*OMB Approval: 1205-0466*
*Expiration Date:* 8/31/2022

H-2A Agricultural Clearance Order
Form ETA-790A
**U.S. Department of Labor**

## A. Job Offer Information

1. Job Title * Field Worker

| 2. Workers Needed * a. Total | b. H-2A | Period of Intended Employment 3. Begin Date * | 4. End Date * |
|---|---|---|---|
| 125 | 40 | 2/1/2022 | 10/31/2022 |

5. Will this job generally require the worker to be on-call 24 hours a day and 7 days a week? *
If "Yes", proceed to question 8. If "No", complete questions 6 and 7 below. ☐ Yes ☑ No

6. Anticipated days and hours of work per week *

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 35 | **a. Total Hours** | 7 | c. Monday | 7 | e. Wednesday | 7 | g. Friday |
| 0 | b. Sunday | 7 | d. Tuesday | 7 | f. Thursday | 0 | h. Saturday |

7. Hourly work schedule *
a. 8 : 00 ☑ AM ☐ PM
b. 4 : 00 ☐ AM ☑ PM

**Temporary Agricultural Services and Wage Offer Information**

8a. Job Duties - Description of the specific services or labor to be performed. *
*(Please begin response on this form and use Addendum C if additional space is needed.)*
See Addendum C

| 8b. Wage Offer * | 8c. Per * | 8d. Piece Rate Offer § | 8e. Piece Rate Units/Special Pay Information § |
|---|---|---|---|
| $ 15.56 | ☑ HOUR ☐ MONTH | $ 00.00 | N/A |

9. Is a completed **Addendum A** providing additional information on the crops or agricultural activities and wage offers attached to this job offer? * ☐ Yes ☑ No

10. Frequency of Pay. * ☐ Weekly ☐ Biweekly ☐ Monthly ☑ Other (specify): Semi-Monthly

11. State all deduction(s) from pay and, if known, the amount(s). *
*(Please begin response on this form and use Addendum C if additional space is needed.)*
FICA (if applicable); federal income tax (if applicable); state and/or local tax (if applicable); travel expenses that were reimbursed by the employer at the beginning of the season if the worker does not complete 50% of the work contract; loans; and deductions expressly authorized by the worker in writing. No deductions except those required or permitted by law will be made which bring the employee's earnings for any pay period below the applicable minimum wage.

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## B. Minimum Job Qualifications/Requirements

1. Education: minimum U.S. diploma/degree required. *
☑ None ☐ High School/GED ☐ Associate's ☐ Bachelor's ☐ Master's or Higher ☐ Other degree (JD, MD, etc.)

| 2. Work Experience: number of months required. * | 3 | 3. Training: number of months required. * | 0 |
|---|---|---|---|

4. Basic Job Requirements (check all that apply) *

- ☐ a. Certification/license requirements
- ☐ b. Driver requirements
- ☐ c. Criminal background check
- ☑ d. Drug screen
- ☑ e. Lifting requirement 60 lbs.
- ☑ g. Exposure to extreme temperatures
- ☑ h. Extensive pushing or pulling
- ☑ i. Extensive sitting or walking
- ☑ j. Frequent stooping or bending over
- ☑ k. Repetitive movements

| 5a. Supervision: does this position supervise the work of other employees? * | ☐ Yes ☑ No | 5b. If "Yes" to question 5a, enter the number of employees worker will supervise. § | |
|---|---|---|---|

6. Additional Information Regarding Job Qualifications/Requirements.
*(Please begin response on this form and use Addendum C if additional space is needed. If no additional skills or requirements, enter "**NONE**" below)* *
Qualified applicants must possess at least three (3) months of recent agricultural crop harvesting experience. All qualified applicants must have the authorization to work in the United States, be willing to perform the agricultural duties as described in this job order and be able to meet the physical demands of the position and the employer's work schedule with or without reasonable accommodation.

## C. Place of Employment Information

1. Address/Location *
94-877 Kunia Road

| 2. City * | 3. State * | 4. Postal Code * | 5. County * |
|---|---|---|---|
| Kunia | Hawaii | 96759 | Hawaii |

6. Additional Place of Employment Information *(If no additional information, enter "**NONE**" below)* *
All work sites are leased or under the employer's control on the island of Oahu (Honolulu County). This is an H-2A grower petition.

7. Is a completed **Addendum B** providing additional information on the places of employment and/or agricultural businesses who will employ workers, or to whom the employer will be providing workers, attached to this job order? * ☑ Yes ☐ No

## D. Housing Information

1. Housing Address/Location *
92-1860 Kunia Road

| 2. City * | 3. State * | 4. Postal Code * | 5. County * |
|---|---|---|---|
| Kunia | Hawaii | 96759 | Honolulu |

| 6. Type of Housing * | 7. Total Units * | 8. Total Occupancy * |
|---|---|---|
| Dormitory-Style Agricultural Housing. | 5 | 60 |

9. Housing complies or will comply with the following applicable standards: * ☑ Local ☐ State ☑ Federal

10. Additional Housing Information. *(If no additional information, enter "**NONE**" below)* *
Directions. Take H1 West towards Kunia, Hawaii and exit 5B to merge onto Kunia Rd heading north. Travel .4 miles and take left on Kunia Dr.

