OMB Approval: 1205-0451
Expiration Date: XX/XX/XXXX

Application for Permanent Employment Certification
Form ETA-9089 – Appendix E: Assurances and Obligations
U.S. Department of Labor

For Use in Filing Applications under the PERM Program ONLY

ASSURANCES AND OBLIGATIONS

A. Attorney or Agent Declaration

I hereby declare under penalty of perjury that I am an attorney or agent for the employer and that I have been designated by that employer to act on its behalf in connection with this application. I have retained an executed agent agreement that is available upon request by the Department, in accordance with 20 CFR 656.5.

***I HEREBY CERTIFY** that I have provided to the employer the Form ETA-9089, including all applicable appendices and supporting documentation, for review and to the best of my knowledge the information contained herein is true and accurate, including the employer's declaration regarding activities that I have undertaken on the employer's behalf in connection with this application. I understand that to knowingly and/or willfully furnish materially false information in the preparation of this form and/or any supplement hereto, 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, 1546, 1621).*

1. Attorney or Agent's Last (family) Name *	2. First (given) Name *	3. Middle Initial §
4. Firm/Business Name *		
5. Signature *		6. Date Signed *

B. Employer Declaration

*By virtue of my signature below, **I HEREBY CERTIFY** my knowledge of and compliance with the following conditions of employment:*

Bona Fide Job Opportunity and Non-Discrimination

1. The job opportunity identified in the *Application for Permanent Employment Certification* is a bona fide full-time permanent position and the terms and conditions of employment comply with applicable Federal, State, and local laws and regulations.
2. The job opportunity has been and will continue to be open to any qualified U.S. worker, regardless of race, color, national origin, age, sex, pregnancy, religion, disability, genetic information, or citizenship status, through the date on which the Immigrant Petition is approved by USCIS or the date of determination if the *Application for Permanent Employment Certification* or Immigrant Petition is denied or withdrawn, whichever is later.
3. Rejection(s) of any U.S. worker(s) who applied or apply for the job were or will be only for lawful, job-related reasons, and those not rejected on this basis have been or will be hired. The employer has not and will not reject any qualified U.S. worker over the prospective foreign worker based on any cost justifications, including those based on differences in any term, condition, or privileges of employment, including compensation and fringe benefits, between any qualified U.S. worker and the prospective foreign worker. The employer has and will continue to retain records of any hire(s) and rejection(s) as required by this part.
4. The employer has complied, and will continue to comply with:
   (a) Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e *et seq.*, which prohibits discrimination in hiring, discharge, compensation, and the terms, conditions, or privileges of employment because of race, color, religion, sex, or national origin, including discriminating against U.S. workers because of their national origin and in favor of workers of a different national origin, and which is primarily enforced by the Equal Employment Opportunity Commission; and
   (b) 8 U.S.C. 1324b, which prohibits discrimination in hiring, recruitment or referral for a fee, and discharge because of citizenship status against protected individuals as defined in 8 U.S.C. 1324b(a)(3) (including U.S. citizens and nationals, lawful permanent residents, refugees, and asylees), prohibits discrimination because of national origin by employers with four or more employees that are not covered by Title VII, prohibits unfair documentary practices in the employment eligibility verification process, and prohibits retaliation, and which is enforced by Department of Justice.

   Note: Nothing in part 656 limits any obligation under these laws, and compliance with part 656 is not a defense to liability under these laws.
5. The employer has offered, and will continue to offer, to every able and qualified U.S. worker who applies for, is referred to, or is employed in the job opportunity or in a similarly situated position, terms, conditions, and privileges of employment—including hiring, job assignments, compensation, hours of work, training, fringe benefits, promotion, and demotion—that are no less favorable than those offered to the foreign worker who is the subject of the *Application for Permanent Employment Certification*. **Note:** This is a wage-and-working-conditions requirement of the permanent labor certification program; it does not construe, limit, or expand Title VII of the Civil Rights Act of 1964, 8 U.S.C. 1324b, or any other law.

No Strike, Lockout, or Work Stoppage

6. This job opportunity, including all places of employment for which the employer is requesting permanent labor certification, is not vacant because the former occupant(s) is (are) on strike or being locked out in the course of a labor dispute involving a work stoppage.

