



NATURES FRUIT COMPANY HORTICULTURE PRODUCE AGREEMENT Terms and Conditions

Commencement

1. Each Agreement based on these Terms and Conditions is effective from the Commencement Date specified in the Information Schedule (and if no date is so specified, the Agreement Date) and shall apply to all transactions between Natures Fruit Company and the Grower thereafter unless:
 - (a) by specific written notice to the contrary;
 - (b) these Terms and Conditions are replaced by another set of Terms and Conditions at a later date; or
 - (c) the transaction is not a transaction that would be covered by the Code.
2. The Grower appoints Natures Fruit Company, and Natures Fruit Company accepts the appointment, as the **agent** for the Grower (within the meaning of the Code) for the purposes of procuring a Sale, disposition or other dealing with the Produce subject to these Terms and Conditions.
3. The Grower covenants and warrants that:
 - (a) the Grower is the grower of the Produce;
 - (b) the Grower has all right and title to and interest in the Produce; and
 - (c) upon a Sale, title will pass to the third party buyer clear of all encumbrances, claims and other adverse interests.

Supply of Produce

4. The costs of delivery of Produce to Natures Fruit Company shall be borne by the Grower, unless otherwise agreed to in writing by Natures Fruit Company.

Natures Fruit Company to Procure Sale

5. Upon delivery to it of the Produce, Natures Fruit Company shall use reasonable endeavours to procure a sale of the Produce.
6. In discharging its obligations pursuant to clause 5, Natures Fruit Company is expressly authorised by the Grower to:
 - (a) set the sale price of the Produce with third party buyers;
 - (b) make representations to third party buyers regarding the description, characteristics and qualities of the Produce, provided always that such representations are reasonable in the circumstances;
 - (c) enter into, as agent for the Grower, a contract for the Sale of the Produce with a third party buyer, with the Grower as principal;
 - (d) receive and hold the Sale Proceeds;

- (e) incur costs in respect of the Produce, to be borne or discharged by the Grower, including, without limitation those charges described in clause 7;
 - (f) to accept Returns in accordance with clause 29;
 - (g) deduct the charges under clause 10 from the Sale Proceeds;
 - (h) remit the Sale Proceeds to the Grower less the deductions in accordance with clause 10;
 - (i) enter into the arrangements contemplated by clause 33 with any third party debt collection service provider (**Debt Collection Service Provider**) with respect to the payment of, receipt, collection or recovery of the Sale Proceeds (or Bad Debts) from third party buyers of Produce;
7. For the avoidance of doubt, Natures Fruit Company shall be entitled (but not obliged) to repack, rework, treat, dip, store, transport or otherwise deal with the Produce (**Produce Work**) if Natures Fruit Company considers, in its sole discretion, that such Produce Work will:
- (a) enhance the probability of sale of the Produce; or
 - (b) increase the potential Sale Proceeds of the Produce.

Produce not sold

8. In the event that Natures Fruit Company is unable to procure a Sale of some or all of the Produce, then Natures Fruit Company is deemed to have provided a valid Rejection Notice in respect of that Produce and clause 26 to clause 28 shall apply.

Business Payments and Reporting Obligations

9. Natures Fruit Company agrees to make payments to the Grower in accordance with the following method:
- (a) payment will be in accordance with that stipulated in the Information Schedule.
 - (b) such payments shall at the election of Natures Fruit Company be made by cheque or by direct bank deposit to the credit of the bank account notified in writing to Natures Fruit Company by the Grower.
10. Where clause 32(a) applies or Natures Fruit Company otherwise receives the Sale Proceeds or Bad Debts on behalf of the Grower, Natures Fruit Company shall pay the amount of the Sale Proceeds to the Grower after deducting the following amounts:
- (a) the Fees, Levies and Charges;
 - (b) any third party delivery or freight costs, unloading fees and charges actually incurred by Natures Fruit Company with respect to the Produce;
 - (c) any costs and expenses actually incurred (including reasonable internal costs) by Natures Fruit Company as a consequence of any sorting and repacking of the Produce by Natures Fruit Company or any other third party, including without limitation, Produce Work;
 - (d) any other amount which the Grower is liable to pay to Natures Fruit Company, whether pursuant to these Terms and Conditions or otherwise;
 - (e) any other authorised deductions, including levies and fees for service payable under State or Commonwealth legislation or any voluntary arrangement;
 - (f) Goods and Service Tax in respect of any item for which a Tax Invoice has been issued; and