11. Is a completed **Addendum B** providing additional information on housing that will be provided to workers attached to this job order? * ☐ Yes ☑ No

## E. Provision of Meals

1. Describe how the employer will provide each worker with 3 meals a day or furnish free and convenient cooking and kitchen facilities. * *(Please begin response on this form and use Addendum C if additional space is needed.)*

Employer will furnish a centralized kitchen and cooking facilities for employees to prepare their own meals. The cooking facilities are separate from the sleeping accommodations. The kitchen and dining facilities may be shared with other employees who are occupying the employer-provided housing. Employees will be responsible for the selection of their food and the preparation of their meals. The employer will provide transportation at no cost to grocery stores at least once per week. Employees will also be able to purchase groceries at nearby stores by using public transportation (adjacent to housing), which is available 7 days per week. Employees will also have access to local nearby establishments to dine out when desired. All groceries and food costs are paid for by the employees.

| | | | |
|---|---|---|---|
| 2. If meals are provided, the employer: * | ☑ **WILL NOT** charge workers for such meals. | | |
| | ☐ **WILL** charge workers for such meals at | $ _____ . ____ | per day per worker. |

## F. Transportation and Daily Subsistence

1. Describe the terms and arrangement for daily transportation the employer will provide to workers. *
*(Please begin response on this form and use Addendum C if additional space is needed.)*

See Addendum C

2. Describe the terms and arrangements for providing workers with transportation (a) to the place of employment (i.e., inbound) and (b) from the place of employment (i.e., outbound). *
*(Please begin response on this form and use Addendum C if additional space is needed.)*

See Addendum C

| | | | |
|---|---|---|---|
| 3. During the travel described in Item 2, the employer will pay for or reimburse daily meals by providing each worker * | a. no less than | $ 13 . 17 | per day * |
| | b. no more than | $ 55 . 00 | per day with receipts |

## G. Referral and Hiring Instructions

1. Explain how prospective applicants may be considered for employment under this job order, including verifiable contact information for the employer, or the employer's authorized hiring representative, methods of contact, and the days and hours applicants will be considered for the job opportunity. *
*(Please begin response on this form and use Addendum C if additional space is needed.)*

Interested applicants should thoroughly familiarize themselves with the terms and conditions of employment in this H-2A job order before applying for employment. Only job applicants meeting all the qualifications for employment, who are able to meet the physical demands of the position and the employer's work schedule, and who are willing to perform the agricultural job duties, with or without reasonable accommodation, should contact the employer or be referred by the Hawaii Department of Labor and Industrial Relations and/or another State Workforce Agency. All applicants must agree to follow the employer's hiring procedures to be eligible for employment, which includes completion of an employment application, an interview, and verification of job references. Interested applicants and/or an SWA representative should contact Ms. Arlene Malasig from 9:00 AM to 5:00 PM, Monday through Friday at (808) 688-1426 to begin the employment application process. Applicants may also visit the main office at 94-877 Kunia Road, Kunia, HI 96759 from Monday through Friday, 9:00 AM to 5:00 PM to apply for employment. All employees hired will be required to present document (s) to evidence their identity and authorization to work in the United States and must be screened through E-Verify after an offer of employment is extended. All applicants who are offered employment will be subject to the employer's post-hire drug testing procedures, which are not a part of the interview process. The cost of drug testing shall be paid by the employer.

| 2. Telephone Number to Apply * | 3. Email Address to Apply * |
|---|---|
| +1 (808) 688-1426 | arlene-thefarms@hawaiiantel.net |

4. Website address (URL) to Apply *
N/A

## H. Additional Material Terms and Conditions of the Job Offer

| 1. Is a completed **Addendum C** providing additional information about the material terms, conditions, and benefits (monetary and non-monetary) that will be provided by the employer attached to this job order? * | ☑ Yes ☐ No |
|---|---|

H-2A Agricultural Clearance Order
Form ETA-790A
**U.S. Department of Labor**

## I. Conditions of Employment and Assurances for H-2A Agricultural Clearance Orders

By virtue of my signature below, I **HEREBY CERTIFY** my knowledge of and compliance with applicable Federal, State, and local employment-related laws and regulations, including employment-related health and safety laws, and certify the following conditions of employment:

1. **JOB OPPORTUNITY**: Employer assures that the job opportunity identified in this clearance order (hereinafter also referred to as the "job order") is a full-time temporary position being placed with the SWA in connection with an H-2A *Application for Temporary Employment Certification* for H-2A workers and this clearance order satisfies the requirements for agricultural clearance orders in 20 CFR 653, subpart F and the requirements set forth in 20 CFR 655.122. This job opportunity offers U.S. workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers and complies with the requirements at 20 CFR 655, Subpart B. The job opportunity is open to any qualified U.S. worker regardless of race, color, national origin, age, sex, religion, handicap, or citizenship.

2. **NO STRIKE, LOCKOUT, OR WORK STOPPAGE**: Employer assures that this job opportunity, including all worksites for which the employer is requesting H-2A labor certification does not currently have workers on strike or being locked out in the course of a labor dispute. 20 CFR 655.135(b).

3. **HOUSING FOR WORKERS**: Employer agrees to provide for or secure housing for H-2A workers and those workers in corresponding employment who are not reasonably able to return to their residence at the end of the work day. That housing complies with the applicable local, State, or Federal standards and is sufficient to house the specified number of workers requested through the clearance system. The employer will provide the housing without charge to the worker. Any charges for rental housing will be paid directly by the employer to the owner or operator of the housing. If public accommodations are provided to workers, the employer agrees to pay all housing-related charges directly to the housing's management. The employer agrees that charges in the form of deposits for bedding or other similar incidentals related to housing (e.g., utilities) must not be levied upon workers. However, the employer may require workers to reimburse them for damage caused to housing by the individual worker(s) found to have been responsible for damage which is not the result of normal wear and tear related to habitation. When it is the prevailing practice in the area of intended employment and the occupation to provide family housing, the employer agrees to provide family housing at no cost to workers with families who request it. 20 CFR 655.122(d), 653.501(c)(3)(vi).

   *Request for Conditional Access to Intrastate or Interstate Clearance System*: Employer assures that the housing disclosed on this clearance order will be in full compliance with all applicable local, State, or Federal standards at least 20 calendar days before the housing is to be occupied. 20 CFR 653.502(a)(3). The Certifying Officer will not certify the application until the housing has been inspected and approved.

