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(Merchant)



Terms of Trade - Merchant

Effective from August 2026

1. Use of this Document

This Document comprises the Merchant Terms of Trade for the purposes of the Horticulture Code of Conduct contained in *the Competition and Consumer (Industry Codes - Horticulture) Regulations 2017* (Cth) (**Code**).

It sets out the general terms upon which the Merchant will trade with Growers in respect of horticultural produce. Terms not defined in this document have the meaning ascribed to them in the Horticulture Produce Agreement (**HPA**).

For specific arrangements between the Merchant and Grower please refer to the HPA. Specific terms may refer to pooling of produce, applicable fees and charges for services provided, reporting and payment processes and dispute resolution mechanisms.

2. The Code Prevails

If any provision of this document conflicts with the Code, the Code prevails.

3. Horticulture Produce Agreement Prevails

While this document sets out the Merchant's general terms of trade, the Code requires transactions between a Grower and the Merchant to be conducted pursuant to a HPA. In the event of any inconsistency between this document and the HPA, the HPA prevails to the extent of the inconsistency.

4. Merchant is a Merchant

The Merchant acts as a Merchant and is only prepared to trade as a Merchant for the purposes of the Code.

5. Requirements for delivery and quality of Produce

Produce supplied to the Merchant must comply with the following requirements:

- (a) prior to delivery, the Grower must provide documentation that is suitable to the Merchant that accurately describes the quantity, variety, size, class, description and characteristics of the Produce, including containers;
- (b) the Produce must be fit for human consumption and comply with all statutory regulations or applicable laws including laws or regulations relating to food safety, packaging and/or labelling;
- (c) the Grower must have complied with the *National Measurement Act 1960* (Cth) and *National Trade Measurement Regulations 2009* (Cth) as amended from time to time with respect to the Produce;
- (d) the Produce must be fit for its purpose; and
- (e) the Produce must be packed, presented and comply with the FreshSpecs Produce Specifications including as to quality and shelf life.

The Grower must not dispatch Produce to the Merchant that does not comply with the requirements in this paragraph 5, has not been solicited by the Merchant and where a HPA has not been accepted by the Grower.

6. Circumstances where the Merchant may reject Produce

The Merchant is entitled to reject all or some of the Produce where:

- (a) the Grower does not have all right, title and interest in and to the Produce;
- (b) the Grower cannot pass title to the Merchant clear of all encumbrances, claims and other adverse interests;
- (c) the Grower is not the grower of the Produce; or
- (d) the Produce does not comply with paragraphs 5(a) to 5(e) above.

7. Requirements where produce is rejected

The Merchant may elect to reject Produce before or immediately upon delivery and up to thirty-six (36) hours of the time of Delivery.

The Merchant must within forty-eight (48) hours of the time of Delivery give notice to the Grower of the decision to reject Produce and give notice of the reasons for such rejection.

Where Produce is rejected, the title in the Produce is deemed not to have transferred and the Merchant is deemed not to have accepted that Produce such that the Grower will retain title and risk in the Produce and the Grower is not entitled to the Purchase Price.

8. Purchase Price and Additional Fees

The Purchase Price for Produce as well as Additional Fees for actions performed by the Merchant for the benefit of the Grower will be determined in the manner set out in the HPA entered into by the Merchant and the relevant Grower.

9. Payment of Purchase Price and Additional Fees

Payment of the Purchase Price or Agreed Price for Produce, which is not rejected by the Merchant, and any other Additional Fees will be made no later than 30 days from the end of the Week during which Delivery of the relevant Produce is deemed as accepted.

For the avoidance of doubt, the Merchant may still elect to charge for the Additional Fees even where the Produce is rejected in accordance with the HPA.

10. Independent Legal Advice

The Merchant recommends that Growers seek independent legal advice in relation to the HPA prior to it being entered into between the Merchant and the Grower.

11. Changes to Terms of Trade

The Merchant may from time to time amend these Terms of Trade in accordance with the requirements of the Code.

12. Grower Acknowledgement

The Grower acknowledges that it must not supply any Produce to the Merchant without having first entered into a formal and agreed HPA with the Merchant.

Unless a Grower has entered into a HPA with the Merchant, the Merchant will have no obligations of any kind to the Grower in respect of Produce despatched and/or determined by the Grower to the Merchant.

13. Insurance (if applicable)

The Merchant holds the following insurances for Produce:

Insurer	
Maximum amount of claims covered by insurance	N/a
Defined events covered by insurance	n/a

If the above table is left blank the Merchant does not hold insurance for Produce required to be disclosed for the purposes of the Code.