- (g) any cost of collecting the Sale Proceeds or Bad Debts (in accordance with these Terms and Conditions) including fees and charges imposed by the Debt Collection Service Provider.
11. The Grower acknowledges that:
- (a) Natures Fruit Company may pool Produce delivered by the Grower under this Agreement with other Produce if the Produce delivered by the Grower and the other Produce meet the same Product Specifications;
 - (b) Where Natures Fruit Company pools Produce in accordance with this Agreement, the amount payable to the Grower will be a proportion of the total proceeds received by the Agent for pooled Produce that is equal to the proportion of the pooled Produce that was contributed by the Grower, less any Fees, Levies and Charges payable;
 - (c) where any of the amounts referred to in subclauses 10(b) to 10(g) are referable to other Produce (whether or not Produce of the Grower or pooled Produce), Natures Fruit Company may determine, acting reasonably, the proportion of those amounts that relate to the relevant Produce for the purposes of these Terms and Conditions.
12. Save as otherwise set out in these Terms and Conditions:
- (d) Natures Fruit Company is only entitled to the Fees, Levies and Charges in the event that a Sale occurs; and
 - (e) Natures Fruit Company is entitled to deduct the Fees, Levies and Charges and the amounts referred to in subclauses 10(b) to 10(g) from Sale Proceeds held for any Produce of the Grower, whether or not a Sale has occurred in respect of relevant Produce.
13. Natures Fruit Company will provide a Statement to the Grower containing the following details, covering the Reporting Period:
- (a) the Grower's reference or shipping note number;
 - (b) a description of the type and quantity of Produce Sold;
 - (c) details of the quality of Produce Sold;
 - (d) the period within which Sales of Produce have occurred;
 - (e) details of the price received for any Produce sold and any amounts deducted (or to be deducted) by Natures Fruit Company from the Sale Proceeds prior to any payment to the Grower;
 - (f) the receival report noting the time and date upon which the Produce was Delivered to Natures Fruit Company;
 - (g) details of any Produce not Sold during the Reporting Period;
 - (h) details of any Produce not Sold during the Reporting Period but destroyed by Natures Fruit Company and details of the costs of destruction;
 - (i) details of any Produce not Sold during the Reporting Period but held by Natures Fruit Company at the end of the Reporting Period;
 - (j) reasons why any Produce Delivered during the Reporting Period was not Sold during the Reporting Period;
 - (k) details of any non-complying Produce that is disposed of, or otherwise dealt with, in accordance with these Terms and Conditions;

- (l) a copy of any relevant Inspection Certificate obtained in accordance with clause 26(c)(ii) of these Terms and Conditions;

and the Statement must be given to the Grower within such number of days following the end of the relevant Reporting Period as specified in the Information Schedule.

14. Natures Fruit Company will issue a Recipient Created Tax Invoice to the Grower in respect of any item for which GST is chargeable.
15. Natures Fruit Company reserves the right to withdraw from making payments on behalf of the Grower, or to charge a fee for service in respect of such payments.

Title and Risk

16. The Parties acknowledge that at all times, despite the delivery of the Produce to Natures Fruit Company under these Terms and Conditions, title and risk in respect of the Produce shall remain with the Grower until title to the Produce passes to the third party buyer whereupon the third party buyer will assume risk.
17. Until such time as the title to the Produce passes to the third party buyer under clause 16, Natures Fruit Company must exercise care and skill in handling and storage to ensure that the Products remain of the highest quality reasonable in the circumstances.