4. **WORKERS' COMPENSATION COVERAGE**: Employer agrees to provide workers' compensation insurance coverage in compliance with State law covering injury and disease arising out of and in the course of the worker's employment. If the type of employment for which the certification is sought is not covered by or is exempt from the State's workers' compensation law, the employer agrees to provide, at no cost to the worker, insurance covering injury and disease arising out of and in the course of the worker's employment that will provide benefits at least equal to those provided under the State workers' compensation law for other comparable employment. 20 CFR 655.122(e).

5. **EMPLOYER-PROVIDED TOOLS AND EQUIPMENT**: Employer agrees to provide to the worker, without charge or deposit charge, all tools, supplies, and equipment required to perform the duties assigned. 20 CFR 655.122(f).

6. **MEALS**: Employer agrees to provide each worker with three meals a day or furnish free and convenient cooking and kitchen facilities to the workers that will enable the workers to prepare their own meals. Where the employer provides the meals, the job offer will state the charge, if any, to the worker for such meals. The amount of meal charges is governed by 20 CFR 655.173. 20 CFR 655.122(g).

   For workers engaged in the herding or production of livestock on the range, the employer agrees to provide each worker, without charge or deposit charge, (1) either three sufficient meals a day, or free and convenient cooking facilities and adequate provision of food to enable the worker to prepare his own meals. To be sufficient or adequate, the meals or food provided must include a daily source of protein, vitamins, and minerals; and (2) adequate potable water, or water that can be easily rendered potable and the means to do so. 20 CFR 655.210(e).

7. **TRANSPORTATION AND DAILY SUBSISTENCE**: Employer agrees to provide the following transportation and daily subsistence benefits to eligible workers.

   A. *Transportation to Place of Employment (Inbound*)

   If the worker completes 50 percent of the work contract period, and the employer did not directly provide such transportation or subsistence or otherwise has not yet paid the worker for such transportation or subsistence costs, the employer agrees to reimburse the worker for reasonable costs incurred by the worker for transportation and daily subsistence from the place from which the worker has come to work for the employer, whether in the U.S. or abroad to the place of employment. The amount of the transportation payment must be no less (and is not required to be more) than the most economical and reasonable common carrier transportation charges for the distances involved. The amount the employer will pay for daily subsistence expenses are those amounts disclosed in this clearance order, which are at least as much as the employer would charge the worker for providing the worker with three meals a day during employment (if applicable), but in no event will less than the amount permitted under 20 CFR 655.173(a). The employer understands that the Fair Labor Standards Act applies independently of the H-2A requirements and imposes obligations on employers regarding payment of wages. 20 CFR 655.122(h)(1).

   *B. Transportation from Place of Employment (Outbound)*

   If the worker completes the work contract period, or is terminated without cause, and the worker has no immediate subsequent H-2A employment, the employer agrees to provide or pay for the worker's transportation and daily subsistence from the place of employment to the place from which the worker, disregarding intervening employment, departed to work for the employer. Return transportation will not be provided to workers who voluntarily abandon employment before the end of the work contract period, or who are terminated for cause, if the employer follows the notification requirements in 20 CFR 655.122(n).

If the worker has contracted with a subsequent employer who has not agreed in such work contract to provide or pay for the worker's transportation and daily subsistence expenses from the employer's worksite to such subsequent employer's worksite, the employer must provide for such expenses. If the worker has contracted with a subsequent employer who has agreed in such work contract to provide or pay for the worker's transportation and daily subsistence expenses from the employer's worksite to such subsequent employer's worksite, the subsequent employer must provide or pay for such expenses.

The employer is not relieved of its obligation to provide or pay for return transportation and subsistence if an H-2A worker is displaced as a result of the employer's compliance with the 50 percent rule as described in sec. 655.135(d) of this subpart with respect to the referrals made after the employer's date of need. 20 CFR 655.122(h)(2).

*C. Daily Transportation*

Employer agrees to provide transportation between housing provided or secured by the employer and the employer's worksite(s) at no cost to the worker. 20 CFR 655.122(h)(3).

*D. Compliance with Transportation Standards*

Employer assures that all employer-provided transportation will comply with all applicable Federal, State, or local laws and regulations. Employer agrees to provide, at a minimum, the same transportation safety standards, driver licensure, and vehicle insurance as required under 29 U.S.C. 1841 and 29 CFR 500.105 and 29 CFR 500.120 to 500.128. If workers' compensation is used to cover transportation, in lieu of vehicle insurance, the employer will ensure that such workers' compensation covers all travel or that vehicle insurance exists to provide coverage for travel not covered by workers' compensation. Employer agrees to have property damage insurance. 20 CFR 655.122(h)(4).

8. **THREE-FOURTHS GUARANTEE**: Employer agrees to offer the worker employment for a total number of work hours equal to at least three-fourths of the workdays of the total period beginning with the first workday after the arrival of the worker at the place of employment or the advertised contractual first date of need, whichever is later, and ending on the expiration date specified in the work contract or in its extensions, if any. 20 CFR 655.122(i).

   The employer may offer the worker more than the specified hours of work on a single workday. For purposes of meeting the three-fourths guarantee, the worker will not be required to work for more than the number of hours specified in the job order for a workday, or on the worker's Sabbath or Federal holidays. If, during the total work contract period, the employer affords the U.S. or H-2A worker less employment than that required under this guarantee, the employer will pay such worker the amount the worker would have earned had the worker, in fact, worked for the guaranteed number of days. An employer will not be considered to have met the work guarantee if the employer has merely offered work on three-fourths of the workdays if each workday did not consist of a full number of hours of work time as specified in the job order. All hours of work actually performed may be counted by the employer in calculating whether the period of guaranteed employment has been met. Any hours the worker fails to work, up to a maximum of the number of hours specified in the job order for a workday, when the worker has been offered an opportunity to work, and all hours of work actually performed (including voluntary work over 8 hours in a workday or on the worker's Sabbath or Federal holidays), may be counted by the employer in calculating whether the period of guaranteed employment has been met. 20 CFR 655.122(i).