Offered Wage and Ability to Pay Guarantees

7. The employer has offered, and will continue to offer a wage that equals or exceeds the highest of the applicable Federal, State, or local

minimum wage, or the prevailing wage determination for the occupation that is issued by the Department to the employer, as reflected on the *Application for Permanent Employment Certification*. If, after the issuance of a prevailing wage determination, the Department issues a new or revised prevailing wage determination that is assigned to the employer's *Application for Permanent Employment Certification*, the employer will offer a wage that equals or exceeds the highest of the new prevailing wage or the applicable Federal, State, or local minimum wage, unless notified otherwise by the Department.

8. The employer has offered, and will continue to offer a wage that does not and will not result in less favorable treatment in compensation, fringe benefits, or other terms, conditions, and privileges of employment for current or prospective U.S. workers employed in, or seeking to be employed in, similarly situated positions at the employer, as required by all applicable federal anti-discrimination laws and regulations under Title VII of the Civil Rights Act of 1964 and the Immigration and Nationality Act's Antidiscrimination Provision, 8 U.S.C. Section 1324b.
9. The employer has offered, and will continue to offer a wage that is not based on commissions, bonuses or other incentives, unless the employer guarantees an offered wage earned on a weekly, bi-weekly, or monthly basis that equals or exceeds the prevailing wage.
10. The employer has offered, and will continue to offer a wage that the employer has the ability to pay with existing, internally-available, non-contingent financial resources owned by the employer at the time of filing the *Application for Permanent Employment Certification*, for work performed in the job opportunity identified in the *Application for Permanent Employment Certification*. The employer will be able to place the foreign worker on the employer's payroll on or before the date of application for a visa and admission to the United States.

Good Faith Recruitment of U.S. Workers.

11. The employer has conducted, and will continue to conduct, recruitment of U.S. workers, as required under this part, in good faith in the same manner, through the same channels, and on terms no less favorable to U.S. workers as those on which it normally recruits and considers U.S. workers in the same job opportunities for which the employer does not seek labor certification to employ a foreign worker(s). This applies to, but is not limited to, the following:

    (a) The method, manner, and location of job postings (e.g., online versus paper job postings; posting in an employer's centralized job webpage versus specialized, PERM-specific job webpages) and the duration of any job posting;

    (b) The method by which an applicant may apply (e.g., online via a centralized employer website versus PERM-specific email addresses, fax, or paper applications);

    (c) The description of the job opportunity, qualifications, and requirements needed to perform the work, which cannot be tailored to the prospective foreign worker and the requirements for applying cannot be unduly restrictive so as to make it difficult for U.S. workers to be deemed qualified.

    (d) If the employer wishes to require interviews, it must conduct those interviews by phone or provide an alternative method (e.g., virtual meetings or conferencing, cloud calls) for the interviews to be conducted in the location where the U.S. worker(s) is/are being recruited so that the worker incurs little or no cost due to the interview. The employer cannot provide a prospective foreign worker with more favorable treatment than U.S. workers with respect to the requirements for applying and conducting interviews for the job opportunity. The employer representative conducting the interview must be a U.S. worker and one who normally interviews or considers, on behalf of the employer, applicants for job opportunities such as that offered the foreign worker which do not involve labor certifications.

    (e) Each method by which a U.S. worker may apply for the job opportunity must be operational, monitored, and capable of receiving and retaining applications throughout the period of recruitment, and the employer must retain and submit evidence of its operation as required by § 656.17(g); and

    (f) Recruitment for the job opportunity through any method, channel, or procedure that is less accessible or less favorable to U.S. workers than the employer's ordinary recruitment for similar job opportunities, or through an application channel that does not meet paragraph (d)(4) of this section, is presumed not to have been conducted in good faith; is an independent ground for denial under § 656.24; and will be referred under § 656.31(b) to DOJ and, where the facts indicate possible discrimination because of national origin, to the EEOC.

Layoffs and Consideration of Laid-off U.S. workers

12. Within two years prior to filing this application, the employer has not laid off any U.S. worker(s) in the same or similar occupation (i.e., the same SOC code or a substantially comparable position) that is the subject of the *Application for Permanent Employment Certification* in the area of intended employment of the place(s) of employment, including the placement of the foreign worker with another employer subject to 20 CFR 656.13(f).
13. If a layoff of any such U.S. worker(s) occurs after filing the application and before the date on which the Immigrant Petition is approved by USCIS, or the date of determination if the *Application for Permanent Employment Certification* or Immigrant Petition is denied or withdrawn, whichever is later, the employer:

    (a) Will notify the NPC, and USCIS in the case of a pending Immigrant Petition, in writing or by any other method specified by the Department in a notice published in the Federal Register or specified by USCIS not later than 5 business days after such layoff(s) occurs; and

    (b) Will offer the job opportunity that is the subject of the *Application for Permanent Employment Certification* to those laid-off U.S. worker(s) at no less than the offered wage and on the terms and conditions stated in the *Application for Permanent Employment Certification*, and document whether the U.S. worker(s) refused the job opportunity, was rejected for the job opportunity for lawful, job-related reasons, or was hired.

