

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

U.S. Department of Labor  
**Employment and Training Administration**  
 OMB Approval No. 1205-0134, Expires 11/30/2012

<p>1. Employer's Name and Address (Number, Street, City, State, Zip Code, and telephone number)/ Nombre y Dirección del Empleador (Numero, calle, ciudad, código postal y teléfono)</p> <p>Dean Brightly Farms (585) 729-7953 c/o ILMC                  1769 Redman Road 234 Cameron Ave/PO Box 630                  Hamlin, NY 14464 Vass, NC 28394                  910-245-4808</p>		<p>Numbers 4, 5, 6, 7 and 8 for State use only.</p>																																																									
<p>2. Location and Direction to Work Site/Dirección del lugar de trabajo</p> <p>1769 Redman Road, Hamlin, NY                  Monroe County                  1.8 miles off of Roosevelt Hwy                  2.4 miles from Church Road                  (If additional space is needed, use separate sheet of paper)</p>		<p>4. Industry Code/Código de Industria</p> <p style="font-size: 1.5em;">1119</p>	<p>5. Job Order #/No. Orden de Empleo</p> <p style="font-size: 1.5em;">N.Y. 0946708</p>																																																								
<p>3. Location and Description of Housing / Dirección y Descripción de la Vivienda</p> <p>Wood Frame                  Capacity: 10                    2923 Redman Road, Clarkson, NY</p>		<p>6. Occupational Title and Code / Título Ocupacional y Código</p> <p style="font-size: 1.5em;">Farm workers Laborers 45-209202</p>																																																									
<p>(If additional space is needed, use separate sheet of paper). / Si necesita más espacio, utilice documento adicional.)</p>		<p>7. Clearance Order Issue Date / Fecha de Tramite</p> <p style="color: red; font-weight: bold; font-size: 1.2em;">JUN 29 2010</p>	<p>8. Job Order Expiration Date / Fecha de vencimiento</p> <p style="font-size: 1.5em;">10/07/2010</p>																																																								
<p>13. Board Arrangements / Arreglo de Alojamiento</p> <p>Housing is provided at no cost to workers who are not reasonably able to return...SEE ETA 790 ATTACHMENTS FOR FULL ARRANGEMENTS</p>		<p>9. Anticipated Period of Employment / Periodo Anticipado de Empleo</p> <p>From/ Desde: To/Hasta:                  8/23/10 - 11/30/10</p>																																																									
<p>14. Referral Instructions / Instrucciones para el Referimiento de Candidatos</p> <p>Applicants may apply at any State Workforce Agency (SWA) office or by contacting employer, in accordance with the referral instructions...SEE ETA 790 ATTACHMENTS FOR FULL INSTRUCTIONS.</p>		<p>10. No. of Worker's Requested / No. de Trabajadores Pedidos</p> <p style="text-align: center; font-size: 1.5em;">8</p>																																																									