   If the worker is paid on a piece rate basis, the employer agrees to use the worker's average hourly piece rate earnings or the required hourly wage rate, whichever is higher, to calculate the amount due under the three-fourths guarantee. 20 CFR 655.122(i).

   If the worker voluntarily abandons employment before the end of the period of employment set forth in the job order, or is terminated for cause, and the employer follows the notification requirements in 20 CFR 655.122(n), the worker is not entitled to the three-fourths guarantee. The employer is not liable for payment of the three-fourths guarantee to an H-2A worker whom the Department of Labor certifies is displaced due to the employer's requirement to hire qualified and available U.S. workers during the recruitment period set out in 20 CPR 655.135(d), which lasts until 50 percent of the period of the work contract has elapsed (50 percent rule). 20 CFR 655.122(i).

   *Important Note*: In circumstances where the work contract is terminated due to contract impossibility under 20 CFR 655.122(o), the three-fourths guarantee period ends on the date of termination.

9. **EARNINGS RECORDS**: Employer agrees to keep accurate and adequate records with respect to the workers' earnings at the place or places of employment, or at one or more established central recordkeeping offices where such records are customarily maintained. All records must be available for inspection and transcription by the Department of Labor or a duly authorized and designated representative, and by the worker and representatives designated by the worker as evidenced by appropriate documentation. Where the records are maintained at a central recordkeeping office, other than in the place or places of employment, such records must be made available for inspection and copying within 72 hours following notice from the Department of Labor, or a duly authorized and designated representative, and by the worker and designated representatives. The content of earnings records must meet all regulatory requirements and be retained by the employer for a period of not less than 3 years after the date of certification by the Department of Labor. 20 CFR 655.122(j).

10. **HOURS AND EARNINGS STATEMENTS**: Employer agrees to furnish to the worker on or before each payday in one or more written statements the following information: (1) the worker's total earnings for the pay period; (2) the worker's hourly rate and/or piece rate of pay; (3) the hours of employment offered to the worker (showing offers in accordance with the three-fourths guarantee as determined in 20 CFR 655.122(i), separate from any hours offered over and above the guarantee); (4) the hours actually worked by the worker; (5) an itemization of all deductions made from the worker's wages; (6) If piece rates are used, the units produced daily; (7) beginning and ending dates of the pay period; and (8) the employer's name, address and FEIN. 20 CFR 655.122(k).

    For workers engaged in the herding or production of livestock on the range, the employer is exempt from recording and furnishing the hours actually worked each day, the time the worker begins and ends each workday, as well as the nature and amount of work performed, but otherwise must comply with the earnings records and hours and earnings statement requirements set out in 20 CFR 655.122(j) and (k). The employer agrees to keep daily records indicating whether the site of the employee's work was on the range or off the range. If the employer prorates a worker's wage because of the worker's voluntary absence for personal reasons, it must also keep a record of the reason for the worker's absence. 20 CFR 655.210(f).

11. **RATES OF PAY**: The employer agrees that it will offer, advertise in its recruitment, and pay at least the Adverse Effect Wage Rate (AEWR), the prevailing hourly wage rate, the prevailing piece rate, the agreed-upon collective bargaining rate, or the Federal or State minimum wage rate, in effect at the time work is performed, whichever is highest. If the worker is paid by the hour, the employer must pay this rate for every hour or portion thereof worked during a pay period. If the offered wage(s) disclosed in this clearance order is/are based on commission, bonuses, or other incentives, the employer guarantees the wage paid on a weekly, semi-monthly, or monthly basis will equal or exceed the AEWR, prevailing hourly wage or piece rate, the legal Federal or State minimum wage, or any agreed-upon collective bargaining rate, whichever is highest.

    If the worker is paid on a piece rate basis and at the end of the pay period the piece rate does not result in average hourly piece rate earnings during the pay period at least equal to the amount the worker would have earned had the worker been paid at the appropriate hourly rate of pay, the employer agrees to supplement the worker's pay at that time so that the worker's earnings are at least as much as the worker would have earned during the pay period if the worker had instead been paid at the appropriate hourly wage rate for each hour worked. 20 CFR 655.120, 655.122(l).

    For workers engaged in the herding or production of livestock on the range, the employer agrees to pay the worker at least the monthly AEWR, the agreed-upon collective bargaining wage, or the applicable minimum wage imposed by Federal or State law or judicial action, in effect at the time work is performed, whichever is highest, for every month of the job order period or portion thereof. If the offered wage disclosed in this clearance order is based on commissions, bonuses, or other incentives, the employer assures that the wage paid will equal or exceed the monthly AEWR, the agreed-upon collective bargaining wage, or the applicable minimum wage imposed by Federal or State law or judicial action, whichever is highest, and will be paid to each worker free and clear without any unauthorized deductions. The employer may prorate the wage for the initial and final pay periods of the job order period if its pay period does not match the beginning or ending dates of the job order. The employer also may prorate the wage if an employee is voluntarily unavailable to work for personal reasons. 20 CFR 655.210(g).

12. **FREQUENCY OF PAY**: Employer agrees to pay workers when due based on the frequency disclosed in this clearance order. 20 CFR 655.122(m).

13. **ABANDONMENT OF EMPLOYMENT OR TERMINATION FOR CAUSE**: If a worker voluntarily abandons employment before the end of the contract period, or is terminated for cause, employer is not responsible for providing or paying for the subsequent transportation and subsistence expenses of that worker, and that worker is not entitled to the three-fourths guarantee, if the employer notifies the Department of Labor and, if applicable, the Department of Homeland Security, in writing or by any other method specified by the Department of Labor or the Department of Homeland Security in the Federal Register, not later than 2 working days after the abandonment or termination occurs. A worker will be deemed to have abandoned the work contract if the worker fails to show up for work at the regularly scheduled time and place for 5 consecutive work days without the consent of the employer. 20 CFR 655.122(n).

