

**Priest Bros. Marketing Pty Ltd**  
**(ACN 131 210 163)**  
**TERMS OF TRADE**

**Application**

1. These Terms of Trade are the usual Terms of Trade that Priest Bros. Marketing Pty Ltd (ACN 131 210 163) ("the Trader") are prepared to trade in Horticultural Produce with Growers.
2. These Terms of Trade are made in accordance with the Horticultural Code of Conduct ("the Code").
3. In the event a Grower accepts these Terms of Trade the agreement to trade in Horticultural Produce any such trading must be formalized by way of a Horticultural Produce Agreement.
4. In the event the Trader and Grower enter into a Horticultural Produce Agreement, the Grower acknowledges that these Terms of Trade form part of the Horticultural Produce Agreement and apply to all transactions between the Agent and the Grower.
5. If a provision of the Horticultural Produce Agreement conflicts with a provision of these Terms of Trade, the provisions of the Horticultural Produce Agreement prevail.

**Trader Relationship to Grower**

6. The relationship on which the Trader is prepared to trade in Horticultural Produce with the Grower is that of an Agent and a Grower.
7. Nothing within these Terms of Trade is intended to create, imply or infer the relationship of a Merchant and a Grower.

**Delivery**

8. The Grower will deliver Horticultural Produce to the Trader following a request made by the Trader for Horticultural Produce.
9. The Grower will include with each delivery, documentation listing the quantity, size and Type of all Horticultural Produce in the delivery.
10. For the purposes of this Agreement, delivery of Horticultural Produce occurs when the Horticultural Produce arrives at the location in the Schedule at the time specified by the Trader or as otherwise instructed in writing by the Trader from time to time.
11. In the event that delivery is to occur at a different point in time or the Grower is unable for any reason to effect delivery at the location in accordance with paragraph, the Grower must notify the Trader in writing.

12. The Grower will bear the costs of delivery (and collection if paragraph 19 applies) of the Horticultural Produce to the Trader.

**Quality, Quantity & Rejection**

13. Horticultural Produce delivered by the Grower must meet the Produce Specifications provided by the Trader.
14. Horticultural Produce delivered by the Grower must meet the quantity requirement as requested by the Trader.
15. The Trader will accept and be deemed to have accepted delivery of all Horticultural Produce delivered in accordance with this agreement, unless the circumstances set out in these Terms of Trade apply.
16. The Trader may reject Horticultural Produce delivered by the Grower in the following circumstances:
  - (a) If some or all of the Horticultural Produce delivered does not satisfy the Produce Specifications provided by the Trader;
  - (b) If the Grower does not comply with their obligations pursuant to ownership and the right to sell the Horticultural Produce;
  - (c) If the Grower does not deliver the Horticultural Produce in accordance with these Terms of Trade; or
  - (d) Where the Trader determines that some or all of the Horticultural Produce is unfit for sale.
17. If paragraph 16 applies, the Trader will immediately contact the Grower and advise what amount of the Horticultural Produce has been rejected in accordance with these Terms of Trade.
18. Where the Trader rejects Horticultural Produce under paragraph 16, the Trader will within 7 days after the time at which the Grower is contacted, provide the Grower in writing the reason for the rejection.
19. Where Horticultural Produce is rejected by the Trader, the Trader may either organise for the return of the Horticultural Produce to the Grower at the Grower's expense or hold the Horticultural Produce for collection by the Grower at an agreed time and location.
20. If the Grower does not elect to have the rejected Horticultural Produce returned in accordance with paragraph 19, the Trader is at liberty to destroy the rejected Horticultural Produce with the costs of destruction to be paid by the Grower.

21. The Trader reserves the right to pool the Horticultural Produce where the quantity requirements of the Grower have not been met in accordance with paragraph 14.

22. The Grower acknowledges that at times the Horticultural Produce inspected by the Trader may not present any defects at the time of inspection that would otherwise have caused the Trader to exercise their right of rejection under paragraph 16. The Trader reserves the right to exercise their right of rejection in the event defects do appear following inspection and any loss or damage suffered by the Trader will be recoverable from the Grower.

### **Commission and Payment of Sale Proceeds**

23. The Trader agrees to pay the Agent a commission as a percentage for the Services performed by the Trader.

24. The Grower acknowledges that all monies due and payable to the Trader for commission will be deducted from any funds the Trader possesses as a result of performing the Services.

25. In the event Horticultural Produce is rejected by the Agent in accordance with paragraph 16, the Trader may contact the Grower to negotiate a revised price the rejected Horticultural Produce may be sold at should the Grower not request the return of the Horticultural Produce. Such price is to be agreed upon in writing between the parties.

26. The Trader will pay to the Grower the proceeds of sale of the Grower's delivered Horticultural Produce, less commission and any other amounts to be deducted as a result of quality and quantity requirements of the Trader.

27. Payment to the Grower will be made as follows:

- (a) Within thirty (30) days of the Agent performing the services on behalf of the Grower; and
- (b) By EFT to an account nominated by the Grower unless otherwise agreed in writing between the parties.

### **Insurance**

28. The Trader shall not be obliged to obtain any insurance policy with respect to the Horticultural Produce of the Grower while in the control of the Trader.

### **Bad Debts**

29. The Trader will pursue customers for payment of bad debts but is not required to take legal action

against customers if the bad debt remains unpaid.  
30. Upon the written request of the Grower, the Trader will provide the Grower with the details of the bad debt, including the customer's name and contact details, along with any other information the Agent considers relevant.