

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 - s. 156 - Certification of an agreement

PW & F Roth Certified Agreement 2009
(CA/2009/117)

DEPUTY PRESIDENT SWAN

10 November 2009

CERTIFICATE

This matter coming on for hearing before the Commission on 10 November 2009 the Commission certifies the following written agreement:

PW & F Roth Certified Agreement 2009 (CA/2009/117) [as amended]

made between:

- PW & F Roth (ABN 71 251 443 265)
- The Employees of PW & F Roth (ABN 71 251 443 265)

The agreement was certified by the Commission on 10 November 2009 and shall operate from the date of certification by the Queensland Industrial Relations Commission (i.e. 10 November 2009) until its nominal expiry on 9 November 2012.

By the Commission.

D.A. SWAN
Deputy President

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION
Industrial Relations Act 1999,s 156.

PW & F ROTH [ABN: 71 251 443 265]
and

Employees of PW & F ROTH
(No.CAof 2009)

**APPLICATION FOR CERTIFICATION OF THE
PW & F ROTH
CERTIFIED AGREEMENT 2009**

TO: The Industrial Registrar, Industrial Registry, Level 18, Central Plaza 2, 66 Eagle Street, (Corner Creek and Elizabeth Streets), Brisbane 4000, GPO Box 373, Brisbane Q 4001

Phone: (07) 3227 8060, Fax: (07) 3221 6074

THE AGREEMENT, Attachment A, having been made under the *Industrial Relations Act 1999* on 14/10/2009, between **PW & F ROTH** [ABN: 71 251 443 265] and **Employees of PW & F ROTH**

All the parties to the agreement now seek certification of the agreement under chapter 6, part 1 of the Act. The information required under the Industrial Relations Regulations 2000, section 9 and any other information in support of the application is set out in the affidavit of **Peter and Fayeleen Roth of PW & F ROTH** which is the attachment marked B.

There is no existing certified agreement in place

Signed on behalf of the applicant
Peter and Fayeleen Roth
PW & F ROTH

Chelsea Harvie
Agent, Growcom

Dated:

Attachment A

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Industrial Relations Act 1999 – s. 156 – certifying an agreement

PW & F ROTH [ABN: 71 251 443 265]
AND

Employees of PW & F ROTH
(No.CAof 2009)

PW & F ROTH CERTIFIED AGREEMENT 2009

APPLICATION FOR CERTIFICATION OF AGREEMENT

This Agreement, made under the Industrial Relations Act 1999 on 14/10/2009 between PW & F ROTH and The Employees of PW & F ROTH, Queensland, witnesses that the parties mutually agree as follows:

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By the Commission.

Deputy President

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PART ONE – REQUIRED CONTENT

1.1 TITLE

This agreement will be known as the PW & F ROTH Certified Agreement 2009 ('the Agreement').

1.2 PARTIES TO THE AGREEMENT

The parties to this Agreement are:

- a) PW & F ROTH ("*the Employer*"); and
- b) Employees of PW & F ROTH ("*the Employees*")

This Agreement operates in conjunction with the provisions of the *Fruit and Vegetable Industry Growing Award - State 2002*. The rates of pay included in this Agreement incorporate payment for all allowances, loadings and penalties, other than those specifically stated in this Agreement.

1.3 COVERAGE

This agreement applies to all employees engaged as such by PW & F ROTH on its properties situated at:

- 973 Mt. Debateable Road, Gayndah QLD 4625.
- 715 Wetheron Road, Gayndah QLD 4625.
- *OR ANY ADDITIONAL PROPERTIES PURCHASED DURING THE LIFE OF THIS AGREEMENT*

1.4 PERIOD OF OPERATION

This Agreement shall operate from the date of certification by the Queensland Industrial Relations Commission and shall remain in force for three (3) years from that date.

1.5 POSTING OF AGREEMENT

A copy of this agreement will be kept in a convenient location at the workplace(s) of the Employer so as to be readily accessible to all Employees.

1.6 AGREEMENT INTENTION

It is the aim of the parties to this Agreement to implement innovative workplace practices so as to provide for more flexible working arrangements, improve the efficiency and productivity of the workplace, to provide Employees with the opportunity to stabilize and extend work opportunities in a highly variable environment and to provide opportunities to stabilize and have pay consistency.

The parties intend that this Agreement will set out the terms and conditions of employment for Employees that are most appropriate for their particular circumstances. The parties recognise the seasonal and unpredictable nature of the business.

More specifically the aim of this Agreement is to support the Company's objectives, which include:

- providing the best possible quality to its customers;
- continuing to foster co-operation between management and staff in a climate of consultation;
- ensuring flexibility and quality; and
- providing Employees with job satisfaction.

To promote achievement of those objectives the parties will:

- adopt flexible work practices; and
- structure hours of work according to seasonal changes and customer demand.
- Comply with the provisions of the PW & F ROTH Employment Policies, viz.:
 - EEO, Conduct and Grievance Policy
 - Occupational Health and Safety Policy
 - Discipline Policy
 - Other policies as developed.

1.7 WORKPLACE CONSULTATION

The Parties agree to the operation of a consultative mechanism through a workplace consultative committee to be constituted of both Employee and Employer representatives. Meetings of the consultative committee will be held as the need arises. Matters to be discussed may include:

- the contents of this agreement
- the conditions and performance of work, especially improvements in productivity and efficiency and work/life balance
- health and safety concerns and other relevant matters pertaining to health and safety.
- appropriate training requirements, taking into account;
 - the current and future skill needs of the enterprise;
 - the size, structure and nature of the operations of the enterprise;
 - Occupational Health and Safety and emergency response Training;
 - the need for relevant vocational skills through appropriate educational institutions and training providers.
 - the formulation of future agreements.

This consultative process may provide an appropriate mechanism for consideration of matters relevant to clause 1.6 and 1.8.

1.8 DELETED

1.9 DISPUTE SETTLEMENT PROCEDURE

1.9.1 Resolving a dispute at the workplace level

The matters to be dealt with in this procedure include all disputes between an employee and the employer in respect to any workplace matter, and other matters that the parties agree to. The procedures may apply to a single employee or to any number of employees.

The parties agree to the principle of “natural justice” for all Employees and agree that the parties to a dispute must genuinely attempt to resolve the dispute at the workplace level. This process seeks to prevent and resolve disputes closest to the source of the problem, as soon as possible, in terms of outcomes for all parties.

