

**Agricultural and Food Processing Clearance Order**  
**Pedido de Empleados para Agricultura y Procesamiento 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) Wertman Farms (Join Order w/ A. Charles Brizzell) 311 Pinewood Rd. Melrose, N.Y. 12121 518-235-9546		Industry Code / Código de Industria 11219	Job Order # / No. Orden de Empleo NY 0931106	Occupational Title and Code / Título Ocupacional y Código Farmworker/ Laborer / SOC 45-2092.02	Clearance Order Issue Date / Fecha de Tramite: JAN 29 2010		
2. Location and Direction to Work Site / Dirección del lugar de trabajo 311 Pinewood Rd., Melrose N.Y.: RL41 North, Left onto Pinewood Rd. 22 Gutbrodt Rd., Melrose N.Y.: RL 41 North, Left onto Pinewood Rd., right onto Gutbrodt Rd.  (see attachment / para más detalles vea N/A)		Job Order Expiration Date / Fecha de expiración: 4/14/10	6. Anticipated Period of Employment / Período Anticipado de Empleo From/ Desde: 3/15/10 To/ Hasta: 11/24/10				
3. Location and Description of Housing / Dirección y Descripción de la Vivienda 311 Pinewood Rd., Melrose, N.Y.: Mobile Home w/ all facilities. 22 Gutbrodt Rd., Melrose, N.Y.: House w/ all facilities.  (see attachment / para más detalles vea #7)		7. No. of Worker's Requested / No. de Trabajadores Pedidos 7	8. Anticipated Hours of Work per Week / Horas Anticipadas de Trabajo por Semana Total: 40 Sunday / Domingo 0 Wednesday / Miércoles 7 Monday / Lunes 7 Thursday / Jueves 7 Tuesday / Martes 7 Friday / Viernes 7 Saturday / Sabado 5 9. Collect Calls Accepted/Se Aceptan Llamadas a Cobrar. Employer / El Empleador Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Local Office/Oficina Local Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>				
4. Board Arrangements / Arreglo de Alojamiento Must buy and prepare own food.  (see attachment / para más detalles vea #4)							
5. Referral Instructions / Instrucciones para el Referimiento de Candidatos Apply directly with employer or at your closest One Stop Office.  (see attachment / para más detalles vea #5 & #6)							
10. Job Specifications / Descripción del Trabajo [Summary of Material Job Specifications in ENGLISH must be included inside this box] Manually plant and cultivate field and greenhouse crops. Harvest berries and vegetables by hand. Use hand tools, such as shovels, trowels, hoes, tampers, pruning hooks, shears, and knives. Duties may include tilling soil and applying fertilizers and pesticides to crops; and transplanting, weeding, thinning, or pruning crops. May construct trellises and repair fences and farm buildings. Dig and trench irrigation ditches and lift, haul, set up and operate irrigation equipment. Operate tractors, tractor-drawn machinery, and self-propelled machinery to plow, harrow and fertilize soil, or to plant, cultivate, spray, harvest and haul crops from the field. Repair and maintain farm vehicles, implements, and mechanical equipment. Must be able to bend and stoop and stand on feet for long periods of time. Must be able to lift up to 70lbs. Will work in all kinds of weather. Workers subject to random drug testing at employers expense.  (see attachment / para más detalles vea #1)							
10 a. Descripción del Trabajo / Job Specifications [Summary of Material Job Specifications in SPANISH must be included inside this box] Manual de campo y cultivar plantas y los cultivos de invernadero. Cosecha de frutos y hortalizas a mano. Use herramientas de mano, como palas, paletas, azadas, pisones, podaderas, tijeras y cuchillos. Las tareas pueden incluir la labranza del suelo y la aplicación de fertilizantes y pesticidas a los cultivos, y trasplantar, a escardar, adelgazamiento, o los cultivos de la poda. Puede construir enrejados y cercas de reparación y edificios de la granja. Cavar trincheras y zanjas de riego y levantar, transportar, instalar y operar equipos de riego. Operar tractores, tractores de tracción a las máquinas y las máquinas automotrices con arado, rastra y fertilizar el suelo, o para plantar, cultivar, pulverización, cosecha y los cultivos de distancia desde el campo. Reparación y mantenimiento de vehículos de granja, implementos y equipos mecánicos. Debe ser capaz de doblarse y agacharse y ponerse en pie durante largos períodos de tiempo. Debe ser capaz de levantar hasta 70 libras. Funcionará en todo tipo de clima. Los trabajadores sometidos a pruebas de drogas al azar a los empleadores de gastos.  (see attachment / para más detalles vea #1)							
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, ect.)	Deductions / Deducciones	YES SI	NO	Pay Period Periodo de Pago
Gen. Farmwork	\$ 8.87	\$ n/a	none	Social	x		Weekly / Semanal
Harvest	\$ 8.87	\$ n/a	none	Federal Tax Impuestos Federales	x		Bi-weekly / cada 2 sem.
Weed	\$ 8.87	\$ n/a	none	State Tax Impuestos Estatales	x		
	\$	\$		Meals (comidas)		x	
	\$	\$		Other (specify)/ Otro		x	Other / Otro
More Details About the Pay / Más Detalles Sobre el Pago N/A  (see attachment / para más detalles vea N/A)							
12. Transportation Arrangements / Arreglos de Transportación (Please explain) See attached.  (see attachment / para más detalles vea #5 & #6)							
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/Si <input type="checkbox"/> 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 al Contratista Agricola para cada actividad?							
14. Unemployment insurance provided / Seguro por Desempleo:		Yes x No					
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 todas las ventas hechas a los trabajadores. (Si no hay ningún acuerdo o convenio, indique "Ninguno")	acuerdo o convenio con los propietarios del establecimiento o sus representantes con respecto al pago de una comisión u otros beneficios por
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	