Placing Contract Workers with Other Employers Engaging in Layoffs Prohibited

14. The employer has not placed, and will not place, the foreign worker who is the subject of the *Application for Permanent Employment Certification* with another employer (including that employer's parent, subsidiary, or affiliate) where:

    (a)There are indicia of an employment relationship between the foreign worker and that other employer, consistent with the criteria set forth in

20 CFR 655.738(d)(2); and

(b)The other employer laid off U.S. workers in its workforce who are employed in the same or similar occupation that is the subject of the *Application for Permanent Employment Certification*, between the date that is two years prior to the filing of the application and the date on which the Immigrant Petition is approved by USCIS or the date of determination if the *Application for Permanent Employment Certification* or Immigrant Petition is denied or withdrawn, whichever is later.

Compliance with Prohibition on Improper Commerce and Employees Paying Fees.

15. The employer and its agents, attorneys, and/or employees have not offered, and will not seek to offer, for sale, barter or purchase to any individual or entity *Applications for Permanent Employment Certification* at any time, including applications certified by the Department, and have not sought or received, and will not seek to receive, payment of any kind from the worker(s) for any activity related to obtaining permanent labor certification, including payment of the employer's attorneys' fees, whether as an incentive or inducement to filing, or as a reimbursement for costs incurred in preparing or filing a permanent labor certification application, except when work to be performed by the foreign worker in connection with the job opportunity would benefit or accrue to the person or entity making the payment, based on that person's or entity's established business relationship with the employer. A foreign worker may pay his or her own costs in connection with a labor certification, including attorneys' fees for representation of the foreign worker, except where the same attorney represents both the foreign worker and the employer, such costs shall be borne by the employer. Payment includes, but is not limited to, monetary payments; wage concessions, including deductions from wages, salary, or benefits; kickbacks, bribes, or tributes; in kind payments; and free labor.

Compliance with Applicable Laws

16. The employer has complied and will continue to comply with applicable Federal, State and local employment-related laws and regulations, including, but not limited to, employment-related health and safety laws, Federal, State, and local anti-discrimination laws, including Title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq*.) and 8 U.S.C. 1324b; anti-trafficking laws, including 18 U.S.C. chapter 77, and all applicable provisions of the Fair Labor Standards Act, 29 U.S.C. 201 *et seq.* In addition, the employer and its agents and attorneys are prohibited from holding or confiscating workers' passports, visas, or other immigration documents pursuant to 18 U.S.C. 1592(a).

Compliance with Record Retention Requirements

17. The employer filing an *Application for Permanent Employment Certification* will retain all documents and records demonstrating compliance with this part 656 for a period of five (5) years from the latest of the following dates: the date on which the Immigrant Petition is approved by USCIS; the date the approved *Application for Permanent Employment Certification* expires, if the employer does not file an Immigrant Petition using the certification; or the date the *Application for Permanent Labor Certification* or Immigrant Petition is denied or withdrawn.

Cooperation with Federal Compliance Reviews

18. The employer will fully cooperate with any audit, supervised recruitment, compliance review, evaluation, or inspection conducted by DOL and any other federal agency related to compliance with this part 656.

I hereby designate the agent or attorney identified in Section C (if any) of the Form ETA-9089 and Section A above to represent me for the purpose of labor certification and, by virtue of my signature in Block 5 below, **I take full responsibility** for the accuracy of any representations made by my agent or attorney on every page of the Form ETA-9089, including all applicable appendices and documentation supporting this application.

I declare under penalty of perjury that I have read and reviewed this application, including every page of the Form ETA-9089, including all applicable appendices and supporting documentation, and that to the best of my knowledge the information contained therein is true and accurate. *I understand that to knowingly and/or willfully 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, 1546, 1621).*

1. Last (family) Name *	2. First (given) Name *	3. Middle Initial §
4. Title *		
5. Signature *		6. Date Signed *

For Public Burden Statement, see the Instructions for Form ETA-9089.