Agricultural and Food Processing Clearance Order
Pedido de Empleados para Agricultura y Processamiento de Alimentos

U.S. Department of Labor
Employment and Training Administration
O.M.B. Approval No. 1205-0134 Expires 08/31/2009

1. Employer's Name and Address (Number, Street, City, State, Zip Code, and Telephone Number)
Nombre y Dirección del Empleador (Número, calle, ciudad, código postal y teléfono)

Schichtel's Nursery
7420 Peters Rd.
Springville, NY 14141
pH: (716) 592-9383

c/o ILMC,Labor Consultant;
234 Cameron Ave. P.O. Box 630
Vass, NC 28394
Ph:(910) 245-4808 Fx: (910) 245-3837

Industry Code / Código de Industria: 111421

Job Order # / No. Orden de Empleo: NY0929689

Occupational Title and Code / Titulo Ocupacional y Código: 45-2092.02 Nursery Worker

Clearance Order Issue Date / Fecha de Tramite: JAN 20 2010

2. Location and Direction to Work Site / Dirección del lugar de trabajo

Various locations in Erie and Cattaraugus Counties.
All properties are owned or leased by employer.

(see attachment / para más detalles vea 2)

Job Order Expiration Date / Fecha de expiración: 3/22/10

6. Anticipated Period of Employment / Periodo Anticipado de Empleo
From/Desde: 2/22/10 To/Hasta 5/30/10

7. No. of Worker's Requested / No. de Trabajadores Pedidos: 40

3. Location and Description of Housing / Dirección y Descripción de la Vivienda

Motel/Woodframe:
Springville Inn; 425 South Cascade Dr. Springville, NY 14141

(see attachment / para más detalles vea _____)

8. Anticipated Hours of Work per Week / Horas Anticipadas de Trabajo por Semena
Total: 40
Sunday / Domingo 0
Monday / Lunes 7
Tuesday / Martes 7
Wednesday / Miercoles 7
Thursday / Jueves 7
Friday / Viernes 7
Saturday / Sabado 5

9. Collect Calls Accepted / Se Aceptan Llamadas a Cobrar:
Employer / El Empleador Yes__ No X
Local Office / Oficina Local Yes__ No X

4. Board Arrangements / Arreglo de Alojamiento

Housing is provided at no cost to workers who are not reasonably able to return the same day to their place of residence. Housing is not provided to non-workers. SEE ETA 790 ATTACHMENTS FOR FULL BOARDING ARRANGEMENTS

(see attachment / para más detalles vea 4)

5. Referral Instructions / Instruciones para el Referimiento de Candidatos

All local applicants and intrastate (in state) are to apply directly to employer Monday thru Thursday between the hours of 9:00 am and 4:00 pm and Fridays between 9:00 am and 11:00 am. All interstate (out of state) applicants may apply at any State Workforce Agency (SWA) office or by contacting employer directly. SEE ETA 790 ATTACHMENTS FOR FULL REFERRAL INSTRUCTIONS

(see attachment / para más detalles vea 5)

10. Job Specifications / Descripción del Trabajo (Summary of Material Job Specifications in ENGLISH must be included inside this box)

Workers will plant, cultivate and harvest trees in a tree nursery. Workers will perform various tasks all associated with the tree nursery. Workers will use a variety of hand tools to perform these duties. Workers may be required to operate various pieces of equipment to perform these duties. Workers will be required to water trees by hand held jumps or hoses. Workers will be required to load and unload trees by hand. See Attachments for a more complete job description. workers must be physically able to perform all job listed in this job order. Workers must be able to work in varying temperatures, able to stand, bend, reach, cut and pull weeds for the entire work period each day. Employees must be able to frequently lift weights ranging from 30 to 50 lbs, and occasionally lifting 100 lbs. Workers are subject to random drug testing at employers expense. See Eta 790 attachments for a more complete job description

(see attachment / para más detalles vea 10)

10a. Descripción del Trabajo (Summary of Material Job Specifications in SPANISH must be included inside this box)

Los trabajadores plantarán, cultivarán y cosecharán árboles en un cuarto de niños de árbol. Los trabajadores realizarán las varias tareas todo asociadas con el cuarto de niños de árbol. Los trabajadores utilizarán una variedad de herramientas de la mano para realizar estos deberes. Los trabajadores pueden ser requeridos funcionar varios pedazos de equipo para realizar estos deberes. Mangueras requerirán a los trabajadores regar árboles saltos de mano o. Requerirán a los trabajadores cargar y descargar árboles a mano. Vea los accesorios para una descripción de las funciones más completa. los trabajadores deben poder físicamente realizar todo el trabajo enumerado en esta orden de trabajo. Los trabajadores deben poder trabajar en las temperaturas diversas, capaces de colocar, de doblar, de alcanzar, de cortar y de tirar de las malas hierbas para el período entero del trabajo cada día. Los empleados deben poder levantar con frecuencia los pesos que se extienden a partir del 30 a 50 libras, y levantando de vez en cuando 100 libras. Los trabajadores están conforme a la prueba al azar de la droga en el costo de los patrones. Vea Eta 790 accesorios para una descripción de las funciones más completa.