on de la Oficina donde	er) / Nombre
New York State Department of Labor One Stop Office nearest to you	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, términos, y condiciones ofrecidos. Employer's Signature & Title/ Firma y Título del Empleador	
x <u>Richard Westman - owner</u>	

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 truthfulness 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 80 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 control 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, D.C. 20210 (Paperwork Reduction Project 1205-0134).

To: US DOL ETA  
Office of Foreign Labor Certification  
Chicago National Processing Center  
536 South Clark Street  
Chicago, IL 60605-1509

**JOINT ORDER STATEMENT:**

Wertman Farms and A.Charles Brizzell have agreed to act as joint employers for the attached Farmworker and Laborers, Crop (45-2092.02), H2A clearance order.

Signed in agreement,

Employer's Signature: Richard Wertman  
Employer's Name (print): Richard Wertman  
Farm Name: Wertman FARMS  
FEIN: 14-1762424  
Date: Dec. 15, 09

Employer's Signature: Andrew C Brizzell  
Employer's Name (print): Andrew C Brizzell  
Farm Name: A. Charles Brizzell  
FEIN: 14-1716819  
Date: 12/15/2009

**ATTACHMENT TO ETA 790**

Workers recruited under this Job Order are recruited to work on the employer's farm shown on the addendum in the certified occupation during the period of employment shown in Item 5. 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(s): Wertman Farms; 311 Pinewood Rd., Melrose NY, 12121  
A. Charles Brizzell; 22 Gutbrodt Rd., Melrose NY, 12121

2. Housing and kitchen facilities will be provided at no cost to workers who are not reasonably able to return to their place of residence the same day. The following section describing the terms and conditions of housing apply only to such workers. Workers may be required to change housing accommodation during the period of employment as the demands of the work dictate. Housing is neither provided nor available to non-workers. Specific housing accommodation assignments will be made to workers by the employer.

Employers will furnish free cooking and kitchen facilities to those workers who are entailed 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.