Whilst the procedure is being followed, normal work will continue except in the case of a genuine safety issue. Subject to this, the status quo of the employee/s should, as far as practicable, be maintained while the procedure is being followed.

In the event of a dispute, the following procedure will be followed:

- The matter will be first raised by the Employee(s) with their immediate supervisor for discussion, who will take all reasonable steps to resolve the matter within two working days.
- In the event the matter remains unresolved after this time, or where the dispute is with the immediate Supervisor, the Employee may raise the matter with management. The relevant Manager or will take all reasonable steps to resolve the matter within (a further) two days.

1.9.2 Where dispute cannot be resolved at workplace level

- If a matter in dispute cannot be resolved at the workplace level as above, a party to the dispute may elect to use an alternative dispute resolution process to resolve the matter.
- The alternative dispute resolution process is to be conducted by a person agreed between the parties in dispute on the matter.
- Where parties cannot agree on a provider, the parties may refer the matter to the Queensland Industrial Relations Commission, herein referred to as “the Commission” for conciliation and arbitration where necessary.
- The commission may make recommendations to assist in resolving the dispute, and any order or decision of the Commission, subject to the parties’ right of appeal under the *Industrial Relations Act 1999 (QLD)* will be final and binding on all parties to the dispute.
- If an alternative dispute resolution process is used, or the matter is referred to the commission for conciliation and/or arbitration, the parties to the dispute must genuinely attempt to resolve the dispute using that process.

1.9.3 Conduct during dispute

An Employee who is a party to a dispute must, while the dispute is being resolved:

- continue to work in accordance with his or her contract of employment, unless the Employee has a reasonable concern about an imminent risk to his or her health or safety;
- comply with any reasonable direction given by his or her Employer to perform other available work, either at the same workplace or at another workplace.

In directing an Employee to perform other available work, an Employer must have regard to:

- the provisions (if any) of the law of the Commonwealth or of a State or Territory dealing with occupational health and safety that apply to that Employee or that other work; and
- whether that work is appropriate for the Employee to perform.

1.10 NO EXTRA CLAIMS

In consideration of the benefits conferred under this Agreement, the parties agree that other than for Queensland Industrial Relations Commission Minimum wage decisions:

- this document will be closed for its duration; and

- Employees undertake that no further claims will be made upon the Company in respect of any matter within the scope of this agreement (including claims relating to changes arising from variations to any relevant Award(s) or decisions of any Industrial Relations Commission(s) during the currency of this agreement and for such period thereafter as the agreement may continue in force; and
- Employees will not engage in any form of industrial action throughout the life of this agreement.

PART TWO - TERMS AND CONDITIONS OF EMPLOYMENT

2.1 CATEGORIES OF EMPLOYMENT

Employees (other than casuals) covered by this Agreement will be advised in writing of their employment category upon appointment. Employment categories are:

- a) **Casual Employee** is an Employee engaged for a minimum of two (2) hours and paid on an hourly basis. A casual employee's employment is subject to termination without notice. Employees will be paid at a rate per hour calculated by dividing the weekly base rate of pay by 40 and adding a casual loading of 23% in lieu of the annual leave and personal leave entitlements provided in this Agreement.
- b) **Long-Term Casual Employee** will mean a casual Employee engaged by the Employer on a regular and systematic basis for several periods of employment during a period of at least 1 year with a break of not more than 3 months between engagements.
- c) **Permanent Employee** will mean an Employee engaged on a permanent basis who receives leave entitlements and does not receive a casual loading.
- d) **Manager/Supervisor** will mean an Employee appointed to be in charge of and to supervise the work of other Employees.
- e) **Part-time Employee** will mean an Employee where the number of ordinary working hours in any 7 days will not be less than 16 and will not exceed 30. Part-time employees will be paid an hourly rate equal to the weekly base rate of pay divided by 40. Part-time employees will be entitled to pro-rated annual leave, sick leave, long service leave and bereavement leave. Public holidays as prescribed in this agreement will be paid where work is normally rostered for that day.
- f) Pieceworker Agreements for piecework may be entered into between employers and their employees subject to the piecework rate being fixed and reviewed as necessary from time to time so as to enable the average competent employee to earn during ordinary working hours not less than 20% above the hourly rate for the class of work performed, such hourly rate to be ascertained by dividing the weekly rate prescribed in clause 3.1 by 40. In no case shall a full-time employee be paid less than the minimum weekly rate prescribed in clause 3.1 (this provision shall also apply pro rata to part-time and casual employees).

Where the minimum remuneration of a pieceworker falls below the minimum earnings of 20% above the hourly rate (as prescribed at 3.1) for more than 3 consecutive ordinary working days, the piecework agreement may be terminated by either party. If neither party so elects, however, the piecework rate as originally fixed shall be deemed to enable the average competent employee to earn not less than 20% above the hourly rate (as prescribed by clause 3.1).

Every agreement to work piecework shall be in writing in the form prescribed in Schedule 4 to this Award.

- g) A **Fixed Term Employee** will mean an employee employed on a fixed-term basis as either a full-time or part-time worker for a specified period of time or a specified task (e.g. harvest period). The employer will specify the starting and finishing dates of that employment, or will specify the circumstance(s) relating to the task (e.g. end of harvest period) when the term of the employment will expire. A fixed term contract will not exceed 12 months duration. Fixed-term employees are entitled to the same provisions as permanent employees (as defined in 2.1 section C), with the following exceptions:
 - The notice period for termination of the fixed-term contract by either the employer or relevant employee is 1 week, unless the employer and relevant employee mutually agree to a lesser period; or
 - during the probationary period (as set out at 2.4); or
 - For cause based upon serious or wilful misconduct (as defined in 2.7); or
 - A persistent pattern of unsatisfactory performance (as defined in 2.6).

2.2 TRAINING

Trainees may be engaged under this Award in accordance with the *Order for Apprentices' and Trainees' Wages and Conditions (Excluding Certain Queensland Government Entities)*.

2.3 INCIDENTAL/PERIPHERAL TASKS

- a) An employer may direct an employee to carry out such duties as are reasonably required within the limits of the employee's skill, competence and training.
- b) An employer may direct an employee to carry out such duties and use such tools and equipment as may be required provided that the employee has been properly trained in the use of such tools and equipment.
- c) Any direction issued by an employer pursuant to this clause will be consistent with the employer's responsibilities to provide a safe and healthy working environment.