(see attachment / para más detalles vea 10)

ETA 790 (rev. July 2004)

C-1000-71497

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

Crop Activities / Cultivos	Hourly Wage Salario por Hora	Piece Rate / Unit(s) Pago por Pieza/Unidad(es)	Special Pay (bonus, etc.) Pagos Especiales (Bono, etc.)	Deductions / Deducciónes	YES	NO	Pay Period Periodo de Pago
Cattaraugus Co.	$ 8.55	$		FICA	*X		Weekly / Semi-annual X
Erie Co.	$ 8.74	$		Federal Tax	*X		
	$	$		State Tax	**		Bi-Weekly / cada 2 sem.
	$	$		Meals (comidas)		X	
	$	$		Other (specify)		X	Other / Otro

More Details About the Pay / Más Detalles Sobre el Pago

The employer will make the following deductions from the Worker's wages: FICA taxes, State (if appiable) and Federal income tax as required by law.
*FICA, State and Federal taxes will not be deducted from those worker's wages that are working under a temporary, agricultural visa.

(see attachment / para más detalles vea 11)

12. Transportation Arrangements / Arreglos de Transportación (Please explain) The Employer will not advance transportation and subsistence costs to Workers for transportation to the place of employment. This paragraph applies only to Workers for whom the employer is legally obligated to supply housing. After worker has completed 50% of work contract period, employer shall reimburse worker for reasonable cost of transportation and subsistence from place of recruitment to place of work. Upon completion of the work agreement, employer will pay for such Workers reasonable costs of return transportation and subsistence to the place of recruitment, except when the worker will not be returning to the place of recruitment, due to subsequent employment with another employer who does not agree to pay such costs, in which case the employer only pays for the transportation and subsistence to the next job. The amount of such transportation payment will be equal to the Worker's actual transportation costs not to exceed the most economical and reasonable common carrier transportation charges for the distance involved. By way of illustration and not in limitation of the foregoing, the employer will not pay transportation for such worker if he does not have suitable documents to comply with proof of identity and employment eligibility requirements of IRCA, if he is discharged for lawful job-related reasons, if he has knowledge at the place of recruitment that he can not perform the duties of the job as described above, or if he abandons this employment when he is needed by the Grower. (see attachment / para más detalles vea 12)

13. Is it the prevailing practice to use Farm Labor Contractors (FLC) to recruit, supervise, transport, house, or pay workers for this (these) crop activity(ies)? Es la costumbre en el area de usar Contratistas Agricolas para reclutar, supervisar, transportar, dar vivienda, ó pagarle a los trabajadores en este/estos tipo(s) de cosecha(s) / sembrado(s)? Yes__ No_X_If you have checked yes, what is the FLC wage for each activity? / Si contesto "Si," cual es el salario que le paga el Contratista Agricola para cada actividad?

14. Unemployment Insurance provided / Seguro por Desempleo: Yes *X No *If applicable excludes H-2A workers

15. Workers compensation insurance provided / Indemnización por accidente de trabajo: Yes X No

16. Are tools provided at no charge to the workers? / ¿Se le proveen las herramientas de trabajo a los trabajadores sin cargo alguno? Yes X No

17. 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") / Indique todo acuerdo o convenio con los propietarios del establecimiento o sus representantes con respecto al pago de una comisión u otros beneficios por ventas hechas a los trabajadores. (Si no hay ningún acuerdo o convenio, indique "Ninguno")

NONE / NINGUNO

18. 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 todo huelga, paro o interrupción de las operaciones por parte de los empleados en el lugar de empleo. (Si no hay, indique "Ninguno")

NONE / NINGUNO

19. Address of Order Holding Office (include Telephone number) Dirección de la Oficina donde se Radicó la Oferta (incluya número de teléfono)

New York State Department of Labor
One Stop Office nearest to you

20. Name of Local Office Representative (include direct dial telephone number) / Nombre del Representante de la Oficina Local (incluya numero de teléfono)

New York State Department of Labor
One Stop Office nearest to you

21. 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. Certificacion del Empleador: Esta orden de trabajo describe los términos y condiciones de trabajo y contiene todos los materials, terminus, y condiciones ofrecidos.
Employer's Signature & Title / Firma y Titulo del Empleador

Ruth Ann treasurer

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 ETA nor the State agencies are guarantors of the accuracy or truth-fullness of information contained on job orders submitted by employers. Nor does any job order accepted or recruited upon by the One-Stop Career Center constitute a contractual job offer to which the One-Stop Career Center, ETA or a State agency is in any way a party.
LEASE CUIDADOSAMENTE: En vista de su función básica establecida estatutariamente el Servicio de Empleo es un intercambio gratis de trabajo para juntar a los empleadores y trabajadores que buscan empleo, ni ETA ni las agencias del estado pueden garantizar la verdad y certeza de la información contenida en la Orden de Trabajo sometida por el Empleador. Tampoco, ninguna orden de trabajo aceptado o reclutada por el Servicio de Empleo consituye una oferta contractual de la cual ETA ni la agencia del Estado son parte.

Public reporting burden for the ETA Form 790 is estimated to be approximately 60 minutes per response, including time for reviewing instructions, seaching existing data sources, gathering and reviewing the collection. Respondents obligation to reply to these requirements are mandatory by 20 CFR 653.500. Persons are not required to respond to this collection of information unless it displays a currently valid OMB number. Comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing the burden can be sent to the U.S. Department of Labor, Office of Workforce Investment, Room S-4321, Washington DC 20210 (Paperwork Reduction Act of 1995, OMB Control No. 1205-0134).

ATTACHMENT TO ETA 790

The term "Employer" used herein shall refer to the named employer(s) in section 1.