14. **CONTRACT IMPOSSIBILITY**: The work contract may be terminated before the end date of work specified in the work contract if the services of the workers are no longer required for reasons beyond the control of the employer due to fire, weather, or other Act of God that makes fulfillment of the contract impossible, as determined by the U.S. Department of Labor. In the event that the work contract is terminated, the employer agrees to fulfill the three-fourths guarantee for the time that has elapsed from the start date of work specified in the work contract to the date of termination. The employer also agrees that it will make efforts to transfer the worker to other comparable employment acceptable to the worker and consistent with existing immigration laws. In situations where a transfer is not affected, the employer agrees to return the worker at the employer's expense to the place from which the worker, disregarding intervening employment, came to work for the employer, or transport the worker to his/her next certified H-2A employer, whichever the worker prefers. The employer will also reimburse the worker the full amount of any deductions made by the employer from the worker's pay for transportation and subsistence expenses to the place of employment. The employer will also pay the worker for any transportation and subsistence expenses incurred by the worker to that employer's place of employment. The amounts the employer will pay for subsistence expenses per day are those amounts disclosed in this clearance order. The amount of the transportation payment must not be less (and is not required to be more) than the most economical and reasonable common carrier transportation charges for the distances involved. 20 CFR 655.122(o).

    The employer is not required to pay for transportation and daily subsistence from the place of employment to a subsequent employer's worksite if the worker has contracted with a subsequent employer who has agreed to provide or pay for the worker's transportation and subsistence expenses from the present employer's worksite to the subsequent employer's worksite. 20 CFR 655.122(h)(2).

15. **DEDUCTIONS FROM WORKER'S PAY**: Employer agrees to make all deductions from the worker's paycheck required by law. This job offer discloses all deductions not required by law which the employer will make from the worker's paycheck and all such deductions are reasonable, in accordance with 20 CFR 655.122(p) and 29 CFR part 531. The wage requirements of 20 CFR 655.120 will not be met where undisclosed or unauthorized deductions, rebates, or refunds reduce the wage payment made to the employee below the minimum amounts required under 20 CFR part 655, subpart B, or where the employee fails to receive such amounts free and clear because the employee kicks back directly or indirectly to the employer or to another person for the employer's benefit the whole or part of the wage delivered to the employee. 20 CFR 655.122(p).

16. **DISCLOSURE OF WORK CONTRACT**: Employer agrees to provide a copy of the work contract to an H-2A worker no later than the time at which the worker applies for the visa, or to a worker in corresponding employment no later than on the day work commences. For an H-2A worker coming to the employer from another H-2A employer, the employer agrees to provide a copy of the work contract no later than the time an offer of employment is made to the H-2A worker. A copy of the work contract will be provided to each worker in a language understood by the worker, as necessary or reasonable. In the absence of a separate, written work contract entered into between the employer and the worker, the required terms of this clearance order, including all Addendums, and the certified *H-2A Application for Temporary Employment Certification* will be the work contract. 20 CFR 655.122(q).

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**U.S. Department of Labor**

17. **ADDITIONAL ASSURANCES FOR CLEARANCE ORDERS**:

A. Employer agrees to provide to workers referred through the clearance system the number of hours of work disclosed in this clearance order for the week beginning with the anticipated date of need, unless the employer has amended the date of need at least 10 business days before the original date of need by so notifying the Order-Holding Office (OHO) in writing (e.g., e-mail notification). The employer understands that it is the responsibility of the SWA to make a record of all notifications and attempt to inform referred workers of the amended date of need expeditiously. 20 CFR 653.501(c)(3)(i).

If there is a change to the anticipated date of need, and the employer fails to notify the OHO at least 10 business days before the original date of need, the employer agrees that it will pay eligible workers referred through the clearance system the specified rate of pay disclosed in this clearance order for the first week starting with the originally anticipated date of need or will provide alternative work if such alternative work is stated on the clearance order. 20 CFR 653.501(c)(5).

B. Employer agrees that no extension of employment beyond the period of employment specified in the clearance order will relieve it from paying the wages already earned, or if specified in the clearance order as a term of employment, providing transportation from the place of employment, as described in paragraph 7.B above. 20 CFR 653.501(c)(3)(ii).

C. Employer assures that all working conditions comply with applicable Federal and State minimum wage, child labor, social security, health and safety, farm labor contractor registration, and other employment-related laws. 20 CFR 653.501(c)(3)(iii).

D. Employer agrees to expeditiously notify the OHO or SWA by emailing and telephoning 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. 20 CFR 653.501(c)(3)(iv).

E. If acting as a farm labor contractor (FLC) or farm labor contractor employee (FLCE) on this clearance order, the employer assures that it has a valid Federal FLC certificate or Federal FLCE identification card and when appropriate, any required State FLC certificate. 20 CFR 653.501(c)(3)(v).

F. Employer assures that outreach workers will have reasonable access to the workers in the conduct of outreach activities pursuant to 20 CFR 653.107. 20 CFR 653.501(c)(3)(vii).

*I **declare** under penalty of perjury that I have read and reviewed this clearance order, including every page of this Form ETA-790A and all supporting addendums, and that to the best of my knowledge, the information contained therein is true and accurate. This clearance 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. 20 CFR 653.501(c)(3)(viii). I understand that to knowingly furnish materially false information in the preparation of this form and any supplement thereto or to aid, abet, or counsel another to do so is a federal offense punishable by fines, imprisonment, or both. 18 U.S.C. 2, 1001.*

| 1. Last (family) name * | 2. First (given) name * | 3. Middle initial § |
|---|---|---|
| Malasig | Arlene | |
| 4. Title * | | |
| Manager | | |
| 5. Signature (or digital signature) * | | 6. Date signed * |
| Digital Signature Verified and Retained By Certifying Officer | | 12/13/2021 |

**Employment Service Statement**

In view of the statutorily established basic function of the Employment Service (ES) as a no-fee labor exchange, that is, as a forum for bringing together employers and job seekers, neither the Department of Labor's Employment and Training Administration (ETA) nor the SWAs 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 ES constitute a contractual job offer to which the ETA or a SWA is in any way a party. 20 CFR 653.501(c)(1)(i).