Workers who reside in such housing agree to be responsible for maintaining the housing in a neat and clean manner. At the time of occupancy, housing shall be in compliance with 1910.142 OSHA Housing Standards. Workers residing in the employer provided housing agree to be responsible for maintaining the housing in a neat and clean manner and in compliance with OSHA standards as posted in the housing units at all times. Occupants must report any problem with the housing to the employer or farm supervisor immediately.

Housing provided will be shared without regard to the gender of the workers. In housing facilities occupied by both male' and female workers, sex-segregated toilet facilities will be provided by the employer. Housing includes free kitchen facilities. The kitchen and other common areas will be shared. No tenancy in such housing is created; and employer, who is legally liable for the compliance of the housing, retains possession and control of the housing premises at all times, and worker, if provided housing under the terms of this work agreement, shall vacate the housing promptly upon termination of employment with the assigned employer who provides such housing.

Workers residing in employer's housing may have mail directed to them at the employer's address on the 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 .

3. All applicants must first contact the order holding office for permission to refer prior to contacting employers. For interstate (out of state) state employment service agency staff is encouraged to can 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 SESA staff guarantees proper disclosure of the terms and conditions and protects the integrity of the interview process. Workers should be fully appraised by the local employment office of the terms, conditions and nature of employment prior to referral. This will enable applicants to review all the information and make an informed decision about the job and will ensure compliance with disclosure requirements and enable local staff to conduct the telephone interview quickly. Only workers legally entitled to work in the United States and who possess' original identity and employment eligibility documents sufficient to complete INS Form 1-9, 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. 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 1-9, 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 1-9, workers will have three business days to produce the required documentation to complete section 3 of form 1-9, 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."

4. *Anticipated period of Employment: 3/15/10\_\_ until \_\_11/24/10\_\_.*

5. 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.

6. *Anticipated Hours of Work:* Workers will report to work at the designated time and place as directed by the Grower each day. The standard work week of 7 hours per day Monday through Friday and 5 hours on Saturday is normal. Workers may be requested to work up to 10 hours per day, or more, depending upon the conditions in the fields and maturity of the crops, but will not be required to work more than 7 hours on Monday through Friday and 5 hours on Saturday. Workers may be offered 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.

7. *Job Specifications:*

Sanitation Requirements: For food and general personal safety purposes, all workers will be required and expected to follow common sanitary practices at all times. This is particularly critical when hand harvesting crops for human consumption. Employees are required to cleanse their hands by washing them thoroughly with soap and water after using the bathroom and before entering the fields for harvest activities or the packing facility for packing operations. There will be no smoking in the fields or packing house.

Sweet Corn, Tomatoes, Lettuce, Greens, Asparagus, Peppers, Cucumbers, Eggplant, Peas, Raspberries, Green Beans, Strawberries, Blueberries, Apples, and Squash: Workers will bend and stoop to pick vegetables according to size, color, shape and degree of maturity and place into field containers. Workers may carry full container weighing approximately forty (40) lbs. and empty into field bin or load onto trailer. May be required to pull and discard culls as directed by supervisor. Pickers will take care not to bruise or scar produce. Workers will stand on feet for long periods of time. Workers are required to work in fields when plants are wet with dew or rain. Temperatures in fields during working hours can range from forty (40) to over one hundred (100) degrees;

Pumpkins and Melons: Workers will walk along rows and cut melons according to size, color, shape and degree of maturity using a knife. May carry to trailer or window. Other conditions, same as above. The pay rate for pumpkins is hourly paid.

Minor Crops: This employer may grow one or more other crops. Farmers frequently decide whether to plant these crops and what additional crops they will plant after this application is submitted. Information on crops planted after submission of this application will be disclosed in writing to the U.S. Department of Labor for approval as soon as it is known.