Grower Obligations

18. The Grower agrees to provide documentation, suitable to Natures Fruit Company, that accurately describes the quantity, variety, size, class, description and characteristics of the Produce, including containers, and expected delivery date of the Produce prior to delivery to Natures Fruit Company.
19. The Grower warrants that the Produce as Delivered to Natures Fruit Company:
- (a) is fit for its purpose and is otherwise fit for human consumption;
 - (b) complies with any statutory regulations including food safety, packaging and/or labelling;
 - (c) complies with the *National Measurement Act 1960 (C'th)*; and
 - (d) is packed or presented and complies with the written product specifications including quality and shelf life (**Product Specifications**) provided by Natures Fruit Company to the Grower from time to time or as are otherwise agreed to in writing between Natures Fruit Company and the Grower.
20. The Grower must not Deliver to Natures Fruit Company Produce that:
- (a) does not comply with the Product Specifications; or
 - (b) has not been solicited by Natures Fruit Company.
21. The Grower acknowledges and agrees that:
- (c) where the Grower implements and maintains certification for an industry recognised HACCP based food safety and quality system that is subject to an annual third party audit, the Grower must keep Natures Fruit Company provided with copies of current certification;
 - (d) where the Grower does not implement and maintain certification for an industry recognised HACCP based food safety and quality system that is subject to an annual third party audit, Natures Fruit Company is restricted as to how and to whom it may market the Grower's Produce.

22. The Grower agrees to supply its registered Australian Business Number (**ABN**) prior to any payment being made by Natures Fruit Company.

Complying and Non-Complying Produce

23. The Grower must ensure that Produce supplied to Natures Fruit Company complies with clauses 3, 18 and 19 otherwise that Produce will be treated as non-complying Produce.
24. Where these Terms and Conditions provide that Produce is to be treated as non-complying Produce, then Natures Fruit Company shall be entitled within two (2) Business Days of the later of:
- (a) the Produce becoming treated under clause 31 as non-complying Produce; or
 - (b) receipt of the Produce by Natures Fruit Company,
- to elect (the day the election is made being the **Non-Compliance Day**) to:
- (c) reject all of the Produce;
 - (d) accept all of the Produce; or
 - (e) accept part of the Produce and reject the balance of the Produce.
25. Where Natures Fruit Company elects to accept all or part of the Produce under clause 24, or fails to give a notice under clause 24 to reject all or part of the Produce (**Accepted Produce**), then Natures Fruit Company will endeavour to procure a Sale of the Accepted Produce and be entitled to charge the Fees, Levies and Charges in relation thereto.
26. Where Natures Fruit Company elects to reject all or part of the Produce (the **Rejected Produce**) under clause 24, then subject only to clause 26(c):
- (a) Natures Fruit Company shall not be required to procure a Sale of the Rejected Produce;
 - (b) Natures Fruit Company will as soon as practicable notify the Grower by telephone, fax, email or other electronic means of the rejection;
 - (c) within two (2) Business Days of the Non-Compliance Day, Natures Fruit Company will notify the Grower of the rejection and the reasons for such rejection and request that the Grower advise as to whether the Grower:
 - (i) wishes to retake possession of the Produce;
 - (ii) requires an independent inspection and assessment of the condition of the Produce to determine whether an Inspection Certificate should be issued at the Grower's cost; or
 - (iii) wishes to make other arrangements for the storage or warehousing of the Produce, sale or resale of the Produce, or its removal from Natures Fruit Company's premises.
27. Despite anything else in these Terms and Conditions, Natures Fruit Company may elect to destroy and dispose of the Produce, or deliver the Produce to the Grower, if:
- (a) the Grower does not respond within twenty four (24) hours of notification in accordance with Clause 26(c);
 - (b) the Grower fails to retake possession of the Produce within five (5) Business Days of the Grower indicating an intention to do so in response to notification under clause 26(c); and

the Grower authorises and confirms, by the entry into these Terms and Conditions, any such action by Natures Fruit Company.

