportation complies with all applicable Federal, State, and local laws and regulations. The use of this transportation is voluntary. No daily transportation is provided by employers to local workers other than farm to worksite.

6. Wages and Payroll Practice.

- A. The worker will be guaranteed a rate that is at least the highest of the USDOL-promulgated AEWR, the prevailing hourly wage or piece rate, an agreed-upon collective bargaining wage (this employer is not subject to a collective bargaining agreement), or the Federal or state minimum wage in effect at the time work subject to the provisions of the job order is performed. The guaranteed wage will not be based on commission, bonuses, or other incentives. The worker may be compensated on a piece rate basis (if applicable, schedule below). If piece rate earnings for a pay period result in average hourly earnings of less than the guaranteed rate, the worker will be provided makeup pay to the guaranteed minimum for each hour worked.
- B. Raises and/or bonuses may be offered to any seasonal worker employed pursuant to this job order, at the company's sole discretion, based on factors including work performance, skill and tenure.
- C. The worker will be paid individually by check available on Friday. The payroll period is weekly.
- D. Employer will furnish to the worker, on or before each payday, one or more written statements showing the workers total earnings for the pay periods, the beginning and the ending dates of the pay period, the worker's hourly rate and/or piece rate of pay, the piecework units earned (if paid by piece rate), the total hours of the employment which were offered to the workers (broken out by the hours offered in accordance with and over and above the  $\frac{3}{4}$  guarantee), the total hours actually worked by the worker, an itemization of all deductions made from the workers wage, and the employers name, address, and FEIN.
- E. Piece Rate Schedule.

All work is compensated at the above hourly rate except for the following work activities which are compensated on a piece rate productivity incentive basis according to the following schedule.

**\$.65 per bushel for apple harvest**

No piece rate work will be performed at less than the stated piece rates. When work is performed according to the stated piece rate schedule, workers are guaranteed that they will be paid no less than the stated AEWR hourly rate for each hour worked. In instances when working or crop conditions indicate, the employer may, at his discretion, suspend the piece scheme in favor of the hourly pay at the stated AEWR hourly rate in order to assure workers fair earnings.

**7. Deductions.**

The employer will furnish to each worker on pay day an itemized accounting of earnings and of all legally-required and worker-authorized deductions. Deductions for FICA and federal/state tax withholding, deductions including court-ordered child support, garnishments and liens, and any other such legally-required deductions will be made in individual circumstances as required by law. Advances and/or loans made to workers, if any, may be repaid by pre-authorized payroll deductions. The employer does not envision other uniform workforce-wide payroll deductions.

**8. Records.**

The employer shall keep accurate and adequate records with respect to the workers earnings and to retain such records for a period of not less than 3 years after the date of certification. Such records shall show the nature and amount of work performed, the number of hours of work offered each day by the employer (broken out by hours offered both in accordance with and over and above the  $\frac{3}{4}$  guarantee), the hours actually worked each day by the worker and the reasons why offered hours were not worked, the time the worker began and ended the workday, the rate of pay (both hourly and piece rate, if applicable), the workers earnings per pay period, the workers current address, and the amount of and reasons for any and all deductions made from the workers' wages.

The employer agrees to make earnings records and statements available for inspection and transcription upon request by the Secretary of Labor or a duly authorized and designated representative, and by the worker and representatives designated by the worker when appropriate authorization is provided.

**9. Employment Guarantee.**

A. Employer guarantees the opportunity to work for the hourly equivalent of three-quarters of the workdays of the total period of employment during which this Work Agreement and all amendments thereof are in effect, beginning with the first workday after the arrival of the worker at the employers farm ready, willing, able, and eligible to work and ending on the expiration date of the period of employment specified in Paragraph 1-F above and all extensions thereof unless this Work Agreement

is lawfully terminated. For purposes of this Work Agreement a "workday" consists of 7 hours of work for each weekday and 5 hours of work on Saturday. The worker is not required to work on his/her Sabbath, Sundays, and Federal Holidays in the United States. On certain of these days, work may be available. If the worker, at the conclusion of this Work Agreement, has been afforded less employment opportunity than required under this provision, the worker will be paid the amount he/she should have earned had he/she, in fact, worked for the guaranteed number of hours. In determining whether the guarantee of employment has been met, any hours which the worker fails to work during the workday when he is afforded the opportunity to work by the employer and all hours of work actually performed shall be counted toward meeting this guarantee.