<p>15. Job Specifications / Descripción del Trabajo</p> <p>Tools and Equipment: The employer will furnish, without charge, all tools, supplies, and equipment required in the performance of the specified work...SEE ETA 790 ATTACHMENTS FOR FULL DESCRIPTION (If more space is needed, summary of Material Job Specifications in ENGLISH can be included in separate document, and may also be included in SPANISH)</p>		<p>11. Anticipated Hours of Work per Week/Horas Anticipadas de Trabajo por Semana. Total: 40</p> <p>Sunday / Domingo 0 Monday / Lunes 7                  Tuesday / Martes 7 Wednesday / Miércoles 7                  Thursday / Jueves 7 Friday / Viernes 7                  Saturday / Sábado 5</p>																																																									
<p>16. Wage Rates, Special Pay Information and Deductions / Tarifa de Pago, Información Sobre Pagos Especiales y Deducciones (Rebajas)</p> <table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:15%;">Crop Activities / Cultivos</th> <th style="width:15%;">Hourly Wage</th> <th style="width:15%;">Piece Rate / Unit(s)</th> <th style="width:15%;">Special Pay (bonus, etc.)</th> <th style="width:15%;">Deductions /</th> <th style="width:5%;">YES / SI</th> <th style="width:5%;">NO</th> <th style="width:15%;">Pay Period</th> </tr> <tr> <td></td> <td>Salario por Hora</td> <td>Pago por Pieza / Unidad(es)</td> <td>Pagos Especiales (Bono, etc.)</td> <td>Deducciones</td> <td></td> <td></td> <td>Periodo de Pago</td> </tr> </thead> <tbody> <tr> <td>Cabbage</td> <td>\$ 10.16</td> <td>\$ see attach</td> <td></td> <td>Social Security / Seguro Social</td> <td>*X</td> <td></td> <td>Weekly / Semanal XX</td> </tr> <tr> <td>Squash</td> <td>\$ 10.16</td> <td>\$ see attach</td> <td></td> <td>Federal Tax Impuestos Federales</td> <td>*X</td> <td></td> <td></td> </tr> <tr> <td>Apples</td> <td>\$ 10.16</td> <td>\$ see attach</td> <td></td> <td>State Tax Impuestos Estatales</td> <td>**X</td> <td></td> <td>Bi-weekly / cada 2 semanas</td> </tr> <tr> <td>Cucumbers</td> <td>\$ 10.16</td> <td>\$ see attach</td> <td></td> <td>Meals / Comidas</td> <td></td> <td>X</td> <td></td> </tr> <tr> <td>Pumpkins</td> <td>\$ 10.16</td> <td>\$</td> <td></td> <td>Other (specify)/ Otro</td> <td>X</td> <td></td> <td>Other / Otro</td> </tr> </tbody> </table>		Crop Activities / Cultivos	Hourly Wage	Piece Rate / Unit(s)	Special Pay (bonus, etc.)	Deductions /	YES / SI	NO	Pay Period		Salario por Hora	Pago por Pieza / Unidad(es)	Pagos Especiales (Bono, etc.)	Deducciones			Periodo de Pago	Cabbage	\$ 10.16	\$ see attach		Social Security / Seguro Social	*X		Weekly / Semanal XX	Squash	\$ 10.16	\$ see attach		Federal Tax Impuestos Federales	*X			Apples	\$ 10.16	\$ see attach		State Tax Impuestos Estatales	**X		Bi-weekly / cada 2 semanas	Cucumbers	\$ 10.16	\$ see attach		Meals / Comidas		X		Pumpkins	\$ 10.16	\$		Other (specify)/ Otro	X		Other / Otro	<p>12. Collect Calls Accepted from/Se Aceptan Llamadas a Cobrar de:</p> <p>Employer / El Empleador Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>                  Local Office / La Oficina Local Yes <input type="checkbox"/> No <input checked="" type="checkbox"/></p>	
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\*Excludes workers working under a temporary agricultural visa  
 Employer will deduct all applicable taxes and items worker has voluntarily purchased. SEE ETA 790 ATTACHMENTS FOR MORE COMPLETE WAGE DETAILS  
 (If additional space is needed, use separate sheet of paper. / Si necesita más espacio, utilice documento adicional.)

