

JAN 26 2010



<p>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)                  DeBuck's Sod Farm of New York Inc. c/o ILMC, Labor Consultant                  120 DeBuck Drive 234 Cameron Ave./P.O. Box 630                  Pine Island NY 10969 Vass, NC 28394                  ph: (845) 258-4131 Ph:(910) 245-4808 Fx: (910) 245-3837</p>	<p>Industry Code / Código de Industria <u>111421</u> Job Order # / No. Orden de Empleo <u>N.Y.0931017</u>                  Occupational Title and Code / Título Ocupacional y Código <u>45-2092.01 Horticultural Worker; sod</u>                  Clearance Order Issue Date / Fecha de Tramite: <u>FEB 08 2010</u></p>
<p>2. Location and Direction to Work Site / Dirección del lugar de trabajo  <u>Owned/leased by employee</u>                  Glenwood Road                  Mission Land Road                  DeBuck Drive                  Pine Island in Orange County in the state of NY                  (see attachment / para más detalles vea <u>2</u>)</p>	<p>Job Order Expiration Date / Fecha de expiración: <u>4/08/10</u>                  6. Anticipated Period of Employment / Periodo Anticipado de Empleo                  From/Desde: <u>3/8/10</u> To/Hasta <u>12/12/10</u>                  7. No. of Worker's Requested / No. de Trabajadores Pedidos <u>6</u></p>
<p>3. Location and Description of Housing / Dirección y Descripción de la Vivienda                  Mobile Home                  120 DeBucks Dr., Pine Island NY 10969                  (see attachment / para más detalles vea <u>3</u>)</p>	<p>8. Anticipated Hours of Work per Week / Horas Anticipadas de Trabajo por Semena                  Total: <u>40</u>                  Sunday / Domingo <u>0</u> Wednesday / Miercoles <u>7</u>                  Monday / Lunes <u>7</u> Thursday / Jueves <u>7</u>                  Tuesday / Martes <u>7</u> Friday / Viernes <u>7</u>                  Saturday / Sabado <u>5</u>                  9. Collect Calls Accepted / Se Aceptan Llamadas a Cobrar:                  Employer / El Empleador Yes ___ No <u>X</u>                  Local Office / Oficina Local Yes ___ No <u>X</u></p>
<p>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 <u>4</u>)</p>	
<p>5. Referral Instructions / Instrucciones 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 <u>5</u>)</p>	
<p>10. Job Specifications / Descripción del Trabajo (Summary of Material Job Specifications in ENGLISH must be included inside this box)                  All applicants must have 1 months verifiable experience operating 60 HP sod harvester &amp; tractors. Sod: Perform various activities associated with growing grass and sod at a grass farm. These activities will be performed exclusively in an outdoor environment. Aid in soil preparation. This includes removing rocks, roots, limbs, stumps trees, and other debris from the fields and farm area. Will be sodding large areas, sow grass seed, plant plugs of sod grass, cuts, rolls and stacks sod in accordance with supervisor's instructions. Weed, hoe, and propagate. Water, fertilize, spray, monitor, trim, weed, cut, roll, stack, load, transport, and discard sod. Bag certified grass seed. Perform any other activities associated with growing grass and sod in a nursery. 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 products ranging in weight from 20 to 75 pounds. Workers are subject to random drug testing at employers expense. SEE ETA 790 ATTACHMENTS FOR FULL JOB DESCRIPTION                  (see attachment / para más detalles vea <u>10</u>)</p>	
<p>10a. Descripción del Trabajo (Summary of Material Job Specifications in SPANISH must be included inside this box)                  Todos los solicitantes deben tener experiencia comprobable 1 mes de funcionamiento 60 cosechadoras HP césped y tractores. Sod: realizar diversas actividades relacionadas con la hierba que crece y el césped en una granja de la hierba. Estas actividades se realizarán exclusivamente en un entorno al aire libre. La ayuda en la preparación del suelo. Esto incluye la eliminación de rocas, raíces, ramas, troncos de árboles y otros escombros de los campos y el área de explotación. Se tepes grandes áreas, sembrar semillas de césped, tapones de plantas de césped, cortes, y las pilas de rollos de tepes, de conformidad con las instrucciones del supervisor. De malezas, la azada y se propagan. De agua, fertilizar, spray, controlar, ajustar, maleza, corte, rollo, pila, carga, transporte, y deseche el césped. Semillas certificadas de la Bolsa de hierba. Realizar cualesquiera otras actividades relacionadas con la hierba crece y el césped en un vivero. Los trabajadores deben ser capaces de trabajar en temperaturas diferentes. Capaz de soportar, doblar, ya alcanzar, cortar y tirar las malas hierbas para todo el período de trabajo de cada día. Los empleados deben ser capaces de levantar con frecuencia los productos que van en peso 20 a 75 libras. Los trabajadores son sometidos a pruebas de drogas al azar a los empleadores de gastos. VER ADJUNTO ETA 790 S PARA EL PLENO EMPLEO DESCRIPCIÓN                  (see attachment / para más detalles vea <u>10</u>)</p>	

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

Crop Activities / Cultivos	Hourly Wage Salario por Hora	Piece Rate / Unit(s) Pago por Pieza/Unidad(es)	Special Pay (bonus, etc.) Pagos Especiales (Bono, etc.)	Deductions / Deducciones	YES	NO	Pay Period Periodo de Pago
Sod Labor	\$ 9.82	\$		FICA	*X		Weekly /
	\$	\$		Federal Tax	*X		Semi-annual <u>X</u>
	\$	\$		State Tax	*X		Bi-Weekly /
	\$	\$		Meals (comidas)		X	cada 2 sem. _____
	\$	\$		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 applicable) and Federal Income tax as required by law. \*FICA, State (if applicable) 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 satisfactory 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.  
 (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 pagarte a los trabajadores en esta/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   