Tractor Operation During Field Operations: During harvesting workers will be required to drive a tractor pulling a wagon through the field or between fields incidental to the job being performed. Workers will drive tractors to apply herbicides, fungicides, and pesticides to control diseases, growth and insects. Workers will be instructed in the safety and operation of the tractor before driving the tractor. 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:** Field work 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 position for long periods of time. 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 farming the crops listed in the application, such as performing hand cultivation tasks, weeding or hoeing, cleaning and repairing farm buildings, seed beds, racks, grounds, working in evergreens, operate tractor, farm equipment incidental crop set up and move irrigation pipes and equipment, gardening, weeding and shrubbing, etc. All other duties assigned under this order will be those duties of Farmworker, Vegetable Crops, DOT Code 402.687-010. This is a very demanding and competitive business in which quality specifications must be rigorously adhered to. Sloppy work cannot and will not be tolerated.

Work specifications, 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 days work .

**Instructions and general supervision** will be provided by the farm owner/supervisor or a designated employee. However, workers will be expected to perform their duties in a timely and proficient manner without close supervision.

**Full Growing Season Commitment:** The job offered requires that the worker be available for work seven hours per day Monday through Friday and five hours on Saturday every day that work is available for the full period of employment shown in Item 5, even though work may be slack for brief periods at any point during the season. The worker agrees to be available for work and perform the assigned work for the employer whenever work is available through the full period of employment shown in Item 5. Work available is defined as, no work required on the worker Sabbath or federal holidays, but work is required seven hours per day Monday-Friday, and five hours on Saturday.

**Job Abandonment:** The worker understands that if he abandons his employment or is terminated for cause prior to the end of the period of employment shown in Item 5 he will forfeit the 3/4 guarantee and reimbursement of certain transportation costs described elsewhere in this job order. Excessive absences and/or tardiness, as defined in the Work Rules attached hereto, cannot be tolerated and may 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 manager 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.

**Employers will provide tools and equipment at no cost for workers to perform the above tasks.**

**Instructions and Training:** When beginning a crop activity for the first time, the employer will provide instructions and/or training in the proper way to perform the crop activity. Thereafter the worker will be expected to perform the task with diligence as instructed. By the beginning of the second working day (7 hours of work completed), the employer will expect a worker engaged in a piece rate paid activity to sustain a level of productivity sufficient to earn at least the minimum hourly wage specified in Section 5 of the Fair Labor Standards Act. Workers in all activities will be expected to keep up with fellow workers, not to adversely affect the productivity of the others workers, and to perform the work in a manner specified by the employer and described herein. After the one-day (7 hour) training and acclimation period, workers who fail to meet this standard and/or who fail to perform the work in the manner specified may be terminated.

**Pesticide Training:** The employer is certified in the use and application of pesticides per Federal Environmental Protection Agency and State Department of Environmental Conservation requirements. The employer assures that workers hired under this order who will be handling pesticides will be provided appropriate training.

**Wage Rates, Special Pay Information and Deductions:** All work will be paid the adverse effect wage rate of \$8.87 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-ZA 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 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 period during which the work contract and all amendments thereto are in effect, beginning with the first workday after the workers' arrival at the assigned employers place of employment and the worker is ready, willing, able, and eligible to work and ending on the expiration date specified in the work contract or any extensions thereof or upon the termination of this employment as provided in paragraph C below. For purposes of this guarantee, a "workday" consists of seven hours daily Monday through-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, (con't)

the fourth Thursday in November; and Christmas Day, December 25. On certain of these days, work may be available. If, at the conclusion of the work agreement, the worker has been offered less employment than required under this guarantee, the employer will pay the worker, at the worker's average hourly rate for the hours actually worked by the worker, for those hours in addition to the hours of work offered, required to fulfill the guarantee. In determining whether this guarantee of employment has been fulfilled, the employer will count as hours of work offered all hours actually worked. 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 50 percent of the contract period.