Workers recruited under this Job Order are recruited to work on the employer's farm in the certified occupation during the period of employment shown in Item 6. The employer/members will offer US workers at least the same opportunities, wages, benefits, and working conditions as those which the employer offers or intends to offer to non-immigrant foreign workers

1. Name and address of employer: Schichtels' Nursery Inc.; 7420 Peters Rd., Springville NY 14141.

2. Location of worksites:

Address	City	State	County
Peters Rd & US Rt 219	Springville	NY	Cattaraugus
Peters Rd	Springville	NY	Cattaraugus
Gunbarrel Rd	Yorkshire	NY	Cattaraugus
Peters Rd & US Rt 21	Springville	NY	Cattaraugus
Schwartz Rd	Springville	NY	Cattaraugus
Peters Rd	Ashford	NY	Cattaraugus
378 East Main Street	Springville	NY	Cattaraugus
Ashford Hollow Rd (Rt219)	West Valley	NY	Cattaraugus
Schwart Rd & Edies Rd	Ashford	NY	Cattaraugus
12598 Mortons Corners Rd	Springville	NY	Cattaraugus
14025 Mill Street	Springville	NY	Erie
11770 Route 39	Township of Sardinia	NY	Erie
6877 Concord Rd	Concord	NY	Erie
Spaulding Rd	Concord	NY	Erie
Geneesee Rd	Concord	NY	Erie
11410 Route 39	East Concord	NY	Erie
Mill Street	Springville	NY	Erie
Johnson Rd	Sardinia	NY	Erie
6031 Route 39	Springville	NY	Erie
425 S. Cascade Dr	Springville	NY	Erie
Groth Rd	Springville	NY	Erie
Bolton Rd	Springville	NY	Erie
Zoar Valley Rd	Town of Concord	NY	Erie

4. Employers will furnish free cooking and kitchen facilities to those workers who are entitled to live in the employers' housing so that workers may prepare their own meals. Workers will buy their own groceries. Once a week the employers will offer to provide (on a voluntary basis by the workers) free transportation to assure workers access to the closest store where they can purchase groceries.

Housing capacity is strictly regulated by the US Department of Labor, and no person, other than the eligible employees authorized by the employer, may occupy or remain overnight in employer-provided housing. The housing is offered as temporary in-season (during the employment period only) housing provided for migrant agricultural workers while they are employed at farms beyond normal commuting distance from their residence. Workers provided housing by the employer must promptly vacate the housing upon termination of employment. All housing is group housing in which all workers will share kitchens and common areas without regard to gender. Female workers, however, will be provided with sleeping facilities shared only with other family members or with other females. Sex-segregated toilets facilities will be provided.

Housing is provided at no cost to workers who are not reasonably able to return the same day to their place of residence. This paragraph applies to such workers only. Housing is not provided to non-workers. Housing capacity is strictly regulated by the US Department of Labor, and no person, other than the eligible employees authorized by the employer, may occupy or remain overnight in employer-provided housing. The housing is offered as temporary in-season (during the employment period only)

housing provided for migrant agricultural workers while they are employed at farms beyond normal commuting distance from their residence. Workers provided housing by the employer must promptly vacate the housing upon termination of employment. No charge will be made for beds or cooking utensils and similar items furnished to workers to whom housing is provided hereunder. All housing is group housing in which all workers will share kitchens and common areas without regard to gender. Female workers, however, will be provided with sleeping facilities shared only with other family members or with other females. Sex-segregated toilets facilities will be provided. Workers who reside in such housing agree to be responsible for maintaining the housing in a neat and clean manner. Workers residing in employer's housing may have mail directed to them at the employer's address on attached addendum. Workers will be provided a name and telephone number where they may be contacted in case of emergency while residing in the housing.

5. All local and intrastate (in state) applicants are to apply directly to Schichtel's Nursery Inc by calling Daniel Carey at 716-592-9383 ext 127, Monday - Friday between the hours of 9:00 am and 3:00 pm. All interstate (out of state) applicants may apply at any State Workforce Agency (SWA) office or by contacting employer directly, in accordance with the referral instructions above. State employment service agency staff is encouraged to call employer to make a referral while the applicant is at the Job Service office. Interviews will be conducted quickly over the telephone to create less of a burden on the applicant. Participation and monitoring of the interview process by SWA staff guarantees proper disclosure of the terms and conditions and protects the integrity of the interview process. Workers should be fully apprised by the local employment office of the terms, conditions and nature of employment prior to referral. Employer will interview the person for 1) Availability for entire season, 2) Available transportation to the job site, 3) Has been fully appraised by the local employment services of the terms and conditions of employment. Workers recruited against the Job Offer from within normal commuting distance will not be provided with housing, subsistence and transportation.

Only workers legally entitled to work in the United States and who possess original identity and employment eligibility documents sufficient to complete INS Form I-9, as required by the Immigration and Nationality Act, will be permitted to complete the hiring process. Workers referred against this order should be informed that they must have these documents in their possession when they arrive at the place of employment. Provided that workers complete section 1 of form I-9, workers will have three business days to produce the required documentation to complete section 3 of form I-9, as provided in the Act. Workers not providing this required documentation will not be allowed to go to work on the fourth business day of employment, or any subsequent days until the documentation is provided, as provided in the Act.

6. Anticipated dates of employment: 2/22/10 until 11/12/10.

7. The approximate maximum number of workers to be employed in the certified occupation by the grower is shown in the Addendum (the list of employers). The actual number of workers employed in the certified job opportunities of the grower at any given time may be more or less than the approximate numbers shown in the addendum, depending upon crop conditions, weather, markets or other circumstances that develop during the season.

8. Anticipated Hours of Work: Worker will report to work at the designated time and place as directed by the Grower each day. The standard workweek is 7 hours per day Monday-Friday and 5 hours on Saturday is normal; however, workers may be requested to work 10 hours per day depending upon the conditions in the fields and maturity of the crops but will not be required to do so. Also, the workers may be requested to work on federal holidays and on their Sabbath but will not be required to do so. Workers may volunteer to work additional hours when work is available. Down Time: Workers should expect occasional periods of little or no work because of weather, crop or other conditions beyond the employer's control. These periods can occur anytime throughout the season.