2.4 PROBATION

- a) All new Employees are required to undergo a three month probationary period. During the probationary period the Employer will raise any concerns regarding performance and/or conduct with the Employee. Where appropriate, constructive feedback, guidance and/or training will be provided to assist the Employee meet the necessary standards/competence.
- b) Should the Employer consider the Employee's performance is not meeting the required standards during the probationary period the Employer has the right to terminate the services of the employee.
- c) With the exception of casuals, during the Probationary period either party may unilaterally terminate the employment relationship by providing one (1) week's written notice. Except in cases of summary dismissal, should such notice not be given, then one (1) week's ordinary wages will be paid or forfeited as the case may be.

2.5 RESIGNATION/TERMINATION

- a) Except in the case of casual and probationary Employees, either party may terminate employment at any time by giving the other party the required period of notice specified below. Instead of providing the specified notice the Employer may choose to make payment in lieu of notice. If the Employee fails to give the required notice, s/he forfeits the entitlement to any monies owing equal to the amount of notice not given.

- b) The notice of resignation/termination period will be:

Years of Continuous Service	Required Notice
Not more than 1 year	At least 1 week
More than 1 year but not more than 3 years	At least 2 weeks
More than 3 years but not more than 5 years	At least 3 weeks
Over 5 Years	At least 4 weeks

Employees 45 years or over who have completed at least two years continuous service will receive one additional weeks notice.

- c) Notice period does not apply:

- Where the Employee is subject to summary dismissal; or
- To an employee engaged for a specific period or tasks (i.e. a Fixed-term employee); or
- To casual employees

- d) The periods of notice prescribed in clauses 2.5 (a) will not be given during periods of annual leave, unless mutually agreed between the employer and the employee concerned.

- e) During the period of notice of termination given by the employer, an employee will be allowed up to one day's time off without loss of pay for the purpose of seeking other employment. This time off will be taken at times that are convenient to the employee after consultation with the employer.

2.6 UNSATISFACTORY PERFORMANCE AND DISCIPLINARY ACTION

Employees are required and expected to perform their work to a high level, satisfactory to the Employer, using all due care, competency and diligence. Employees may receive guidance and/or warnings where the Employer believes that they are performing their work to a less than satisfactory level. The Employer must outline the reasons for the concerns, the standard of performance/behaviour required and a timeframe in which improvement will be expected. In serious cases, Employees may be dismissed after receiving two such warnings. Warnings to employees may be verbal; however details must be recorded in writing and submitted to head office.

2.7 SUMMARY DISMISSAL AND MISCONDUCT

The periods of notice in this clause will not apply in the case of dismissal for misconduct or other grounds that justify instant dismissal. Misconduct includes theft, assault, sexual or workplace harassment, fraud, serious health and safety breaches, or attending work at any time under the influence of drugs or alcohol.

2.8 ABANDONMENT OF EMPLOYMENT

An Employee will be regarded as having abandoned his/her employment if:

- The Employee is absent from work for a continuous period which exceeds three (3) rostered working days; *and*
- This Employee cannot provide a reasonable cause for the absence. It is the Employee's responsibility to provide reasonable notice and cause to the Employer, who should make attempts to contact the Employee through the normal channels before formalizing termination of employment.

2.9 MANAGEMENT OF CHANGE AND REDUNDANCY (excludes casual & fixed-term employees)

a) Notification and consultation before change

Where an employer decides to introduce changes in production, program, organisation, structure or technology, that are likely to have significant effects on employees, the employer shall notify the employees concerned, and where relevant, their employee representative, in writing. All relevant information about the changes are to be provided, including the nature of the changes proposed, the expected effects of the changes on employees, including ways to avoid or minimize these effects, and any other matters likely to affect employees. An employer shall not be required to disclose confidential information, the disclosure of which would be adverse to the employer's interests.

'Significant effects' includes termination of employment, major changes in the composition, operation or size of the employer's workforce or in the skills required; the elimination or diminution of job opportunities or job tenure; the alteration of hours of work; the need for retraining or transfer of employees to other work or locations and the restructuring of jobs.

b) Consultation before termination of employment

Where the employer decides that, due to operational reasons, they no longer require the job the employee has been doing to be done by anyone, and the decision will lead to termination of employment, the Employer will first consult with the affected Employee/s.

- The consultations will take place as soon as practicable and will outline the reasons for the termination/s.
- Alternatives to termination will be explored, including any possible alternative employment. The Employer may make application to the QIRC to have the general severance pay prescription amended if the Employer obtains acceptable alternative employment for an Employee.

c) Severance Pay

In addition to the period of notice prescribed for ordinary termination in clause 2.5 (a), an Employee whose employment is terminated for reasons set out in 2.9 (a) will be entitled to the following amounts of severance pay:

Period of continuous service	Severance Pay (weeks' pay)
Less than 1 year	nil
More than 1 but less than 2 years	4
More than 2, but less than 3 years	6
More than 3, but less than 4 years	7
More than 4, but less than 5 years	8
More than 5, but less than 6 years	9
More than 6, but less than 7 years	10

More than 7, but less than 8 years	11
More than 8, but less than 9 years	12
More than 9, but less than 10 years	13
More than 10, but less than 11 years	14
More than 11, but less than 12 years	15
More than 12 years	16

“*Weeks pay*” means the ordinary time rate of pay for the Employee concerned and excludes overtime and penalty rates, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and any other ancillary payments.

d) Exemptions

Clause 2.9 (b) will not apply:

- Where employment is terminated as a consequence of misconduct on the part of the Employee; or
- To an employee engaged for a specific period or tasks (i.e. a Fixed-term employee); or
- To casual Employees

e) Time off during notice period

Where a decision has been made to terminate an employee in the circumstances outlined under this clause, the employee will be allowed up to one day's time off without loss of pay during each week of notice for the purpose of seeking other employment.

f) Early Termination

An employee whose employment is terminated for reasons set out in this clause may terminate such employment during the period of notice, and, if so, will be entitled to the same benefits and payments under this clause had such employee remained with the employer until the expiry of such notice, provided that in such circumstances the employee will not be entitled to payment in lieu of notice.