C. The work contract 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 the worker to other comparable employment acceptance to the worker. If such transfer is not effective, the workers will be returned at Employer's expense to the place from which Worker, without intervening employment, came to work for the employer. In the event of such termination, the guarantee described in paragraph B ends on the date of termination.

D. The payroll period shall be ~~Tues-Tues~~. Workers will be paid Friday.

E. Employers shall provide a US worker referred through the Agricultural Recruitment System forty (40) hours of work for the week beginning with the anticipated date of need, specified in item S unless employers has amended the date of need by notifying the local SESA 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 \$8.87 per hour (AEWR) for the first week, starting with the original anticipated date of need. The employer may require the worker to perform alternative work (general farm labor and maintenance activities) 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 farm labor and farm maintenance activities and may include, but is not limited to, cleaning and maintaining migrant housing, pulling and chopping weeds, cutting ditch banks and hedge rows, cutting tire wood for migrant camps, fence mending and the repair and maintenance of farm 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 and/or piece rate in accordance with the guarantee described in paragraph B. (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; if piece rates are used, the units produced daily; the worker's net pay; the employer's name, address and IRS identification number.

**Transportation:** The Employer will offer transportation to and from the daily work site to workers living in employers' housing at no cost to workers. The use of this daily transportation is voluntary; no worker is required as a condition of employment to utilize the daily transportation to the worksite offered by the employer. Workers are free to choose their own means of transportation at their own expense.

The following paragraphs pertain only to workers who are not reasonably able to return to their place of residence the same day.

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

The Employer will reimburse workers who complete 50 percent of the work contract period and who are not reasonably able to return the same day to their place of residence for the reasonable cost of transportation and subsistence from the place of recruitment to the place of employment. The amount of the reimbursement for transportation cost will be the worker's actual transportation cost from the place of recruitment to the place of employment, not to exceed the most economical and reasonable common carrier transportation cost for the distance involved. 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 workers who complete the work contract, the Employer will provide or pay for the worker's reasonable cost 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. 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 to the place of recruitment. 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. Workers may be required to complete an exit interview to complete their contract and receive their return transportation and subsistence. The Employer reserves the right to arrange charter or other return transportation.

The employer will not reimburse, pay for or provide any transportation and subsistence to a worker who does not provide documentation of identity and employment eligibility required to complete INS Form 1-9, 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 US worker under the 50 percent rule in 20 CFR 655.103(e).

Daily subsistence reimbursement will be paid in accordance with regulations at 20CFR 655.1 02(b)(5) to workers who are eligible for reimbursement of transportation costs. Subsistence reimbursement shall be limited to \$9.90 per, day (as required and published in the Federal Register) for workers who do not produce documentation of actual expenses.

**Other Conditions of Employment:**

A. Termination: Employer may terminate the worker for lawful job-related reasons and so notify the Job Service local office as required by law if the worker: a) refuses without justified cause to perform work for which the worker was recruited and hired, b) commits serious act(s) of misconduct or serious or repeated violation(s) of Work Rules attached hereto. c) fails after completing the training period to perform the work as specified in Item 11 and Attachment, d) malingers or otherwise refuses 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 their employer and secure permission for necessary absences; g) fails to meet production standard as specified, h) falsifies identification, personnel, medical, production or other work related records. i) fails or refuses to take a drug test, or j) commits acts of insubordination.

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. 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 paragraph (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. Workers must report all injuries and illnesses to their employer as soon as is reasonably possible. Failure 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 and approval of the ETA Regional Administrator.

F. Outreach Workers: Outreach workers shall have reasonable access to the Worker in the conduct of outreach activities pursuant to 20 CFR 653.1 07 and 20 CFR 653.501.

