OMB Approval: 1205-0466
Expiration Date: 11/30/2025

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

A. Job Offer Information

1. Job Title * FARMWORKERS & LABORERS, CROP

2. Workers Needed *	a. Total	b. H-2A Workers	Period of Intended Employment	
	10	10	3. First Date * 5/1/2023	4. Last Date * 11/11/2023

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 *(an entry is required for each box below)* *

48	**a. Total Hours**	8	c. Monday	8	e. Wednesday	8	g. Friday
0	b. Sunday	8	d. Tuesday	8	f. Thursday	8	h. Saturday

7. Hourly Work Schedule *
a. 7 : 00 ☑ AM ☐ PM
b. 3 : 30 ☐ 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 / Estimated Hourly Rate / Special Pay Information §
$ 16 . 95	☑ HOUR ☐ MONTH	$ ____ . ___	

9. Is a completed **Addendum A** providing additional information on the crops or agricultural activities to be performed and wage offers attached to this job offer? * ☐ Yes ☑ N/A

10. Frequency of Pay: * ☑ Weekly ☐ Biweekly ☐ Other (specify): N/A

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.)

SOCIAL SECURITY
FEDERAL TAX
NYS TAX
NYS DISABILITY
NYSPFL

H-2A Case Number: H-300-23046-777148 Case Status: Full Certification Determination Date: 03/13/2023 Validity Period: _____ to _____

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 45 lbs.
☑ f. Exposure to extreme temperatures
☑ g. Extensive pushing or pulling
☑ h. Extensive sitting or walking
☐ i. Frequent stooping or bending over
☐ j. 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)*

See Addendum C

C. Place of Employment Information

1. Place of Employment Address/Location *
5530 WILSON-BURT ROAD

2. City *	3. State *	4. Postal Code *	5. County *
BURT	New York	14028	Niagara

6. Additional Place of Employment Information. *(If no additional information, enter "**NONE**" below)* *

Please Addendum B

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 ☐ N/A

D. Housing Information

1. Housing Address/Location *
2203 COOMER ROAD (TOWN OF NEWFANE)

2. City *	3. State *	4. Postal Code *	5. County *
BURT	New York	14028	Niagara

6. Type of Housing *(check only one)* *
☑ Employer-provided (including mobile or range) ☐ Rental or public

7. Total Units * 6

8. Total Occupancy * 44

9. Identify the entity that determined the housing met all applicable standards: *
☑ Local authority ☑ SWA ☐ Other State authority ☐ Federal authority ☐ Other (specify): _____

10. Additional Housing Information. *(If no additional information, enter "**NONE**" below)* *

1/8 MILE NORTH OF INTERSECTION OF WILSON-BURT AND COOMER ROADS, EAST SIDE OF ROAD. EACH UNIT CONTAINS FOUR ROOMS WITH 2 SINGLE BEDS PER ROOM. CENTRAL KITCHEN AND TOILET/SHOWER FACILITIES.

11. Is a completed **Addendum B** providing additional information on housing that will be provided to workers attached to this job order? * ☑ Yes ☐ N/A

E. Provision of Meals

1. Describe how the employer will provide each worker with three meals per 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.)

WORKERS BUY AND PREPARE THEIR OWN FOOD. WEEKLY TRIPS TO GROCERY STORE ARE PROVIDED AT NO COST TO WORKERS.

2. The employer: *	☑ **WILL NOT** charge workers for meals.		
	☐ **WILL** charge each worker for meals at	$ _____ . ____	per day, if meals are provided.

F. Transportation and Daily Subsistence

1. Describe the terms and arrangements 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	$ 15 . 46	per day *
	b. no more than	$ 59 . 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.)

ALL APPLICANTS SHOULD RECEIVE FULL DISCLOSURE PRIOR TO REFERRAL. COMPLETE JOB ORDER IS AVAILABLE BY CALLING NEW YORK STATE SWA: 1-877-466-9757. CALL EMPLOYER FOR APPOINTMENT, CONTACT DOUGLAS INGERSOLL AT 716-778-7631 BETWEEN 9AM - 3PM MONDAY - FRIDAY.

2. Telephone Number to Apply *	3. Extension §	4. Email Address to Apply *
+1 (716) 778-7631	N/A	lakesideorchards@yahoo.com

5. 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

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 part 653, subpart F and the requirements set forth in 20 CFR 655, subpart B. 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 part 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 places of employment for which the employer is requesting temporary agricultural 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 or secure housing for the 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, and/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 or public housing 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, and/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 employer provides evidence that housing has been inspected and approved or, in the case of rental or public accommodations, is otherwise in full compliance.