2.10 WORKPLACE HEALTH AND SAFETY

The parties agree that a safe and secure workplace is important and that they will comply with health and safety legislation and all PW & F ROTH workplace policies and procedures. Employees will take all practicable steps to ensure their own safety while at work, and to ensure that no action or inaction on their own behalf causes harm to themselves or any other person. Employees will ensure safety procedures are followed at all times. Employees will not willfully harm themselves or others. Failure to comply with the rules and procedures may lead to disciplinary action or dismissal.

Employees are to use all safety and protective equipment or clothing provided and must ensure that they know and understand the health and safety rules and procedures. Employees must not misuse any equipment, plant or process that is provided to ensure workplace health and safety.

Employees will report all accidents, incidents, or hazards arising during the course of employment to their Supervisor or management as soon as possible. Any concerns in relation to individual safety or the safety of others in the workplace are to be reported to the supervisor or management who will take all practicable steps to provide and maintain a safe work environment.

Workplace harassment of any kind is unacceptable and will not be tolerated under any circumstances. Employees subjected to workplace harassment should report any and all incidents to the Manager and/or may utilise the dispute procedure of this agreement.

2.10.1 Sun Safety

It is recognised that working in the Australian heat can be a significant hazard. Particularly during the summer months, staff working outdoors risk developing skin cancer or other skin disorders, eye injuries, heat stress and heat-related illness unless preventative steps are taken. This is particularly important for those employees not used to Australian summers.

When working in the sun, employees are advised wear sun protective clothing including:

- A broad-brimmed hat or ‘legionnaires’ cap with flap at the back to shade both the face and back of the neck or a hardhat with a brim added.
- Suitable lightweight protective clothing (clothing must also give the body adequate ventilation). For example
- a loose-fitting, long-sleeved, collared shirt and loose trousers

- Suitable UV protection including sunburn creams, skin protectors, and sunglasses (where sunglasses do not interfere with execution of the employees duties);
- Ensure that personal protection equipment does not create a hazard in itself.

2.10.2 Protective Clothing

Where protective clothing or gear is required to be worn (with the exception of sun protection clothing), it will be provided by the employer; will remain the property of the employer; and will be returned by the employee on demand in good order and condition, fair wear and tear excepted. The employer may deduct the value of such clothing or gear from the wages of the employee if lost or willfully damaged.

The supply by the employer and the wearing by the employee, of suitable and adequate protective clothing and/or gear will be mandatory in the case of work involving the use of toxic agricultural chemicals.

2.10.3 Work in the Rain

An employee who is required to work in rain heavy enough to wet the clothes of the employee will be provided with waterproof clothing by the Employer.

2.10.4 First Aid

First aid kits will be made available to supervisors by the employer and maintained in good order and condition so as to be readily available for use at any time.

2.10.5 Smoking in the Workplace

Employees understand that smoking in the workplace (including employer provided vehicles and machinery) is not permitted. Smoking is understood to:

- Cause serious health problems for people who do not smoke
- Cause interruptions to the performance of Employees' work, and
- Create risks of fire and other hazards

Due to quality assurance and supermarket specification and requirements, there is strictly no smoking in the operating areas.

Employees agree that they will smoke only during meal breaks or rest pauses and only in the designated smoking areas. Smoking in the field may be permitted with the Supervisor's express approval, but not when handling produce.

2.10.6 Drugs and Alcohol in the Workplace

Employees understand that PW & F ROTH takes a "zero tolerance" approach to drugs and alcohol in the workplace (including vehicles, machinery, and work-related activities). Employees attending work under the influence of prohibited drugs or alcohol will be summarily dismissed.

2.10.7 Mobile Phones/portable music devices (eg iPods etc) in the Workplace

Employees understand that the use of mobile phones and portable music devices with headphones (eg iPods, Walkmans etc.) whilst working can cause distraction from, and disruption to the performance of their duties.

Mobile phones and portable music devices with earpieces and other types of headphones in particular can distract an employee from surrounding noise and activity, can mask or drown out emergency instructions or alarms, and as such are a hazard and dangerous in the workplace.

Employees agree not to use their mobile phones (including text messaging) for personal, non-urgent matters, except during meal breaks or rest pauses.

Employees agree not to use portable music devices at all whilst working around packing sheds and machinery, or in the field except with the express approval of their supervisor and must be worn in such a manner as to be able to hear directions at all times.

2.11 CONFIDENTIALITY

Each employee agrees to not partake in any activity that may result in a conflict of interest for the Employer, without the Employer's prior written permission.

Each employee agrees to keep confidential, by not divulging or using other than for the benefit of the Employer, any information of a confidential nature acquired as a consequence of or in the course of their employment with the Employer, including information which:

- a) relates to any trade secrets, technical specifications, know-how, plans, design concepts, ideas, design specifications, manufacturing or development processes, research, formulae, processes, applications, unique features or techniques in respect of the Employer's or any of its associated businesses' products or services, whether existing or in development or;
- b) relates to the Employer's or any of its associated businesses' location or position of plant material, varieties of plant or trial, whether existing or in development.

The parties acknowledge that all documents (whether stored on computer or not), written and printed information received by an Employee in the course of their employment, except pay slips or statements of service, will remain at all times the exclusive property of the Employer and the Employee must immediately return all such material and information on termination of their employment with the Employer.

Employees agree not to remove any plant material from any property operated by the Employer or any of its associated businesses during or after their employment with the Employer.

2.12 ANTI-DISCRIMINATION

The parties to this agreement agree that:

- (a) it is their intention to achieve the principal object in the *Industrial Relations Act 1999 (QLD)*, which is to respect and value the diversity of the work force by helping to prevent and eliminate discrimination at their enterprise on the basis of race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin; and
- (b) any dispute concerning these provisions or the PW & F ROTH EEO Policy and their operation may be progressed under Clause 1.7 Workplace Consultation or Clause 1.9 Dispute Resolution Procedure in this agreement; and;
- (c) nothing in these provisions allows any treatment that would otherwise be prohibited by anti-discrimination provisions in the applicable Commonwealth, state or territory legislation.

