



LaManna Group Terms of Trade in accordance with the Horticulture Code of Conduct

These LaManna Group Terms of Trade are effective from 30 March 2009 and apply to trade in horticulture produce with the following companies:

LaManna Bananas Pty Ltd (ABN 87 004 843 556)

Verona Fruit Pty Ltd (ABN 58 108 523 879)

LaManna Bananas (Adelaide) Pty Ltd (ABN 31 964 373 610)

HOW WE WILL TRADE WITH OUR SUPPLIERS

We will act as an **agent** or **merchant** for the purposes of the Horticulture Code of Conduct. The Horticulture Produce Agreement will specify how we trade with a supplier.

DEFINITIONS

GST means goods and services tax.

Horticulture Code of Conduct means the Horticulture Code of Conduct set out in the Schedule to the Trade Practices (Horticulture Code of Conduct) Regulations 2006.

LaManna Adelaide means LaManna Bananas (Adelaide) Pty Ltd (ABN 31 964 373 610) of C31 Adelaide Produce Markets, Burma Road, Pooraka, South Australia 5095, Phone (08) 8349 5022 Fax (08) 8349 5789.

LaManna Bananas means LaManna Bananas Pty Ltd (ABN 87 004 843 556) of 103-107 Hyde Street, Footscray, Victoria 3011, Phone (03) 9687 0044 Fax (03) 9689 5253.

LaManna Group companies means LaManna Bananas, LaManna Adelaide and Verona.

Reporting Period ('reporting period', 'the report') when trading as an agent, means either the period between delivery of each individual consignment of horticulture produce that you send to us and the date that consignment is fully sold, or two months, which ever is shorter. When trading as a merchant, means each individual consignment of horticulture produce that you send to us.

Statement Period ('statement period', 'the statement') means 21 days after the end of the Reporting Period.

Supplier ('supplier', 'you') means a person who supplies horticulture produce to us.

Verona means Verona Fruit Pty Ltd (ABN 58 108 523 879) of 103-107 Hyde Street, Footscray, Victoria 3011, Phone (03) 9687 0044 Fax (03) 9689 9495.

Wholesaler ('wholesaler', 'us', 'we', 'our') means each of the LaManna Group companies listed above.

HORTICULTURE PRODUCE AGREEMENT

All Suppliers of horticulture produce to any of the LaManna Group companies are required to have signed a Horticulture Produce Agreement with the relevant LaManna Group company as a condition of acceptance of any consignment of produce, unless the Supplier has a written agreement with the LaManna Group which was executed on or before 14 December 2006.

OUR FEE STRUCTURE

When trading as an agent, our fee structure for all transactions is as follows:

- Bananas:
 - Green loads: we will charge you 10.0% commission
 - Ripened: we will charge you 11.0% commission plus a \$1.50 per carton ripening fee
- Avocados and Mangoes:
 - we will charge you 12.5% commission plus a \$1.00 per tray conditioning and handling fee
- All other produce:
 - we will charge you 12.5% commission and either:
 - a handling charge of:
 - \$5.00 per bin; or
 - \$0.75 per carton; or
 - \$0.05 per net,

Our commission will be deducted from the average proceeds received by produce grade for your consignment before any deductions for statutory levies and charges. Commission and charges will only become payable upon the sale of your produce.

When trading as a merchant, we will purchase the produce from the Supplier at a price agreed in writing **upon delivery** of the produce to us. Delivery for the purposes of these Terms of Trade occurs when the produce is immediately available for resale.

Produce that has to be ripened or conditioned prior to it being saleable will be considered to be delivered when it has been conditioned to such an extent that it becomes readily saleable.

For the purposes of these Terms of Trade we are authorised by you to prepare your product for resale.

If GST is payable on a supply of services by us to you, you must also pay the amount of that GST.

The LaManna Group reserves the right to transfer part or all of any consignment received from you in one of its branches to any of its other branches, where market conditions dictate a need for us to manage supply constraints across our Australian network. Notwithstanding such transfer of your produce, the LaManna Group will price its return to you off the external sales price achieved by the ultimate selling branch, less the appropriate commission and charges.

The LaManna Group will pay any costs associated with the transfer of your produce, and will not deduct these costs from your return (unless previously agreed in writing with you).

ADDITIONAL SERVICES

If you elect to use any other services provided by us then the charge for these services will be deducted from your return after we have deducted our commission.

The price for other services will be agreed in writing before such services are scheduled to commence.