**Public Burden Statement** *(1205-0466)*

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 of information is estimated to average .63 hours per response for all information collection requirements, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing, reviewing, and submitting the collection of information. The obligation to respond to this data collection is required to obtain/retain benefits (44 U.S.C. 3501, Immigration and Nationality Act, 8 U.S.C. 1101, et seq.). Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, 200 Constitution Ave., NW, Suite PPII 12-200, Washington, DC, 20210. (Paperwork Reduction Project OMB 1205-0466). DO NOT send the completed application to this address.

*OMB Approval: 1205-0466*
*Expiration Date:* 8/31/2022

H-2A Agricultural Clearance Order
Form ETA-790A Addendum B
**U.S. Department of Labor**

## C. Additional Place of Employment Information

| 1. Name of Agricultural Business § | 2. Place of Employment * | 3. Additional Place of Employment Information § | 4. Begin Date § | 5. End Date § | 6. Total Workers § |
|---|---|---|---|---|---|
| Waikele Farms | 21° 25' 07" – 158° 02' 48"<br>Waipahu, Hawaii 96797<br>HONOLULU | | 2/1/2022 | 10/31/2022 | 40 |
| Waikele Farms | 21° 19' 55" – 158° 04' 00<br>Kunia, Hawaii 96759<br>HONOLULU | | 2/1/2022 | 10/31/2022 | 40 |
| Waikele Farms | 21 32 19 - 158 05 07<br>Kunia, Hawaii 96759<br>HONOLULU | | 2/1/2022 | 10/31/2022 | 40 |
| Waikele Farms | 21° 34' 36'' – 158° 11' 17"<br>Kunia, Hawaii 96759<br>HONOLULU | | 2/1/2022 | 10/31/2022 | 40 |
| Waikele Farms | 21° 30' 53"- 158° 04' 22<br>Kunia, Hawaii 96759<br>HONOLULU | | 2/1/2022 | 10/31/2022 | 40 |
| Waikele Farms | 21 27 59 - 158 03 47<br>Kunia, Hawaii 96759<br>HONOLULU | | 2/1/2022 | 10/31/2022 | 40 |
| Waikele Farms | 21° 20' 54'' – 158° 01' 07<br>Kunia, Hawaii 96759<br>HONOLULU | | 2/1/2022 | 10/31/2022 | 40 |
| | | | | | |
| | | | | | |
| | | | | | |



**Form ETA-790A Addendum B** **FOR DEPARTMENT OF LABOR USE ONLY**

H-2A Case Number: H-300-21336-740457 Case Status: Full Certification Determination Date: 12/30/2021 Validity Period: _____ to _____

## H. Additional Material Terms and Conditions of the Job Offer

a. Job Offer Information 1

| 1. Section/Item Number * | A.8a | 2. Name of Section or Category of Material Term or Condition * | Job Duties |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Perform a variety of duties associated with seasonal farming and harvesting of fruits and vegetables in support of a diversified crop farming operation. The position frequently requires workers to manually plant, cultivate and harvest vegetables and fruits by hand and place them into buckets, bins or other similar containers; stack cartons and/or transfer products to grading and conveyor/harvesting belts; transplant, weed, thin and/or prune crops; participate in irrigation activities; operate tractors, forklifts, all-terrain vehicles, and other farm machinery; construct or perform maintenance work on farm structures and machinery. Workers may also be assigned additional agricultural duties that relate to fieldwork, such as cutting, picking, hoeing, shoveling, ground preparation and other agricultural duties that are performed on a farm, meet the definition of IRS and FLSA agricultural labor and/or are incidental to the work performed. Employer will provide tools and equipment necessary to perform all required tasks at no cost to employees. Work is performed outdoors and can involve exposure to extreme hot and cold temperatures, bright sunlight, cloudy, windy or rainy conditions, mud and dust, low light and other natural elements. The work may entail exposure to plant pollens, insects, snakes, rodents, noxious plants and/or plant materials that have been treated with insect and/or disease control spray. Workers must walk in variable soil conditions. Workers should come prepared with appropriate clothing and footwear for the working conditions described. Workers must use all required personal protective clothing and equipment. Position requires employees to interface and maintain effective relationships with all level of employees in a team-oriented environment, and the ability to frequently lift and move heavy objects. Workers must adhere to all health and safety rules, including Covid-19 preventative measures, social distancing, usage of masks and and observing all warning signs, safety bulletins, safety training, posters and other safety directives required by the employer or state law.

b. Job Offer Information 2

| 1. Section/Item Number * | F.1 | 2. Name of Section or Category of Material Term or Condition * | Daily Transportation |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

During the season, the employer will provide transportation between the housing and the worksites at no cost to U.S. corresponding employees and H-2A nonimmigrant workers who are eligible for employer-provided housing because they are unable to return to their permanent residence at the end of each workday. U.S. corresponding employees who are not eligible for housing will remain responsible for their own transportation from their homes to and from the worksites.

## H. Additional Material Terms and Conditions of the Job Offer

c. Job Offer Information 3

| 1. Section/Item Number * | F.2 | 2. Name of Section or Category of Material Term or Condition * | Inbound/Outbound Transportation |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

The employer will be responsible for the transportation/daily subsistence expenses that are incurred by any employee who must travel to the area of intended employment from outside the normal commuting distance if the employee completes 50% of the contract. If the worker completes the work contract or is terminated without cause, and the worker has no subsequent H-2A employment, the employer agrees to provide for the worker's transportation and daily subsistence back to the place of recruitment.

d. Job Offer Information 4

| 1. Section/Item Number * | B.6 | 2. Name of Section or Category of Material Term or Condition * | Job Requirements - Training |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Training will be provided to workers with regard to state and federal food safety protocols. Workers will also receive five days of training for each relevant crop activity from each worker's initial start day in such work activity.