2.13 OPERATION OF EMPLOYER VEHICLES

As required, Employees will be provided with a vehicle to carry out their assigned task. The use of the Employers vehicles are governed by a strict code of conduct. Employees required to drive or operate any vehicles will do so in a safe and proper manner, using the vehicle only for the purpose it was made for. Prior to the Employee using any company vehicle or machinery, they are required to provide the Employer with documentary evidence that they can indeed operate/drive the vehicle. Before operating a vehicle, employees will be responsible for carrying out pre-start checks and ensuring that the vehicle has an adequate supply of fuel, oils and water. Any damage to a vehicle is to be reported to the Employees supervisor without delay.

2.14 RETURN OF PROPERTY

Should an Employee resign or have their employment terminated they are required to return any property belonging to the Employer that they have in their possession. Property includes, but is not limited to keys, documents, protective equipment and apparel. Should an Employee fail to return any of the Employers property the Employee agrees that the employer has the authority to deduct an amount of money from the Employees final payment that will reasonably cover the cost of the property.

PART THREE – WAGES, ALLOWANCES AND HOURS OF WORK

3.1 PERMANENT EMPLOYEES

The Employee's minimum rate of pay will be \$568.20 per week for a 40 hour week, or \$14.21 per hour on a pro-rata basis for part-time employees.

3.2 CASUAL EMPLOYEES

The Employee's minimum rate of pay will be \$17.47 per hour. This includes casual loading of 23 per cent in lieu of the provision of recreation and personal leave.

3.3 JUNIORS

The following percentages will be used in calculating the junior rate of pay. The Employee will be paid on a weekly basis.

Age	% of adult rate
Under 16 years	50%
16 and under 17 years	60%
17 and under 18 years	70%
18 and under 19 years	75%
Thereafter the adult rate	100%

3.4 PIECEWORKERS

Piecework rates may be fixed by agreement between the Company and an Employee at such rates as will enable the average competent Employee to earn during ordinary working hours not less than 20% above the base hourly rate of the Minimum Wage set out at 3.1.

Each piecework agreement shall be in writing in the form prescribed in Schedule 4 of this Agreement and signed by both parties and each Employee will be provided with a copy of the agreement.

3.5 HIGHER DUTIES

An employee who is called upon to perform work at a level above their current classified level for a period of more than two days, will be paid at the minimum rate prescribed for that higher level for the whole period involved on such higher level duties.

3.6 ALLOWANCES

3.6.1 Leading hands

Employees appointed as Leading Hands shall be paid \$15.07 per week in addition to the wage rate prescribed in clause 3.1 and such extra payment shall be regarded as part of the wage and taken into account in the computation of overtime, annual leave, sick leave, etc:

Provided that an employee employed as Leading Hand for less than a week shall be paid the additional rate on a pro rata basis for the time actually worked in that capacity with a minimum payment as for 4 hours at the highest rate on any one day.

3.6.2 Tree pruning and/or budding and/or grafting

Employees who are required to carry out the pruning and/or budding and/or grafting of fruit trees shall be paid in respect of each such day or part of a day an extra amount of \$3.45.

3.7 PAYMENT OF WAGES

The Employee's wages will be paid weekly in arrears on a Thursday, paid directly into the employees designated bank account. Where the payday falls on a public holiday, the preceding business day will be the payday for that period.

3.8 WAGE INCREASES

Wages will be increased in accordance with the State Minimum Wage decisions as determined by the Queensland Industrial Relations Commission.

3.9 HOURS OF WORK

Horticulture Employees

The ordinary hours of work for horticulture employees shall average 40 hours per week, Monday to Sunday, to be worked on the following basis:

- 40 hours within a work cycle not exceeding seven consecutive days; or
- 80 hours within a work cycle not exceeding fourteen consecutive days; or
- 120 hours within a work cycle not exceeding twenty-one consecutive days; or
- 160 hours within a work cycle not exceeding twenty-eight consecutive days.

Permanent employees are entitled an average of 2 days off each 7 days. If work cycle arrangements are adopted flexibility for days off may occur subject to:

- Any 2 days off in 7 days for 7 day work cycles;
- Any 4 days off in 14 days for 14 day work cycles;
- Any 6 days off in 21 days for 21 day work cycles;
- Any 8 days off in 28 days for 28 day work cycles,

The term “days off” in this clause does not refer to public holidays, annual leave or other leave days.

Days off may be scheduled as single or as accumulated arrangements subject to the following guidelines:

- By agreement to fix regular day/s off for a specific period; or
- By the employer scheduling day/s off in advance of the work cycles commencing; or
- By the employer giving not less than 12 hours notice of the day/s to be taken off.

The ordinary starting and ceasing times of various groups of employees or individual employees may be staggered provided that there is agreement between the Employer and the majority of employees directly affected.

Employees are required to observe the nominated starting and finishing times for a work day, including designated breaks to maximise available working time.

The ordinary hours of work prescribed herein shall not exceed 10 hours on any day: Provided that where the ordinary working hours are to exceed 10 on any day, the arrangement of hours shall be subject to the agreement of the Employer and the majority of employees concerned.

3.10 ADDITIONAL HOURS

All hours worked beyond the specified ordinary hours of work will be considered as additional hours. Additional hours will take one of the following forms:

3.10.1 Overtime

The Employer may require an Employee to work reasonable additional hours outside the 40 hour week average in order to meet operational requirements of the business.

All time worked by an Employee at the specific direction of the Employer, in excess of the standard ordinary hours as set out in 3.9 above will be paid for at the rate of time and a half for the first three hours and double time thereafter.

An Employee may decline to work additional hours in circumstances where the working of such hours would result in the Employee working hours which are unreasonable having regard to:

- any risk to Employee health and safety that might reasonably be expected to arise if the Employee worked the additional hours;
- the Employee’s personal circumstances including any family responsibilities;
- the operational requirements of the workplace;

- the notice (if any) given by the Employer of the additional hours and by the Employee of his/her intention to refuse it;
- whether the additional hours are on a public holiday; and
- the Employee's hours of work over the 7 days ending immediately before the Employee is required or requested to work the additional hours.