- B. If, before the expiration date specified in this work agreement, the services of the worker are no longer required for reasons beyond 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. In the event of such termination, the employer will fulfill the three-fourths guarantee for the time that has elapsed from the first day of employment to the time of its termination as described in 20 CFR 655.122(j). The employer will make efforts to transfer the worker to other comparable employment acceptable to the worker, consistent with the existing immigration law, as applicable. If such transfer is not effected, the employer will
- (1.) Return the worker, at the employers expense, to the place from the worker (disregarding intervening employment) came to work for the employer, or transport the worker to the workers next certified H-2A 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 employer's place of employment, if such payments were not already paid to the worker prior to the separation of employment. Daily subsistence will be in the amount of \$11.86 per day, or the current minimum daily subsistence amount published in the Federal Register, as set forth in 20 CFR 655.122(h). The amount of the transportation payment will equal the most economical and reasonable common carrier transportation charges for the distances involved.
- C. This guarantee shall also be void from the beginning if the worker voluntarily abandons this employment or if the worker is terminated for a lawful job-related reason. In such cases, the employer will notify the Department of Labor (and DHS, in the case of an H-2A worker) in writing not later than 2 working days after such termination or abandonment occurs. For the notification purposes, abandonment will be deemed to begin after a worker fails to report at the regularly scheduled time for 5 consecutive working days without the consent of the employer.
- D. Employer agrees to abide by the assurances set forth in 20 CFR 655.135 including but not limited to specific regulations regarding hiring practices, positive recruitment, compliance with all applicable

Federal, State, and local laws, and all specific obligations set forth in subpart (a) through(l) for all workers hired in accordance with this Work Agreement.

**10. Miscellaneous Terms.**

- A. The employer shall furnish without charge all tools, supplies and equipment necessary to perform duties assigned. Worker should provide suitable clothing and footwear.
- B. The employer shall make and post Work Rules which shall apply to this employment. The worker shall abide by such rules.
- C. The worker shall be free to purchase and personal articles or services from vendors of his/her own choice. The employer will provide free transportation to workers to and from the neighboring closest town no less than once a week for supplies and/or banking (for workers for whom housing must be provided under the applicable regulation).
- D. Worker must possess and show employer documentation required to enable employer to comply with the identification and employment eligibility requirements of IRCA.
- E. Worker will be covered by workers compensation insurance law for injuries and disease arising out of and in the course of this employment.
- F. The employer will expeditiously notify the order-holding SWA office in Gettysburg, PA by telephone immediately upon learning that a crop is maturing earlier or later than expected or that weather conditions, over-recruitment or other factors have changed the terms and conditions of employment. The terms of this Work Agreement thereafter may have changed upon posted notice to the worker.
- G. The employer will cooperate with outreach activities conducted pursuant to 20 CFR 653.107.
- H. Use of the masculine pronoun herein is for convenience of reference only and includes the female gender.
- I. This agreement shall be interrupted and enforced under the laws of the State of PA, United States of America.

**11. Termination.**

Employer may terminate worker for a lawful job-related reason if the worker:

- A. Abandons this employment;
- B. Refuses without justified cause to perform as directed the work for which the worker was recruited and hired;
- C. Commits a serious act of misconduct or serious or separated violation(s) of the employers Work Rules;
- D. Fails to perform in a workmanlike manner to enable employer to produce, harvest and market a premium quality product;
- E. Malingers or otherwise fails or refuses to work in accordance with directions;

- F. Provides other lawful job-related reason for termination of employment; or
- G. This Work Agreement shall also be terminated by fire, weather, or other Acts of God or cause or reason beyond employers' control that makes fulfillment of this Work Agreement impossible.  
"Reason beyond employers' control" includes termination of worker, if he/she is not a U.S. worker, because a U.S. worker makes himself available for the job under DOL's 50% rule.

12. Workers Compensation Insurance.

Carrier: Travelers Indemnity Company

Policy: HKUB-4D71074-A-14

Name & Address of Policyholder: Lory Fruit Farms, Inc. 110 Bonners Hill Road, York Springs, PA 17372

Person to be Notified to File Claim: William Lory

Phone Number of Person to be Notified to File Claim: 717-339-7731

Deadline for Filing Claim: Immediately, no late than 24 hours

**OCT 23 2015**

Work Contract:

I have read and agree to the terms of H-2A employment offered by Lory Fruit Farms, Inc. I also affirm that I have not paid or been asked to pay any money or any other compensation for the services provided to me by any organization or individual associated with this prospective employment or H-2A visa.

A copy of this Work Agreement shall be provided to the worker.

Agreed to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Employee:

Employer:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Social Security or DHS I.D. No.)

\_\_\_\_\_  
(Title)

OCT 23 2005