28. Where clause 27 applies, any destruction, disposal and/or delivery of Produce will be at the Grower's expense.

Returns

29. In the event that, following a Sale, Produce is returned to Natures Fruit Company, Natures Fruit Company will have the choice, at its discretion, as to whether or not to:
- (a) accept the return of such Produce from the buyer and if so, whether it be for any reason whatsoever (including without limitation where in the opinion of Natures Fruit Company not to allow the buyer to return the Produce would potentially damage commercial relations with the buyer) (**Return**); or
 - (b) contact the Grower for further instructions in relation to how to deal with the returned produce. Where the Grower provides instructions to Natures Fruit Company to accept the return of the Produce this shall be deemed to be a **Return** for the purposes of these Terms and Conditions.
30. Following a Return:
- (a) Natures Fruit Company shall provide written notice to the Grower within two (2) Business Days of the Return;
 - (b) any costs and expenses associated with the delivery, repacking, reworking or storage of the Produce shall be borne (or reimbursed, as the case may be) by the Grower;
 - (c) for the avoidance of doubt, the Grower shall not be entitled to any part of the Sale Proceeds in respect of the Sale the subject of the Return, and if already paid, shall repay those funds to Natures Fruit Company, for the purposes of re-imburement to the relevant buyer the subject of the Return;
 - (d) Natures Fruit Company is not entitled to the Fees, Levies and Charges in respect of the Sale the subject of the Return.
31. Produce Returned under clause 29 will be treated as non-complying Produce and subject to clauses 13, 23, 24, 25, 26 and 27 of these Terms and Conditions.

Debt Collection Service

32. Where:
- (a) the Information Schedule indicates that the Grower authorises Natures Fruit Company to recover Bad Debts and Sale Proceeds, clauses 33 to 38 shall apply, otherwise:
 - (i) Natures Fruit Company will not pursue recovery of the Sale Proceeds or Bad Debts;
 - (ii) the Grower shall solely bear the onus of recovering the Sale Proceeds or any Bad Debt; and
 - (iii) to the extent that the Sale Proceeds or Bad Debts are recovered by the Grower directly, the Grower must remit the amount that Natures Fruit Company would otherwise be entitled to deduct under clause 10, within two (2) Business Days after the recovery of the funds by the Grower.
 - (b) a third party buyer has defaulted in its obligation to pay for Produce and Natures Fruit Company has paid the equivalent of the Sale Proceeds for that Produce to the Grower from Natures Fruit Company's self-insurance fund, then irrespective of whether or not the Grower has authorised Natures Fruit Company to recover Bad Debts and Sale Proceeds, the Grower assigns to Natures Fruit Company the benefit of the debt

otherwise due and owing by the third party buyer along with the right to recovery of that debt.

33. Natures Fruit Company is expressly authorised under these Terms and Conditions on behalf of the Grower:
- (a) to do all things necessary to arrange for the Collection Service to recover the Sale Proceeds from third party buyers;
 - (b) to do all things necessary to arrange for the Collection Service to recover the Bad Debt relating to Produce;
 - (c) to receive and hold any funds received from the Sale Proceeds, subject to these Terms and Conditions;
 - (d) to settle or compromise or cause the Collection Service to settle or compromise any Bad Debt with any third party buyer with respect to Produce, provided always that the terms of such settlement or compromise are reasonable in the circumstances;
 - (e) without limiting subclauses 33(a) to 33(d), engage a Collection Service on its usual terms and conditions;
 - (f) where the Sale Proceeds or Bad Debts are unable to be pursued through the Collection Service, Natures Fruit Company is authorised on behalf of the Grower to do all things necessary to recover the Sale Proceeds and Bad Debts relating to the Produce.
34. Where Natures Fruit Company has arranged to recover Sale Proceeds or Bad Debts under clause 33, the Grower's rights to seek to recover such Sale Proceeds are suspended until Natures Fruit Company determines otherwise, subject to clause 35.
35. If Natures Fruit Company or any Collection Service engaged by it is unable to recover the Sale Proceeds, Bad Debt or amount of any settlement or compromise under clause 33 within ninety (90) Business Days following a Sale, the Grower's rights to seek to recover such Sale Proceeds are suspended until Natures Fruit Company determines otherwise, subject to clause 36.
36. If Natures Fruit Company or any Collection Service engaged by it is unable to recover the Sale Proceeds, Bad Debt or amount of any settlement or compromise under clause 33 within ninety (90) Business Days following a Sale, then (unless otherwise agreed to in writing by the Grower) Natures Fruit Company's authority under clause 33 shall be withdrawn and the Grower shall thereupon bear the onus of recovering any Sale Proceeds or Bad Debt.
37. Natures Fruit Company will not be obliged to pursue Bad Debts other than as specified under these Terms and Conditions.
38. In the event that Sale Proceeds or a Bad Debt are not recovered by Natures Fruit Company and Sale Proceeds or a Bad Debt have been recovered by the Grower, Natures Fruit Company shall be entitled to so much of the Fees, Levies and Charges as the proportion the amount recovered bears to the Sale Proceeds or Bad Debt.