## H. Additional Material Terms and Conditions of the Job Offer

e. Job Offer Information 5

| 1. Section/Item Number * | A.11 | 2. Name of Section or Category of Material Term or Condition * | Pay Deductions - More Details About the Pay |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

The employer will pay a wage that is the highest of the Adverse Effect Wage Rate (AEWR), the prevailing hourly wage or piece rate, the agreed-upon collective bargaining wage, or the Federal or State minimum wage, except where a special procedure is approved for an occupation or specific class of agricultural employment. The employer will pay the AEWR of $15.56 per hour of work and $23.34 per hour when employees qualify for overtime pay under Hawaii law. Should the AEWR wage rate increase by publication in the Federal Register before or during the season, the employer will abide by the new applicable wage rate. The employer reserves the right to compensate U.S. corresponding workers at higher wage rates based upon tenure and other objective criteria. The employer will abide by Hawaii wage and hour rules relating to agricultural labor, including overtime rules.

f. Job Offer Information 6

| 1. Section/Item Number * | F.2 | 2. Name of Section or Category of Material Term or Condition * | Inbound/Outbound Transportation - Inbound and Outbound Transportation a |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

The employer is responsible for costs associated with the inbound and outbound transportation and subsistence expenses for workers who live outside the normal commuting distances that are applicable to the area of intended employment. The amount of transportation payments will equal the most economical and reasonable common carrier charges for the distances involved. The employer is not responsible for unauthorized detours or unnecessary costs. The employer will pay the reasonable costs for lodging when necessary during travel to the area of intended employment from the place of recruitment for employees who live outside the commuting distance to the area of intended employment. The employer will be responsible for I-94 and H-2A visa-related costs when applicable to H-2A non-immigrant employees. For purposes of transportation and subsistence (meal) expenses, employees are encouraged to keep their receipts for food and travel costs during their travel from the place of recruitment to the area of intended employment. All necessary bus, taxi, transportation and lodging expenses will be paid for or reimbursed at full cost. For travel subsistence, if the employee is unable to provide receipts, the employer will reimburse employees at a minimum rate of $13.17 per day of travel from the place of recruitment to the area of intended employment. If the employee provides receipts, the employer will reimburse travel meals based upon the actual cost incurred up to a maximum of $55.00 per day of travel. Should the Department of Labor increase the subsistence per diem rates during the season, the employer will abide by the new rate as directed by notice in the Federal Register. The employer will also provide the reasonable costs of return transportation and related subsistence to employees who complete the H-2A contract. The employer will not be responsible for outbound transportation and meal subsistence if an employee abandons the employment or is terminated for cause before the work contract ends. Abandonment occurs if the worker fails to report to work at the regularly scheduled time for 5 consecutive working days without the consent of the employer. In the event of termination for medical reasons occurring after the arrival on the job, or occurring as a result of employment, or in the event of termination resulting from an Act of God, the employer will pay or provide reasonable costs of return transportation and subsistence to the place of recruitment.

## H. Additional Material Terms and Conditions of the Job Offer

g. Job Offer Information 7

| 1. Section/Item Number * | B.6 | 2. Name of Section or Category of Material Term or Condition * | Job Requirements - Mandatory H-2A Worker Departure from United States |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

H-2A nonimmigrant employees must depart the United States at the completion of the work contract certified by the Department of Labor or after the termination of employent, whichever is earlier, unless the H-2A nonimmigrant worker is being sponsored by another subsequent H-2A employer.

h. Job Offer Information 8

| 1. Section/Item Number * | B.6 | 2. Name of Section or Category of Material Term or Condition * | Job Requirements - Prohibition Against Payment of Fees |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

The employer and/or its agents are prohibited by law from seeking or receiving payment or compensation of any kind from any employee, compensation of any kind from any employee, which includes payment of recruitment costs. In no event should any employee pay any recruitment or job placement fees in order to secure employment under this H-2A contract. Any violations of this policy should be reported to company management immediately. However, employees may be required to pay for expenses associated with renewing their passports. Employees may also have to pay some out-of-pocket costs for meals and transportation when traveling to the area of intended employment in Hawaii. However, the employer will reimburse H-2A and U.S. corresponding employees for all expenses in accordance with H-2A regulations. Employees are encouraged to keep all receipts relating to travel, meals, and other costs incurred during travel to Hawaii.

## H. Additional Material Terms and Conditions of the Job Offer

i. Job Offer Information 9

| 1. Section/Item Number * | B.6 | 2. Name of Section or Category of Material Term or Condition * | Job Requirements - Work Rules, Discipline and Terminations |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Workers are expected to comply with all provisions of this work contract and the employer's policies, house rules, and procedures. The employer may discipline or terminate a worker with notification to the State Workforce Agency, DOL and/or USCIS if any employee violates any of the work rules. The level of disciplinary action taken will be determined at management discretion and judged by the severity of the violation. All employees must respect and follow company policies including any new or changed policies which may be communicated during the course of the season. Some of the applicable work rules include, but are not limited to: Failure to report to work or demonstrating a pattern of tardiness and/or unexcused absences. Abandoning the worksite. Refusal without justified cause to perform work for which the worker was recruited and hired or refusing to carry out good faith, reasonable orders. Failure to perform work of reasonable quality and with reasonable diligence. Willfully wasting, damaging, or causing injury to the employer's property. Being under the influence of alcohol or illegal drugs. Possession of illegal drugs or alcohol on company property. Horseplay, fighting, or deliberately injuring another employee. Stealing company or employee property. Working side jobs with another company in violation of the H-2A visa program. Possessing firearms or illegal weapons. Bringing unauthorized people into the work area. Charging other workers for referral of employment opportunities. Selling merchandise or soliciting services at the worksite. Falsification of information provided to the employer, which includes providing false information during the employment application process.The punching of a time card other than the employee's own individual time card or willfully allowing another person to punch one's time card. Sleeping on the job. Insubordination. Failure to follow housing rules. Unauthorized use of machinery and equipment. Smoking is prohibited in the fields or other areas designated by the employer. Wash hands after eating or using the bathroom before return.