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), .210(d), or .302(c).

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). When a charge or deduction for the cost of meals would bring the worker's wage below the minimum wage set by the FLSA at 29 U.S.C. 206, the charge or deduction must meet the requirements of 29 U.S.C. 203(m) of the FLSA, including the recordkeeping requirements found at 29 CFR 516.27.

   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 came to work for the employer to the employer's place of employment, whether in the U.S. or abroad. 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 be 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 place of employment to such subsequent employer's place of employment, 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 place of employment to such subsequent employer's place of employment, 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 employer's obligation to hire U.S. workers who apply or are referred after the employer's date of need during the recruitment period set out in 20 CFR 655.135(d). 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 place(s) of employment 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 500.104 or 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 CFR 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. The records must include each worker's permanent address, and, when available, permanent email address, and phone number(s). 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), a prevailing wage rate, the agreed-upon collective bargaining rate, the Federal minimum wage, or the State minimum wage, whichever is highest, 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 wage rate, Federal minimum wage, State minimum wage, or any agreed-upon collective bargaining rate, whichever is highest. If the applicable AEWR or prevailing wage is adjusted during the contract period, and that new rate is higher than the highest of the AEWR, the prevailing wage, the collective bargaining rate, the Federal minimum wage, or the State minimum wage, the employer will increase the pay of all employees in the same occupation to the higher rate no later than the effective date of the adjustment. If the new AEWR or prevailing wage is lower than the rate guaranteed on this job order, the employer will continue to pay at least the rate guaranteed on this job order.

    If the worker is paid on a piece rate basis, the piece rate must be no less than the prevailing piece rate for the crop activity or agricultural activity and, if applicable, a distinct work task or tasks performed in that activity in the geographic area, if one has been issued. At the end of the pay period, if 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, 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 guarantees 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, the 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 U.S. 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 after the worker fails to show up for work at the regularly scheduled time 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 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 place of employment 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 place of employment to the subsequent employer's place of employment. 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 or who does not require a visa for entry to the United States, 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 work contract at minimum will be the terms of this clearance order, including all Addenda, the certified *H-2A Application for Temporary Employment Certification* and any obligations required under 8 U.S.C. 1188, 29 CFR part 501, or 20 CFR part 655, subpart B. 20 CFR 655.122(q).

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 first date of need, unless the employer has amended the first date of need at least 10 business days before the original first date of need by so notifying the Order-Holding Office (OHO) in writing (*e.g.*, email 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 first date of need expeditiously. 20 CFR 653.501(c)(3)(i).

    If there is a change to the anticipated first date of need, and the employer fails to notify the OHO at least 10 business days before the original first 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 first 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/or 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 §
BUCOLO	CHRISTOPHER	J
4. Title *		
VICE-PRESIDENT		

5. Signature (or digital signature) *	6. Date signed *
Digital Signature Verified and Retained By Certifying Officer	2/17/2023

For Public Burden Statement, see the Instructions for Form ETA-790/790A.

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 §
Lakeside Orchards, Inc	Corner Of Wilson-Burt & Coomer Road Newfane, New York 14108 NIAGARA	*LSO Barn	5/1/2023	11/11/2023	10
Lakeside Orchards, Inc	Northwest Corner Of Wilson-Burt & West Creek Road Newfane, New York 14108 NIAGARA	*Jankowski	5/1/2023	11/11/2023	10
Lakeside Orchards, Inc	North & South Side Of Drake Settlement Road (East Of Route 78) Newfane, New York 14108 NIAGARA	*Phillips	5/1/2023	11/11/2023	10
Lakeside Orchards, Inc	Behind Barn Coomer Camp (Corner Of Wilson-Burt & Coomer Road) Newfane, New York 14108 NIAGARA	*Liddell	5/1/2023	11/11/2023	10
Lakeside Orchards, Inc	West Side Of Transit Road At Corner Of Jockey Newfane, New York 14108 NIAGARA	*Bensen	5/1/2023	11/11/2023	10
Lakeside Orchards, Inc	South Side Of Route 18 (Between Hosmer & Hess Roads) Newfane, New York 14108 NIAGARA	*Greenlane	5/1/2023	11/11/2023	10
Lakeside Orchards, Inc	Route 18 & Transit Road New York NIAGARA	*Ontario -	5/1/2023	11/11/2023	10
Lakeside Orchards, Inc	Route 18 Wilson, New York NIAGARA	Mccoy/Rose/Singer	5/1/2023	11/11/2023	10