3.10.2 Banked Time Arrangement

Employees will be given the opportunity to bank additional hours worked in excess of the ordinary working hours. All banked time will be at the Employee/s' specific request, *in writing*, and be in accordance with the following provisions:

- Approval must be given by the Employer *before* additional hours are accrued.
- Banked time accrues on an hour for hour basis and time off is likewise accounted for, ie. two additional hours worked outside of ordinary hours allows two hours banked time leave.
- The Employee will be able to accrue a maximum of 152 hours in banked hours at any one time.
- The banked hours will normally be taken as paid time off by the Employee with the consent of the Employer.
- If an Employee requests and has the request approved, the Employee may request to have some of those additional hours paid in the current pay period (at the ordinary rate) and the remaining additional hours banked and taken as paid leave at a later time.
- Banked time leave will only be approved when all needs of the business are met.
- The Employer reserves the right to direct an Employee to take up to their accumulated banked time leave outside of peak workload periods.
- On termination of employment accrued banked hours will be paid out to the Employee at the current ordinary hourly rate of pay.

The relevant pro-forma for making an application to bank hours is at Schedule 3

3.10.3 Voluntary Additional Hours

Voluntary Additional Hours are where the employer states that there is additional work available. Employees must make written and signed application to undertake voluntary additional hours, where such work is available. No employee can be required or directed to undertaking additional voluntary hours under this clause. All time worked by an employee in excess of their ordinary working hours, at the employee's specific request, shall be deemed voluntary additional hours. Such additional hours shall only be worked by the employee with the consent of the employer. The application shall remain in force until varied in writing by the employee. Additional hours shall be paid at the employee's ordinary time rate.

The relevant pro-forma for making an application to undertake voluntary hours is at Schedule 2

3.11 MEAL BREAKS

Employees required to work for more than 5 hours continuously are entitled to an unpaid meal break of 60 minutes, provided that by mutual agreement the meal break may be reduced to not less than 30 minutes.

3.12 REST PAUSES

- a) All employees shall receive a rest pause of 10 minutes' duration in the employer's time in the first and second half of their daily work.
- b) Where there is agreement between the Employer and the majority of Employees, rest pauses may be taken to suit operational requirements so as not to interfere with continuity of work where continuity is necessary.

3.13 PUBLIC HOLIDAYS

- a) The *Industrial Relations Act 1999 (QLD)* provides Employees with an entitlement to the following public holidays:
 - New Year's Day (1 January)
 - Australia Day (26 January)
 - Good Friday
 - Easter Saturday
 - Easter Monday
 - Anzac Day (25 April)

- o Labour Day
 - o Birthday of the Sovereign
 - o Christmas Day (25 December)
 - o Boxing Day (26 December); and
 - o any other day declared a public holiday under a state or territory law (eg Show Holiday) other than:
 - o a day declared by or under the law of the state or territory to be observed as a public holiday in substitution for a day named above; or
 - o a day of its kind that is excluded by the Regulations.
- b) An Employer may request an Employee to work on a particular public holiday, however, the Employee may refuse the request (and take the day off) if the Employee has reasonable grounds for doing so.
- c) In the event that work is required by the employer to be done on a public holiday, all such work will be paid for at the rate of double time and a-half with a minimum of 4 hours.
- d) All hours worked on any of the holidays prescribed in this clause outside the ordinary hours of work prescribed by clause 3.9 will be paid at double the overtime rate prescribed by 3.10.1.
- e) At their request, Employees may apply to utilise the banked time arrangement or voluntary additional hours provisions strictly in accordance with Clause 3.10.2 or 3.10.3.
- f) Part-time employees are entitled to either payment for each public holiday or a substituted day's leave, provided that the part-time employee would have been ordinarily rostered to work on that day had it not been a public holiday.

g) Substitution of Public Holiday

Where there is agreement between the Employer and the majority of employees concerned, a public holiday may be substituted for another day.

If such other day is worked, then payment for that day will be at the rate of double time and a half at the employee's ordinary time rate of pay. Full-time employees will be paid for the allocated day off when no work is required to be performed on that day. Nothing in this clause confers a right to any employee to payment for a public holiday as well as a substituted day in lieu.

h) Stand down

Any employee, with 4 weeks or more of continuous service, whose employment has been terminated by the employer or who has been stood down by the employer during the month of December, and who is re-employed in January of the following year, will be entitled to payment at the ordinary rate payable to that employee when they were dismissed or stood down, for any one or more of the following holidays, namely, Christmas Day, Boxing Day and New Year's Day.

PART FOUR - LEAVE AND SUPERANNUATION

4.1 ANNUAL LEAVE (excludes casual employees)

Permanent full-time employees covered by this agreement will be entitled to 4 weeks annual leave on full pay, with pro-rata provisions applying for permanent part-time employees and permanent employees with less than 12 months service. Annual leave is exclusive of public holidays.

Leave Loading

Employees are entitled to an annual leave loading payment which will be 17.5%, to be paid in addition to the ordinary hours taken for that period of annual leave.

4.2 PERSONAL AND COMPASSIONATE LEAVE

4.2.1 Personal Leave

Permanent full-time and part-time Employees are entitled to 10 days authorized paid personal leave per annum:

- due to personal illness or injury; or
- for short term caring purposes of an occasional and non-enduring nature; or
- as a result of special or exceptional circumstances; or
- to provide care or support to immediate family or household member who is ill or injured, or in the case of an unexpected emergency in relation to that person; or
- to observe religious or culturally significant days or events.

Pro-rata provisions apply for part-time employees and permanent employees with less than 12 months service.

In addition, each employee is entitled to 2 days unpaid personal leave, per permissible occasion, to care for a member of the Employee's immediate family or household.

An employee taking paid or unpaid personal leave will, if required by the employer, provide a medical certificate evidencing the illness or injury of the person concerned.

4.2.2 Compassionate Leave

Each permanent employee is entitled to 2 days paid compassionate leave for the purposes of spending time with a member of the employee's immediate family or household who has a life-threatening illness, or after the death of a member of the immediate family or household.

Paid personal leave is cumulative, but will not be paid out on termination of employment.

A long-term casual employee is entitled to at least 2 days unpaid compassionate leave on the death of a member of the person's immediate family or household in Australia.