Sales to Related Parties of Natures Fruit Company

39. For the purposes of clause 18(b) of the Code, Natures Fruit Company agrees not to procure a Sale of any Produce other than on an arm's length basis, unless the Grower has consented to the transaction.

General Information

40. Subject to the requirements of paragraphs 22 and 23 of the Code being met, Natures Fruit Company agrees to provide to the Grower information referred to in paragraphs 22 and 23 of the Code. The Grower is not entitled to any other information or documentation from Natures Fruit Company save as set out in these Terms and Conditions or the Code.

Insurance

41. Natures Fruit Company shall not be obliged to keep insurance in respect of goods in its legal and physical control. If Natures Fruit Company does have insurance, details of:
- (a) Natures Fruit Company's insurer;
 - (b) the maximum amount of claims covered by Natures Fruit Company's insurance; and
 - (c) the defined events covered by the insurance including fire, theft and accidental damage and other deterioration and/or inherit loss of any kind;

are as set out in the Information Schedule. If there are no details of insurance set out in the Information Schedule then Natures Fruit Company does not, or is deemed not to, hold insurance. Natures Fruit Company will not be liable for loss or damage to the Produce arising from any cause or event outside of the direct control of Natures Fruit Company.

Limit on Claims

42. Natures Fruit Company shall not be obliged to consider any claim by the Grower unless the claim:
- (a) relates only to quality; and
 - (b) is received in writing within the number of Business Days, as set out in the Information Schedule, from the issuance by Natures Fruit Company of the Statement relating to the relevant Produce;

and consideration by Natures Fruit Company of any claim by a Grower will in no event constitute an admission of any liability on its part.

43. Natures Fruit Company will not be liable for any consequential loss to the Grower or any other person howsoever caused.

Dispute Resolution

44. In the case of a dispute that may arise under these Terms and Conditions:
- (a) the person whom Natures Fruit Company should contact in that event, on behalf of the Grower (**Grower's Contact**), is set out in the Information Schedule;
 - (b) the person whom the Grower should contact in that event, on behalf of Natures Fruit Company (**Natures Fruit Company's Contact**), is set out in the Information Schedule;
 - (c) Natures Fruit Company and the Grower shall use the dispute resolution procedures under the Code to endeavour to resolve the dispute.
45. The Grower indemnifies Natures Fruit Company against any liability, loss, expense, or demand from or arising from any false, misleading, deceptive or misdescriptive representation or statement, made by the Grower, in respect of the Produce.

No Waiver

46. Any time or other indulgence that Natures Fruit Company may grant to the Grower shall not affect the rights of Natures Fruit Company except to the extent that Natures Fruit Company expressly waives such term, or part thereof, in writing.

Governing Law

47. These Terms and Conditions are governed by and are to be construed in accordance with the laws in force in the State of Queensland and each party submits to the exclusive jurisdiction of the courts of that State.

Severance

48. If any provision of these Terms and Conditions shall be or be determined to be illegal, invalid, void or voidable the legality or validity of the remainder of these Terms and Conditions will not be affected and will continue in full force and effect.