**17. Transportation Arrangements / Arreglos de Transportación**

Employer will not advance transportation and subsistence costs to workers. This paragraph applies only to workers whom the employer is legally obligated to supply housing. After worker has completed 50% of the work contract period, employer shall reimburse worker the reasonable cost of transportation and subsistence from place of recruitment to place of work. Upon completion of the work agreement, employer will pay the 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. In such case employer will pay cost of transportation and subsistence to the next job.

SEE ETA 790 ATTACHMENTS FOR MORE COMPLETE TRANSPORTATION ARRANGEMENTS.

(If additional space is needed, use separate sheet of paper. / Si necesita más espacio, utilice documento adicional.)

18. 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 área de usar Contratistas Agrícolas para reclutar, supervisar, transportar, dar vivienda, o pagarle a los trabajadores en estos tipos de cosecha(s)? Yes / Si  No

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 Agrícola por cada actividad?

N/A

19. Unemployment Insurance provided? Seguro de Desempleo?

Yes \* No  \*excludes

20. Workers' compensation insurance provided? Indemnización por accidente de trabajo:

Yes  No  H-2A

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

Yes  No  workers

22. 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

23. List any strike, work stoppage, slowdown, or interruption of operation by the employees at the place where the workers will be employed.

(If there are no such incidents, enter "None") /

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

None

24. Address of Order Holding Office (include Telephone number)/Dirección de la Oficina donde se Radica la Oferta (incluya numero de teléfono)  
New York State Department of Labor  
One Stop Office  
Nearest to You

25. 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

26. 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

**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.

**Public Burden Statement**

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 is obligatory by 20 CFR 653.500 and 44 U.S.C. 3501. Persons are not required to respond to this collection of information unless it displays a currently valid OMB Control Number. Public reporting burden for this collection is estimated to average 8 minutes per response, including the time to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. Send comments regarding this burden estimate or any other aspect of this collection, including suggestions for reducing this burden, to the U.S. Department of Labor, Migrant and Seasonal Farmworker Program, Room S4209, 200 Constitution Avenue, NW, Washington, DC 20210.

ETA 790 (Rev. July 2009)

## ATTACHMENT TO ETA 790

The term "Employer" used herein shall refer to the named employer(s) in section 1. \*Use of the masculine pronoun herein is for convenience of reference only.

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 9. 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 employers: Dean Brightly Farms, 1769 Redman Road, Hamlin, NY 14464.

9. Anticipated dates of employment: 8/23/10 until 11/30/10.

10. 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.

11. 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.

13. 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.

14. All applicants must contact the employer, Dean Brightly, at (585) 729-7953. For interstate (out of state) state employment service agency staff is encouraged to call 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 of the terms, conditions and nature of employment. 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 I-9, as required by the Immigration and Nationality Act, will be permitted to complete the hiring process. Workers referred against this order should be informed that they must have these documents in their possession when they arrive at the place of employment. Provided that workers complete section 1 of form I-9, workers will have three business days to produce the required documentation to complete section 3 of form I-9, as provided in the Act. Workers not providing this required documentation will not be allowed to go to work on the fourth business day of employment, or any subsequent days until the documentation is provided, as provided in the Act.

Employer will interview the person for 1) Availability for entire season, 2) Available transportation to the job site, 3) Has been fully appraised by the local employment services of the terms and conditions of employment. Workers recruited against the Job Offer from within normal commuting distance will not be provided with housing, subsistence and transportation. Only workers legally entitled to work in the United States and who possess original identity and employment eligibility documents sufficient to complete INS Form I-9, as required by the Immigration and Nationality Act, will be permitted to complete the hiring process.

Workers referred against this order should be informed that they must have these documents in their possession when they arrive at the place of employment.

## 15. Job Specifications:

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

**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.

**Cabbage, Cucumbers, Squash:** Workers will plant, cultivate, and harvest vegetables. Workers may be required to remove weeds from weeds using either a hoe, or by hand. 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 fifty (50) 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. Pre-harvest activities for some plants may include staking, tying, transplanting and pruning. 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 eighty (80)+ degrees.

**Pumpkins:** Workers will walk along rows and cut melons and pumpkins according to size, color, shape and degree of maturity using a knife. May carry to trailer or windrow. Other conditions, same as above.

**Packing operation:** Workers will be required to wash and pack vegetables. Workers must take great care not to bruise or damage the product. Workers will wash and pack vegetables according to the supervisor's instructions. Workers may also be required to do support jobs associated with packing such as box making, fillers, special packaging, levelers, and stacking. Support jobs include bin and pallet repair and after hours clean up.

The following description of job activities applies to APPLES.

**Harvest:** Workers will be assigned a row usually with a partner and is responsible for picking all the proper fruit from that row, or half row. Fruit is selected from the tree according to size and/or color standard set by the picking supervisor. In some instances, fruit harvest will be done from a six-foot ladder weighing up to 30 lbs. All workers must be able to lift and carry ladder, as well as work from the top of the ladder. The entire tree must be checked to ensure removal of all fruit meeting-picking requirements. Fruit is placed gently in the picking container until container is full. The full picking container weighing up to 50 lbs. is then taken to transport vehicles and gently emptied into a field bin, taking care not to spill or bruise the fruit in the container or in the field bin. Field bin volume may be checked and determined by weight on state certified scales. Workers are required to stay on their assigned row unless directed by a supervisor to change, or to help someone sporadically. Picking units will be kept free of limbs, leaves or mushy fruit. Workers will be required to pick up and return picking ladders to the ladder wagon provided by the grower at the end of each work day or as directed by the grower or designed supervisor.