RESPONSIBILITIES OF EACH PARTY

We agree to:

1. trade in horticulture produce with you as an agent or merchant as set out in our Horticulture Produce Agreement with you;
2. advise you in writing of any quality specifications or requirements in relation to the horticulture produce prior to you sending horticulture produce shipments;
3. when trading as an agent, advise you, upon request, of an indicative price before you send each horticulture produce shipment;
4. hold insurance for horticulture produce under our control.
The details of the insurance policy are as follows:
 - (a) the insurance policy is with Allianz Australia Ltd;
 - (b) the maximum value of claims covered by the policy is \$1 million depending on location;
 - (c) the policy covers fire, theft and accidental damage (other than deterioration of quality or any other inherent losses);
5. take title and risk (when trading as a merchant) or risk (when trading as an agent) in the produce upon delivery. Subject to clause 11 below, we will be responsible for all damage to, or loss of, produce after title and/or risk has passed to us;
6. when trading as an agent, confirm the net price with you as soon as practical after the sale of the horticulture produce by us;
7. when trading as a merchant, purchase the product from you at a price agreed in writing **upon delivery** of the produce to us;
8. pay the confirmed net price to you within 21 days of the sale of the horticulture produce by us;
9. when trading as an agent, be responsible for the collection of all outstanding debts on your behalf. We are authorised to utilise the services of the respective State wholesale market Credit Services to collect sale proceeds and bad debts;
10. deduct all State, Federal and voluntary charges relating to the produce concerned from the price paid to you;
11. inform you of any problem or discrepancy with the horticulture produce immediately upon discovery of the problem or discrepancy in writing, and provide you with the reasons for the rejection and consequences of the rejection within 48 hours of discovery of the problem or discrepancy. A discrepancy may occur where you have not met quality, quantity or labelling specifications set out by us in clause 2 below under "You agree to", you have delivered horticulture produce to us without it conforming with necessary specifications, or you have delivered horticulture produce to us without first having signed a Horticulture Produce Agreement;
12. if we can not reach agreement with you on how to trade the rejected produce you may either engage a Horticulture Produce Assessor (at your cost) to undertake an independent assessment or notify us in writing that you instruct us to return your consignment of produce, in each case within 24 hours of our notice of rejection of the produce. If you do not elect to appoint an assessor or instruct us to return your consignment, we will deal with the produce as we see fit, taking into account our obligation to exercise all reasonable care and skill in handling and storage, whether this is through achieving a sale at a reduced price to a retailer in the market, or disposing of the horticulture produce and obtaining a disposal certificate;
13. provide additional services requested by you as agreed by both parties;
14. promptly answer any concerns or deal with any complaints from you firstly in accordance with our dispute resolution procedures, and then by the procedures set out in the Horticulture Code of Conduct; and
15. when trading as an agent, permit you, at any reasonable time by appointment, to visit us and discuss details such as the sale price, customers etc. relating to the sale of your horticulture produce.

You agree to:

1. advise us before despatching each horticulture produce shipment;
2. ensure that horticulture produce delivered to us meets the following quality requirements:
 - (a) if dealing in Class One product, specifications as directed by FreshSpecs Produce Specifications as disclosed on the Fresh Markets website (www.freshmarkets.com.au/FreshSpec/freshspecs.html);
 - (b) if dealing in other classes of product, the specifications normally expected of that class of produce;

- (c) provide accurate details of each horticulture produce shipment upon despatch, including the correct labelling of all produce in accordance with the statutory requirements set by Food Standards Australia New Zealand;
3. not dispatch produce to us that has not been solicited by the LaManna Group and/or which does not comply with the requirements as set out in these Terms of Trade;
4. be responsible for all costs of delivery of the horticulture produce to our designated point of receipt for each consignment, the cost of which you can choose to meet by:
 - (a) electing to allow us to secure transport on your behalf and deduct a set amount, as advised from time to time, from your return;
 - (b) electing to secure your own transport and pay your own costs directly with the transport company;
5. ensure that all deliveries reach our designated point of receipt for each consignment within the agreed timeframe set for each consignment;
6. promptly advise us of any horticulture produce that does not meet the requirements set out in clause 2 above, or that does not comply with our specifications as advised by us from time to time; and
7. promptly advise us of any concerns or complaints and use our dispute resolution procedures in the first instance, before following the procedures as set out in the Horticulture Code of Conduct.

VARIATION OF LAMANNA GROUP TERMS OF TRADE

We may vary or replace these Terms of Trade by giving you seven days notice and publishing the new terms of trade.

We reserve the right to vary or exclude the application of any of these terms in any Horticulture Produce Agreement entered into with a Supplier.

QUESTIONS AND CORRESPONDENCE

Any questions in relation to our Terms of Trade or your Horticulture Produce Agreement should be directed to:

- **LaManna Bananas Pty Ltd**
 - Tony Schirripa on 0409 898 897
 - Shane Quinn on 0447 455 477
- **LaManna Bananas (Adelaide) Pty Ltd**
 - John McArthur on 0447 827 344
 - Shane Quinn on 0447 455 477

You may also contact your local LaManna State Manager.