

HORTICULTURE CODE OF CONDUCT - TERMS OF TRADE (Effective 14 May 2007)

1. USE OF THIS DOCUMENT

This Document comprises the Col Johnson & Co Pty Ltd ("Col Johnson") Terms of Trade for the purposes of complying with the Horticulture Code of Conduct contained within the Trade Practices (Horticulture Code of Conduct) Regulations 2006 (Code).

The Code requires that a Trader ("Col Johnson") and a Supplier ("Grower") may only trade in horticulture produce with each other if they have entered into a Horticulture Produce Agreement ("HPA") which complies with the Code.

These terms of trade may be included in a HPA between Col Johnson and the Supplier and form part of the terms and conditions of that agreement.

2. BUSINESS AS AN AGENT and MERCHANT

Col Johnson will act as an **Agent** or a **Merchant** for the purposes of the code. The HPA will specify how Col Johnson will trade with its Supplier.

3. REQUIREMENTS FOR DELIVERY AND QUALITY OF PRODUCE

Produce supplied to Col Johnson must comply with the following requirements:

- 3.1 Prior to delivery, the Supplier must provide documentation to Col Johnson which accurately describes the quantity, variety, size, class, description and characteristics of the produce, including containers.
- 3.2 The produce must be fit for human consumption and comply with any statutory regulations including food safety, packaging and/or labelling.
- 3.3 The Supplier must have complied with the Weights and Measures regulations with respect to the produce;
- 3.4 The produce must be fit for its purpose.
- 3.5 The produce must be packed / presented to comply with the following product specifications including quality and shelf life:
 - (a) the product specification requirements that Col Johnson has with respect to produce (if any) or any requirements agreed to between Col Johnson and the Supplier, if any; and/or if there are none;
 - (b) if dealing in Class One product, the specifications as directed by FreshSpecs Produce Specifications as disclosed on the Fresh Markets website: (www.freshmarkets.com.au/FreshSpec/freshspecs.html)
 - (c) if dealing with other classes of product, the specifications normally expected of that class of produce.
- 3.6 The Supplier must not dispatch produce to the Col Johnson which has not been solicited by Col Johnson and/or which does not comply with the above requirements.

4. REJECTION OF PRODUCE

Col Johnson will inform the Supplier by either: phone, SMS, fax or email of any problem or discrepancy with a horticulture produce shipment immediately upon discovery of the problem or discrepancy. Within 48 hours of discovery of the problem or discrepancy Col Johnson will communicate the reasons for the rejection and consequences of the rejection. A discrepancy may occur where the Supplier has not met the delivery and quality specifications set out in clause 3 above, or where the Supplier has delivered horticulture produce to Col Johnson without firstly having signed a Horticulture Produce Agreement as required by law.



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4. REJECTION OF PRODUCE (continued)

In the event both parties cannot reach agreement on how to trade the rejected produce, at the Supplier's cost, and, within 24 hours of the produce being rejected, the Supplier may engage a Horticulture Produce Assessor to undertake an independent assessment of the rejection. If the Supplier elects not to do so, or if this time elapses, at Col Johnson's absolute discretion the product will be disposed of, either through achieving a sale at a reduced price to a buyer in the market, or via disposing of the horticulture produce.

5. COMMISSION (If trading as an Agent)

Col Johnson will be entitled to a standard commission of 15% of the gross sale proceeds. GST is payable on this commission. Col Johnson also has the right to deduct other charges associated with the sale of the produce. These charges as well as the amount of the charge will be detailed in the HPA.

6. TRANSFER OF TITLE AND RISK

Risk, (and title if trading as a merchant) in the produce will pass from the Supplier to Col Johnson upon Col Johnson taking delivery of the Produce. Subject to clause 3, Col Johnson will be responsible for all damage to, or loss of, produce after risk and and/or title has passed to it.

7. BAD DEBTS

When acting as an agent Col Johnson will pursue the bad debts of a Supplier arising from the failure of a person, who has agreed to buy the horticulture produce of the Supplier through Col Johnson. Col Johnson is authorised to utilise Sydney Markets Credit Service to collect sale proceeds and bad debts.

8. PRICE AND DELIVERY DETERMINATION (If trading as a Merchant)

Col Johnson will purchase the produce from the Supplier at a price agreed in writing **upon delivery** of the produce to Col Johnson. Delivery for the purposes of this Terms of Trade occurs when the produce is immediately available for re-sale. Produce that has to be ripened or conditioned prior to it being saleable will consider to be delivered when it has been conditioned to such an extent that it becomes readily saleable.

9. PAYMENT OF SALE PROCEEDS / PURCHASE PRICE

Col Johnson will remit to the Supplier the proceeds from sales of the Supplier's produce based on twenty one (21) day payment terms. Payments will be processed and remitted to Suppliers once per week each Friday. These payments will be made either by cheque or a direct deposit to the Supplier's nominated bank account.

10. INSURANCE

Col Johnson holds the following insurance in respect of horticulture produce held under it's control:

Insurer	QBE Insurance
Maximum amount of claims covered by insurance	\$ 400,000 Produce stock stored \$20,000,000 Public and Product liability
Defined events covered by insurance	Fire, theft and accidental damage (other than deterioration of quality or any other inherent losses)



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11. INDEPENDENT LEGAL ADVICE

Suppliers are recommended to seek independent legal advice prior to entering into a HPA agreement with Col Johnson.

12. TRANSPARENCY

A Supplier can at any time, by appointment, visit Col Johnson's Office to discuss the details such as the sales price, customers etc. relating to the sale of their produce.

13. QUERIES & CORRESPONDENCE

Any queries in relation to our Terms of Trade or your Horticulture Produce Agreement are to be directed to **John Horan, Chief Financial Officer**, on **(03) 9687 7725**

PRIVACY STATEMENT

By entering into a business relationship with Col Johnson & Co Pty Ltd, the Supplier provides consent for Col Johnson to collect personal information for business and taxation law purposes. This information is collected for the purpose of facilitating sale and payment of produce.

Col Johnson will take every care to ensure this information is held securely and is accurate, complete and up to date.