**Orchard Maintenance:** Workers involved in orchard maintenance may be required to hoe trees, girdle, spread fertilizer, pick up roots and limbs, strip suckers or unwanted growth from trees, dig root suckers, knock fruit off trees, remove vines, lay irrigation pipe, repair and maintain drip system, and strap and tie fruit trees. Employer will provide all equipment. Instruction will be given for each task and standards of performance communicated to workers. The specific standards for a job will be disclosed and demonstrated by the supervisor before the work begins.

**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.

**General Duties:** Duties performed in the field will be sporadic all through the contract due to the various duties, i.e., preparing soil, planting, pruning, cutting, deadheading, pinching, trimming to shape, spacing plants, fertilizing with granular or liquid fertilizer, cleaning work areas, transporting plant materials in the nursery/greenhouse areas, loading and unloading plants and all other duties associated with producing crops for the employers listed in this order. All workers will be responsible for picking up trash, cleaning bathrooms, sweeping floors and other farm and shed sanitation duties. Between harvesting, workers will be required to perform duties to prepare crops for marketing. Workers will also unload pallets from trucks or wagons into fields for transplanting. Worker may unload and restock for storage.

**Farm Equipment Operation During Field Operations:** Workers may be required to operate tractors and other farm equipment during field operations as an incidental activity in the production of crops. Farm equipment operation incidental to production and harvesting will be paid at the hourly rate. 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 tractors according to instructions and in a manner that protects the operator, other workers, trees, crops and equipment. Repeated failure to obey operating and safety instructions may result in termination.

**GENERAL CONDITIONS APPLICABLE TO ALL CROPS:** Fieldwork begins at assigned time shortly after daylight. Work is performed during light rain and in high humidity and in temperatures ranging below 35 degrees F to eighty (80)+ degrees. Workers will work on their feet in bent, stooped, and crouched positions for long periods of time. Workers will make fast, simple, repeated movements of fingers, hands, and wrists. 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, such as shrubs or potted plants. These could/will weigh from 50 - 75 lbs. occasionally. 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 operation of the listed employers, such as performing hand cultivation tasks, weeding or hoeing, harvesting crops, cleaning and repairing farm buildings, seed beds, racks, grounds, operate tractor/farm equipment incidental crop set up and move irrigation pipes and equipment, gardening, weeding and shrubbing, etc. This is a very demanding and competitive business in which quality specifications must be rigorously adhered to.

**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 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.

#### 16. 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.

Instructions and general supervision will be provided by the farm owner/supervisor or a designated employee. However, field workers will be expected to perform their duties in a timely and proficient manner under close supervision.

**Basic Rate of Pay Offered:** From: All work will be paid the adverse effect wage rate (AEWR) of \$10.16 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, the highest of the prevailing wage, prevailing piece rate, the Federal or State minimum wage, or the AEWR becomes the guarantee. The employer reserves the legal right to pay a new or different wage rate (wage standard) authorized by the USDOL.

The tasks in the crops listed below will be paid at the piece rates listed. All other work will be paid the adverse effect wage rate (AEWR) of \$10.16 per hour.

Workers are guaranteed that their total earnings will be at least equal to the AEWR of \$10.16 per hour for all hours worked in a pay period. If a worker's total earnings in any pay period in which the worker has worked at a piece rate are less than the AEWR of \$10.16 for all hours worked in the pay period, the employer will increase the worker's pay to the guaranteed minimum of \$10.16 per hour for the total hours worked in the pay period. In the event that the Department Of Labor promulgates a new AEWR applicable to any portion of the period of employment covered by this job order which is higher or lower than the AEWR herein, the employer will pay the higher AEWR, and may, at the employer's discretion pay the lower AEWR, beginning with the effective date of the new AEWR.

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.

**Cabbage:** The piece rate paid for cabbage harvest will be \$6.00 for a one ton box. This minimum piece rate may be adjusted upward at the sole discretion of the employer to account for adverse conditions affecting the level of effort required to accomplish the harvest according to the required specifications, as described above.