10. Job Specifications:
Tools and Equipment: The employer will furnish, without charge, all tools, supplies, and equipment required in the performance of the specified work.

Workers may be required to perform any of the following jobs all of which are outside:

Planting: Workers may be required to work as operators of wheel tractors pulling planters and planting wagons. Workers may be required to work on the ground planting trees that are fed through a tractor pulled planter-using shovels. Workers will be required to dig trees.

Balled and Burlap (B&B) tree production: Workers may be required to work as operators of skid steers with tree spade attachments or haul out tines. Workers may be required to work on the ground packaging the finished root ball on a tree by stapling burlap with hog ring pliers, tying basket loops with twine, crimpling baskets with pig tail crimpers or tying branches with twine.

stapling burlap with hog ring pliers, tying basket loops with twine, crimpling baskets with pig tail crimpers or tying branches with twine.

Bare Root Tree Production: Workers may be required to work as operators of skid steers with bare root blade attachments. Workers may be required to work on the ground crew tying branches with twine or hauling trees through the field and loading them on the trucks by hand.

Loading and unloading: Workers may be required to work on flat bed trailers tying B&B trees to the trailer with twine. Workers may be required to work loading or unloading bare root trees by hand into refrigerated trailers.

Cultivation: Workers may be required to work as operators of wheel tractors pulling cultivators, mowers or hilling disks.

Watering: Workers may be required to water trees by hand using pumps and hoses.

General Duties: Duties performed in the field will be sporadic all through the contract due to the various duties, i.e., preparing soil, planting, pruning, cutting, deadheading, pinching, trimming to shape, spacing plants, potting, fertilizing with granular or liquid fertilizer, cleaning work areas, transporting plant materials in the nursery/greenhouse areas, loading and unloading plants and all other duties associated with ornamental plant production. Between harvesting, workers will be required to perform duties to prepare crops for marketing. Workers will also unload pallets from trucks or wagons into fields for transplanting. Worker may unload and restock for storage.

Farm Equipment Operation: Workers will drive tractors, mowers, and may use other greenhouse equipment including flat filler. Workers will be instructed in the safety and operation of the tractor and other equipment before driving tractor or using other greenhouse equipment. Tractors should be driven in a manner to protect operator, other workers, products, trees, crops, and equipment. Repeated failure to obey safety requirements and operating instructions may result in termination.

GENERAL CONDITIONS APPLICABLE TO ALL CROPS: Fieldwork begins at assigned time shortly after daylight. Work is performed during light rain and in high humidity and in temperatures ranging from 100 degrees to below 35 degrees F. Workers will work on their feet in bent, stooped, and crouched positions for long periods of time Employees must be able to frequently lift trees ranging in weight from 30 to 50 pounds and occasionally lift trees weighing up to 100 pounds. All the tasks in this Job Description constitute one (1) job; the employer may assign workers to different tasks on any day or to multiple tasks during the same day in the sole judgment of the employer. Workers may be required to perform work, on the farm, that is incidental to growing the crops listed in the application, such as performing hand cultivation tasks, weeding or hoeing, cleaning and repairing farm buildings, seed beds, racks, grounds, mowing, weed eating, operate sprayers and farm equipment, set up and move irrigation pipes and equipment, gardening, weeding and shrubbing, etc. This is a very demanding and competitive work in which quality specifications must be rigorously adhered to. Sloppy work cannot and will not be tolerated.

Full Crop Commitment: This is regular work, seven hours per day, Monday-Friday, and five hours on Saturday for the full remainder of the period of employment. The worker agrees to work for assigned employer(s) whenever work is available during the full remaining period of employment even though work may be slack at times. The worker understands that if he quits or is terminated for cause prior to the end of the period of employment, he will not receive the 3/4 guarantees discussed below and will not receive certain transportation reimbursements discussed below. Excessive tardiness and/or absences will not be tolerated and will result in termination.

Daily individual work assignments, crew assignments, and location of work, will be made by and at the sole discretion of the farm manger and/or farm supervisor as the needs of the farming operation dictate. Workers may be assigned a variety of duties in any given day and/or different tasks on different days. Workers will be expected to perform any of the listed duties and work on any crop as assigned by the worker's supervisor.

11. Wage Rates, Special Pay Information and Deductions:

Harvesting specifications, in particular, can change from time to time during the season due to crop or market conditions, even on the same crop. Workers will be expected to conform to the specific instructions given for each day's work.

The farm owner/supervisor or a designated employee will provide specific instructions and close supervision. Workers will be expected to perform their duties in a timely and proficient manner and will have close supervision to insure adherence to instruction. Work will be closely monitored and reviewed for quality.

The employer will apply the prevailing hourly rate, of $8.55 when workers are performing work in Cattaraugus County and $8.74 for Erie county, in a crop activity for which an hourly rate is specified if DOL determines that a higher hourly rate is prevailing in the

crop activity in the area of intended employment (MSA) than the hourly rate specified herein, only if the new higher prevailing wage survey is known before the acceptance letter is issued by DOL. In the event the DOL promulgates a new wage rate, for any MSA covered by this employment certification, during the recruitment or work contract period which is higher or lower than the new wage rate herein, at the discretion of the employer, lower wage rate, will become the guarantee.