4.3 PARENTAL LEAVE

- a) After 12 months continuous service, permanent fulltime and part-time employees as well as eligible casual employees are entitled to a combined total of 52 weeks (or pro-rata for part-time employees) unpaid parental leave on a shared basis in relation to the birth or adoption of their child.
- b) Leave is available to one parent at a time except for an unbroken period of one week at the time of the birth of the child.
- c) An employee must provide notice as follows:
 - The expected date of confinement (included in a certificate from a registered medical practitioner stating the employee is pregnant) at least ten weeks.
 - the date on which the employee proposes to commence leave and period of leave to be taken, at least four weeks. An employee must provide at least four weeks notice of their intention to return to work.
- d) An employee may, in lieu of or in conjunction with parental leave, access any annual leave or long service leave entitlements which they have accrued subject to the total amount of leave not exceeding 52 weeks.
- e) Where an employee is pregnant and, in the opinion of a registered medical practitioner, illness or risks arising out of the pregnancy or hazards connected with the work assigned make it inadvisable for the employee to continue at her present work, the employee will, if the employer deems it practicable, be transferred to a safe job at the rate and on the conditions attaching to that job until the commencement of maternity leave. If transfer to a safe job is not practicable, the employee may elect or the employer may require the employee to commence parental leave.

4.4 SUPERANNUATION

The Employer will contribute an amount as required by the Superannuation Guarantee (Administration) Act 1992 to **Austsafe Super**

An employer and employee may agree to have the employee's superannuation contributions made to an approved a superannuation fund, other than Austsafe, on the provision that;

- any such agreement must be recorded in writing and signed by the employer and employee and kept on the employee's file and;
- a person must not coerce someone else to make an agreement;

All Employees will accrue superannuation entitlements on the basis of the ordinary time earnings, up to a maximum of 40 hours per week.

"*Ordinary time earnings*" for the purposes of this clause means the actual ordinary rate of pay the employee receives for ordinary hours of work. It includes, as applicable, full-time, part-time or casual Award rates, over-award payments, agreed piecework rates, Leading Hand and tree pruning and/or budding and/or grafting allowances. The ordinary rate of pay will not include overtime, disability allowances or any other payments of a like nature.

4.5 LONG SERVICE LEAVE

An Employee will be entitled to long service leave in accordance with the provisions of Part 3 of the *Queensland Industrial Relations Act 1999* and the provisions of this clause.

Long service leave will be taken at a time that is mutually agreed between the Employer and Employee. Considerations will include whether it is operationally convenient and the length of leave to be taken.

If the Employee and Employer cannot agree when the Employee is to take long service leave, the Employer may direct the Employee to take leave by giving the Employee at least three (3) months written notice of the date on which the Employee must take at least four (4) weeks long service leave.

The Employee must provide the Employer at least, four (4) weeks notice of intention to take long service leave, dates intended and duration of leave.

Employees may receive payment of long service leave in lieu of taking the leave on application in writing to the Employer.

4.6 JURY SERVICE

- a) An employee, other than a casual employee, required to attend for jury service during their ordinary working hours will be reimbursed by the employer an amount equal to the difference between the amount paid in respect of their attendance for such jury service and the ordinary pay the employee would have been paid if the employee was not absent on jury service.
- b) Alternatively, by agreement, fees (other than meal allowance) received by the employee to attend jury service will be paid to the employer and the employer will continue to pay the employee their ordinary pay for the time the employee was absent on jury service.
- c) Employees will notify their employer as soon as practicable of the date upon which they are required to attend for jury service and will provide their employer with proof of such attendance, the duration of such attendance and the amount received in respect thereof.
- d) If the employee is not required to serve on a jury for a day or part of a day after attending for jury service and the employee would ordinarily be working for all or part of the remaining day, the employee must, if practicable, present for work at the earliest reasonable opportunity.
- e) "Ordinary pay" means the rate of pay that an employee would normally expect to receive for working ordinary hours on an ordinary day of the week, including any over-award payment. "Ordinary pay" excludes overtime, penalty rates of all types - including those attaching to working ordinary hours (for example) on a Saturday, disability allowances, shift allowances, special rates, fares and travelling time allowances, bonuses and other ancillary payments of a like nature.

PART FIVE - SIGNATORIES TO AGREEMENT

Signed for and on behalf of PW & F ROTH:

Authorised Signatory: Fayeleen Roth

In the presence of: Yvonne Spry

Signed for and on behalf of the **Employees** of PW & F ROTH

Authorised Signatory: Claire Sannum

In the presence of: Yvonne Spry

(office use only)

This agreement is in accordance with the Industrial Relations Act 1999, Chapter 6 Part 1. Lodged on the/...../2009, approved and filed by the Queensland Industrial Relations Commission and given Register No CA

Dated:

Operative date:

Schedule 1 – Salary and classification structure

**PW & F ROTH
CERTIFIED AGREEMENT 2009**

SALARY & CLASSIFICATION STRUCTURE

Level	Description	Permanent Weekly rate	Permanent Hourly rate	Casual Hourly Rate	Duties (all levels to take on prior level duties)
1	Farmhand Level 1	Base rate \$568.20	\$14.21	\$17.47	Ground picking - Under supervision Picking, packing & sorting of produce Cutting of Seed Weed Control Pruning General Farm Duties Incidental tasks involved in getting produce to packing shed including packing and assisting in packaging and transport Irrigation set up General Maintenance General cleaning duties as required *Other duties as required (*refer to Clause 2.3 of this agreement)
2	Farmhand Level 2	Base rate + 5% \$596.61	\$14.92	\$18.35	<i>Level 1 duties under minor supervision plus</i> Leading Hand (supervises up to 7 employees) Consistently above average production rates High quality control knowledge A general understanding of causes in Quality Variation of Product Staff training Other duties as required
3	Farmhand Level 3	Base rate + 10% \$625.02	\$15.63	\$19.22	<i>Duties of Levels 1 and 2, plus</i> Working unsupervised On call duties Staff Supervision (more than 7 people) Other duties as required

Schedule 2 – Application to undertake voluntary additional hours

**PW & F ROTH
CERTIFIED AGREEMENT 2009**

APPLICATION TO UNDERTAKE VOLUNTARY ADDITIONAL HOURS

NOTE: *It is a requirement that this form be completed by the employee before the employee engages in working voluntary additional hours.*

I _____ (Employee)

wish to apply to undertake additional voluntary hours of work.

I agree that this undertaking will have effect from the date of this application, until:

_____ (date) *or*

I have been advised that this work constitutes voluntary additional hours, and as such, is payable at the current ordinary rate of pay.