G. Training: There will be a training/demonstration and acclimation period (7 hours) to familiarize workers with job specifications and to demonstrate proper harvest methods and other crop specific issues such as, but not limited to, the proper size and color of the commodity to be harvested and particular grading specifications. After completion of the demonstration period, the employer will expect all workers to meet production standards which equal to the minimum wage specified in Section 6 of the Fair Labor Standards Act, keep up with fellow workers, not adversely affect other workers productivity, and possess the skills to work in the production of the crops described in Item 11. After the training period, workers who fail to meet applicable production standards for the pay period may be terminated.

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. Workers referred through the Interstate Clearance System for employment under this agreement may be covered by unemployment insurance. Whether such employment constitutes covered employment for benefit eligibility purposes will be determined by unemployment insurance regulations in effect at the time a claim is filed.

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

K. If a sufficient number of US workers are available at the same time and place to come to work for the Employer as part of its positive recruitment pursuant to 20 CFR 655105(a), will coordinate group in-bound transportation arrangements (such as arranging for group purchase of bus tickets, charter bus service, or other arrangements or assistance, as appropriate). Workers will be responsible for paying the cost of such transportation pursuant to Item 17 of this Job Order.

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

M. There are no strikes, work stoppage, slowdowns or interruption of operations by employees at the place where the workers will be employed.

N. For US workers subject to the Migrant Seasonal Agricultural Worker Protection Act there are no arrangements made with establishment owners or agents for the payment of a commission or other benefits for sales made to US 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 members and their employees and visitors. The use or 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 be requested to take random drug or alcohol tests at no cost to the worker. Failure to comply with the request or testing positive may result in immediate termination.

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

1. Workers must perform their assigned work in a careful, workmanlike 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 is 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, packinghouse, 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.
12. Workers living in employer's housing may have guests on housing premises so long as there is no behavior hurtful to others. No persons, other than workers assigned by employer to a room, may sleep in any room.
13. Workers may not deliberately restrict production.

**WORK RULES CONTINUED...**

14. Any worker who verbally or physically threatens another worker, the farmer or any supervisor with any tool or weapon WILL BE SUBJECT TO IMMEDIATE DISCHARGE.
15. WORKERS WILL BE DISCHARGED for fighting on the employer's premises, including housing premises, at any time.
16. Workers may not post or remove any notices, signs, or other instructions from the employer's bulletin boards or the employer's property without specific authority from the employer.
17. WORKERS WILL BE DISCHARGED if they steal from fellow workers or from the employer.
18. Workers may not falsify identification, personnel, medical, production or other work-related records. VIOLATORS WILL BE SUBJECT TO IMMEDIATE DISCHARGE.
19. Workers may not willfully abuse or destroy any machinery, truck or other vehicle, equipment, tools or other property belonging to the employer or to other employees. VIOLATORS WILL BE SUBJECT TO DISCHARGE IMMEDIATELY.
20. Workers may not use or operate trucks or other vehicles, machines, tools or other equipment and property to which the worker has not been specifically assigned by his supervisor. Workers may not use or operate trucks or other vehicles, tools or other equipment or property for their personal use unless expressly authorized by the employer.
21. Workers may not misuse or remove from the farm premises without authorization from his supervisor any employer property such as trucks and other vehicles, beds, refrigerators, tools, etc. VIOLATORS WILL BE SUBJECT TO DISCHARGE IMMEDIATELY.
22. Workers must obey all safety rules and common safety practices and must report any injuries or accidents to their supervisor or the employer's as soon as is reasonably possible. UNSAFE WORK BEHAVIOR MAY SUBJECT THE VIOLATOR TO DISCHARGE.
23. Workers must follow supervisor's instructions.
24. Workers may not commit acts of insubordination - failure to regard authority.
25. After the training period, workers are expected to possess the skills necessary to perform the job described in the work agreement and to the standard set by the employer.
26. Workers may not interrupt other workers rest/sleep period by excessive noise or commotion. Workers must not play loud music after 9:00 PM on work nights or after 12:00 PM on Saturday night.
27. Workers will not knowingly engage in any type of behavior or take any action that might cause the grower to be out of compliance with any local, state, or federal law.