A). The employer will make the following deductions from the Worker's wages: FICA taxes, State (if applicable), Federal Income tax as required by law. Cash advances will be deducted in full from the worker's next regular paycheck with the employee's written consent. If the employer does not deduct the advances in full from the next regular paycheck, then thereafter the employer will only deduct, with the employees written consent, up to 10% of the gross wage each pay period until fully paid off. Overpayments will be deducted in full from the workers next regular paycheck with the employees written consent. Repayment of loans made to employees at interest rates less than prime will be deducted from wages, with the employee's written consent, at no more than 10% of the employee's gross wage each pay period until fully paid off. FICA, State and Federal taxes will not be deducted from those worker's wages that are working under a temporary, agricultural visa.

B). Employers guarantee to offer employment for the hourly equivalent of 3/4 of the workdays of the total specified period during which the work contract and all amendments thereof are in effect, beginning with the first workday after the workers' arrival at the assigned Grower's farm, ready, willing, able, and eligible to work and ending on the expiration date specified in the work contract and all extensions thereof or upon the termination of this employment as provided below. For purposes of this guarantee, a "workday" consists of seven hours Monday-Friday and five hours on Saturday. The worker is not required to work on his Sabbath or on federal holidays which are New Year's Day, January 1; Martin Luther King, Jr.'s birthday, the third Monday in January; Presidents Day, the third Monday in February; Memorial Day, the last Monday in May; Independence Day, July 4; Labor Day, the first Monday in September; Columbus Day, the second Monday in October; Veteran's Day, November 11; Thanksgiving Day, the fourth Thursday in November; and Christmas Day, December 25. On certain of these days, work may be available. If the worker at the conclusion of his work agreement has been afforded less employment opportunity than required under this provision, the worker will be paid at his average hourly rate for the hours, in addition to those actually offered, up to the hourly equivalent of the guaranteed number of days. In determining whether the guarantee of employment has been met, any hours, which the Worker fails to work during a workday when the Employer offers him the opportunity to work, and all hours of work actually performed shall be counted toward meeting this guarantee. In addition the employer may count hours of work offered all hours for which work was offered and not worked which do not exceed a total of hours worked and hours offered but not worked of the normal work hour. The guarantee described in this paragraph shall not apply if the worker voluntarily abandons this employment before the end of the contract period or in the event the worker is terminated for a lawful job-related reason. The guarantee described in this paragraph shall not apply to an H-2A alien worker who is terminated because of the employer's compliance with the requirement to employ all qualified eligible US workers who apply during the first 30 days of the employment period in accordance with the rule at 20 CFR 655.102(f)(3)(i), percent of the contract period.

C). This employment guarantee shall be terminated before the end of the Period of Employment if the services of the workers are no longer required for reasons beyond the control of the Employer due to fire, frost, flood, drought, hail, other Act of God which makes fulfillment of this contract impossible. In such cases, the employer will make efforts to transfer worker to other comparable employment acceptable to worker. If such transfer is not effective, workers will be returned at Employer's expense to the place from which Worker, without intervening employment, came to work for employer. In the event of such termination, the 3/4-guarantee period ends on the date of termination. The guarantee shall be void from the beginning should the Worker voluntarily abandon this employment before the end of the contract period or in the event the Worker is terminated for lawful job-related reason.

D). The payroll period shall be weekly. Workers will be paid weekly.

E). Employer will provide a worker referred through the SWA Interstate System forty (40) hours of work for the week beginning with the anticipated date of need, unless the employer has amended the date of need by notifying the local employment service office at least 10 working days prior to the original date of need. If the employer fails to notify the order-holding office, then employer shall pay an eligible worker referred through the interstate clearance system the hourly rate mentioned in section 11, for the first week, starting with the original anticipated date of need. The employer may require the worker to perform alternative work if the guarantee cited in this section is invoked. If the worker fails to notify the order-holding office of his continuing interest in the job no sooner than nine working days and no later than five working days before the date of need, the worker will be disqualified from the above-mentioned assurance. Alternative work will be general labor and maintenance activities including, cleaning/stacking greenhouse supplies, cleaning and maintaining migrant housing, pulling weeds, fence mending and the repair and maintenance of greenhouse buildings and equipment.

F). 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 period, his hourly rate or piece rate (if applicable); the hours of work which have been offered to the worker,

the total hours actually worked by the worker, an itemization of all deductions made from the worker's wages; the worker's net pay; the employer's name, address and IRS identification number.

12. Transportation: In accordance with the regulations found at 20 CFR 655.104(h)(1), (2), and (3) the following paragraphs under section 17 are the terms and conditions, in their entirety, related to the transportation benefit and related subsistence benefit, when applicable, provided under this clearance order.

The Employer will offer transportation to and from the daily work site at no cost to the workers entitled to the housing benefit. The use of this daily transportation by eligible workers is voluntary; no worker is required as a condition of employment to utilize the daily transportation to the worksite offered by the employer. Employer will provide free transportation to eligible workers from the housing site to the worksite and return. Workers are always free to choose their own means of transportation at their own expense.

The following paragraphs related to inbound and outbound transportation pertain only to workers who are not within commuting distance and cannot return to their place of residence the same day and are, therefore, eligible for the benefit.

The Employer will not advance transportation and subsistence costs to the place of employment for any worker.

For US workers eligible for the inbound transportation benefit, the Employer will reimburse US workers who complete 50 percent of the work contract period and who are beyond commuting distance the reasonable cost of transportation and subsistence from the place from which the worker has departed to the employer's place of employment. The amount of the reimbursement for transportation cost will be the worker's actual transportation cost from the place from which the worker has departed to the employer's place of employment, and by regulation is not required to exceed the most economical and reasonable common carrier transportation cost for the distance involved. For eligible foreign (H-2A) workers coming from outside the United States, this reimbursement benefit basis is the place from which the worker departed is the place of recruitment which DOL has interpreted in the regulations to mean the appropriate US consulate or port of entry. All other criteria for this benefit are identical, as described in this paragraph, for foreign and domestic workers. The employer reserves the right to arrange charter or other transportation to assure the lowest available inbound transportation cost. Such inbound transportation will be at the worker's expense. Workers who do not avail themselves of such transportation, when available, will be reimbursed only the per worker cost of the employer-arranged transportation.