Varying these Terms and Conditions

49. Natures Fruit Company may vary these Terms and Conditions, or any of the Fees, Levies and Charges or other such variable items set out in the Schedule of Fees, Levies and Charges or the Information Schedule, at any time. If Natures Fruit Company makes any such variation, that variation will take effect fourteen (14) days after the date on which Natures Fruit Company notifies the Grower of such variation (**variation notice date**), provided that:
- (a) the Grower is entitled to reject any such variation by notice to Natures Fruit Company, whereupon the Agreement will be deemed to have been terminated in accordance with clause 50;
 - (b) the Grower will be taken to have accepted such variation if the Grower supplies further Produce to Natures Fruit Company more than fourteen (14) days after the variation notice date.

Terminating the Agreement

50. The Agreement may be terminated by Natures Fruit Company or the Grower by providing notice in writing to the other party (**Termination Notice**).
51. Any such termination:
- (a) except where clause 53 applies, shall apply prospectively to prevent any despatch of Produce by the Grower under these Terms and Conditions after the Termination Notice but shall not apply to any Produce despatched by the Grower (whether delivered to Natures Fruit Company or not) before the Termination Notice;
 - (b) where clause 53 applies, shall apply prospectively to prevent any Sale of Produce in accordance with these Terms and Conditions after the Termination Notice but shall not apply to any Sale of Produce before the Termination Notice; and
 - (c) will not affect any accrued rights or obligations of Natures Fruit Company or the Grower prior to the Termination Notice.
52. Following termination, the Grower and Natures Fruit Company shall be entitled to pursue any other claim they may have against the other which have accrued or arisen up to the date of termination.
53. Despite anything else in these Terms and Conditions, the Agreement may be terminated by either Natures Fruit Company or the Grower within the Cooling-Off Period under the Code, and in such event:
- (a) clause 51 and clause 52 shall apply; and
 - (b) any payment, of money or other valuable consideration, that was made for the purposes of, and directly related to, a Sale of Produce that would have occurred after the Termination Notice, must be returned to the party who made the payment within 14 days of the Termination Notice (less reasonable costs and expenses incurred under these Terms and Conditions for the purpose of, and directly relating to the Sale).

Notices

54. Any formal notice by one party to the other required by these Terms and Conditions must be in writing, and sent to the address for a party with which it normally deals (or to such other address for service of notices that a party has advised to the other). Notices are taken to be received:
- (a) if hand delivered, at the time of delivery;
 - (b) if posted, on the 3rd day after posting within Australia or the 5th day after posting for international mail;
 - (c) in the case of email or facsimile transmission, at the time of successful transmission.

General

55. Natures Fruit Company may assign, license or sub-contract all or any part of its rights and obligations under these Terms and Conditions without the Grower's consent.
56. Neither party will be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of that party.
57. The Grower warrants that it has the power to enter into the Agreement and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that the Agreement creates binding and valid legal obligations on it.
58. Neither these Terms and Conditions nor an Agreement based on them will be interpreted, construed or applied adversely to Natures Fruit Company by reason of their having been drafted by or on behalf of Natures Fruit Company.

Independent Advice

59. Natures Fruit Company and the Grower acknowledge that:
- (a) prior to entering into the Agreement, the parties have each been accorded adequate opportunity to obtain independent legal and financial advice in relation to this Agreement and its implications to them and to any related party; and
 - (b) they have each entered into the Agreement after having either obtained that independent legal and financial advice, or despite having had the opportunity to obtain that advice, having consciously declined so to do.

Definitions

60. In these Terms and Conditions, unless the context otherwise requires:

Agreement means a Horticulture Produce Agreement entered into between Natures Fruit Company and the Grower to which these Terms and Conditions apply and is comprised of:

- (a) the Information Schedule;
- (b) Schedule of Fees, Levies and Charges; and
- (c) these Terms and Conditions.

Agreement Date means the date specified as such in the Information Schedule, or if there is no date so specified, the date of signature of the Information Schedule by the last party to sign it.

Bad Debt means a bad debt of the Grower and is an amount owed by a person where:

- (a) Natures Fruit Company arranges for the person to buy the Produce of the Grower, and
- (b) the person does not pay Natures Fruit Company for some or all of the Produce by the time that payment for the Produce is required.