Employee Name: _____

Signature: _____

Date: _____

Employer Name: _____
(or nominee)

Signature: _____

Date: _____

Schedule 3 – Application to bank additional hours

**PW & F ROTH
CERTIFIED AGREEMENT 2009**

BANKED TIME ARRANGEMENT: APPLICATION TO BANK ADDITIONAL HOURS

NOTE: *It is a requirement that this form be completed by the employee before the employee engages in banked hours arrangements.*

I _____ (Employee)

wish to apply to bank hours worked in addition to my regular work cycle and have such hours held in trust to be taken as paid time leave at a date to be determined.

(Please select a box)

I wish to bank all additional hours above my work cycle ordinary hours *or*

I wish to be paid for ____ hours in my next pay period and bank ____ hours

I agree that this undertaking will have effect from the date of this application, until:

_____ (date) *or*

Until I advise otherwise

I understand that banked time accrues on an hour for hour basis and that time off is likewise accounted for and that such leave will be taken at a time to suit the needs of the business.

Employee Name: _____

Signature: _____

Date: _____

Employer Name: _____

(or nominee)

Signature: _____

Schedule 4 – Form of agreement for piecework

**PW & F ROTH
CERTIFIED AGREEMENT 2009**

FORM OF AGREEMENT FOR PIECEWORK

THIS AGREEMENT made this _____ day of _____ 20____, between PW & F ROTH, hereinafter referred to as “the Employer” and _____ hereinafter referred to as “the Employee” witness that pursuant to clause 3.4 (Pieceworkers) of the PW & F ROTH Certified Agreement 2009 (“the Agreement”) it is mutually agreed as follows:

(1) The rate to be paid by the Employer to the Employee for the _____ of _____ on the property of the Employer shall be

- \$ _____ per _____.
- \$ _____ per _____.
- \$ _____ per _____.
- \$ _____ per _____.
- \$ _____ per _____.
- \$ _____ per _____.

(2) The piecework rate as fixed by paragraph (1) of this agreement shall be reviewed as necessary in light of any changes in the Agreement ordinary rate or in the nature of the work or the conditions under which it is performed so that such piecework rate shall, subject to paragraph (3) of this agreement, be maintained in conformity with clause 3.4 of the Agreement.

Dated at _____, this _____ day of _____ 20_____.

Signed Employer _____

Signed Employee _____

Attachment B

I, *Peter Roth* of *973 Mt Debateable Road GAYNDAH QLD 4625* solemnly and sincerely affirm and declare as follows –

1. I am authorised under the Act and rules to make this affidavit on behalf of PW & F ROTH.
2. The agreement, attachment A is not for a new business, a project agreement, or a multi-employer agreement.
3. The agreement is not made with an employee organisation.
4. The employer, PW & F ROTH, ABN: 71 251 443 265 of *973 Mt Debateable Road GAYNDAH QLD 4625* is in the fruit and vegetable growing industry.
5. The name of the relevant award is the *Fruit and Vegetable Growing Industry Award – State 2002*
6. The address at which the employees to be covered by the agreement are employed is *973 Mt Debateable Road GAYNDAH QLD 4625*
7. The number of female employees to be covered by the agreement is 1
8. The number of male employees to be covered by the agreement is 2
9. The number of apprentices to be covered by the agreement is n/a
10. The number of trainees to be covered by the agreement is n/a
11. The name and address of each employer to be bound by the agreement is Peter and Fayeleen Roth, *973 Mt Debateable Road GAYNDAH QLD 4625*
12. The average percentage by which the wages of the employees to be covered by the agreement will increase under the agreement compared with wages before the agreement is as per state wage case increases as determined by the QIRC from time to time.
13. The nominal expiry date of the agreement is/...../2012
(For nominal expiry date see s 156(1)(e) of the Act).
14. The steps taken to ensure compliance with section 143 of the Act were:
 - (a) Letter sent to all staff 10/09/2009 setting out intention to make certified agreement and providing information re employee rights and responsibilities.
 - (b) Claire Sannum (Employee) nominated/elected as staff representative
15. The steps taken to ensure compliance with section 144 were:
 - (a) 7/10/2009: staff meeting. Employee Representative and Staff provided with draft of proposed Certified Agreement with request for feedback
 - (b) 14/10/ 2009: Staff meeting and ballot to approve Certified Agreement. The vote was carried and the agreement was approved for certification.
16. The employer did not coerce, or attempt to coerce, any relevant employee not to make a request to a relevant employee organisation to be represented by the employee organisation in negotiating with the employer about the agreement.
17. The employer did not coerce, or attempt to coerce, any relevant employee into withdrawing a request made by the employee to a relevant employee organisation for the relevant employee organisation to represent the employee in negotiating the agreement].
18. The procedures for preventing and settling disputes are set out in clause 1.9
19. The requirements for equal remuneration of employees under section [156(1)(l)] [or] [156(1)(m)] have been met.

20. The agreement attached passes the no-disadvantage test under chapter 6, part 1, division 3 of the Industrial Relations Act 1999.

I affirm that the facts set out above are true.

(Signature)

Deponent

[SWORN] [AFFIRMED] by the deponent at _____ on _____
(place) *(day, month and year)*

before me

(Signature)

[Justice of the peace] [commissioner for declarations] [lawyer] *(other)*

PARTICULARS OF THE EMPLOYER

Name: PW & F ROTH ABN: 71 251 443 265

Business address: 973 Mt Debateable Road GAYNDAH QLD 4625

Address for service: 973 Mt Debateable Road GAYNDAH QLD 4625

Phone number or contact phone number: 07 4161 1662

Fax number *(if any)*:

E-mail address *(if any)*: fayeroth@skymesh.com.au

PARTICULARS OF THE AGENT

Employer's agent's name: Chelsea Harvie

and corporation or business name: Growcom

Agent's business address: 385 St Pauls Terrace Fortitude Valley QLD 4006

Address for service: 385 St Pauls Terrace Fortitude Valley QLD 4006

Phone: 07 3620 3844

Fax: 07 3620 3880

E-mail address *(if any)*: irteam@growcom.com.au

PARTICULARS OF OTHER PARTY – **employee representative details required here**

Name: Claire Sannum

Position, title, office etc: *(if applicable)*

Organisation, corporation, association, department business etc: *(if applicable)*

Residential or business address:

Address for service:

Phone or contact phone number:

Fax number: *(if any)*

E-mail address *(if any)*:]