The employer will reimburse workers' costs of inbound transportation and subsistence to the extent required by the H-2A regulations not later than the date on which the worker has completed 50 percent of the period of employment beginning on the first day the worker is at the place of employment and available for work and the ending date of employment set forth in Item 6. The employer will provide or pay for workers' return transportation and subsistence to the extent required by the H-2A regulations for workers who complete the period of employment set forth in Item 6 or whose services are no longer required by the employer, whichever occurs first. Reimbursement of inbound and return transportation will only be provided to workers upon agreeable completion of the work agreement except when the worker will not be returning to the place of recruitment, due to subsequent employment with another employer who does not agree to pay such costs, in which case the employer only pays for the transportation and subsistence to the next job.

For US workers who complete the work contract and are eligible for the outbound transportation benefit, the Employer will provide or pay for the worker's reasonable cost of return transportation and subsistence from the place of employment to the place from which the worker departed to work for the employer, except when the worker will not be returning to the place of recruitment due to subsequent employment with another employer. If the subsequent employer has not agreed to provide or pay for the worker's transportation to the subsequent place of employment, the Employer will provide or pay for the transportation and subsistence to the subsequent place of employment in lieu of providing or paying for such expenses from the place of employment to the place from which the worker departed to work for the employer. If the subsequent employer has agreed to provide or pay for the worker's transportation and subsistence to the subsequent place of employment the Employer will not provide or pay for such expenses. For foreign (H-2A) workers who came to work from outside the United States, this outbound transportation benefit basis is the place from which the worker has departed will be considered to be the appropriate US consulate or port of entry as interpreted by DOL in the regulations. All other criteria for this benefit are identical, as described in this paragraph, for foreign and domestic workers. The Employer reserves the right to arrange charter or other return transportation. Workers eligible for this benefit who do not wish to avail themselves of employer arranged return transportation would be provided their outbound transportation and subsistence through checks. In those circumstances, the grower will distribute the checks as soon as all work is completed, as determined by the employer, and the worker is ready to depart. Workers may select any means of transportation home they choose, however, the reimbursement is limited to the most economical and reasonable common carrier transportation cost for the distance involved. Workers who arrange their own transportation understand they assume all liability and hold harmless the employer for any damages, injuries, and personal or property losses.

The employer will not reimburse, pay for or provide transportation and subsistence to a worker who does not provide documentation of identity and employment eligibility required to complete INS Form I-9, or who has knowledge at the place of recruitment that he can not perform the duties of the job as described in this job order, or who abandons his employment, or who is discharged for lawful job related reasons. The Employer will provide or pay for transportation and subsistence under this agreement if the worker is terminated because of work related injury and is so certified by a doctor acceptable to the Employer before leaving the place of employment, or is terminated because of an Act of God which makes fulfillment of the work contract impossible, as provided in paragraph 9C, or if the worker is displaced by a U.S. worker under the 30 day rule in 20 CFR 655.102(f)(3)(i).

Daily subsistence reimbursement will be paid to workers who are eligible for reimbursement of transportation costs in accordance with the regulations at 20 CFR 655.104(h)(1), which refers to 20 CFR 655.104(g) and is governed by 20 CFR 655.114(a), which is capped at $9.90 per day for 3 meals under the regulation.

Other Conditions of Employment:
A). Termination: Employer may terminate the worker for lawful job-related reasons and so notify the Job Service local office if the worker: a) refuses without justified cause to perform work for which the worker was recruited and hired, b) commit serious act(s) of misconduct or serious or repeated violation(s) of the assigned grower's work rules; the Employer may make and post work rules which shall apply to this employment; the worker shall abide by such rules (a copy of Work Rules is attached) c) fails after completing the training period to perform the work as specified in Item 11 and Attachment, or d) malingers or otherwise refused without justified cause to perform as directed the work for which the Worker was recruited and hired; e) provides other lawful job-related reason(s) for termination of employment f) abandons this employment; two consecutive scheduled working days of unexcused absence shall be an abandonment of employment; employees must notify the assigned Grower and secure permission for necessary absences g) falsifying identification, personnel, medical, production or other work related records h) fails or refuses to take random drug test for all employees i) commits acts of insubordination. Reason beyond employer's control" includes termination of workers, if he not a U.S. worker because a U.S. worker makes himself available for the job under DOL's 30 day rule. Workers must notify the employer prior to voluntarily terminating their employment. All wages due will be forwarded to the last known address for Workers that leave without providing notice. It is imperative that workers provide a complete and accurate address to the employer no later than the first day of employment. This employer has a no complete, no rehire policy. Termination for lawful job related reasons before the specified ending date listed in this application will disqualify the employee from future employment opportunities with this employer. Workers who abandon their employment without notice during the period covered by this work agreement will be disqualified from future employment opportunities with this employer. Voluntary resignation before the specified ending date listed in this application may disqualify the employee from future employment opportunities with this employer. For workers who resign their employment voluntarily, the employer will consider and evaluate special circumstances and hardship cases on a case-by-case basis. Employees, without exception, are required to notify appropriate supervisory staff prior to voluntarily terminating their employment to be considered and eligible for exemption to the no complete - no rehire policy.