D. Additional Housing Information

OMB Approval: 1205-0466
Expiration Date: 11/30/2025

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

1. Type of Housing *	2. Physical Location *	3. Additional Housing Information §	4. Total Units *	5. Total Occupancy *	6. Inspection Entity *
☑ Employer-provided ❑ Rental or public accommodations	6202 EAST LAKE ROAD BURT, New York 14028 NIAGARA	SINGLE STORY CEMENT BLOCK BUILDING WITH KITCHEN IN EACH ROOM. SEPARATE BUILDING WITH SHOWER & TOILETS. KNOWN AS "ONTARIO CAMP".	24	24	☑ Local authority ☑ SWA ❑ Other State authority ❑ Federal authority ❑ Other _____
❑ Employer-provided ❑ Rental or public accommodations					❑ Local authority ❑ SWA ❑ Other State authority ❑ Federal authority ❑ Other _____
❑ Employer-provided ❑ Rental or public accommodations					❑ Local authority ❑ SWA ❑ Other State authority ❑ Federal authority ❑ Other _____
❑ Employer-provided ❑ Rental or public accommodations					❑ Local authority ❑ SWA ❑ Other State authority ❑ Federal authority ❑ Other _____
❑ Employer-provided ❑ Rental or public accommodations					❑ Local authority ❑ SWA ❑ Other State authority ❑ Federal authority ❑ Other _____

For Public Burden Statement, see the Instructions for Form ETA-790/790A.

H-2A Case Number: H-300-23046-777148 Case Status: Full Certification Determination Date: 03/13/2023 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*) *

Due to food safety regulations, workers must understand basic instructions in English.
During the anticipated period of employment, the primary activity on this farm will be the hand harvest of apples. Workers drive and operate farm machinery to plant, cultivate, spray and harvest apples. Removes excess growth from trees to improve fruit quality using pruning saws and clippers. Workers drive tractors to transport materials, supplies, or product. Also, thin blossoms or immature fruit to obtain better quality fruit. Other harvesting fruit or other job duties, if required.
Workers must be physically able to pick fruit, most of which is done from ladders with lower branches being picked from the ground. Workers place ladder firmly against or within tree in a secure position so as not to break limbs or knock off fruit and to prevent slipping or falling. All fruit to be handled with care to avoid causing bruising. Picked fruit is placed in a metal-framed, canvas-covered picking bucket with canvas straps that slip over the head and rest on the shoulders. The bucket when filled weighs up to 45-lbs. and is emptied into bulk boxes known as tote boxes. Each tote box has a capacity of twenty (20) bushels. Workers are required to handle ladders up to 24-feet long and weighing about 2-lbs. per foot. In apple harvest work, workers may be instructed to selectively pick mature fruit according to size, color, and grade standards factors. Workers will be directed to strip all fruit from tree at one picking or to spot pick (selective picking) according to size and color depending on crop conditions and state of maturity. Fruit picked as drops is never mixed with tree fruit. Productivity must be at least 4.8 bins per day for fresh market apples and 6.75 bins per day for processing apples. Each workers picked fruit will be inspected according to instructions given each day by the orchard foreman.
Workers also perform any combination of tasks involved in planting, cultivating and harvesting of fruits such as tilling soil, planting stock, pruning trees and bushes, removing suckers and runners from trees, vines and plants. Other duties include laying out irrigation pipe and installing sprinklers, assisting in repairing fences, unloading trucks, clearing fields, burning brush and hand thinning fruit. Will use appropriate tools such as shovels, hoes, tampers and/or pruning shears.
Peaches and cherries are hand-picked in half-bushel baskets. Also the skimming of cherries from tanks as cherries are shaken from tree.
Employer will furnish to workers, without cost, all tools and equipment required in the performance of the duties assigned. Workers should report for work with their own suitable work clothing. Field temperatures may range from 30 degrees to 85 degrees with possible wet morning conditions. Extensive walking and frequent stooping is expected.
Workers may also drive pickup trucks and/or buses to transport other workers to the the job-site(s) and/or store. Not all workers are requested to drive; drivers will be required to possess a valid drivers license. No one will be rejected for the position that does not possess a drivers license.
All applicants will be required to have three months experience in all duties outlined in this job order.

b. Job Offer Information 2

1. Section/Item Number *	B.6	2. Name of Section or Category of Material Term or Condition *	Additional Information Regarding Job Qualifications/Requirements

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

*HAND-HARVEST FRUIT WITH MINIMAL TO NO BRUISING FOR FRESH FRUIT
*IDENTIFY FRUIT GRADE (IE. COLOR, SIZE)
*CARRY PICK BASKET WEIGHING UP TO 45-LBS
*LIFT LADDER WEIGHING 2-LBS PER FOOT
*CLIMB LADDER UP TO 8-FEET HIGH
*THE EMPLOYER WILL PROVIDE 3 DAYS OF TRAINING AND/OR ALLOW 3 DAYS OF WORK FOR THE WORKER TO REACH PRODUCTION STANDARDS

For Public Burden Statement, see the Instructions for Form ETA-790/790A.

