

SWAT (NZ)  
241 EVENDEN ROAD  
TWYFORD  
HASTINGS 4175

Date:

Dear: .....

LETTER OF CASUAL EMPLOYMENT

We would like you to be available on a casual basis in terms of an individual employment agreement with S.W.A.T (NZ) operating under RTW (NZ) LTD. (the "Company") as detailed below. This means that from time to time you might be offered periods of employment with the Company.

This offer of casual employment is made on the basis that:

- a. You know of no medical or other condition which could impair your work performance or your attendance at work;
- b. You are legally entitled to be employed in New Zealand; and
- c. You have made no misrepresentations to the Company or withheld any information as to your qualifications, work history, experience, or any other matter, which may have materially influenced the Company's decision to offer employment

In accordance with the Employment Relations Act you are entitled to a reasonable opportunity to seek independent advice on this Letter of Casual Employment before accepting the offer. We encourage you to do so.

If you are willing to accept casual employment from time to time, please sign and return this contract. Each time you work for the Company, it will be on the terms of this letter. Which shall constitute the entire agreement in relation to your employment by the Company and supersedes any previous communications with you.

The terms and conditions contained in this letter will apply to any all assignments. If we offer you an assignment, we will advise you of its length, either in respect of time, or the task to be completed. At the end of any assignment your agreement of casual employment will end. The Company does not guarantee regular work and there is no continuity of service. This agreement, and any extension or renewal of any assignment, does not imply that you will have continuous or regular employment.

Your employment will be on the following terms and conditions:

### **1. Position and Job Description**

You will be employed from time to time on a casual basis as an orchard, vineyard or pack house worker by S.W.A.T (NZ) on various properties.

Your specific duties for a particular assignment will be outlined to you at the commencement of each period of engagement on an assignment. These instructions will generally be oral and will be forwarded by written confirmation where practicable or appropriate.

At the beginning of each assignment, you will be informed of the person to whom you will report.

The flow of work may well fluctuate but that will be a function of the Company's work levels from time to time.

Your employment will commence at the beginning of an assignment and will end on the termination of that assignment an assignment shall be deemed to be completed, and your employment terminated, when the specified duration of the assignment is reached or when the specified task is completed.

### **2. Hours of Work**

Hours of work will be mutually agreed between you and your supervisor. You shall immediately advise the Company if you will be late for an assignment, or are Unable to report for work, to enable the Company to make suitable arrangements.

An unpaid meal break of 30 minutes (longer by agreement) and a paid break of 10 minutes taken at or about the mid-point of the morning and afternoon.

### **3. Wages**

-your base rate of pay is NZ\$ 12.75 per hour plus 8% holiday pay, which will be paid to you weekly with each pay. This means that upon termination of employment, no additional pay for annual holidays is due.

-your pay for piecework will be determined by the rate set by your supervisor and the amount of work you carry out. This piece rate will include your 8% holiday pay.

Holiday pay will be shown separately on your weekly pay slip. All rates are before tax. Pay week is from Monday to Sunday and pay will be credited to your account on the following Friday.

As a casual employee your wages are based solely on the hours worked or the amount of work completed on each assignment and you are not entitled to remuneration when you are not working on an assignment.

Your supervisor will complete timesheets on your behalf, which shall be verified by the Company.

Any additional payment in the form of allowance or reimbursement for approved expenditure shall be at the sole discretion of the Company. You will not be entitled to sick leave, bereavement leave or annual leave, paid public holidays, parental leave, overtime or any other paid leave. As you are a casual employee, you will have no right to any compensation for redundancy, special leave or other paid benefits. However, if you are required to work on a public holiday, you will be paid at time and a half for the hours worked and will be given a day off in lieu as per the requirements of the Holidays Act 2003 (amended October 2004).

The employer may deduct from the employee's wages the cost of protective clothing and other equipment issued to the employee were the employee willfully or through negligence, damages this or is unable to present the clothing or article when reasonably requested to do so by the employer. The deduction will be based on the replacement cost of the article less a reasonable allowance for depreciation. In respect to clothing, depreciation will be based on a 12 month life span for the garment concerned.

#### **4. Notice**

Notification of termination to the employer of **5 days is required.**

If insufficient notice is given by the employee they shall forfeit payment of two days as compensation to the Company. This shall not prevent the termination of employment without notice in the case of serious misconduct.