B). The employer may discipline the worker, including requiring the worker to leave the field ("time out") for a period determined by the foreman, suspension from employment for up to three days, or termination of employment as described in termination (A) above.

C). Injuries: Worker will be covered by Worker's Compensation Insurance or equivalent employer provided insurance for injuries arising out of and in the course of employment. Employer's proof of insurance coverage will be provided to the Regional Administrator before certification is granted. All workers must report all injuries and illnesses to their employer. Failure not to do so may result in termination.

D). Employer Obligation if Employment Extended: No extension of employment beyond the Period of Employment specified in the job order shall relieve the Employer from paying the wages already earned, or if specified in the job order as a term of employment, providing return transportation or paying return transportation expenses to the Worker.

E). Employer Notification of Changes in Employment Terms and Conditions: Employers will expeditiously notify the order-holding local office or State agency by telephone immediately upon learning that a crop is maturing earlier or later, or that weather conditions, over recruitment, or other factors have changed the terms and conditions of employment. The terms of this Work Agreement thereafter may be changed upon posted notice to the Worker.

F). Outreach Workers: Outreach workers shall have reasonable access to the Worker in the conduct of outreach activities pursuant to 20 CFR 653.107 and 20 CFR 653.501.

G). Training: There will be a short demonstration period (up to 1 hr.) to familiarize workers with job specifications, to demonstrate proper methods and other crop specific issues. The employer will not provide separate formal orientation or training periods for each different crop or each different type of task or job assignment covered within the job description. After completion of the

training period the employer will expect all workers to possess the skills to work in the production of the crops noted in Item II. For purposes of this section seven or more hours will be considered one day.

H). Work Agreement: A copy of the contract or Job Clearance Order and work rules (copy attached) will be provided to the worker by the employer no later than on the day the work commences.

I). U.S. workers may or may not be covered by unemployment insurance and may or may not be eligible under current unemployment regulations

J). Employer agrees to abide by the regulations at 20 CFR 655.103, Assurances, and 20 CFR 653.501.

K). The employer as a part of positive recruitment as per 20 CFR 655.105(a) is willing, if and when any substantial number of applicants are available, to coordinate group transportation arrangements (to facilitate their purchase of bus tickets etc.), where appropriate, and to provide any additional information that workers need to coordinate their arrival.

L). The employer is an equal opportunity employer. Women and minorities are encouraged to apply for these jobs.

M). There are not any strikes, work stoppage, slowdowns or interruption of operations by employees at the place where the workers will be employed.

N). For workers covered by 29 CFR 500.075(8) there are not any arrangements made with establishment owners or agents for the payment of a commission or other benefits for sales made to the workers.

O). SUBSTANCE ABUSE POLICY: This employer will strive to provide a safe and healthful work environment, free of substance abuse, for the protection of our associates, employees and visitors. Employees are subject to random drug testing. The use, possession or being under the influence of illegal drugs or alcohol during working time is prohibited. (Alcohol may be permitted in the housing facility outside work hours.) Employees may also be requested to take random drug tests at no cost to the worker. Failure to comply with the request or testing positive will result in immediate termination.

P). Grievance and Arbitration Procedure: As required by Department of Labor regulations, all workers (foreign or domestic) have a right to file a grievance or complaint with the nearest local office of the New York Employment Security Commission, as described in 20 CFR 658, Subpart E (Job Service Complaint System). As an option, Schichtels Nursery Inc. , provides a grievance and arbitration procedure available to all workers (domestic and/or foreign) for the resolution of grievances involving Covered Rights arising out of employment under this clearance order. This procedure is established for workers, at no cost to the worker, to use for the resolution of complaints not made through an administrative process (such as through the Job Service Complaint System, the New York Employment Security Commission, the U.S. Department of Labor, the Equal Employment Opportunity Commission, etc.). Employees must agree to use this procedure as an alternative to filing suit in local, state or federal court as a condition of employment.

If a timely filed grievance under the Schichtels Nursery Inc. procedure involving a Covered Right is not resolved to the satisfaction of the worker and/or has not been referred to a government agency, the worker may request confidential, binding arbitration of the grievance as the worker's sole remedy. A Covered Right is defined as a violation of statutory or common law rights, such as discrimination, harassment, or retaliation based on race, sex, national origin, color, religion, age, or disability; wrongful termination or constructive discharge; workers' compensation retaliation, denial of medical leaves under any law, including the Family and Medical Leave Act; common-law torts based on negligence or intentional acts; breaches of contract; "right to work " violations; and disputes regarding pay, including claims under the Fair Labor Standards Act and any applicable state wage and hour law.

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

WORK RULES

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

1. Workers must perform their assigned work in a careful, workman-like manner in accordance with the provision of the work contract. Sloppy work will not be tolerated.

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

3. Excessive absences and/or tardiness will not be permitted. Employees are expected to be present, on time, able and willing to perform the assigned work every scheduled workday. This is not sporadic or "day work." Excessive absences are defined as: Two consecutive days of unexcused absences or three unexcused absences in a 30-day period. Violation will be **CAUSE FOR IMMEDIATE TERMINATION.** Workers must report at assigned time and place each workday as directed by the grower or supervisor. **WORKERS WILL BE DISCHARGED FOR EXCESSIVE TARDINESS**. Excessive tardiness is defined as 2 unexcused tardies in a row or 5 unexcused tardies in a period of thirty days.