H. Additional Material Terms and Conditions of the Job Offer

c. Job Offer Information 3

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*) *

*WORKERS WILL BE TRANSPORTED, AT NO COST TO WORKERS, FROM EMPLOYER PROVIDED HOUSING AT BEGINNING OF EACH WORKDAY TO PLACE OF WORK & BACK AT END OF EACH WORKDAY.
*TRANSPORTATION WILL BE VIA COMPANY OWNED, 2002 FORD BUS, SEATING IS FOR 16 & BUS IS EQUIPPED WITH SEATBELTS.
*IF WORKER DOES NOT RESIDE IN EMPLOYER-PROVIDED HOUSING, TRANSPORTATION WILL STILL BE MADE AVAILABLE VIA THE SAME MEANS.
*EMPLOYER WILL ALSO PROVIDE TRANSPORTATION TO EMPLOYEE FOR PERSONAL ERRANDS (IE. BANK, GROCERY STORE)

d. Job Offer Information 4

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*) *

*TRANSPORTATION & RELATED DAILY SUBSISTENCE WILL BE PROVIDED BY EMLOYER OR PAID BY EMPLOYER TO WORKER FOR REASONABLE COST INCURRED ON TRANSPORTATION FROM WORKER'S HOME TO PLACE OF EMPLOYMENT.
*TRAVEL IS ARRANGED BY FLORIDA EAST COAST TRAVEL SERVICES & OFTEN INCLUDES AIR TRANSPORTATION FROM WORKER'S HOME TO US & THEN A CHARTER BUS FROM AIRPORT TO THE WORKSITE. IN SOME INSTANCES, WORKERS WILL BE PICKED UP AT THE LOCAL AIRPORT BY THE COMPANY OWNED BUS. ALL TRANSPORTATION IS AT NO COST TO WORKER.

For Public Burden Statement, see the Instructions for Form ETA-790/790A.

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 *	New York State Specific Assurances

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

3. Housing for Workers: Article 6 of the NYS Labor Law, sections 193.1 and 193.2, prohibit an employer from deducting monies, either through payroll deduction or by separate transaction, any amount or charge which is not authorized by NYS labor law.
Therefore, the employer may NOT require workers to reimburse them for damage caused to housing by the individual worker(s) found to have been responsible for the damage.

12. Frequency of Pay: Article 6 of the NYS Labor Law, section 191.1a, requires that employer pay wages weekly to manual workers (farmworkers are manual workers) no later than 7 calendar days after the end of the week in which wages are earned. Therefore, manual workers can be paid weekly or biweekly (up to date; where all days, including payday hours are paid).

15. Deductions from Worker's Pay: Article 6 of the NYS Labor Law, sections 193.1 and 193.2, prohibit an employer from deducting monies, either through payroll deduction or by separate transaction, any amount or charge which is not authorized by NYS labor law. Therefore, the employer may NOT make any other deductions NOT required by law.

Additional Assurances:
• Per the Farm Laborer Fair Labor Protections Act, all farmworkers, including H-2A foreign guest workers, will earn one and a half times the regular rate for all hours worked over 60, and for any hours voluntarily worked on a worker's designated day of rest.
• NYS Labor Law section 201g requires that employers adopt a sexual harassment prevention policy. Interactive training and a copy of the written policy must be provided to all workers. The policy must be provided in the language spoken by the workers.
• Per the New York Paid Sick Leave Law, all employees must be provided sick leave as applicable. Hours earned (up to a prescribed maximum) are rolled over from year to year for seasonal workers.
•Employers with 4 or fewer employees and a net income of less than 1 million in the prior tax year must provide employees with up to 40 hours of unpaid sick leave per year.
•Employers with between 5 and 99 employees and employers with 4 or fewer employees and a net income of greater than 1 million in the prior tax year must provide each employee with up to 40 hours of paid sick leave per year.
•Employers with 100 or more employees will provide up to 56 hours of paid sick leave per year.

f. Job Offer Information 6

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

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

Daily Subsistence will be provided by the employer or paid by the employer to the worker for reasonable costs incurred. Transportation from the place of employment to the place from which the worker departed will be arranged by Florida East Coast Travel services and typically involves the worker being picked up by a charter bus from the place of employment and transported to the airport for departure.

For Public Burden Statement, see the Instructions for Form ETA-790/790A.