#### **5. Abandonment of Employment**

When you are absent from work for a period of one day without consent and without good cause, you shall be deemed to have terminated your employment.

#### **6. General**

All the Company's work must be regarded as confidential. You are expected to observe this confidentiality at all times. Any documentation belonging to the Company or its clients must remain with the Company.

You are expected to exercise all reasonable skill, care and diligence in the performance of your duties, and comply with all reasonable and lawful directions given by the Company and with all relevant legislative requirements.

While it is the Company's responsibility to provide a safe working environment, it is up to each individual to ensure his/her own safety while at work and to follow

The Company's policies and guidelines and to abide by any particular site regulations. It is expected that you will become familiar with the Company's current Health and Safety Policy, including, where applicable, the safety of all aspects of work station set up and use of computer equipment

You will receive a briefing on the Company's Health and Safety Work instructions relating to the work you will be undertaking. You are expected to read and comply with the Health and Safety Work Instructions. We remind you that you are required by law to take all practicable steps to ensure your own safety while at work and that your actions or inactions do not cause harm to any other person. The use of mobile phones and personal music devices during working hours is prohibited-

. . .

If you are injured or involved in an accident at work, you must inform your supervisor for the accident details to be recorded and first-aid to be provided if needed,

## **7. Formal Disciplinary Procedures**

The Company reserves the right to suspend you, either on pay or without pay at its discretion while investigating suspected misconduct.

In dealing with an employee's alleged misconduct or substandard performance, the employer will follow a fair process of investigation, consultation and determination. Employees facing disciplinary action will be advised of the allegations of (serious) misconduct or substandard performance against them in advance and will be provided with a full and fair opportunity to respond to these allegations with a support person or representative present.

Any disciplinary action taken as a result of such a disciplinary process will take into account the employee's explanations as to the (serious) misconduct of the substandard performance.

The Company may issue employees with a verbal, written or final warning following such a disciplinary process. Each situation will depend entirely on its own facts.

The Company may summarily terminate the employee's employment in the event of serious misconduct.

### **Misconduct**

As a very general rule, a breach of the following may, after appropriate investigation, consultation and determination, be considered misconduct:

- Failure to comply with time reporting requirements.
- Failure to advise as soon as practicable of any absence for which prior Permission has not been obtained.

Leaving an assigned work place without authority or due cause,  
Abuse or obscene language causing offence to another person on  
Company premises whilst on Company business.  
Posting offensive notices within Company premises or defacing official  
Company notices or instructions.  
Willful waste of time or materials.  
Sleeping during working hours.

#### Serious Misconduct

As a very general rule, a breach of the following, after appropriate investigation, consultation and determination, be considered serious misconduct liable to instant dismissal:

Failure to comply with the Company's NO SMOKING policy.  
Failure to comply with any of the Company's procedures and/or safety rules or procedures.  
The illegal possession or consumption of drugs on Company premises during working hours or whilst on Company business.  
Unauthorised consumption of alcohol on Company premises.  
Being under the influence of alcohol on Company premises.  
Being convicted of an offence under the Crimes Act 1961 or Summary Offences Act 1981.  
The falsification of timesheets, employment application forms, including name, IRD numbers, ACC information, personal expenses or expenditure statements, accident reports or any other record, report or information for the Company's use.  
Sexual harassment in the workplace.  
Refusal to carry out a lawful order, or insubordination.  
Failure to report accidents, personal injury or damage as soon as practically possible.  
Fighting (or physical assault) on Company premises/property or during working hours.  
Illegal gambling during working hours.  
Misrepresenting the Company for personal gain.  
Unauthorised carriage or possession of firearms on Company property.  
Direct verbal abuse.  
Unauthorized possession, use, removal, interference or deliberate damage to goods or property  
Unauthorized possession, use, removal, interference or deliberate damage to goods or property belonging to the Company, a fellow worker contractor or customer/client.  
Neglect or carelessness causing damage to Company or to other person's goods or property or endangering safety.  
Making statements or giving comments to the media without the prior permission of the Manager or Owner.  
Leaving an assigned workplace without authority or due cause where safety or security is then put at risk.

Failure to use issued safety equipment or protective clothing. Utilization or disclosure of confidential information in regard to the Employer's operations or business.

Failure to comply with the Company's Terms and Conditions of Employment, and prevailing Company policies.