4. Workers shall maintain and keep the living quarters provided to them in compliance with OSHA 1910.142 Standards as posted in the housing and in clean condition and in good repair, allowing for reasonable wear and tear. Workers shall cooperate with other workers assigned to such housing in maintaining common kitchen and living areas in good condition. Workers will be required to keep the exterior area surrounding the camp clean and clear of debris. Workers shall promptly report any problems with housing to the employer or designated supervisor.

5. Workers living in employer's housing assigned to bunk beds may not separate bunk beds, as floor space in sleeping rooms is needed by all occupants.

6. Workers living in employer's housing may not cook in sleeping rooms or any other non-kitchen areas. Workers are forbidden from removing batteries from smoke detectors for any reason. **VIOLATION WILL BE CAUSE FOR IMMEDIATE TERMINATION**.

7. Workers must not drop paper, cans, bottles and other trash in fields, packing house, or on housing premises. Trash and waste receptacles must be used.

8. Workers may not take unauthorized breaks from work.

9. Workers may not leave the field or other assigned work area without permission of farmer or person in charge.

10. Workers may not enter employer's premises without authorization.

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

REGLAS DE TRABAJO

Las reglas de trabajo siguientes son queridas para proporcionar la dirección a trabajadores en los estándares de conducta e interpretación esperada de ellos por el Patrón. La violación de estas reglas u otras exigencias de patrón relacionadas con el trabajo legales, incluso estas reglas de trabajo, será considerada tierras para disciplina o descarga inmediata. Las penas para infracciones pueden incluir la suspensión del trabajo sin la paga para el resto del día, o durante hasta tres días, en el único juicio del Patrón, según la seriedad de la infracción, el registro previo del trabajador, y otros factores relevantes. Las infracciones repetidas, serias, o agravadas pueden causar la descarga inmediata. Se espera que trabajadores cumplan con todas las reglas acerca de disciplina, asistencia, calidad de trabajo y cantidad, y el mantenimiento de toda la propiedad.

1. Los trabajadores deben realizar su trabajo adjudicado en una manera cuidadosa, parecida a un trabajador de acuerdo con la provisión del contrato de trabajo. El trabajo descuidado no será tolerado.

2. El uso o la posesión de bebidas alcohólicas o medicinas ilegales son estrictamente prohibidos durante el tiempo de trabajo o durante cualquier día laborable antes de que el trabajo sea completado para el día (como durante comidas); los trabajadores pueden no hacer un informe para el trabajo bajo la influencia de bebidas alcohólicas o medicinas ilegales. Las medicinas ilegales no pueden ser usadas o siguieron cualquier local de patrón, incluso el alojamiento en cualquier momento. El uso o la posesión de medicinas ilegales, fallando o rechazando tomar una prueba de medicina serán**la CAUSA PARA LA TERMINACIÓN INMEDIATA.**

3. Las ausencias excesivas y/o la tardanza no serán permitidas. Se espera que empleados estén presentes, a tiempo, capaces y complacientes a realizar el trabajo adjudicado cada previsto el día laborable. Este no es el "o trabajo de día esporádico." Las ausencias excesivas son definidas como: Dos días consecutivos de ausencias no perdonadas o tres ausencias no perdonadas en un período de un 30 día. La violación será **la CAUSA PARA LA TERMINACIÓN INMEDIATA.** Los trabajadores deben hacer un informe en tiempo adjudicado y lugar cada día laborable como dirigido por el cultivador o supervisor. **Los TRABAJADORES SERÁN DESCARGADOS PARA LA TARDANZA EXCESIVA.** La tardanza excesiva es definida cuando 2 no perdonó tardies en fila'o 5 no perdonó tardies en un período de treinta días.

4. Los trabajadores mantendrán y guardarán la residencia proporcionada a ellos conforme a OSHA 1910.142 Estándares como fijado en el alojamiento y en la condición limpia y en la reparación buena, tener en cuenta el desgaste razonable. Los trabajadores cooperarán con otros trabajadores adjudicados a tal alojamiento en el mantenimiento de cocina común y áreas vivas en buenas condiciones. Se requerirá que trabajadores guarden el área exterior que rodea el campo limpio y libre de escombros. Los trabajadores relatarán puntualmente cualquier problema con el alojamiento al patrón o supervisor designado.

5. Los trabajadores que viven en el alojamiento del patrón adjudicado a literas pueden no separar literas, cuando el espacio en cuartos durmientes es necesario por todos los inquilinos.

6. Los trabajadores que viven en el alojamiento del patrón pueden no cocinarse en cuartos durmientes o ninguna otra no cocina. Los trabajadores están prohibidos de quitar baterías de detectores de humo por cualquier razón.**La VIOLACIÓN SERÁ LA CAUSA PARA LA TERMINACIÓN INMEDIATA.**

7. Los trabajadores no deben dejar caer papel, latas, botellas y otra basura en campos, embalando la casa, o en el alojamiento del local. La basura y los receptáculos de desecho deben ser usados.

8. Los trabajadores pueden no tomar rupturas no autorizadas del trabajo.

9. Los trabajadores pueden no dejar el campo u otra área de trabajo adjudicada sin el permiso de agricultor o persona responsable.

10. Los trabajadores pueden no entrar en el local del patrón sin la autorización.

11. Los trabajadores pueden no comenzar el trabajo antes del tiempo inicial previsto o seguir trabajando después del tiempo parador a menos que no autorizado por el patrón.

12. Los trabajadores que viven en el alojamiento del patrón pueden no tener a invitados en el alojamiento del local después de las 22h30 excepto el sábado por la noche en el cual las horas de invitado se terminan a las 12h00. Ningunas personas, además de trabajadores adjudicados por el patrón a un cuarto, pueden dormir en cualquier cuarto.

13. Los trabajadores pueden no restringir deliberadamente la producción.