j. Job Offer Information 10

| 1. Section/Item Number * | A.8a | 2. Name of Section or Category of Material Term or Condition * | Job Duties - The Importance of Safety |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Employees are expected to obey safety rules and to exercise caution in all their work activities. Workers must adhere to all health and safety rules, including Covid-19 preventative measures, social distancing, usage of masks and other safety directives required by the employer and/or the federal and state laws. Employees must observe all warning signs, safety bulletins, safety protocols, safety training and posters. Employees must use protective clothing and equipment. Employees should take care not to walk in front of or behind moving vehicles. When working around moving equipment, always stand clear of the equipment when in motion. Always wait until the equipment comes to a full stop. When being transported, always take a seat, wear seatbelts, and remain seated while the vehicle is in motion. Employees must wear face masks when being transported by the company to and from work from the housing location. All employees are required to immediately report any unsafe conditions to their supervisor. Not only supervisors, but employees at all levels of the organization are expected to correct unsafe conditions as promptly as possible. All accidents that result in injury must be reported to the appropriate supervisor, regardless of how insignificant the injury may appear. Such reports are necessary to comply with laws and initiate insurance and workers' compensation procedures.

## H. Additional Material Terms and Conditions of the Job Offer

k. Job Offer Information 11

| 1. Section/Item Number * | B.6 | 2. Name of Section or Category of Material Term or Condition * | Job Requirements - Drug and Alcohol Policy |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

All employees must comply with the employer's Substance Abuse Policy as a condition of employment. The employer strictly prohibits the illegal and/or unauthorized use, possession, manufacture or sale of drugs and alcohol during working hours, while on duty, at the employer's premises or housing location, in company vehicles and/or at any location where employees perform their work at any time. Employees must not report for work, enter the worksite, or perform service while under the influence of or having used alcohol or any illegal controlled substance. Employees
must follow all other rules concerning the employer's Substance Abuse Policy, as stated in the Employee Handbook. All employees are subject to random, periodic, and reasonable suspicion drug and alcohol testing.

l. Job Offer Information 12

| 1. Section/Item Number * | B.6 | 2. Name of Section or Category of Material Term or Condition * | Job Requirements - Housing Information |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Housing and utilities will be provided at no cost to eligible to H-2A nonimmigrant workers and U.S. corresponding employees who live outside the area of Honolulu County are unable to commute to and from their permanent residence each workday Housing is a 6,600 sq. ft. complex with centralized cooking facilities, a dining hall, showers, toilets and wash sinks, a recreation room, community picnic/barbeque area, and sleeping accommodations. Employees will have access to free laundry tubs and clotheslines, but may also choose to voluntarily use coin laundry. Housing is offered to workers only. Workers are expected to abide by the following housing rules, which include but are not limited to: fighting or threatening other employees or third parties will not be permitted; excessive use of alcohol or being under the influence of drugs is not permitted; no late-night parties; excessive noise or loud music is not permitted; after 10 p.m. it is quiet time; workers must maintain housing and living areas in a neat, clean manner and must not alter or modify the housing facilities; workers shall not litter; workers must be considerate of neighbors; smoking is prohibited; harassing other employees, neighbors, or any their person while on company property will not be tolerated; abusing or stealing company property or that of another person is not permitted; firearms are not allowed on company property; trash must be emptied daily; all dry food must be covered; all other food must be stored in the refrigerator; workers must keep the kitchen and cooking facilities clean; no food is to be left on the stove or counters; screens must always be in place on windows and doors with no holes; if there is a hole you must let the designated house monitor know at once. Workers should immediately notify the employer of any required repairs needed to the housing or if safety equipment is not functioning, such as fire extinguishers. Employees may not invite third parties to the housing location without express company permission. Housing may be inspected at least one time per week by a company inspector to help ensure that facilities are kept in good condition. Failure to comply with housing rules may result in disciplinary action, up to and including termination of employment. The employer retains possession and control of the housing premises at all times. Any worker eligible for company-provided housing who is terminated for cause or resigns/abandons their employment must immediately vacate the housing premises and will no longer be eligible for housing benefits.

## H. Additional Material Terms and Conditions of the Job Offer

m. Job Offer Information 13

| 1. Section/Item Number * | A.8a | 2. Name of Section or Category of Material Term or Condition * | Job Duties - Job Information |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *

Waikele Farms is a fixed-site grower that harvests a variety of vegetables and fruits in the Honolulu County area of employment. The employer anticipates that employees will work approximately 35 hours per week. However, the employees may be required to work additional hours per week, including overtime, depending upon the conditions in the fields, weather, and maturity of the crop. Workers must remain flexible and be able and willing to work varying hours since planned work schedules may change and employees may begin their workdays at earlier or later hours. Workers may be offered more hours than listed in this job order on any day of the week, including the Sabbath or Federal holidays. The employer will provide employees with a morning and afternoon shift break and a lunch break. Employees might experience a temporary reduction in work and/or temporary work stoppage due to inclement weather, such as rain, or the natural agricultural cycle. Employees must report for work when and where scheduled and be physically and mentally ready to work. Daily individual work assignments will be made by, and at the sole discretion of, the employer based upon the needs of the agricultural operation. Workers must perform the assigned work, and work at the assigned crew/field site, and may not switch assignments or crew/field sites without specific authorization from a company supervisor. The work described in this work contract is regular, full-time work requiring all workers to be available for work on a daily basis. Tardiness and/or unexcused absences will not be tolerated and will result in disciplinary action as set forth in the employer's employment policies.

n. Job Offer Information 14

| 1. Section/Item Number * | | 2. Name of Section or Category of Material Term or Condition * | |
|---|---|---|---|

3. Details of Material Term or Condition (*up to 3,500 characters*) *