The above is not a complete list of misconduct or serious misconduct. There may be other acts of misconduct or serious misconduct that would warrant the appropriate warning or instant dismissal procedure.

Employment problems - see the appendix to this letter.

Please signify your willingness to accept casual employment from time to time as detailed above, by signing and returning a copy of this agreement before commencing work you should retain the second copy of this agreement for your reference.

By doing so, you acknowledge that any employment is on a casual basis arising as and when required and that nothing in this letter shall be construed as creating an agreement of permanent employment or an expectation of further employment.

If you have any concerns about your employment, please contact the writer. The Company wishes to avoid any misunderstanding at a later date as to the Nature of any employment relationship.

Yours sincerely

Jade Jeffares  
managing director  
SWAT (NZ)

## CASUAL EMPLOYEE'S ACKNOWLEDGMENT

I, \_\_\_\_\_ accept the above opportunity to work for you as a casual employee from time to time on the above terms. I acknowledge that I have been advised to seek independent advice about the terms of this offer and have had sufficient time in which to do so. I understand and agree that there is no guarantee of regular work or continuity of service.

I confirm that I know of no medical or other condition, which, could impair my work performance or my attendance. I further confirm that I am legally entitled to work in New Zealand and that I have made no misrepresentations to the Company or withheld any information as to my qualifications, work history, experience or any other matter which may have materially influenced the Company's decision to offer me employment.

I agree to receive a brief from the Company on Health and Safety Work Instructions relating to my work and agree to comply with them. I have fully read and understood all aspects of this contract.

\_\_\_\_\_  
(signature of employee)

\_\_\_\_\_  
(date)

## Resolution of Employment Relationship Problems

- a. In the course of the employment, there might arise an "employment relationship problem" ("ERF"<sup>5</sup>) as mentioned in the Employment Relations Act ("ERA").
- b. An ERF can be a personal grievance, a dispute or any other problem coming out of the employment relationship.
- c. A personal grievance is a claim by an employee of:
  1. Unjustified dismissal
  2. An unjustifiable act by the employer which creates some disadvantage to the employee within the sphere of employment.
  3. Discrimination (e.g. on the grounds of sex, marital status, race etc).
  4. Sexual harassment.
  5. Racial harassment.
  6. Duress by the employer in connection with the employee's membership or non-membership of a union or employee's organisation.
- d. A dispute is a dispute about the meaning or effect of an employment agreement.
- e. Examples of problems coming out of the employment relationship which are not personal grievances or disputes include such things as:
  7. Some breach of the employment agreement
  8. Unfair bargaining for an individual employment agreement.
  9. A question about whether you are an employee or an independent contractor.
  10. A disagreement about arrears or wages or holiday pay etc.
  11. You're not being allowed to attend Union meetings or take employment related educational leave,
- f. Under the ERA, the process for resolving ERP's involves the intervention of the Employment Relations Authority (the "Authority"). The Authority investigates ERP's itself and can interview parties, hear evidence and, generally, take such steps as it things necessary to resolve the ERP.
- g. Before the Authority is asked to be involved, however, the ERA emphasizes the value of mediation between the employer and the employee. Indeed, the Authority has the power to insist on mediation or further mediation before embarking on an investigation. Any party wishing to access mediation services must contact an office of the Government Department responsible for employment relations issues i. e, the Department of Labor which is able to be contacted on 0800 800 863

Or [www.dol.govt.nz](http://www.dol.govt.nz). While, generally, an ERP cannot be settled in mediation without the agreement of all parties, it is possible to agree in writing that the mediator may have the power to decide the matters in issue.

- h. Before involving the Department of Labor, it is suggested that you should raise any ERP with the Managing Director, so that the concern can be dealt with at once. Alternatively, an employee is welcome to raise an ERP through a representative.
- i. If an employee has an ERP and prefers not to pursue mediation or if the mediation is unsuccessful; the employee must ask the Authority to resolve the ERP. The Authority's involvement is obtained by the filing of a formal Application with the Authority in a form which is set out in the ERA
- j. An employee must be aware that there is a time limit of 90 days for raising a personal grievance which period begins with the date the grievance arose or the date the employee became aware of the grievance (whichever is later). There are situations where the limitation of 90 days can be extended (e.g. the employer consents or the Authority gives leave) but it is best, to avoid risk, to raise the personal grievance within the 90 days.