**Squash:** The piece rate paid for squash harvest will be \$8.00 per one ton box harvested. This minimum piece rate may be adjusted upward at the sole discretion of the employer to account for adverse conditions affecting the level of effort required to accomplish the harvest according to the required specifications, as described above.

**Processing Apples:** The piece rate paid for apple harvest will be \$0.60 per bushel. This minimum piece rate may be adjusted upward at the sole discretion of the employer to account for adverse conditions affecting the level of effort required to accomplish the harvest according to the required specifications, as described above.

**Cucumbers:** The piece rates paid for cucumber harvest will be \$0.40 per a 5/8 hamper. This minimum piece rate may be adjusted upward at the sole discretion of the employer to account for adverse conditions affecting the level of effort required to accomplish the harvest according to the required specifications, as described above.

The employer reserves the right, at the employer's sole discretion, to temporarily raise the piece rate for any activity in order to maintain an incentive for high productivity even in adverse conditions. If a piece rate is increased temporarily, the increased rate will be disclosed to the workers before the task begins or when the decision to increase the rate is made. In all cases, the guarantee of not less than the AEWR of \$10.16 per hour for all hours worked in the payroll period will apply.

A). The employer will make the following deductions from the Worker's wages: FICA, State, and Federal Income taxes 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 employee's 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. No deduction not required by law will be made that brings the worker's hourly earnings below the statutory federal or state minimum wage. 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.

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 U.S. 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 9 unless the employer has amended the date of need by notifying the local 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 their hourly AEWR for the MSA where the worker is employed 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 farm labor and farm maintenance activities including, repairing and upgrading migrant housing, pulling and chopping weeds, cutting ditch banks and hedge rows, cutting fire wood, 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 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.

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

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

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

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

For US workers eligible for the inbound transportation benefit, the Employer will reimburse US workers who complete 50 percent of the work contract period and who are beyond commuting distance the reasonable cost of transportation and subsistence from the place from which the worker has departed to the employer's place of employment. The amount of the reimbursement for transportation cost will be the worker's actual transportation cost from the place from which the worker has departed to the employer's place of employment, and by regulation is not required to exceed the most economical and reasonable common carrier transportation cost for the distance involved. For eligible foreign (H-2A) workers coming from outside the United States, this reimbursement benefit basis is the place from which the worker departed is the place of recruitment which DOL has interpreted in the regulations to mean the appropriate US consulate or port of entry (employer will pay to whichever point is greatest, as some workers are issued visas at interior consulate posts and some workers receive visas at border consulate posts). All other criteria for this benefit is 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 (employer will pay to whichever point is greatest, as some workers are issued visas at interior consulate posts and some workers receive visas at border consulate posts), as interpreted by DOL in the regulations. All other criteria for this benefit is 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 Association arranged return transportation will 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 Association/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 growers/association for any damages, injuries, and personal or property losses.

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 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 11C, or if the worker is displaced by a US worker the first 30 days of the employment period in accordance with the rule at 20 CFR 655.102(f)(3)(i).

Daily subsistence reimbursement will be paid in accordance with regulations at 20CFR 655.104(h)(1), which refers to 20 CFR 655.104 (g) and is governed by 20 CFR 655.114(a), to workers who are eligible for reimbursement of transportation costs. Subsistence reimbursement shall be limited to \$10.64 per day, with a maximum of \$46.00 with receipts.

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; five 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 once employment commences i) commits acts of insubordination. Reason beyond employer's control" includes termination of workers, if he not a U.S. worker because a U.S. worker makes himself available for the job under DOL's 30 day rule. Workers must notify the employer prior to voluntarily terminating their employment. All wages due will be forwarded to the last known address for Workers that leave without providing notice. It is imperative that workers provide a complete and accurate

address to the employer no later than the first day of employment. 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 655.103, Assurances, and 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 655.102(d)(1-4), 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 12 of this Job Order.

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. 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 be requested to take random drug tests at no cost to the worker. Testing will occur once employment commences. 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 Department of Labor, as described in 20 CFR 658, Subpart E (Job Service Complaint System). As an option, Dean Brightly Farms 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 Department of Labor, 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 Employers 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.