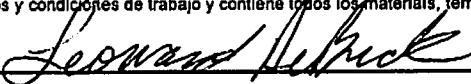
16. Are tools provided at no charge to the workers? / ¿Se le proveen las herramientas de trabajo a los trabajadores sin cargo alguno? Yes X No   

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)  
 N°     
 P. New York State Department of Labor  
 86 One Stop Office nearest to you  
 G   

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. Certificación del Empleador: Esta orden de trabajo describe los términos y condiciones de trabajo y contiene todos los materiales, terminus, y condiciones ofrecidos.  
 Employer's Signature & Title / Firma y Título del Empleador  
 President

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 aceptada o reclutada por el Servicio de Empleos constituye 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, searching 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. Employers Name and Address: DeBuck's Sod Farm of New York Inc.; 120 DeBuck Dr. Pine Island NY 10969.
2. Worksite locations: Glenwood Rd., (Just off of Pine Island Turnpike), DeBuck Dr. and Mission Land Rd., (both off of Co Rd 88/Liberty Corners Rd.) Pine Island NY.
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 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 employer between the hours of 9:00 am – 3:00 pm (Eastern Standard Time) Monday – Thursday and 9:00 am – 11:00 am on Fridays. All interstate (out of state) applicants may apply at any State Workforce Agency (SWA) office or by contacting Leonard DeBuck at 845-258-4131, 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 for 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. Workers should be fully apprised by the local employment office of the terms, conditions and nature of employment prior to referral. 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: 3/8/2010 until 12/12/2010.
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:** All workers must have 1 months verifiable experience operating 60 HP sod harvester and tractors.

A) **Tools and Equipment:** The employer will furnish, without charge, all tools, supplies, and equipment required in the performance of the specified work. Workers will be charged for any willful damage or loss of such tools and equipment.

B) **Sod:** Perform various activities associated with growing grass and sod at a grass farm. These activities will be performed exclusively in an outdoor environment. Aid in soil preparation. This includes removing rocks, roots, limbs, stumps trees, and other debris from the fields and farm area. Will be sodding large areas, sow grass seed, plant plugs of sod grass, cuts, rolls and stacks sod in accordance with supervisor's instructions. Weed, hoe, and propagate. Water, fertilize, spray, monitor, trim, weed, cut, roll, stack, load, transport, and discard sod. Bag certified grass seed. Perform any other activities associated with growing grass and sod in a nursery. Workers will load and unload empty pallets by hand.

**Farm Equipment Operation During Field Operations:** This includes tractors, forklifts, mowing equipment, weed-eaters, Bobcats, ect. Workers will be required to operate tractors and other farm equipment during field operations as an incidental activity for planting, cultivating, harvesting and support jobs of the crops. Operate mowing equipment (rotary and reel types, push and riding) or drive a tractor pulling a wagon through the field or between fields. Tractors will drag, tow, lift sod specific equipment through the fields. Workers will work with sod planting and harvesting equipment. Before any worker is required to operate any farm equipment, the worker will be instructed in the proper and safe operation of tractor. Workers will be required to operate all farm equipment according to instructions and in a manner that protects the operator, other workers, crops and equipment. Repeated failure to obey operating and safety instructions may result in termination.

**Trucks:** Workers will be required to drive field trucks in and around farm to accomplish tasks in a supportive role to tractors and equipment. This sometimes requires them to transport on non-private streets and highways.

**Irrigation:** Workers will be required to use both center pivot and traveling gun irrigation systems, diesel and electric irrigation pumps. Bagging of sand with shovels will be required and cleaning of debris from dams and suction lines.

**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 35 degrees F. Workers will work on their feet in bent, stooped, and crouched positions for long periods of time. Workers must be able to bend, stretch, twist, or reach out with the body, arms, and/or legs. Workers will use muscles to lift, push, pull, or carry heavy objects. These could/will weigh from 50 - 75 lbs. Workers will supply their own work clothes. 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 the farming operation, such as performing hand cultivation tasks, weeding or hoeing, cleaning and repairing farm buildings and fences, working in corn, sunflowers, wheat, and hay, seed beds, racks, grounds, operate tractor/farm equipment incidental crop set up and move irrigation pipes and equipment, gardening, weeding and shrubbing, etc.

**Farm, Field Sanitation:** All workers will be responsible for picking up trash, cleaning bathrooms, sweeping floors and other farm and field sanitation duties.

**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.

All work will be paid the adverse effect wage rate (AEWR) of \$9.82 per hour. In the event DOL promulgates a new AEWR during the recruitment or work contract period, which is lower than the current AEWR at the time of application, this lower AEWR becomes the guarantee at the discretion of the employer. In the event the AEWR is eliminated from the H-2A program during the life of this work agreement, either administratively or legislatively, the employer reserves the right to pay the new wage rate under the new guidelines as soon as it becomes effective.

A). The employer will make the following deductions from the Worker's wages: FICA taxes, State (if applicable) and 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 \$9.82 per hour 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 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.

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.

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 checks through the grower via US mail. 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 50% 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. These employers have 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 655.105, Assurances, and 20 CFR 653.501.

K). The employer as a part of positive recruitment as per 20 CFR 655.102(d)(1-4) 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.) We are an equal opportunity employer. Women and minorities are encouraged to apply to these positions.

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. All applicants will be required to pass a pre-employment drug test. 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, DeBuck's Sod Farm of New York 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 DeBuck's Sod Farm of New York 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 requerira que trabajadores guarden en: 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 necesano 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.