Business Day means a day that is not a Saturday, Sunday or a designated holiday at the place in Queensland where Natures Fruit Company is located and in the place or places where performance of a relevant obligation is or is required to take place.

Code means the Horticulture Code of Conduct prescribed by the *Competition and Consumer (Industry Codes–Horticulture) Regulations 2017 (Cth)*, as amended from time to time.

Collection Service means a law firm, credit collection agency, debt collection service or other such service.

Commencement Date means the date specified as such in the Information Schedule, or if there is no date so specified, the Agreement Date.

Cooling-Off Period means the cooling off period prescribed from time to time under the Code.

Fees, Levies and Charges means the various categories of fees, levies and charges as set out in the Information Schedule, to be charged to or levied on the Grower by Natures Fruit Company. The various fixed amounts per kilogram or carton, or percentage amounts of Sale Proceeds or other such basis for calculation of such fees, levies and charges (as the case may be) are as set out in the Information Schedule of Fees, Levies and Charges.

Grower means the grower specified as such in the Information Schedule and, where the context requires, includes any supplier, producer or other person who delivers Produce, or has Produce delivered, to Natures Fruit Company in accordance with these Terms and Conditions.

GST means a tax imposed under the GST Law.

GST Law has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* or if that Act does not exist for any reason, means any Act imposing or relating to a GST and any regulation made pursuant to it and includes, where the context permits, any ATO ruling or determination.

Information Schedule means the schedule of variable items for the Horticulture Produce Agreement to which these Terms and Conditions are attached or are incorporated by specific reference.

Inspection Certificate means a report prepared by an independent authority or third party assessor who is qualified by experience and/or education to declare the Produce unfit for human consumption, unsuitable for sale or not meeting a particular standard.

Nursery Products includes (without limitation):

- (a) trees, shrubs, plants, seeds, bulbs, corns and tubers (other than edible tubers);
- (b) propagating material and plant tissue cultures, grown for ornamental purposes or for producing fruits, vegetables, nuts or cut flowers and foliage; and
- (c) cut flowers and foliage.

Produce means unprocessed:

- (a) fruits;
- (b) vegetables, including mushrooms and other eligible fungi;
- (c) nuts;
- (d) herbs;
- (e) other edible plants;

but does not include Nursery Products.

Produce Work has the meaning given to that term in clause 7.

Recipient Created Tax Invoice has the meaning given in the GST Law;

Returns has the meaning given to that term in clause 29.

Reporting Period means the reporting period for the Statement specified in the Information Schedule.

Sale means a sale of Produce by Natures Fruit Company to a third party buyer.

Sale Proceeds means the market net proceeds of a Sale payable in respect of Produce (excluding GST but prior to any deductions such as freight, insurance, promotion and administration levies).

Schedule of Fees, Levies and Charges means the Schedule setting out the various fixed amounts per kilogram or carton, or percentage amounts of Sale Proceeds or other such basis for calculation of the Fees, Levies and Charges, which schedule is either attached to the Information Schedule or is incorporated by specific reference.

Statement means a statement provided to the Grower by Natures Fruit Company specifying the Produce sales details for the Reporting Period in accordance with clause 13.

Week means the period from Saturday to Friday inclusive.

Miscellaneous:

- (a) singular includes plural and vice versa and any gender includes every gender.
- (b) a reference to a person includes corporations, trusts, associations, partnerships, a government authority and other legal entities, and where necessary, include successor bodies.
- (c) references to sections of statutes or terms defined in statutes refer to corresponding sections or defined terms in amended, consolidated or replacement statutes.
- (d) headings and the table of contents are used for convenience only and are to be disregarded in the interpretation of these Terms and Conditions.
- (e) a reference to a party includes that party's executors, administrators, substitutes, successors and permitted assigns.
- (f) any requirement which must be done on a specified day which is not a Business Day must be done on the next Business Day.
- (g) nothing in these Terms and Conditions may be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, Right or remedy implied by law (including the Code) and which by law cannot be excluded, restricted or modified.